

Crl.M.P.No.8137 of 2016

in

Crl.A.No.633 of 2015

S.NAGAMUTHU,J.

AND

N.AUTHINATHAN,J.

(Order of the Court was delivered by S.Nagamuthu,J.)

The petitioner is the first accused in S.C.No.140 of 2006 on the file of the learned Additional Sessions Judge, Krishnagiri District. The trial Court by judgment dated 19.04.2011 has convicted him under Section 302 I.P.C. and Section 25(1-b) of Indian Arms Act. For offence under Section 302 I.P.C. the trial Court sentenced him to undergo imprisonment for life and pay a fine of Rs.10,000/- in default to undergo rigorous imprisonment for five months and for offence under Section 25(1-b) of Indian Arms Act, sentenced him to undergo rigorous imprisonment for one year and pay a fine of Rs.1000/- in default to undergo rigorous imprisonment for two months. The other accused namely A2 to A4 were acquitted by the trial Court. Challenging the said conviction and sentence, the appellant / first accused has come up with Criminal Appeal No.633 of 2015.

2. Pending appeal, the appellant / petitioner herein has now come up with this Criminal Miscellaneous petition No.8137 of 2016 requesting this Court to receive additional evidence to prove that he was only 16 years old as on the date of the alleged occurrence and

thus, as on the date of the alleged occurrence, he was a juvenile in conflict with law and therefore he is entitled for the benefits of the Juvenile Justice (Care and Protection of Children) Act, 2000. According to him, his date of birth is 05.07.1986, whereas, the alleged occurrence was on 06.07.2002.

3. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State.

4. According to the petitioner, the Chief Municipal Officer, Nagar Balika Maksi, Shajapur district, Madhya Pradesh State has issued a certificate of birth, wherein, his date of birth has been mentioned as 05.07.1986. The petitioner has produced a copy of the same. Except the said document, the petitioner has got neither oral evidence nor any other documentary evidence to prove his date of birth.

5. The learned Additional Public Prosecutor would submit that during the trial, the petitioner made a similar claim that he was a juvenile in conflict with law as on the date of occurrence before the trial Court and produced his school certificate, which was later on found to be a forged document. Therefore, the trial Court proceeded against him as he was an adult as on the date of the occurrence. He

has further submitted that the birth certificate which has been now produced has been created for the purpose of this case.

6. We have considered the above submissions.

7. There is no denial of the fact that earlier during trial, the petitioner made a claim that he was a juvenile in conflict with law as on the date of occurrence but the same was however negated by the trial court. The school certificate produced by the petitioner was found to be a forged one. Now, the petitioner has made a similar claim based on the birth certificate issued on 22.08.2012 by the Chief Municipal Officer, Nagar Balika Maksi, Shajapur District, Madhya Pradesh State. A perusal of the same would go to show that the registration of birth of the petitioner was made only on 16.02.2004 i.e. about two years after the occurrence. As per the provisions of the Registration of Births and Deaths Act, 1969 such entry in the register would have been made only on the order of a learned Magistrate. It is well established that such an entry made in the birth register on the order of the learned Magistrate would not vouch for the correctness of the date of birth. At any rate, since in this case, the date of birth of the petitioner was entered after two years of the occurrence, we are unable to attach any importance to the said document. Therefore, we reject the same. If that is so done, we find

no other evidence which could be received in support of the claim of the petitioner that he was a juvenile in conflict with law as on the date of the occurrence. Thus, we find no merit at all in this petition.

8. In the result, the petition fails and the same is accordingly dismissed.

(S.N.J.) (N.A.N.J.)
.01.2017

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S.NAGAMUTHU,J.

&

N.AUTHINATHAN,J.

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PRE DELIVERY ORDER
in Crl.M.P.No.8137 of 2016
in Crl.A.No.633 of 2015

RESERVED ON : **09.01.2017**

PRONOUNCED ON : **19.01.2017**

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