

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

**Criminal Revision No.3064 of 2014
Date of Decision:-22.09.2016**

Anil

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Ram Pal Verma, Advocate
for the petitioner.

Mr. Manish Bansal, Deputy A.G., Haryana.

Mr. Gagandeep Rana, Advocate for
Mr. Rajinder Paul, Advocate
for respondents No.2 and 3.

HARI PAL VERMA J.

Petitioner has filed the present revision petition against the order dated 17.7.2014 passed by learned Additional Sessions Judge, Sonapat, whereby accused Rahul @ Manu son of Satyawar and Rahul son of Rajinder have been declared as juvenile.

Learned counsel for the petitioner has argued that the impugned order declaring respondents No.2 and 3 as juveniles without any cogent evidence is illegal. The accused have not produced any documentary evidence in support of their date of birth claiming them to be juveniles. As per the complainant, accused Rahul son of Rajinder (respondent No.3) is major and is aged about 19 years. Kamlesh is mother

of respondent No.3-Rahul and was living in Village Dinod with one Rajinder son of Bhana Ram. He states that Rajinder is the second father of respondent No.3-Rahul and said Rahul was aged about one year when his mother Kamlesh had gone to Village Dinod in the year 1995 with her both children. She left her first husband and thereafter started living with Rajinder son of Bhana Ram. He submits that respondent No.3 was not juvenile as at the time of commission of offence and he was aged above 19 years. The ossification test has suggested the age of respondent No.3 Rahul son of Rajinder as 17-18 years and therefore, he cannot be declared juvenile. The trial Court has committed illegality by not appreciating the ossification test report. He further submits that respondent No.3-Rahul has committed a heinous crime and is involved in a murder. Even Rajinder, who is father of respondent No.3-Rahul has given an affidavit that Rahul was about 1 year old in the year 1995 when his mother Kamlesh came in Village Dinod with her two children and started living with him. Therefore, respondent No.3-Rahul is above 19 years of age and cannot be declared juvenile.

I have heard learned counsel for the petitioner.

AW-1 Kamlesh wife of Rajinder @ Naresh has stated that she is having five children and Rahul is youngest from two elder sons. She is illiterate lady and having no written record or proof regarding the date of birth of Rahul. She states that at the time of commission of offence, date of birth of said Rahul was 17.12.1997. Similarly statement of AW-2 Satyawar son of Devia, father of respondent No.2-Rahul @ Monu stated that his

marriage was solemnized in the year 1994 and respondent No.2-Rahul @ Monu is his eldest son. He also submits that he is having no written proof of date of birth of respondent No.2-Rahul @ Monu but claimed that on the date of commission of offence, date of birth of respondent No.2 was 29.9.1997.

During trial on 13.3.2014 on joint request made by the parties so as to conduct the ossification test of respondents No.2 and 3 as no documentary evidence was available regarding their date of birth, the ossification test was conducted by the Special Medical Board at PGIMS, Rohtak. The report dated 30.5.2014 was received. On the basis of the ossification test report, the Special Medical Board at PGIMS, Rohtak came to the conclusion that both the respondents No.2 and 3 namely Rahul son of Satyawar and Rahul son of Rajinder were minors at the time of occurrence. Accordingly, they were declared juveniles.

Keeping in view the said circumstances, no interference is warranted in the order dated 17.7.2014 passed by learned Additional Sessions Judge, Sonapat, whereby respondents No.2 and 3, namely, Rahul @ Manu son of Satyawar and Rahul son of Rajinder have been declared juveniles.

Dismissed.

September 22, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No