

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.103 of 2017

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1. Mithilesh Kumar Singh
2. Satyendra Kumar Singh Both are sons of Shri Krishna Prasad Singh @ Krishna Singh, Residents of Village- Piyano, Police Station- Kopa, District- Saran (Chapra), under the guardian of his father, namely, Shri Krishna Prasad Singh @ Krishna Singh, son of late Sahdeo Prasad Singh.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Mishor Mishra

For the Respondent/s : Mr. Sri Ram Anurag Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 22-02-2017 Heard learned counsel for the parties.

2. The petitioners are aggrieved by an order dated 16.12.2016 passed by learned First Additional Sessions Judge, Saran at Chapra, in Criminal Appeal No. 08 of 2015, whereby he has affirmed an order, dated 22.12.2014, passed by the Juvenile Justice Board, Chapra in J.J.B . Case No. 1251 of 2014 arising out of Kopa P. S. Case No. 43 of 2012, refusing to accept the plea of the petitioners that they were juveniles as on the date of occurrence of the said offence.

3. The date of occurrence leading to registration of Kopa P. S. Case No. 43 of 2012 is 08.05.2012. The petitioners are full brothers. They claimed juvenility on the ground of their matriculation certificates. The petitioner No.1



claimed that he passed the matriculation examination in the year 2009 with his date of birth as 05.09.1994. Petitioner No.2 claimed his juvenility claiming his date of birth to be 08.05.1999 on the basis of original matriculation certificate issued by the Bihar School Examination Board on 05.06.2014.

4. On an objection having been raised on behalf of the informant before the Juvenile Justice Board over genuineness and correctness of the certificates so furnished, the Juvenile Justice Board had sought medical opinion to determine the claim of the petitioners of juvenility. The Medical Board found age of petitioners No. 1 and 2 to be between 24-25 years and 23-24 years respectively as on the date of their medical examination. On the basis of the said report, the petitioners have be declared to be major as on the date of occurrence. Petitioner No.1 has been held to be 21 years, six months and 18 days and petitioner No.2, 21 years, six months and 18 days, as on the date of the occurrence.

5. The said order of the Juvenile Justice Board dated 22.12.2014, came to be affirmed by the learned First Additional Sessions Judge, Saran at Chapra by the impugned order, dated 16.12.2016.

6. Learned counsel appearing on behalf of the



petitioners has vehemently argued that since the matriculation certificates were available before the Board, the Board did not have any occasion to seek medical opinion for the purpose of age determination enquiry by the Juvenile Justice Board, in view of language of Rule 11 of the Bihar Juvenile Justice (Care & Protection of Children) Rules, 2012.

7. In support of his submissions, he has relied on certain Supreme Court's decisions reported in ***AIR 2013 SC, 553 (Ashwaini Kumar Saxena Vs. State of M.P.), and AIR 2014 SC 2726(Kulai Ibrahim alias Ibrahim Vs. State) .***

8. From the impugned orders, I find that petitioner No.2 claimed that he was a juvenile as on the date of occurrence, i.e. on 08.05.2012 on the basis of entry of date of birth made after the date of the occurrence. His matriculation certificate, which has been relied on is of the year 2014. This is not in dispute that entry of date of birth is much after the date of occurrence and registration of the First Information Report. The Juvenile Justice Board and the Courts below have rightly not based their decision on the entry of date of birth made in the matriculation certificate of petitioner No.2, which does not inspire confidence. Entry of date of birth being much after registration of the F.I.R and there was thus ample reason and scope for manipulation of



entry of date of birth for defeating criminal prosecution. My view finds support from Supreme Court's decision in case of ***Kulai Ibrahim*** (supra) relied on by learned counsel for the petitioner. In the said case the person claiming juvenility relied on a birth certificate issued by the Municipal Corporation.

9. As regards petitioner No.1, I find from the records that there was sufficient evidence before the Board to doubt the genuineness of the entry of the date of birth and the matriculation certificate itself. He has been found by the medical Board to be older than petitioner No.1. In course of submission learned counsel for the petitioners has not disputed the fact that petitioner No.1 is elder brother of petitioner No.2. In such circumstance, If the Juvenile Justice Board sought opinion from the Medical Board, the action cannot be said to be unjustified. The Supreme Court's decision on which reliance has been placed by learned counsel appearing on behalf of the petitioners has no application in the facts and circumstances of the present case, where doubting the correctness of date of birth entered in the matriculation certificate for valid reasons, the Juvenile Justice Board had sought opinion from a duly constituted Medical Board.

10. Now since on the basis of age determined by the



Medical Board as on the date of the examination of the petitioners, the petitioners have been declared to be major by the Juvenile Justice Board, I do not find any reason to interfere with the decision of the Board and the appellate order passed by the learned First Additional Sessions Judge, Saran at Chapra.

11. This application has no merit and is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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