

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

**CRM-M No. 31955 of 2012 (O&M)
Date of Decision: 29.10.2015**

Narender

..... Petitioner

Versus

The State of Haryana and Another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Tribhuvan Dahiya, Advocate
for the petitioner.

Mr. Satish Saini, DAG, Haryana
for respondent No. 1/State.

Mr. Shiv Kumar, Advocate
for respondent No. 2.

JASWANT SINGH, J. (ORAL)

The complainant/petitioner, namely, Narender, had lodged an FIR No. 157, dated 03.06.2011 for commission of offences under Section 302 and 34 of the Indian Penal Code, registered at Police Station, Surajkund, Faridabad.

It was submitted that the petitioner was engaged in organizing the marriage parties at the rented farm house and his two office employees, namely, Satish Sharma and Arvind used to sleep in the farm house at night. On the intervening night of 02/03.06.2011, they were beaten to death and their dead bodies were found in the morning. During the investigation, the name of accused persons i.e. Sham, Jeetu and Monu surfaced.

The said accused Monu (respondent No. 2 herein) moved an application before the learned Chief Judicial Magistrate, Faridabad for declaring him as juvenile on the basis of school leaving certificate issued by the Principal of the school, according to which the date of birth of the said Monu was recorded as 25.07.1994. Hence, said Monu was declared as juvenile vide impugned order dated 07.10.2011 (**Annexure P-3**), passed by learned Chief Judicial Magistrate, Faridabad.

The revision filed by the petitioner was also dismissed vide impugned order dated 18.04.2012 (**Annexure P-4**), passed by learned Additional Sessions Judge, Faridabad.

Hence, the present petition under Section 482 of the Criminal Procedure Code challenging both the aforesaid orders declaring the respondent No. 2-Monu to be juvenile.

It is a matter of record that the remaining two accused persons, namely, Sham and Jeetu stand convicted and sentenced by the learned trial Court.

Learned counsel for the petitioner contends that Section 7-A of the Juvenile Justice (Care and Protection of Children) Act, 2000, ordains the making of an enquiry by the trial Court, so as to determine the age of a person claiming to be juvenile. He further contends that the procedure for conducting such an enquiry has been laid down in Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules 2007. In Clause (a) of sub-Rule 3 of Rule 12 of 2007 Rules, various certificates which can be relied upon to ascertain the age of a person claiming to be juvenile have been provided. Since the certificate relied upon by the Courts below in the present case does not conform to either of the certificates envisaged therein,

the impugned orders recording a finding of Monu being a juvenile is liable to be set aside.

Learned counsel for respondent No. 2/Monu very graciously conceded that the certificate relied upon by his client to obtain a finding of being a juvenile does not fall within the description of either of the certificates provided in Clause (a) of sub-Rule 3 of Rule 12 of 2007 Rules. He, however, prays for permission to grant one opportunity for producing any other document which is within the scope of the said Rule in case of fresh determination.

In the light of aforesaid stand of counsel for respondent No. 2, the present petition is allowed and the aforesaid impugned orders dated 18.04.2012 (**Annexure P-4**) and 07.10.2011 (**Annexure P-3**) are set aside.

The trial Court shall conduct an enquiry strictly in the light of provisions of Clause A of sub Rule 3 of Rule 12 of 2007 Rules by recording a finding regarding the determination of the age of Monu/respondent No. 2 in relation to the date of occurrence. Respondent No. 2 will be given fresh opportunity to lead any other document which conforms to the requirement of the said Rule. In case no such document is available, needless to say, resort shall be made to the medical examination.

The parties are directed to appear before the learned trial Court on 19.11.2015.

It is hoped that the enquiry proceedings shall be concluded without any further undue delay.

A copy of this order be sent to the officer concerned for compliance.

October 29, 2015

(JASWANT SINGH)
JUDGE