

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 738 of 2015

Date of decision: 18.9.2015

Noor Alam

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Mohd. Salim, Advocate
for the petitioner.

Mr. J.S.Sekhon, AAG, Punjab.

SABINA, J.

Petitioner has filed this petition under Section 401 of the Code of Criminal Procedure, 1973 challenging the order dated 8.1.2015 whereby the application moved by the petitioner for declaring him a juvenile, was dismissed.

Learned counsel for the petitioner has submitted that as per the birth certificate produced on record by the petitioner, he was a juvenile at the time of occurrence. The date of birth of the petitioner was 20.3.1997 whereas the occurrence had taken place on 22.5.2013. The Trial Court has erred in rejecting the date of birth certificate produced on record by the petitioner.

Learned State counsel, on the other hand, has opposed the petition.

In the present case, petitioner is facing trial in FIR No. 45 dated 22.5.2013 under Section 302 of the Indian Penal Code, 1860, registered at Police Station Dugri, Ludhiana. During the pendency of the trial, petitioner moved an application that he was a juvenile at the time of the occurrence. In this regard,

petitioner placed reliance on the birth certificate Annexure P-4. As per the said certificate, the date of birth of the petitioner is 20.3.1997. A perusal of the said certificate further reveals that the date of birth of the petitioner was got registered on 15.6.2008.

Learned Trial Court while dismissing the application, moved by the petitioner, has held as under:-

“The arguments raised by learned State counsel undermining the story put forth by Mohd. Mustkeen Mansuri V.E.W. seems to be reasonable. This is precisely for the reason as there is nothing to show that the factum of accused-applicant having been born on 20-3-1997 was not got registered with the above said official immediately after his birth. Further more when birth of accused-applicant was got registered on 15-6- 2008 in the register kept and maintained by the authorities concerned for the above said year, then this court does not find any logic as to why the concerned official has kept this register in the trunk on his motorcycle which he took alongwith him while he was deputed to defuse the tension between Hindus & Muslims in the area of cremation ground of Himayupur on 20-11-2008 almost five months after the registration. There is nothing to suggest as to whether the above said official took along aforesaid official record alongwith his motorcycle especially while going to such a sensitive place where any such untoward happening could well be expected. How it could be presumed that this official was ever detailed to carry out this task. Further more mother of accused-applicant also did not produce

ration card of her having given birth to accused-applicant in the year 1997 from the loins of Mohd. Majid. Even local police has shown this accused-applicant to be twenty two years old. So, for all these reasons present application filed by accused seems to be a clever design so that board should adopt liberal attitude towards him during trial/enquiry of this case against him. As such present application is found to be devoid of any merit and otherwise also accused-applicant is stated to be 22 years of age by the police and not juvenile in conflict with law. Accordingly, to come up on 19-1-2015 for consideration on charge. In the meantime, accused is to remain in custody.”

The reasons given by the Trial Court while dismissing the application moved by the petitioner, are sound reasons. The birth of the petitioner was not got registered immediately after his birth but was got registered on 15.6.2008. It has been noticed by the Trial Court that the record in this regard was kept by the concerned official in the trunk on his motorcycle and the said record had allegedly been burnt. In order to corroborate the genuineness of the birth certificate, the mother of the petitioner had not produced on record any ration card etc.

Hence, no ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

September 18, 2015