

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

CRR-2694-2018(O&M)

Date of decision:-12.9.2018

Ankit

...Petitioner

Versus

State of Haryana and another

...Respondents

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

Present: Mr.Atul Pratap Dhankar, Advocate with  
Mr.Bijender Dhankar, Advocate  
for the petitioner.

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**H.S. MADAAN, J.**

Vide order dated 6.6.2017, Judicial Magistrate Ist Class, Hansi declared accused Ankit as a juvenile. Feeling dissatisfied by that order, the complainant Veer Bhan preferred an appeal before the Court of Sessions, which was entrusted to learned Additional Sessions Judge, Hisar, who vide judgment dated 14.2.2018 set aside the said order observing that the Court below had declared accused Ankit as a juvenile keeping in view his date of birth as 5.7.2000 as mentioned in Character

Certificate as well as date of birth certificate issued by School Principal, however, appellant along with the appeal had produced on record birth certificate of accused Ankit and Munni, resident of village Barsana reflecting his date of birth as 24.3.1999, which means that on the date of occurrence i.e. on 1.5.2017, he was aged more than 18 years. Jora Singh father of accused Ankit had also appeared in the appeal on 20.1.2018 and stated that he had no objection, if the appeal was allowed.

Learned Additional Sessions Judge, Hisar has taken note of the law laid down by the Apex Court on the subject in **State of Bihar Vs. Chhotu Pandey @ Roshan Pandey, 2015(1) RCR(Criminal), 914, Jarnail Singh Vs. State of Haryana 2013(3) RCR(Criminal)644** and **Jodhbir Singh Vs. State of Punjab 2013(1) RCR(Criminal) 272** observing that while deciding the claim of juvenility of an accused, the matriculation or equivalent certificate of such child is the highest rated option and in case the said certificate is available, no other evidence can be relied upon and further that school certificates be given preference over the certificate issued by Chowkidar regarding date of birth of a child. Learned Additional Sessions Judge, Hisar has also taken note of the law laid down by this Court in **Tamanna Versus State of Haryana and others, 2015(6) RCR(Criminal)699** holding that birth certificate should be given priority in view of admissibility of the same as per Section 35 of the Indian Evidence Act and when certificate issued by Registrar, Death & Birth is produced and proved in contrast to Matriculation certificate, which is based merely on the school entries, priority should be given to birth certificate, which is a document prepared on the basis of register

maintained in the ordinary course of business by a public servant in discharge of his official duty, further that school certificate is not sufficient enough to establish the date of birth of a person. It was further observed that Section 15 of Haryana Juvenile Justice (Care & Protection Act) 2000 shall be given preference over Rule 12 of Juvenile Justice (Care & Protection) Rules, 2000. Therefore, learned Additional Sessions Judge, Hisar disposed of the appeal as under:

*Accordingly, finding merit in the present appeal, the same is allowed and the impugned order dated 6.6.2017 passed by learned Illaqa Magistrate is set-aside. The matter is sent back to the Court of learned Illaqa Magistrate, with the direction to proceed further as per law. Trial Court record be sent back alongwith the copy of the judgment. Alongwith copy of this judgment, the main case of accused/respondent Ankit which was earlier sent to this Court being Children Court, pending for 1.3.2018 be also sent back to the Court of learned Illaqa Magistrate, Hansi, with the direction to proceed further as per law. Directions be also issued to Jail authorities to produce the accused Ankit before the Court of learned Illaqa Magistrate, Hansi, on 1.3.2018, the date already fixed in the main challan/case of accused Ankit.*

Accused Ankit is feeling aggrieved by that order and has knocked at the door of this Court by filing the present revision petition.

I have heard learned counsel for the petitioner besides going

through the record.

The revision petition has been filed belatedly by 122 days. An application under Section 5 of the Limitation Act for condonation of such delay has been filed contending that the delay is neither intentional nor deliberate but due to ignorance regarding period of limitation on the part of the revisionist.

I do not find it a plausible and satisfactory reason to condone the delay.

Section 3 of the Limitation Act, 1963 deals with Bar of Limitation providing that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

Section 5 of that very act provides that any appeal or any application may be admitted after the prescribed period if the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Ignorance of law is no excuse and the petitioner cannot get the limitation extended taking that much plea. Therefore, the revision petition is bound to be dismissed for short reason that it is barred by time. However, on merits also, the petitioner does not have any case.

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise.

In the present case, I do not find any such illegality or

infirmity with the impugned order much less apparent on the face of it.

The order is certainly not in violation of settled principles of criminal jurisprudence. I do not see any reason to upset the impugned order.

Thus, the revision petition stands dismissed.

12.9.2018

Brij

**(H.S.MADAAN)**

**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**