

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.3010 of 2015 (O&M)

.....

Date of decision:10.9.2015

Krishan

...Petitioner

v.

State of Haryana

Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Surinder Gandhi, Advocate for the petitioner.

Mr. Anmol Malik, Assistant Advocate General, Haryana for
the respondent-State.

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Inderjit Singh, J.

The petitioner has filed this criminal revision petition under Section 401 Cr.P.C. challenging the impugned order dated 10.8.2015 passed by the learned Additional Sessions Judge, Rohtak, dismissing the application filed for declaring the accused juvenile.

Notice of motion has been issued in this case.

Mr. Anmol Malik, learned Assistant Advocate General, Haryana has put in appearance on behalf of the respondent-State and contested this criminal revision petition.

I have heard learned counsel for the petitioner and learned Assistant Advocate General, Haryana for the respondent-State and have

gone through the record.

Learned counsel for the petitioner argued that the application of the petitioner for declaring him juvenile has been wrongly dismissed by the learned Additional Sessions Judge, Rohtak and the order is illegal. The Court has wrongly not relied on the school certificate.

On the other hand, learned Assistant Advocate General, Haryana appearing for the respondent-State argued that the order passed by the learned Additional Sessions Judge, Rohtak, after discussing the evidence in right perspective has been passed as per law.

After going through the record and after hearing learned counsel for the parties, I find that an application was filed by accused/petitioner Krishan seeking that he was juvenile at the stage when the case was fixed for defence evidence. The notice was given to the State. The parties also produced the evidence.

The learned Additional Sessions Judge, Rohtak, has minutely discussed the evidence and also the documents on the record and on the basis of evidence, the Court below dismissed the application. Firstly, in the present case, it is admitted fact that the accused has not passed Matriculation examination. Therefore, as per Rule 12 of Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as 'the Rules'), the Court is to consider firstly the Matriculation certificate. As the accused/petitioner has not passed the Matriculation, there is no such certificate available. Secondly, as per the rule the date of birth certificate from the School (other than a play school) first attended; and in the absence

whereof; the birth certificate given by a Corporation or Municipal Authority or a Panchayat; which will declare the age of juvenile or child is to be considered, but this is also not on the record. As per the evidence, no entry has been found regarding the date of birth in the Municipal record etc. As per Rule 12 Clause (b) of the Rules in the absence of above these three certificates then the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In the present case, the learned Additional Sessions Judge, Rohtak, has discussed the report of the Medical Board regarding assessing the age of the revision petitioner and found him not to be juvenile. This certificate regarding date of birth, on which the present revision petitioner is relying upon, is regarding the sixth class certificate and there is no record regarding the first attended school by the petitioner. The Court below after discussing the evidence found that the date of birth given in that record is not based on any document. He also discussed the oral evidence. A perusal of the record shows that the order dated 10.8.2015 passed by the learned Additional Sessions Judge, Rohtak, is as per evidence and law. No illegality has been committed by the Court below while passing this order nor, in any way, the reasoning can be held as perverse.

Learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in Ashwani Kumar Saxena v. State of M.P., 2012 (4) R.C.R. (Cr.) 391. I have gone through the law laid down in this judgment, in which Rule 12 of the Rules has been discussed and it is held that medical opinion should be sought only when Matriculation

certificate or equivalent certificate or the date of birth certificate from the school first attended or any birth certificate issued by a Corporation or a Municipal Authority or a Panchayat or Municipal is not available. The law laid down in this judgment is of no benefit to the petitioner.

Therefore, from the above discussion, I find that the order dated 10.8.2015 passed by the learned Additional Sessions Judge, Rohtak, is as per law and the same is upheld.

Finding no merit in the criminal revision petition, the same is dismissed.

September 10, 2015.

(Inderjit Singh)
Judge

hsp