

CRR-4233-2014 (O&M)

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

**CRR-4233-2014 (O&M).
Decided on: January 6, 2015.**

Bala Devi

..... Petitioner(s)

Versus

State of Haryana

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.D.K.Bhatti, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL)

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Documents Annexures P6 to P11, are permitted to
be taken on record as they are already exhibited documents.

CRM is allowed.

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This petition has been filed by petitioner Bala Devi
mother of accused Vikas Kumar claiming that Vikas Kumar her son is
a juvenile in an incident of murder dated 28.2.2012. The main
reliance of the petitioner is on birth certificate EX.P1 and a duplicate
copy of ration card Ex.P2. She herself appeared as a witness as
PW.1 and examined Sh.Kuldeep Sangwan, Statistical Assistant
Office of Civil Surgeon, Bhiwani, to prove the birth certificate EX.P1
Annexure P9.

The short question which is required to be

determined in the present case is whether the age of Vikas Kumar accused on the date of incident i.e., 28.2.2012 was less than 18 years his date of birth being 10.5.1995. The claim of the prosecution agency is that the date of birth of son of the petitioner has been wrongly shown on the basis of forged document to be 10.5.1995. The certificates relied upon by the petitioner have been considered by the trial Court by observing as follows: -

“8. Man may tell lies but the documents will never. Applicant's mother has been examined as PW1. She in her examination-in-chief made only three line deposition and kept reliance on birth certificate Ex P1 and copy of ration card of her family as Ex P2. She nowhere stated as to how many children she gave birth. She has not produced the birth certificate of her other children. The ration card Ex P2 in duplicate was issued on 3.6.2014 in which the age of her son Vikas Kumar has been stated 18 years. In her cross-examination, she admitted that ration card Ex P2 was issued in the year 2014 only and it was issued in duplicate and also admitted that date with number of preparation of original card along with the names of family members and their age on the date of issuance of original ration card is not mentioned in Ex P2. If her son Vikas Kumar is also known as Saini Kumar then why such is not mentioned in the ration card Ex P2 and how he became Vikas Kumar instead of Saini Kumar because by that time his name was not corrected, fact has also not been explained. Non-bringing of

*original ration card in the court shows something very important has been withheld from the court. Reliance has also been kept on school leaving certificate Ex P8 which shows the date of birth of the applicant Vikas Kumar as 10.5.1995. It is judicially noticeable fact that school authorities do not admit child without keeping on record original copy of birth certificate or its attested copy. Once Saini Kumar was recorded in Ex P7 then question arise how the school authorities by its own motion changed the name of Saini Kumar to Vikas Kumar. There is no order in this regard. This is the strong suspicious circumstance because in the absence of correct certificate issued by the competent authority which is Registrar of Births and Deaths the school authority has no right to change the name without passing any order. It means school certificate Ex.P8 is the forged and fabricated document and moreover Ex P8 is not admissible into evidence because school record has not been summoned by the applicant. Mere exhibition of document does not dispense with proof. The view of this Court is fully supported by the law laid down in **Sait Tarajee Khimchand and others Vs Yelamati Satyam and others AIR 1971 SC 1865.** The birth certificate Ex.P7 was issued by the public authority in discharge of official duties. Presumption of truth is attached to it unless contrary is rebutted. In the case in hand the Registrar, Births and Deaths, Bhiwani, on the basis of application Ex P4 had taken affidavit ExP5 from applicant's father and another affidavit Ex P6 from Dharampal,*

village Chowkidar and proceeded to correct the certificate Ex P7 into Ex P1. Once the certificate Ex P7 was issued as per official record then no executive authority less than Registrar of Births and Deaths had any jurisdiction to make any sort of correction as envisaged under section 28 of the Births Deaths and Marriages Registration Act 1886. The correction of birth certificate Ex P7 into Ex P1 (Ex.P16) on the recommendation of Dr.Vishal Dental Surgeon-cum-Senior Medical Officer, Incharge, Community Health Certificate Dhanana District Bhiwani appears to be doubtful as no satisfactory explanation given to explain how it was appearing as Vikas in the absence of necessary correction at an appropriate stage and this is again one of the strong suspicious circumstances to say an endeavour has been made to escape from criminal liability while remaining into slumber at an appropriate time by the applicant or his parents to prove the applicant is juvenile in conflict with law and court is not convinced with the authenticity of date of birth certificate Ex P1. Consequently no weightage can be given to certificate Ex P1 (Ex. P16) and the applicant has not been able to prove that he was juvenile in conflict with law on the day of commission of alleged offence. The law supra cited by the counsel for applicant is not at par with the facts and circumstances of the case in hand being having its own peculiarity of facts. Accordingly his application dated 15.11.2014 is dismissed.”

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Counsel for the petitioner has moved a misc. application to place on record the document Annexure P5, birth certificate purported to be of the petitioner Vikas Kumar also claiming that he was allotted name as Saini Kumar and Annexure P6 photocopy of the duplicate ration card showing that the petitioner is named as Vikas Kumar aged 18 years on 3.6.2014. This document also indicates that he has got a married brother Ravi Kumar aged 24 years.

A perusal of the documents indicate that the birth certificate EX.P1 and ration card EX.P2 are not worthy of credence for the following reasons: -

(i) the petitioner has failed to specify the names of her offspring in her examination;

(ii) the petitioner having not produced the birth certificate of other children;

(iii) EX.P2 the ration card relied upon is a duplicate copy which was issued after the involvement of the son of petitioner in the case and was issued on 3.6.2014 indicating the age of Vikas Kumar as 18 years;

(iv) the petitioner has not been able to specify the date of issuance of the original ration card; and

(v) it is not indicated from the ration card that Vikas Kumar son of the petitioner is also known as Saini Kumar.

For the detailed reasons mentioned by the learned

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trial Court as mentioned hereinabove, I do not find any ground to arrive at a different conclusion regarding the age of the son of the petitioner.

The petition is dismissed.

January 6, 2015.
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(M.M.S. BEDI)
JUDGE