

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3080-2016 (O&M)

Date of decision: 02.08.2018

Dheeraj @ Dhirender Singh and another

..... Petitioners

Versus

The State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Rishab Lohan, Advocate for
Mr. RN Lohan, Advocate for the petitioners.

Mr. Yashwinder Singh, DAG, Haryana.

Mr. Bijender Dhankar, Advocate for the complainant.

RAMENDRA JAIN, J. (ORAL)

Through this revision, challenge has been laid to the order dated 17.08.2016, whereby the application of the petitioners for declaring them juvenile was dismissed.

In nutshell, the petitioners along with their mother and some other persons, total 9 in number were booked and are facing trial in case FIR No. 108 dated 22.05.2012, under Section 302 IPC, Police Station Sadar, Hisar. During trial, the petitioners moved an application for declaring them juvenile pleading that date of birth of petitioner No. 1-Dheeraj @ Dhirender Singh was 15.02.1996, whereas date of birth of petitioner No. 2-Neeraj @ Rathod Ashish Singh was 20.06.1998. In support of their contention, they examined their mother-Sumitra as AW-1 and also produced their mark sheets of secondary examination Ex. A-1 and A-2, copy of ration card of

their family Ex. A-3, besides their birth certificates Exs. A-4 and A-5, respectively.

On the other hand, respondent-State has examined ASI Suraj Bhan as RW-1, who testified about the verification of the date of birth certificates of the petitioners.

After hearing both the sides, the trial Court dismissed the application of the petitioners vide order impugned herein.

Learned counsel for the petitioners *inter alia* contends that despite having no contrary evidence to the evidence led by the petitioners, in support of their juvenility, the learned trial Court has illegally and erroneously dismissed their application for declaring them juvenile.

Learned State counsel assisted by learned counsel for the complainant vehemently opposed the submissions made by learned counsel for the petitioners.

Having given thoughtful consideration to the submissions made by learned counsel for both the sides, I find merit in the instant revision for the reason that on the last date of hearing, a co-ordinate Bench of this Court, had directed to disprove the credibility of original Secondary Certificates issued by a Education Board which are the subject matter of controversy. Pursuant thereto, learned State counsel has fairly admitted today that they have no contrary evidence to the Secondary Education Certificates of the petitioners and their birth certificates.

More so, own witness of the prosecution RW-1 ASI Suraj Bhan, has supported the version of the petitioners testifying that he had verified the birth certificates of the petitioners, Exs. A-4 and A-5 by visiting the place of origin of those certificates at Gujarat. Since, no contrary

evidence has been led by the complainant or the State against the date of birth certificates and secondary education certificates of the petitioners, therefore, the same mentioning the date of birth of both the petitioners as 15.02.1996 and 20.06.1998, have to be relied upon.

In view of the discussion made above, the instant revision is allowed and impugned order dated 17.08.2016, is set aside. The trial Court is directed to refer the case of the petitioners to Principal Magistrate, Juvenile Justice Board, Hisar, for trial, in accordance with law.

August 02, 2018

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No