

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

CRR-211 of 2015 (O&M)

Date of decision: May 04, 2016

Harcharan Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Jaswant Singh, Advocate for the petitioner.
Dr. Sushil Gautam, DAG, Haryana.
Mr. Gautam Dutt, Advocate for respondent No.2.

Rajan Gupta, J.(oral)

Challenge in the present petition is to the order dated 09.01.2015, passed by Additional Sessions Judge, Fatehabad, declaring Manoj @ Monu (respondent No.2 herein) a juvenile, thus directing his trial by Principal Magistrate, Juvenile Justice Board. Aforesaid order has been challenged on the ground that Section 7-A of Juvenile Justice (Care and Protection of Children) Act, 2000 and Rule 12 of Juvenile Justice (Care and Protection of Children) Rules, 2007, have not been complied with in letter and spirit. Law laid down in judgments reported as ***Babloo Pasi vs. State of Jharkhand & Anr., 2008 (4) R.C.R. (Criminal) 756*** and ***Shimil Kumar vs. State of Haryana, 2013 (4) R.C.R. (Criminal) 16*** and ***Nagendra @ Wireless vs. State of Uttar Pradesh, 2015 (3) R.C.R. (Criminal) 543*** has not been considered. According to learned counsel,

at least opinion of medical board ought to have been obtained before coming to the final conclusion about the juvenility of accused/respondent No.2 and any other corroborative evidence. He submits that matter needs to be remitted to the same court for decision afresh.

Learned State counsel does not oppose the prayer for remand of the case to the trial court for decision afresh. Learned counsel appearing for respondent No.2 submits that he has no objection if opinion of the medical board is sought by the trial court before it decides the issue afresh. He also does not oppose the prayer for remand of the case. However, he has placed reliance on judgment reported as ***Abuzar Hossain @ Gulam Hossain vs. State of West Bengal, 2012 (4) R.C.R. (Criminal) 796***, wherein procedure to decide the matter of juvenility has been summarized.

I have considered the arguments raised by learned counsel for the parties and examined the order passed by the court below.

In view of stand taken before this court and the fact that the order passed by the trial court is rather cryptic, same is hereby set-aside. Matter is remitted to the same court for decision afresh as per law after considering stand of the parties and the law laid down on the issue. Trial court shall endeavour to decide the issue at the earliest preferably within a period of two months.

Petition is allowed in these terms.

(RAJAN GUPTA)
JUDGE

May 04, 2016
'Rajpal'