

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

CRR No.1842 of 2013

Date of decision : February 24, 2015

Rubal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM : HON'BLE MR.JUSTICE S.S. SARON
HON'BLE MR.JUSTICE GURMIT RAM**

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

Present : Mr. Tejinder Pal Singh, Advocate,
for the petitioner.

Mr. A.S. Jattana, Addl. A.G. Punjab.

S.S. SARON, J.

Heard learned counsel for the parties.

The petitioner was an accused in case FIR No.5 dated 08.01.2012 registered at Police Station Sadar Sunam District Sangrur for the offences punishable under Sections 302, 323, 148 and 149 of the Indian Penal Code ("IPC" - for short). The FIR in the present case was registered on the statement of Chinderpal Kaur wife of Kuldeep Singh. According to the complainant a day earlier to her making the statement, which was made

on 08.01.2012 before Inderpal Singh, SI/SHO Police Station Sadar Sunam i.e. on 07.01.2012 there was a marriage party of Surinder Singh son of Gurdev Singh in their village. All of a sudden a dispute had occurred between Jatinder Singh alias Kallu, Bhupinder Singh alias Ginni and Dhanna Singh alias Rubal (accused) with Surinder Singh, nephew of the complainant. The dispute was with respect to a song that was being played by the DJ. The complainant had come to know about the same and reached at the spot and had separated them. The complainant side had then reached in front of the house of Mithu Singh at about 8:30 p.m. At that time the accused-Dhanna Singh alias Rubal armed with a heavy stick ('tamba') along with two unknown persons were standing near them. Jatinder Singh alias Kallu raised a *Lalkara* that Surinder Singh be taught a lesson for quarreling with them. Thereafter a fight ensued between them. Bhupinder Singh alias Ginni and Jatinder Singh alias Kallu inflicted blows with the 'tamba' which hit on the right jaw of Surinder Singh who fell on the ground. Surinder Singh was taken to Civil Hospital, Sangrur from where he was referred to Rajindera Hospital, Patiala. On reaching there the doctor declared as brought dead.

During trial of the case the petitioner-Rubal alias Dhanna Singh filed an application for treating him to be a juvenile. The application was declined vide impugned order dated 14.05.2013. Thereafter the accused including the petitioner Rubal alias Dhanna Singh have been convicted by the learned Additional Sessions Judge, Sangrur, on 22.07.2014 for the offence under Section 302 read with Section 34 IPC. By a separate order

passed on the same day, they were sentenced to undergo life imprisonment, besides, pay a fine of ₹25,000/- each. In the event of realization of the fine a sum of ₹50,000/- was ordered to be given to the legal heirs of the deceased as compensation. CRA-D-1566-DB-2014 has been filed against the said conviction and order of sentence, which has been admitted by this Court on 10.10.2014 and the same is pending.

Insofar as the juvenility of the petitioner is concerned, the case of the petitioner is that his date of birth is 25.01.1995. In support of his contention he has referred to the Punjab School Education Board, Matriculation examination (under the Open School Scheme) September 2011, result card of semester-I examination dated 09.01.2012 (Annexure P-3). The said certificate issued by the Punjab School Education Board Matriculation examination is under the Open School Scheme and the result card is of September, 2011 of 1st semester. In the said certificate the date of birth of the petitioner is mentioned as 25.01.1995. The date of birth of the petitioner in the Punjab School Education Board, Middle Level Examination, March 2008 issued on 22.05.2008 (Annexure P-4) is also mentioned as 25.01.1995. In the Aadhaar card (Annexure P-5) the year of birth of the petitioner is mentioned as 1995.

The petitioner has also placed on record, the Punjab School Education Board, Matriculation Examination Certificate issued on 17.11.2004 (Annexure P-6), in which date of birth of the sister of the petitioner namely Kiranjeet Kaur is mentioned as 09.04.1988 in figures and 12.04.1988 in words. Another certificate issued by the Punjab School

Education Board of Matriculation Examination, 2008 relating to his other sister Amandeep Kaur issued on 14.06.2008 (Annexure P-7) has been placed on record, in which the date of birth of Amandeep Kaur is mentioned as 20.10.1989. Another certificate of the Punjab School Education Board, Middle Examination issued on 25.05.2007 (Annexure P-8) relating to the brother of the petitioner namely Gurpreet Singh has been placed on record, in which his date of birth is mentioned as 23.10.1992. The documents Annexure P-2 to Annexure P-8 that have been placed on record now and were not placed on record before the learned Trial Court.

Be that as it may, the learned Trial Court has referred to the statement of Ms. Tripta Devi, Head Teacher posted at Government Primary School Sohian, who brought the original admission register of Government Primary School from 1988 to 2004. In the said register at Sr. No.1995, the name of the petitioner is mentioned and the petitioner was admitted to school on 16.05.1997. The date of birth of the petitioner in the said School Register is mentioned as 08.06.1991. A copy of the relevant register is on record as Ex.RW2/A. It was, held that the date of birth of the petitioner to be 25.01.1995 was unexplainable as no child of two years would be got admitted in a school on 16.05.1997 if his date of birth was 21.05.1995. Therefore, the date of birth of the petitioner was taken as 08.06.1991.

In the present case, the incident, as already noticed, had occurred on 07.01.2012 on which date the petitioner by taking date of birth as 08.06.1991 was not a minor. The reasoning recorded by the learned trial Court is just and proper and does not warrant any interference. CRR is

accordingly dismissed.

A copy of this order be also placed on the file of CRA-D-1566-DB-2014.

(S.S. SARON)
JUDGE

February 24, 2015.
Gaurav Sorot

(GURMIT RAM)
JUDGE