

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

**CRR-190-2015 (O&M)
Date of Decision: 6.4.2015**

Shweta

.....Petitioner

vs.

State of Haryana and others

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vishal Nehra, Advocate
for the petitioner.

Mr. Rajesh K. Sheoran, Addl. AG, Haryana.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgement should be reported in the Digest?*

Raj Mohan Singh J.(Oral)

Learned counsel for the petitioner submitted that in view of birth certificate Annexure P-2 date of birth of the petitioner is recorded as 12th January, 1997. This entry was duly supplemented by school leaving certificate Annexure P-1 in which date of birth dated 12th January 1997 was duly endorsed. The trial Court has relied upon the statement of the petitioner under Section 164 Cr.P.C. and her age shown in affidavit submitted by her before learned SDJM, Gohana. Learned counsel further submitted that in order of preferences, the birth entry/birth certificate should have been given preference over the other entries like the age recorded in the statement under Section 164 Cr.P.C. and the affidavit before the authority. Learned

counsel further submitted by relying upon Section 7-A of Juvenile Justice (Care and Protection of Children) Act, 2000 that trial Court has not inquired into the factum of age of the petitioner being juvenile and has recorded the findings only on the basis of inadmissible evidence.

Learned State counsel hotly contested the issue by arguing that the birth entry as depicted in birth certificate does not carry any name of the child. Moreover the age shown in the statement under Section 164 Cr.P.C. as well as in the affidavit are the voluntary act of the petitioner herself.

I have considered the arguments, I am of the view that under Section 7-A of the aforesaid Act, the Court is obligated to inquire into the matter so as to determine age of the juvenile in conflict with law. The criteria made under Rule-12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 should have been followed. The Court should not have been swayed away on any other consideration. The document like birth entry and the school leaving certificate are the primary documents which should have been considered in preference over other documents. Since no findings have been recorded by the Trial Court on the admissibility of these documents viz Annexure P-1, school leaving certificate and birth certificate Annexure P-2. Even if, name of the child is not shown in the birth certificate, the trial Court was obligated to make necessary inquiries whether the parentage of the child has been corroborated by any other material on record. Since these documents have not been considered by the Court while deciding the

issue in question, therefore I feel that the matter requires to be remanded back to the Court of learned Addl. Sessions Judge, Sonapat with a direction to consider the matter afresh in the light of available material on record and pass speaking order within two months from the date of receipt of certified copies of this order.

Disposed of.

(RAJ MOHAN SINGH)
JUDGE

6.4.2015

Ishant