

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

CRR-138-2016
Date of decision: 22.9.2017

Harpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Jatinderpal Singh, Advocate
for the petitioner.

Mr.K.S. Aulakh, DAG, Punjab.

H.S. MADAAN, J.

This revision petition is directed against the order dated 3.10.2015 passed by the Court of learned Additional Sessions Judge, S.A.S. Nagar Mohali vide which application for declaring the petitioner as a juvenile was dismissed.

Accused Harpreet Singh, an accused in FIR No.33 dated 4.3.2015 for the offences under Sections 302/307/324/341 IPC, Police Station Lalru, against whom the trial was pending in the Court of learned

Additional Sessions Judge, S.A.S. Nagar Mohali, moved an application on 31.7.2015 for being declared as a juvenile for the reason that his date of birth as per birth certificate is 15.7.1997. The application was opposed by the prosecution by way of filing written reply that as per matriculation certificate his date of birth is 11.2.1996, as such he was not a juvenile on the date of incident. Both the parties were afforded opportunities to lead evidence.

After hearing arguments, the trial Court vide a detailed order dated 3.10.2015 came to the conclusion that since as per matriculation certificate of petitioner – accused, his date of birth is 11.2.1996. He was aged more than 18 years at the time of occurrence dated 4.3.2014 and in presence of matriculation certificate his birth cannot be taken as correct.

Feeling aggrieved, petitioner – accused Harpreet Singh has approached this Court by way of filing the instant revision petition.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Rule 12 of the Juvenile Justice (Care and Protection of Children), Rules, 2007 deals with procedure to be followed in determination of age, which reads as under:

12.Procedure to be followed in determination of age:

(1) x x x

(2) x x x

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the Court or the Board or, as the case

may be, the Committee by seeking evidence by obtaining-

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

(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 (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, give 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 clauses (a) (i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

In the instant case, the trial Court has relied upon the matriculation certificate so as to come to the conclusion that date of birth of petitioner is 15.7.1997 as claimed by him on the basis of birth certificate. It is own certificate of the petitioner and he cannot wriggle out of the same. He has not got the date of birth in such certificate corrected so far. Therefore, it does not lie in his mouth to disown it and start saying that his date of birth certificate be relied upon instead of his matriculation certificate. Learned counsel for the petitioner has referred to so may authorities i.e. *Babloo Passi Versus State of Jharkhand and another, 2008(4) R.C.R.(Criminal)756*, *Vishnu @ Undrya Versus State of Maharashtra, 2006(1) R.C.R.(Criminal) 201* and *Rajinder Chandra Versus State of Chhattisgarh, 2002(1) R.C.R.(Criminal) 586* but those do not find application to the present case due to different facts and circumstances.

I do not see any infirmity or illegality much less apparent on the face of it in the impugned order. There is no reason to interfere with the same while exercising the revisional jurisdiction.

Finding no merit in the revision petition, the same stands dismissed.

22.9.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No