

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.967 of 2009

and

MP.Nos. 1 and 2 of 2009

R.Venki @ Venkatesan

.. Petitioner

Versus

State Rep.by  
Inspector of Police  
Pallikaranai Police Station  
Chennai District

.. Respondent

Criminal Revision case filed under Section 397 and 401 of Cr.P.C. to set aside the order passed by the Additional District and Sessions Judge, Fast Track Court No.1, Chengalpattu in CrI.MP.No.182 of 2008 in S.C.No.29 of 2008 in Crime No.1571 of 2007 on the file of the Inspector of Police, Pallikaranai Police Station, Chennai District dated 12.1.2009 and to direct the trial Court to split up the case pertaining to the petitioner and to remit the same to the Juvenile Justice Board along with the petitioner herein.

For Petitioner : Mr. M.Ravikumar  
For Respondent : Mr. V.Arul  
Government Advocate  
(Criminal side)

O R D E R

The petitioner has filed the above Criminal Revision case as against the order of dismissal of the petition filed by the petitioner to try the case under Juvenile Justice Act, 2000.

2. The petitioner is facing charges under Section 302 IPC in S.C.No.29 of 2008 on the file of the Additional District and Sessions Judge, Fast Track Court No.1, Chengalpattu. Pending trial, the petitioner has filed petition under Section 2(k) r/w 18 of the Juvenile Justice (Care and Protection of Children) Act 2000 for separate trial after fixing his age in accordance with law but the same has been dismissed. Therefore, the petitioner has filed the above Criminal revision case.

3. According to the petitioner, though his name is Venkateswarlu, in the FIR as well as in the charge sheet, his name is wrongly mentioned as Venki. According to him, he is a minor as his Date of Birth is 15.6.1991. He has also produced the School Transfer Certificate to prove his Date of Birth as 15.6.1991. Therefore, according to the petitioner, the Court below ought not to have dismissed the petition filed by him under Section 2(k) read with 18 of the Juvenile Justice (Care and Protection of Children) Act, 2000 for separate trial.

4. The learned counsel for the petitioner submitted that the Court below has wrongly taken into consideration the evidence of Doctor, who has given Ex.C1, Age Certificate, assessing the petitioner's age at 20-21. The learned counsel for the petitioner further submitted that though the petitioner has produced the School Transfer Certificate to show his Date of Birth as 15.6.1991, the Court below has wrongly come to the conclusion that the petitioner has not produced any documents to prove that he is minor. In support of his contention, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in SHAH NAWAZ v. STATE OF UTTAR PRADESH AND ANOTHER (2011 (3) MWN (Cri) 563 (SC).

5. The learned Government Advocate submitted that the petitioner in order to prolong the case has filed the present petition. The learned Government Advocate further submitted that the petitioner did not raise this objection at any point of time till the charge sheet is filed and he has raised this objection only during trial. The learned Government Advocate also submitted that the petitioner was examined by the police surgeon and professor, Department of Forensic Medicine and they have given the age certificate stating that he is aged about 20 years. It is submitted that the petitioner has produced the Household card, wherein his age is mentioned as 19 even at that point of time. When the petitioner's father himself has admitted in the Household card that his son's age is 19, there is no question in contending that he is minor. Therefore, the Court below has rightly dismissed the petition filed by the petitioner and no interference is warranted.

6. Heard the learned counsel for the petitioner, the learned Government Advocate and perused the materials available on record.

7. On a careful perusal of the entire evidence and the judgment of the Court below, it is clear that both in the FIR as well as in the charge sheet the petitioner's name has been mentioned as Venky. In fact, originally he was arrested under the name and style of Venky and remanded to the custody on many occasions. He did not raise any objection at any point of time, with regard to the mentioning of his name as Venky. First time, only during the course of trial, he has come forward with this petition.

8. Admittedly, the petitioner has not produced any birth certificate to prove his age. Though the petitioner has produced the School Transfer Certificate, which carries the name of Veluturu Venkateswarlu, stating that his Date of Birth is 15.6.1991, he has not chosen to examine anyone connected with the said document, namely, the Principal or the school authority or any one who has written the same. The petitioner has marked the said document only through his father whereas the prosecution has produced necessary documents to prove that he is a major. In fact, in order to ascertain the age of the petitioner, he was sent to Chengalpattu Medical College hospital and he was examined by the police surgeon and Professor, Department of Forensic Medicine. The Doctor, who was examined as C.W.1, examined the petitioner and gave Ex.C1, age certificate stating that he was 20-21 years. Further, the petitioner has produced Household card, wherein his age is mentioned as 19 even at that point of time. Therefore, the Court below has rightly rejected the same. The judgment of the Hon'ble Supreme Court relied on by the petitioner in SHAH NAWAZ vs. STATE OF UTTARPRADESH cited supra is not applicable to the facts of the present case as in this case though the petitioner has produced School Transfer Certificate, as already stated above, he has not chosen to prove the same by examining the person connected with the said document and the same has been marked only through his father. Further the name in the School Certificate is totally different. He has also not produced any documents or evidence to prove that the School Certificate belongs to him. There is no correlation to his name. Hence, it cannot be believed as rightly held by the Court below.

9. In view of such circumstances, I do not find any reasons to interfere with the reasoned order of the Court below. Accordingly, the Civil Revision Case is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge  
Fast Track Court No.1, Chengalpattu.
- 2.The Inspector of Police  
Pallikaranai Police Station, Chennai District
3. The Public Prosecutor, High Court, Madrass.

+ 1 cc to Mr.M. Ravikumar, Advocate SR.58998

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