

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.1161 of 2018**

Arising Out of PS. Case No.-271 Year-2014 Thana- KHAJEKALA District- Patna

Sumit Yadav @ Sumit Kumar Son of Sanjay Yadav @ Sanjay Kumar, through his mother Seema Devi, Wife of Sanjay Yadav @ Sanjay Kumar Resident of Gurhatta Ram Mandir, Baksi Mahalla, P.S.- Khajekalla, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Niraj Kumar, Adv  
For the Respondent/s : Mr.Sri Anil Kumar Singh 1, APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**  
**ORAL JUDGMENT**

**Date : 02-05-2019**

Heard learned counsel for the parties.

2. By the impugned order dated 02.08.2018 passed in Sessions Trial No.446 of 2017, the court of learned A.D.J.-I, Patna City has rejected the claim of the petitioner that he is a juvenile. The learned court below has refused to consider the school leaving certificate of the petitioner only on the ground that address in the school leaving certificate does not tally with the address in the FIR though parentage is the same. The learned court below further recorded that on bare look, the petitioner appears to be an adult.

3. Learned counsel for the petitioner submits that sub-section 2 of Section 9 mandates that the court before whom an accused claims that he is a child, the said court shall make an enquiry take such evidence as may be necessary( but not an



affidavit) to determine the age of such person and shall record a finding on the matter stating age of the person as nearly as may be.

4. In this case, the learned court below has not entered into enquiry to ascertain the age of the petitioner rather in casual manner rejected the school leaving certificate without ensuring verification of the correct address of the petitioner nor has taken any other evidence into consideration for determining age of the petitioner. The mandate of Section 94 of the Juvenile Justice (Care and Protection of Children) Act 2015 has not been followed by the learned court below.

5. I find substance in the submission of learned counsel for the petitioner. Accordingly, the impugned order suffers from exercise of jurisdiction with material irregularity and illegality. It is hereby set aside and this criminal revision is allowed.

6. Let the matter be remitted back to the learned court below to pass necessary order according to law after due enquiry.

**(Birendra Kumar, J)**

Nitesh/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 04.05.2019 |
| Transmission Date | 04.05.2019 |

