

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Order delivered on: 4th February, 2015

+ **CRL.A. 486/2001**

HUKUM SINGH & ANR. Appellants
Through: Ms. Inderjeet Sidhu, Adv.

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent
Through: Mr. Satish Kr. Verma, APP for the
State.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J. (Oral)

Crl. M.A. No.6941/2014 (for restoration of the appeal) and
Crl. M.A. No.13384/2014 (for directions, by appellants)

1. The present appeal has been filed by two appellants namely, Hukum Singh and Mukesh under Section 374 (2) read with Section 482 of the Code of Criminal Procedure, 1973 for setting aside the impugned judgment and order dated 19th May, 2001 passed by the learned Additional Sessions Judge, New Delhi in Sessions Case No. 24/2000.

2. I have been informed that Mukesh has died during the pendency of the appeal and the appeal against him is abated on 4th August, 2010. Hukum Singh is serving his sentence for ten years of imprisonment and at present he is in Central Jail No.2, Tihar, New

Delhi. He was granted bail on 14th July, 2003 till the final disposal of the appeal. The appeal was listed before Court. Since no one appeared on behalf of Hukum Singh, the same was dismissed on 31st October, 2011. Subsequently, two applications for restoration were filed for reviving the appeal. Since no one appeared on behalf of the appellant Hukum Singh, the said applications for restoration were also dismissed for non-prosecution. Lastly, the present application being Crl. M.A. No.13384/2014 is filed on behalf of the appellant seeking issuance of direction to respondent to conduct the ossification test to ascertain the age of appellant in terms of Section 7A of Juvenile Justice (Care and Protection of Children) Act, 2000.

3. The nominal roll of the appellant is placed on record by the State. It is recorded in the nominal roll that the appellant had undergone sentence including under trial period as on 13th August, 2014 for 5 years, 6 months and 29 days. It is apparent that the appellant has already spent more than 6 years. It is stated by the appellant in the application that he was juvenile on the date of commission of offence i.e. 16th April, 2000, on the basis of School Leaving Certificate and his age was almost 14 years, 8 months and 22 days as on 16th April, 2000, since Section 2(k) of Juvenile Justice (Care and Protection of Children) Act, 2000 as amended upto date defines a juvenile which reads as “juvenile or child means a person, who has not completed eighteen years of age”.

4. The applicant/appellant relies on the judgment passed by the Apex Court in the matter of ***Hari Ram vs. State of Rajasthan*** in

Crl.Appeal No. 907/2009 arising out of SLP (Crl.) No. 3336/2006 dated 5th May, 2009 and also in case of **Abuzar Hossain @ Gulam Hossain vs. State of West Bengal**, (2012) 10 SCC 489, wherein it has been held that benefit of being Juvenile can be given at any stage and even after all the remedies have been exhausted.

5. It is further stated that the applicant is a permanent resident of H.No. M-523, J.J. Colony, Sawda, P.S. Kanjhawala, Ghevra, Delhi and the Applicant is having “School Leaving Certificate” to prove his date of birth which is 24th August, 1985 as per records and this Court may get it authenticated from school record or alternative by directing bone age test i.e. age determination test of the applicant.

6. The applicant is furnishing the information about himself and his family as per his best of knowledge which is as under:-

S.No.	Names	Place of residence	Approx. Age as on 09.08.2014	Relation	Status
1.	Smt. Usha Devi W/o Late Sh. Anil Singh	H.No. M-523, J.J. Colony, Sawda, P.S. Kanjhawala, Ghevra, Delhi	50 years	Mother	Alive
2.	Hukum Singh S/o Late Sh. Anil Singh	H.No. M-523, J.J. Colony, Sawda, P.S. Kanjhawala, Ghevra, Delhi	28 years	Self (applicant)	Alive

3.	Arun Singh S/o Late Sh. Anil Singh	H.No. M-523, J.J. Colony, Sawda, P.S. Kanjhawala, Ghevra, Delhi	26 years	Younger brother	Alive
4.	Ms. Sapna W/o Sh. Sandeep Singh, D/o Late Sh. Anil Singh	Uttam nagar, Delhi (complete address not known by the applicant)	24 years	Younger sister	Alive

7. The appellant is single and unmarried person. He was not aware about the said provision of the Act, therefore, he was not able to bring the same before learned Trial Court. Therefore, the present application is filed for ossification test. Along with the application, the appellant has also placed the School Leaving Certificate issued by Vidya Niketan, Nanak Pura, New Delhi where his date of birth is mentioned as 24th August, 1985.

8. The status report has also been filed by the State, which reads as under:-

“This petition has been filed by the applicant to ascertain the age in terms of Section 7(A) of Juvenile Justice (Care and Protection Act 2000). Enquires have been made from the first school that is N.P. Co. Edu. Sr. Sec. School Bapu Dham, New Delhi and found the age of applicant is mentioned at serial No.10 of the admission register is 11.10.1982 but in the photo copy of birth certificate the

age is mentioned as 24.08.1985. To ascertain the truth enquires have also been made from the Registrar Birth & Death, Delhi Cantonment Board. The certificate issued by the Sub Registrar have mentioned no name of the child but name of parents are mentioned regarding birth dated 24.08.1985. The date of commission of offence is 15.04.2000.

If the age of applicant consider as 11.10.1982 as per the school register, the age of the applicant on the day of offence was 17 years, 6 months and 4 days and if consider as 24.08.1985 his age was 14 years, 7 months and 21 days. The copies of extract of the school register and birth certificate issued by the Sub Registrar Birth & Death, Delhi Cantonment Board are attached herewith for perusal.”

9. Learned counsel for the applicant/appellant, on instructions, states that he is not pressing the appeal and conviction as well as the pending application for restoration of the appeal.

10. Having considered the averments made in the application and the documents placed on record along with the status report, the sentence of the appellant is quashed. He be released forthwith. His bail bond stands discharged.

11. The applications are accordingly disposed of.

(MANMOHAN SINGH)
JUDGE

FEBRUARY 04, 2015