

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

**CRR No.1660 of 2014 (O&M)
Date of decision: 12.01.2015**

Rajender

....Petitioner

Versus

Vipul and another

....Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN.

Present: Mr. Vivek Aggarwal, Advocate
for the petitioner.

Mr. Narender Singh, Advocate
for respondent No.1.

Ms. Trishanjali Sharma, AAG, Haryana.

JITENDRA CHAUHAN J. (Oral)

The petitioner/complainant being the father of the prosecutrix, has filed an FIR No.297 dated 31.03.2013, registered under Sections 363, 366-A, 376 of the Indian Penal Code at Police Station Bhiwani, against the respondents.

Heard.

The accused was declared juvenile vide order dated 08.05.2013, which reads as under :-

“No RW is present or served for today. The evidence of the prosecution on the point of age in respect of above-named stands closed by the order of the Court.

Heard. In order to prove the fact that accused Vipul

was juvenile at the time of alleged occurrence, Smt. Santosh Bansal, Head Mistress stepped into the witness box as AW1 and has proved on record the copy of the admission card of Vipul Ex.AW1/A and his school leaving certificate Ex.AW1/B. The mother of Vipul stepped into witness box as AW2 and proved her voter card Ex.AW2/A. Padam Avtar, father of Vipul stepped into the witness box as AW3 and has deposed that the date of birth of his son Vipul is 14.11.1996. The alleged occurrence has had taken place on 31.03.2013, whereas the date of birth of accused Satish is 14.11.1996 as is evident from his school examination certificate Ex.AW1/B, meaning thereby, he was less than 18 years of age on the date of alleged occurrence.

I draw support from the case law titled as Chandu Lal Versus Sucha Singh, 1998(1) RCR (Criminal) 651, wherein, it has been held by the Punjab and Haryana High Court that:

“Date of Birth as given in school record can be relied on for the purpose of ascertaining whether offender was juvenile”

Further in case titled as Mayank Rajput versus State of U.P. 1998(3) RCR (Criminal) 277, it has been held by the Hon'ble Allahabad High Court that:

“Entry in High School Certificate is presumed to be correct. If either side desires to challenge the entry, the burden will be on that party, who challenges it”

*Keeping in view the law settled in the aforesaid cases as well as considering the evidence adduced on the record on behalf of accused Vipul, **he is declared juvenile.***

Now to come up on 10.05.2013 for further

proceedings. Concerned Ahlmed is directed to send the record of juvenile in conflict with law Vipul to learned Principal Magistrate, Juvenile Justice Board Bhiwani, well in time. Juvenile in conflict with law is directed to be produced there on the date fixed i.e. 10.05.2013, for further proceedings.”

Feeling aggrieved by the said order, the petitioner preferred an appeal before the Court of Sessions on 09.01.2014, after causing delay in its filing about seven months and two days on the ground that the petitioner/complainant came to know regarding the impugned order on 20.12.2013 and thereafter, immediately, he applied for certified copies, so appeal had been filed at a later stage. The Additional Sessions Judge, Bhiwani, dismissed the application for condonation of delay on the ground that the petitioner/complainant has not given any plausible and sufficient reason for condonation of delay. Even otherwise, this Court will not interfere in the finding of fact regarding date of birth of the accused arrived at by the Board, while exercising its reasonable jurisdiction.

Keeping in view the above, the present criminal revision petition is dismissed.

(JITENDRA CHAUHAN)
JUDGE

12.01.2015
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