

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

**CRR No. 4446 of 2017(O&M)
Date of Decision:30.11.2017**

Gagandeep Kaur

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Satbir Gill, Advocate
for the petitioner.

LISA GILL, J(Oral).

The petitioner is aggrieved of order dated 09.11.2017, passed by the learned Additional Sessions Judge, Sirsa, whereby his application under Section 311 Cr.P.C., for summoning Vaccine Register, Community Health Centre, Rania, for now proving the date of birth of the applicant, has been dismissed.

Brief facts necessary for the adjudication of this case are that FIR No. 159 dated 25.05.2016, under Sections 366, 376, 506, 511 and 120-B IPC, was registered on the statement of the petitioner's father. In the said FIR, the complainant has not mentioned the victim to be minor. Thereafter, statement of the petitioner/victim under Section 164 Cr.P.C., was recorded on 10.06.2016, wherein she has disclosed her age to be 18 years. Her examination in chief was conducted. Thereafter, application under Section 311 Cr.P.C., was moved for summoning the concerned employee for proving an entry in the Vaccine Register of the Community Health Centre, Rania, in order to prove that the date of birth of the petitioner is 20.06.1998 and not 20.05.1998. Reply to the said application was filed specifically

stating that the school certificate/mark sheet presented by the complainant and the prosecutrix before the Investigating Agency clearly shows her date of birth to be 20.05.1998. However, with motive of trying to change the complexion of the prosecution case, Vaccine Register is sought to be summoned for proving date of birth of the prosecutrix to be 20.05.1998. It is to be noted that FIR in this case is dated 25.05.2016.

Learned Additional Sessions Judge, Sirsa, has rightly dismissed the application under Section 311 Cr.P.C., filed by the petitioner by observing as under:-

“It has nowhere been stated by the complainant Didar Singh (PW2) in his complaint Ex.P4 that his daughter i.e. prosecutrix/ victim(PW1) was minor at the time when she left the house. Her date of birth has also not been given in the complaint Ex.P4. The accused were challaned under Sections 120-B, 376, 366, 344, 506, 511 IPC. From the very beginning, it is not the case of the prosecution/State that the prosecutrix/victim (PW1) was minor on the date of occurrence. In her statement Ex.P2 under Section 164 Cr.P.C dated 10.06.2016, the prosecutrix/victim (PW1) has disclosed her age as 18 years. In her cross-examination, the prosecutrix/victim (PW1) has stated that she had seen the attested photostat copy of mark-sheet Ex.DA which belonged to her. She has admitted in her cross-examination that in the mark-sheet Ex.DA, her date of birth has been mentioned as 20.05.1998. This mark-sheet Ex.DA is her secondary examination of Board of School Education, Haryana. By way of present application, the complainant/State/Prosecution want to show the date of birth of the prosecutrix/victim (PW1) as 20.06.1998 on the basis of vaccine register of Community Health Centre, Rania taken under Right to Information Act. This vaccine register, under any circumstances, cannot be a proof of date of birth. It is settled law that school certificate is to be given priority over any other document regarding proof of date of birth. As per

Ex.DA, the date of birth of the prosecutrix/victim (PW1) is 20.5.1998 and therefore, she had completed 18 years of age on the date of occurrence i.e. 23.05.2016 and that is why, it was not the case of the prosecution/State from the very beginning that the prosecutrix/victim (PW1) was minor on the date of occurrence. On the other hand, the accused have examined Naresh Kumar, Principal, Government Girls Senior Secondary School, Rania as DW1 who has proved the date of birth of the prosecutrix/victim(PW1) as 20.05.1998 by producing the photostat copy of original register as Ex.DW1/A. Similarly, Pankaj Kumar, JBT Teacher Government Primary School, Rania (DW2) has also proved the date of birth of the prosecutrix/victim(PW1) as 20.05.1998 by producing admission form Ex.DW2/A, affidavit Ex.DW2/B, date of birth certificate Ex.DW2/C, copy of admission register Ex.DW2/D and school leaving certificate Ex.DW2/F.”

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 09.11.2017, passed by the learned Additional Sessions Judge, Sirsa, which calls for interference by this Court in exercise of revisional jurisdiction.

Accordingly, this petition is dismissed.

30.11.2017
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No