

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

Criminal Revision No.5085 of 2015 (O&M)

Date of decision: 20th May, 2016

Dinesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. P.S.Miglani, Advocate,
for the petitioner.

Ms. Shivali, AAG, Punjab,
for the respondent(s)-State.

INDERJIT SINGH, J.

Petitioner Dinesh Kumar has preferred the instant revision petition under Section 401 Cr.P.C. against respondent-State of Punjab, challenging the impugned order dated 05.11.2015, passed by the learned Judge, Special Court, Fazilka.

Notice of motion was issued. Learned State counsel appeared and contested the instant revision petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, this Court finds that an application was moved by the petitioner-accused for conducting inquiry and declaring him as juvenile on 05.11.2015. The learned Judge, Special Court, Ferozepur, dismissed the said application on that very day by stating that the said application has been moved after a lapse of three years from the date of lodging of FIR and no ground is made out for allowing the same for the purpose of conducting inquiry regarding juvenility of the accused. The learned Judge, Special Court, Ferozepur, has dismissed the application

only due to the fact that it has been filed after three years from the date of lodging of FIR. No other ground has been mentioned. Even no opportunity has been given to the applicant-petitioner as well as to the opposite party to prove whether the accused is a juvenile or not. It is settled law that the application for getting conducted the inquiry regarding the fact whether the accused was juvenile at the time of occurrence or not can be filed at any stage of the proceedings even during the appeal, revision etc. As such, the impugned order dated 05.11.2015, passed by the learned Judge, Special Court, Ferozepur, declining the said application only on the ground that it has been filed late or with some delay, is not as per law and the same is set aside.

Therefore, finding merit in the instant petition, the same is accepted. The matter is remanded back to the learned Judge, Special Court, Ferozepur with the direction to decide the said application afresh on merit after giving opportunity to both the parties to produce evidence in their favour and after hearing them. The parties are directed to appear before the learned Judge, Special Court, Fazilka on 05.07.2016.

20th May, 2016
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(INDERJIT SINGH)
JUDGE