

230

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-17741 of 2013

Date of decision: September 22, 2015

Sonu

.....Petitioner

Versus

Sumitra and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ram Darshan Yadav, Advocate
for the petitioner.

Mr. Mukesh Rao, Advocate
for the respondent No.1.

Ms. Trishanjali Sharma, Advocate
for respondent No.2.

SABINA, J

Petitioner has filed this petition challenging the order dated 07.05.2013, whereby, revision petition filed by respondent No.1, was allowed.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

Petitioner has filed a complaint against the respondent No.1 and others under Sections 498-A, 406, 506/34 of Indian Penal Code, 1860. During the pendency of the complaint, respondent No.1 moved an application that she be declared a juvenile. Trial Court vide order dated 10.12.2012 (Annexure P-2) dismissed the application. In revision petition filed by respondent No.1, order dated

10.12.2012 was set aside and it was held that the respondent No.1 was a juvenile at the time of commission of offence.

Para 6 of the impugned order reads as under:-

“Secondly, the impugned order was passed in the capacity of JMJC and not in the capacity of Principal Juvenile Justice Board. It is mandatory for the Principal Justice Board to conduct enquiry and record proper evidence and thereafter decide the application of juvenile, whereas JMJC had no judicial power to decide such application. Therefore, the impugned order passed by Id. JMJC declaring the juvenile to be major also suffer from legal infirmities, Id. JMJC has no jurisdiction to decide such application jurisdiction. Thus, the impugned order is hereby set aside with observation that at the time of commission of alleged offence, the revisionist was juvenile. So, the appeal of the appellant is accepted and the impugned order dated 10.12.2012 is set aside. Records of the appeal be consigned to record-room, whereas lower court record be sent back along with copy of this judgment. Both parties are directed to appear before the learned trial Court on 16.05.2013 for further proceedings.”

In view of the observations made by the Court of revision in Para 6 of the impugned order reproduced above, learned counsel for the petitioner as well as learned counsel for the respondent No.1 have submitted that the application moved by the respondent No.1 be sent to the Juvenile

Justice Board for its decision and the impugned order be modified to this extent.

Accordingly, this petition is allowed. Impugned order dated 07.05.2013 and order dated 10.12.2012, whereby, application moved by the respondent No.1 for declaring her a juvenile was dismissed, are set aside and the application moved by respondent No.1 for declaring her a juvenile is forwarded to Juvenile Justice Board, Rewari for its decision in accordance with law.

**(SABINA)
JUDGE**

September 22, 2015
mahavir