

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

**CRR No. 537 of 2016 (O&M)
DECIDED ON: AUGUST 01, 2016**

GURDEV SINGH

... PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

... RESPONDENTS

CORAM:HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. J.S. Brar, Advocate
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

JASPAL SINGH.J

CRM No. 4466 of 2016

Application is allowed, as prayed for.

CRR No. 537 of 2016 (O&M)

By virtue of this revision petition, petitioner has sought the setting aside of order dated January 15, 2016 passed by learned Additional Sessions Judge, Sri Muktsar Sahib whereby the order dated October 26, 2015 passed by learned Principal Magistrate, Juvenile Justice Board, has been set aside and declared the accused Atma Singh @ Attu as juvenile.

2. On securitization of the impugned order dated January 15, 2016, it becomes amply clear that the same is not in consonance with the evidence available on file. The order dated October 26, 2015 passed by Principal Magistrate, Juvenile Justice Board has been set aside without any

rhyme and reason by the lower appellate court and accused Atma Singh @ Attu has been declared to be juvenile at the time of commission of alleged offence simply on account of his school leaving certificate. The lower Appellate Court as well as Principal Magistrate, Juvenile Justice Board have not taken into consideration the inquiry report furnished by Station House Officer, Police Station Bariwala.

3. Even during inquiry before the Principal Magistrate, Juvenile Justice Board, no efforts has been made either to examine the Chowkidar alongwith his record with regard to the birth of the accused nor any record has been summoned from the office of concerned Registrar, Births and Deaths. Similarly, accused has not been got subjected to ossification test to determine his age. The school leaving certificate is also without any basis. At the time of admission of the accused in school neither any affidavit with regard to his date of birth has been furnished nor any birth certificate was produced. There is a simple statements of parents of the accused that the date of birth of the accused Atma Singh @ Attu is 19.09.1998. If the statement of Darshan Singh a neighbour of the accused is taking into consideration, as per his version, he raised the construction of his house in the year 1995 and not in the year 1998 as has been unfolded by the parents of the accused and simply on account of date of birth appearing on the school leaving certificate, it cannot be said that the date of birth of the accused is 19.09.1998.

4. A deep inquiry is required to be conducted before giving any opinion with regard to the juvenility of the accused. Thus, both the orders passed by the courts below are set aside and Principal Magistrate, Juvenile

Justice Board, Sri Muktsar Sahib is directed to conduct a fresh inquiry after collecting the evidence from the office of concerned Civil Surgeon or Registrar, Births and Deaths and Chowkidar of the concerned village as well as by getting conducted the ossification test of the accused.

5. The needful be done by the Principal Magistrate, Juvenile Justice Board, Sri Muktsar Sahib within a period of three months from the date of receipt of certified copy of this order, as the matter already stands delay.

6. Accordingly, revision petition is allowed. Registry is directed to send a copy of this order to learned trial Court for its compliance.

AUGUST 01, 2016
sham

(JASPAL SINGH)
JUDGE

Whether	Speaking/Reasoned	Yes/No
Whether	Reportable	Yes/No