

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

CRR-1615-2018 (O&M)

Date of Decision: 21.05.2018

Bijender

... Petitioner

Vs.

State of Haryana and another

... Respondents

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

Present : Mr. Ravinder Rana, Advocate
for the petitioner.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the order dated 11.10.2017 passed by the Principal Magistrate, Juvenile Justice Board, Jhajjar and order dated 14.03.2018 passed by the Additional Sessions Judge, Jhajjar.

2. FIR reads as follows:

“To, The SHO, Police Station Sadar Bahdurgarh, Sir, with due respect, I Bijender son of Dharam Singh Caste Saini resident of Village Nayagaon and is doing the business of Supplying the milk. Yesterday, on 24.01.2017, after supplying the milk, around 10:00 PM I went to sleep with my wife and children. When at about 1:30 AM in the night I woke up, the smoke was spreaded in my entire house and the door and windows of my room was set on fire. Then I immediately got up and tried to open the door, but the door of the house was locked from outside. When I started alarming bachoa bachoa, then my nephew Parveen son of Balwan and other habitants of Village Naygaon reached at the spot. They broke down the ventilator (Jungla) of my house and I took out myself and my wife and my children from this way. In this way we survived narrowly. This entire incident is committed by unknown persons with intention to kill me and my wife and children by bolting the door from outside and then setting my house on fire. Therefore, it is

requested that the culprit may be traced and legal action may be taken against him. SD/- Bijender son of Dharam Singh R/o Village Naya Gaon, 9992073837. Police Proceedings. Today I SI alongwith Constable Sachin 1548 were present at Bahadurgarh bypass for patrolling and inquiry of crime, then I received a call from Police Station Sadar Bahadurgarh that there is fire in the huse of Bijender son of Dharam Singh R/o Nayagaon. On this I alongwith Constable reached at the house Bijender, where after meeting me Bijender presented an application. As per contents of said application prima facie crime under Section 307/436 is found to have been committed. The ruqa is being sent through Constable Sachin 1548 to Police Station for registration of the case, after registration of case number is informed and special report, sent to the higher authorities and FSL team be sent to the spot. I am present at the spot for investigation, Naya Gaon Sd/- Jora Singh SI PS Sadar B. Garg Dt. 25.01.2017 AM. On receiving aforementioned application through Constable Sachin 1548 at Police Station, case No.54 dated 25.01.2017 under Section 307, 436 of IPC is registered Police Station Sadar Bahadurgarh. After preparing computerized copies of FIR, the same are being sent to Illaqa Magistrate, Bahadurgarh, Deputy Superintendent of Police Head Office Jhajjar, and Superintendent of Police Jhajjar through Constable Kuldeep No.1733. Copy of application is retained and original copy is being sent to the investigating officer at the spot through Constable who brought the ruqa. Sir, in this case ASI Sajjan Singh is Duty Officer at Police Station Sadar Bahadurgarh.”

3. Trial Court proceeded to consider the application moved by the complainant under Section 15 of Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “ Juvenile Act 2015”) to the extent that juvenile/Vikrant should be tried as an adult as per provisions of Section 15 read with Section 18 (3) of the Juvenile Act 2015as he completed the age of

16 years on the day of occurrence. Magistrate held that Section 307 IPC provides for the punishment for attempt to murder meaning thereby the offence of attempt to murder is punishable for imprisonment which may extend to 10 years and if hurt is caused to any person by such act then for imprisonment for life or for any imprisonment which may extend to 10 years. Aforesaid provisions reveals that no minimum punishment has been provided for the commission of offence of attempt to murder. Even in the later part of the offence, hurt is caused to any person by that act, the punishment which may extend to 10 years would be awarded.

4. In view of these facts and circumstances, while examining Section 307 IPC read with Section 436 IPC which do not fall in the category of heinous offence as defined under Section 2 (33) of the Juvenile Act 2015. Accordingly, application was dismissed. Feeling aggrieved by the order of the Magistrate, petitioner filed criminal appeal against the order of the Magistrate. Sessions Court in the criminal appeal while appreciating the provisions of Section 2 (33) of Juvenile Act 2015 read with Section 307 and 436 IPC affirmed the decision of the Magistrate. Hence, the present revision petition.

5. Learned counsel for the petitioner submitted that having regard to the nature of allegations against Vikrant, Court should have appreciated and allowed the application filed by the complainant. No doubt it is true that allegations stated in the FIR are of serious in nature but at the same time offences do not fall under the heinous nature when the definition of heinous offence is taken into consideration from the Juvenile Act 2015 read with Section 307 and 436 IPC. Thus, petitioner has not made out a case so as to interfere with the orders passed by the courts below.

6. Accordingly, revision petition stands dismissed.

21.05.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No