

249.

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

CRR-1925-2015 (O&M)

Date of decision:16.08.2016

Suraj

... Petitioner

versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vivek Aggarwal, Advocate,
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present petition impugning the order dated 05.03.2015 passed by learned Sessions Judge, Hisar whereby the application filed by the petitioner to declare him as juvenile was dismissed.

Learned counsel for the petitioner states that FIR has been registered against the petitioner-accused under Section 302 IPC read with Sections 25/54/59 of Arms Act at Police Station City, Hisar. He states that stabbing by knife has been attributed to the other accused, namely, Pankaj. He further states that as per school record, petitioner's date of birth is 12.06.1996 whereas the occurrence had taken place on 04.05.2014. In this manner on the date of occurrence, the petitioner was about 17 years and 11 months. The prosecution has relied upon the declaration made by the petitioner wherein he has declared his age as 18 years. Learned counsel for the petitioner states that as per certificate issued on 09.04.2015 by the Head Teacher, Government Primary School No.2, Hisar, the date of birth of the

petitioner is 12.06.1996 and, therefore, he was juvenile on the date of occurrence.

On the other hand, learned State counsel, as per reply which has already been filed by way of affidavit of Jai Pal Singh, DSP City Hisar, on behalf of respondent, submits that necessary verification regarding date of birth/certificate was conducted from the office of Head Teacher, Government Primary School No.2, Hisar and the District Elementary Education Officer, Hisar and as per their school certificate, the date of birth of the petitioner, which has been shown as 12.06.1996, is correct. However, he relies upon a judgment of Hon'ble Supreme Court rendered in **Nagendra @ Wireless Versus State of Uttar Pradesh-2015(3) RCR (Criminal) 543** to contend that school leaving certificate is not a relevant consideration to determine the juvenility of an accused/convict under Rule 12(3) of juvenile Justice (Care and Protection of Children) Rules 2007.

I have heard learned counsel for the parties.

The impugned order dated 05.03.2015 passed by learned Sessions Judge, Hisar is based on the statement of the petitioner-accused and there was no material before the learned Sessions Judge to comment on the certificate issued by Head Teacher, Government Primary School No.2, Hisar, dated 09.04.2015. Since the certificate has been placed for the first time during the proceedings pending before this Court and the parties have not adduced the evidence on the said certificate, the impugned order dated 05.03.2015 passed by learned Sessions Judge, Hisar is set aside and the matter is remanded back to the trial Court to decide about the juvenility of the petitioner afresh on the basis of material so adduced by the parties including the certificate issued by Head Teacher, Government Primary

School No.2, Hisar, dated 09.04.2015.

Accordingly, the present petition stands allowed.

It is made clear that the trial Court shall not be influenced by observation, if any, made in this order and shall pass a fresh order on the basis of available material independently.

(HARI PAL VERMA)
JUDGE

16.08.2016
sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.