

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

**Criminal Revision No.1311 of 2014
Date of Decision:-17.11.2015**

Dharampal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Sandeep Kumar Yadav, Advocate
for the petitioner.

Mr. Parveen Aggarwal, Deputy A.G., Haryana.

Mr. Jitender Malik, Advocate
for respondent No.2.

HARI PAL VERMA J.(Oral)

Petitioner has challenged the order dated 28.2.2014 passed by learned Additional Sessions Judge, Narnaul, whereby respondent No.2 i.e. Ravi son of Naresh Kumar was held to be a juvenile.

Learned counsel for the petitioner has argued that the learned Additional Sessions Judge has not considered the birth certificate issued by the Civil Surgeon, Narnaul, wherein the date of birth of respondent No.2 has been mentioned as 23.6.1995. He further submits that in view of the certificate issued by the Civil Surgeon, Narnaul, on the

date of alleged occurrence i.e. 12.11.2013, respondent No.2 was more than 18 years of age and therefore was not juvenile.

On the other hand, learned counsel for respondent No.2 argued that respondent No.2 was juvenile as his date of birth is 15.10.1996, which is duly reflected in the school certificate issued by the Government High School, Potta, District Mahendergarh.

I have heard learned counsel for the parties.

Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter called 'the Rules') laid down the procedure to be followed in determination of age. Rule 12 (3) of the Rules read as under :-

“(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the Court or the Board or, as the case may be, the Committee by seeking evidence by obtaining --

- (a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;*
- (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;*
- (iii) the birth certificate given by a corporation or a municipal authority or a panchayat;*
- (b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.*

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be,

record a finding in respect of his age and either of the evidence specified in any of the clause (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

In the light of the aforesaid rule it is incumbent upon the Court or the Board to act as per the laid down procedure. Rule 13(3)(a)(ii) of the Rules clearly covered the present case, wherein the date of birth mentioned in the certificate issued from the school is the relevant date for consideration to declare the accused juvenile or otherwise. Learned Additional Sessions Judge, Narnaul vide judgment dated 28.2.2014 has clearly observed that on the basis of verification report of the school certificate, the date of birth of the respondent No.2 is 15.10.1996. Therefore, having recourse to the aforesaid rule, there is no illegality in the order passed by learned Additional Sessions Judge, Narnaul as the date of birth has rightly been assessed in accordance with Rule 13(3)(a)(ii) of the Rules.

I find no merits in the present revision petition.

Dismissed.

November 17, 2015
Vijay Asija

(**HARI PAL VERMA**)
JUDGE