

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

CRR-2352-2017 (O&M)

Date of Decision:26.09.2018

Mukesh Kumar

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Tejinder Pal Singh, Advocate
for the petitioner.

Mr. Munish Sharma, A.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the order dated 9.6.2017 whereby respondent No.2 has been declared juvenile. Question in this petition is that whether Sessions Court decided the application declaring Atul-respondent No.2 as juvenile and sending him before Juvenile Justice Board for further trial is in accordance with law or not?

2. Learned counsel for the petitioner submitted that date of birth of Atul recorded by the School Authorities as 8.10.1999 cannot be taken into consideration for the reasons that such entry is not supported by any document. Therefore, date of birth with reference to entry in date of birth register is required to be taken into consideration where it has been recorded as 10.8.1998.

3. Sessions Court after due examination of the records like secondary examination certificate and Director Elementary Education and date of birth register had come to the conclusion that on the date of alleged incident namely 31.10.2016, respondent No.2-Atul was below the date of 18 years and he was a juvenile. Therefore, any reliance by the petitioner's counsel to take the date of birth with reference to birth register cannot be accepted in terms of Section 94 of the Juvenile Justice (Care and Protection

of Children) Act, 2015 which provides secondary school examination certificate is required to be taken into consideration in order of preference. In the absence of secondary examination certificate then birth register is required to be taken into consideration. Trial Court has rightly taken into consideration the secondary examination certificate in accordance with law.

4. In view of the above facts and circumstances, petitioner has not made out a case so as to interfere with order dated 9.6.2017 passed by the Additional Sessions Judge, Panipat.

5. Accordingly, petition stands dismissed.

26.09.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**