

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

CRR-4842 of 2016
Date of decision: 18.8.2017

Mustafa

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Rajesh Lamba, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This revision petition is directed against the order dated 24.10.2016 passed by the Court of learned Additional Sessions Judge, Mewat vide which application for declaring the petitioner as a juvenile was dismissed.

Feeling aggrieved, petitioner — accused Mustafa has approached this Court by way of filing the instant revision petition.

Briefly stated, facts of the case are that that an FIR No.116 of

26.4.2016 for offences under Sections 302, 120-B, 34 IPC was registered at Police Station Tauru, District Mewat against accused Waseem and Mustafa. Accused Mustafa filed an application under Section 7-A of Juvenile Justice (Care and Protection of Children) Act, 2000 on 11.8.2016 for being declared as a juvenile submitting that his date of birth is 15.12.1999. In support of his that contention, he has submitted mark-sheet of secondary examination issued by Board of School, Education Haryana on 6.5.2015. He has also produced the school record but the trial Court of learned Additional Sessions Judge, Mewat vide order dated 24.10.2016 dismissed the application relying upon the evidence produced by the respondent.

The petitioner has challenged the said order praying that it be set aside.

Notice of this revision petition was given to the State of Haryana which has put in appearance and filed written reply contesting the petition.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record and I find that there is no merit in the revision petition.

As per the case of the petitioner – accused Mustafa, his date of birth is 15.12.1999, in that way he was aged less than 18 years on 26.4.2016, the day of occurrence, therefore, he was/is a juvenile. To prove those assertions, he had examined AW1 Pawan, Clerk from Vishkarma High School, Mewat, who had brought the record regarding admission of accused Mustafa in 9th class vide serial No.1399 dated 8.4.2013 on the

basis of photocopy of School Leaving Certificate No.26 dated 2.4.2013 issued by Mewat Middle School, Sewaka, wherein date of birth of Mustafa is mentioned as 5.12.1999. On the other hand, the prosecution had got proved birth certificate of Mustafa proved as Ex.R2 by way of examining Sh.Ashish Gupta, Clerk, Additional District Registrar, Birth & Death office of Civil Surgeon, Mandikhera as RW1. According to such birth certificate date of birth of Mustafa is 2.9.1997. The witness had brought original record, copy of which was placed on file as Ex.R1.

While appreciating the evidence adduced by both the parties, the trial Court has observed that date of birth of Mustafa as 5.12.1999 could have been mentioned in Ex.A3 i.e. mark-sheet issued by Board of School Education, Haryana on the basis of information given by Vishkarma High School, Mewat vide school leaving certificate available on record as Mark-A and that no evidence is brought on record regarding genuineness of that document.

On the other hand, with respect to evidence adduced by the State, there was no reason to doubt the birth certificate of accused Mustafa issued by competent authority on the basis of public record to which presumption of truth is attached. In that way, the trial Court reached the conclusion that actual date of birth of accused Mustafa is 2.9.1997 which means that on 26.4.2016, the date of occurrence his age was more than 18 years and he was not a juvenile, therefore, the application moved by such accused was dismissed.

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.

18.8.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No