

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

**CRR-4063-2016 (O&M)
Date of decision-07.11.2016**

Anil Kumar

...Petitioner

Vs.

Surat Singh and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Tapan Kumar Yadav, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This revision petition is directed against the order dated 21.10.2016 passed by learned Additional Sessions Judge, Narnaul vide which the order dated 13.05.2016 passed by Judicial Magistrate First Class, Narnaul was set aside and the trial Court was directed to conduct the fresh enquiry with regard to the juvenility of the petitioner after taking into consideration the date of birth certificate produced at the time of joining of school (first attended) and after getting ossification test of the accused from a Medical Board.

The grievance of the petitioner in the instant revision is that the Court of Additional Sessions Judge, Narnaul committed grave error while setting aside the well reasoned order passed by Judicial Magistrate First Class and remanding the matter to the trial Court for conducting fresh enquiry qua the determination of juvenility of the accused. It is contended that the accused produced the school leaving certificate before the Court of Judicial Magistrate First Class and on the basis of the same, the trial Court

held the date of birth to be 01.07.1999. Therefore, the petitioner was declared juvenile. The admission form of Vivekanand School Bibipur Exhibit AW2/A also fortified this fact.

I have heard learned counsel for the petitioner and gone through the case file.

As per Rule 12 (3) (a), the determination of the juvenility shall be considered on the basis of following evidence:-

“a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

b) and only in the absence of either 9(i), (ii) or (iii) of clause(a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, given benefit to the child or juvenile by considering his/her age on lower side within the margin of one year and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the proof of the age as regards such child or the juvenile in conflict with law.”

This Court is of the opinion that the order passed by learned Additional Sessions Judge is in consonance with law as the requirement of the rule is that firstly the matriculation or its equivalent certificate to be produced and if, the same is not available, the date of birth certificate from the school which was first attended by the accused should be produced before the Court. In the instant case, the matriculation certificate has not been produced. Therefore, the accused was required to produce the date of birth certificate from the school first attended.

This Court does not find any infirmity in the order passed by the Additional Sessions Judge, Narnaul, while directing the accused to produce the aforesaid certificate and directing the Medical Board to conduct ossification test of the accused.

Consequently, the revision petition stands dismissed.

(JITENDRA CHAUHAN)
JUDGE

November 07, 2016

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No