

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.338 of 2015

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1. Md. Asif @ Dabloo S/o Md. Tauhid, R/o Khatopur, P.S. - Muffassil,
District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Md. Shakil, S/o Late Md. Safique, R/o Khatopur, P.S. - Muffassil,
District - Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Syed Mohammad Shabbir Alam

For the Respondent/s : Mr. Nand Kumar(App)

For Opposite Party No.2 : Mr. Ravindra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

7 22-12-2016

Heard learned counsel for the parties.

2. The petitioner is aggrieved by an order, dated 18.02.2015 passed by the learned Sessions Judge Begusarai, in Criminal Appeal No. 157 of 2014, whereby he has set aside the order, dated 22.05.2014 passed by the Juvenile Justice Board, Begusarai, whereby the Board had declared the petitioner to be a juvenile.

3. It transpires from the order, dated 22.05.2014, passed by the Juvenile Justice Board that the petitioner relied on certified copy of the Admission Register issued by a Primary School, Transfer certificate issued by the School, Admit Card of Navoday Vidyalaya, birth certified from Statistical Department, wherein the date of birth of the petitioner was



recorded as 05.11.1985. The date of occurrence of the said case is 08.03.2002. The Informant also appeared before the Juvenile Justice Board and disputed the claim of the petitioner producing before the Board a certificate (Fauqnia) from Madarsa Education Board, photo copy of voter list and letter of Principal, Madarsa Badrul Islam, Begusarai. In the Fauqania certificate, date of birth of the petitioner is admittedly, mentioned as 22.12.1980. The Board taking into account the conflicting dates of birth mentioned in the documents sought opinion from the Medical Board. The Medical Board in its report, dated 07.02.2005, declared the petitioner to be 20-22 years of age as on 07.02.2005. Accordingly, considering the age of the petitioner to be below 18 years as on the date of occurrence on the basis of the Medical Report, the Board declared him to be a juvenile under Section 49 of the Juvenile Justice Act.

4. The informant thereafter, preferred an appeal, which has been allowed by the impugned order, dated 18.02.2015 passed by the learned Sessions Judge, Begusarai. The reasoning, which the learned Sessions Judge has assigned is that since there was no dispute over Fauqania certificate, according to which, the date of birth of the petitioner was



20.12.1980, that being most preferred documents on record, the Board ought not to have gone any further for the purpose of enquiry under Rule 11 Bihar Juvenile Justice (Care & Protection) Rules, 2012. The reason assigned by the learned Sessions Judge in the impugned order, dated 18.02.2015, in my opinion, is legally sound and is supported by Supreme Court decision in case of *Ashwani Kumar Saxena Vs. State of Madhya Pradesh* reported in *(2012) 9 SCC 750* wherein the Supreme Court has explained how the age determination enquiry has to be conducted.

5. This has not been disputed that Fauqania qualification is equivalent to matriculation, which the petitioner is having. A copy of the certificate, which was produced before the J.J. Board on behalf of the informant showing the petitioner to have passed Fauqania has not been disputed. Rule 11(3) (b) of the Bihar Juvenile Justice (Care & Protection) Rules, 2012 specifically refers matriculation or “equivalent qualification”. The petitioner had apparently suppressed or had at least attempted to suppress this certificate from the Juvenile Justice Board while raising his claim of juvenility.

6. I do not find any illegality in the impugned order of the learned Sessions Judge.



7. This application has no merit and, is, accordingly,
dismissed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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