

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM No.M-17827 of 2014

Date of decision: January 18, 2016.

Gurpreet Singh @ Gurpiar Singh

... **Petitioner**

v.

State of Punjab and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Amritpal Singh Gill, Asstt. Advocate General, Punjab.

Mr. Sherry Singla, Advocate for respondent No.2.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

Present petition has been filed under section 482 Cr.P.C. for quashing the order dated 24.1.2014 (Annexure P-9) passed by learned Additional Sessions Judge, Bathinda and the order dated 20.3.2013 (Annexure P-7) passed by Sub Divisional Judicial Magistrate (SDJM), Talwandi Sabo whereby the petitioner was held not to be a juvenile.

The brief background of the case is that a complaint under Sections 307, 341, 325, 323 read with Section 34 IPC was filed by the complainant respondent Satpal Singh @ Gorkha son of Jang Singh against the present petitioner as well as some other

persons including Lachhman Singh and Nika Singh, Satpal Singh son of Mithu Singh before SDJM, Talwandi Sabo. On appearance, Lachhma Singh, Gupreet Singh and Nika Singh @ Harpreet Singh claimed that they were juvenile at the time of occurrence and filed the application. Vide order dated 20.3.2013 (Annexure P-7), Lachhman Singh and Nika Singh were held to be juvenile and the case qua them was ordered to be sent to the Juvenile Justice Board. However, qua Gurpreet Singh, it was found that he has produced two certificates, i.e., one by Chowkidar showing his date of birth as 5.11.1991 and the other issued by the Health & Family Welfare Department, whereby his date of birth is mentioned as 16.11.1990. Therefore, the said certificates were not relied upon and the claim of the present petitioner was discarded. The case being triable by Court of Sessions, was committed to the Court of Sessions. Before the court of Additional Sessions Judge, the present petitioner filed an application for declaring him juvenile which was declined by learned Additional Sessions Judge vide order dated 24.1.2014 on the ground that earlier SDJM, Talwandi Sabo has dismissed the claim of the petitioner for declaring him juvenile and the said order has not been challenged before any court.

I have heard Learned Counsel for the parties.

Before this Court, respondent No.2 has, along with his reply, filed a school certificate wherein date of birth of the present petitioner is recorded as 15.11.1989. In this way, three dates of birth have come forward. I am of the view that merely on the basis of

order of SDJM, the learned Additional Sessions Judge should not have dismissed the application. Once the claim is made by the petitioner for declaring him juvenile, an inquiry was required to be held wherein the petitioner is allowed to lead evidence and the complainant is allowed to rebut the same. Therefore, inquiry should have been held to hold as to whether the petitioner is juvenile offender or not. Merely on the ground that similar claim was earlier dismissed by SDJM, the claim of the petitioner could not have been declined. It being so, the impugned order dated 24.1.2014 passed by learned Additional Sessions Judge is set aside. The case is remanded to learned Additional Sessions Judge, Bathinda with a direction to hold an inquiry as to whether the petitioner is juvenile offender or not. For this purpose, both the parties would be given liberty to lead evidence and thereafter the court will record its own findings.

The petition is accordingly allowed to the above said extent.

January 18, 2016.
kadyan

[Kuldip Singh]
Judge