

CRM-M-14182 of 2016

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

CRM-M-14182 of 2016
Date of Decision: 25.02.2019

Bikramjit Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Ms. Jasleen Kaur, Advocate, for the petitioner.
Mr. Harpreet Multani, AAG, Punjab.
Mr. Kamalpreet Bawa, Advocate, for the complainant.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing order dated 20.02.2016 (Annexure P-8) of the trial Court whereby application of the petitioner for declaring him juvenile under the Juvenile Justice (Care and Protection of Child) Act, 2015 (in short the 'Act'), was dismissed.

Briefly, mother of the petitioner got lodged FIR No.124 dated 21.10.2009 under Sections 365, 342, 420, 506, 120-B and 34 IPC at Police Station Dehlon, District Ludhiana, against Bhupinder Singh, Daljit Singh, Paramjit Singh etc. on the ground that they had kidnapped her and her two minor children, including the petitioner and detained in a dera by extending threats of dire consequences. Said persons also obtained their signatures forcibly on some blank papers and forged the same into one driving licence and two sale deeds in favour of complainant Davinder

Singh. Their kidnapper Bhupinder Singh was habitual offender as he was

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involved in many other cases of similar nature. After around eight months, alleged co-accused Davinder Singh lodged FIR No.38 dated 25.06.2010 under Sections 420, 467, 468, 471 IPC at Police Station Ajitwal, District Moga against the petitioner and one Daljit Singh on the allegations that petitioner had voluntarily executed sale deeds in his favour but later on manipulated his date of birth and forged various documents, including his driving licence to cheat and commit fraud with him.

Police after investigation filed final report under Section 173(2) Cr.P.C. against the petitioner and his co-accused Daljit Singh under the aforesaid Sections. They were charge-sheeted accordingly. During trial, after around two years of framing of charge and recording prosecution evidence, petitioner moved application to declare him juvenile under the Act, which, after contest, has been dismissed by the trial Court vide impugned order dated 20.02.2016.

Learned counsel for the petitioner relying on ***Shah Nawaz v. State of U.P. and another***, 2011(3) RCR (Criminal) 884 (S.C.) and ***Hardeep Singh v. State of Haryana***, 2012(3) RCR (Criminal) 363 (P&H) and referring to Rule 12 of the Act *inter alia* contends that trial Court has illegally not relied upon certificate issued by Central Board of Secondary Education (Annexure P-4) of the petitioner for declaring him juvenile, wherein his date of birth is mentioned as 27.01.1992. This certificate was issued before the alleged incident. Therefore, no manipulation or interpolation could be expected in the same.

On the other hand, learned counsel for the complainant, refuting the above submissions, pleaded the legality and validity of the impugned

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petitioner being forged and fabricated, procured fraudulently have rightly been ignored by the trial Court while rejecting the application of the petitioner for declaring him juvenile.

Having given thoughtful consideration to the rival submissions, this Court finds instant petition completely devoid of any merit for the reasons to follow.

For ready reference, relevant portion of the impugned order is reproduced underunder: -

“Applicant Bikramjit Singh claims himself to be juvenile having date of birth as 27.01.1992 when the impugned sale deeds 20.10.2009 were executed in favour of complainant. Challan in this case was presented in the year 2010 but for four years, application for declaring Bikramjit Singh as juvenile was never filed. No doubt, it can be filed at any time in view of section 7(a) of the Juvenile Act, but it is to be seen whether the documents produced by applicant can be relied upon for the purpose of declaring him as juvenile. Applicant has relied upon his birth certificate Ex.P1 issued by Indore, Registrar of Birth and Death. No reliance can be placed on this birth certificate as it was got registered only on 19.01.2015 i.e. during the pendency of the present application. Applicant has then relied upon the transfer certificate Ex.JW2/E issued by Spring Dew Public School reflecting his date of birth as 27.01.1992 with date of issuance of certificate as 03.11.2012. Even this certificate reflecting his date of birth cannot be relied upon especially when it was issued after the execution of the sale deeds in question. Applicant has relied upon the driving license Ex.JW2/C and the identity card issued by Election Commission of India as Ex.JW2/A, Adhar card as Ex.JW2/B, copy of ration

card issued on 01.12.2012 Ex.JW2/D. All these documents were got issued in the year 2012/13 and again cannot be relied upon. The CBSE certificate Ex.P2, if perused has two dates of issuance 26.05.2009 and 10.01.2013 and as such, this document also cannot be relied upon as there is no justification for the date 10.01.2013 on the certificate. Hence, the documents produced by applicant, all are the documents which were issued during the pendency of this case. On the other hand, APP has got proved the copy of the passbook of Indian Bank proved from the applicant Bikramjit Singh as Ex.D3. This document shows that Bikramjit Singh had opened a bank account with Indian Bank on 18.05.2009 and it would have been opened by him only if he was major. Applicant has duly identified his photographs and signatures on the driving license Ex.D4, which reflects his date of birth as 27.01.1989 and the date of issuance as 10.12.2009. Accused Bikramjit Singh has also identified his photographs and signatures on the certificate Ex.D6 issued before Moga Primary Agricultural Development Bank and the mortgage deed Ex.D2 has been proved by Bikramjit Singh which was executed on 20.05.2009. Through this mortgage deed, Bikramjit Singh had mortgaged his land measuring 36 kanals in favour of the bank for a sum of Rs.5,85,000/- and towards the said mortgage, he also submitted an affidavit Ex.DW2/1. The ration card Ex.D7 bears the signatures of Bikramjit Singh and copy of the form D-I issued on 25.05.1996 reflects the date of birth of Bikramjit Singh in the year 1996 as 6 ½ years. Meaning thereby, he was born in the year 1989. So, the documents produced and got proved from applicant by prosecution are those documents, which were executed and issued prior to

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the controversy of the present case i.e. prior to 20.10.2009, whereas the documents relied upon by applicant have been issued after registration of this case. So, no reliance can be placed upon the documents referred by applicant. Hence, application declaring Bikramjit Singh as juvenile stands declined.”

That apart, photocopies of the documents (Annexure P-3 Colly) upon which learned counsel has relied, show the date of birth of the petitioner as 27.01.1992, but this date of birth was registered by the petitioner with Indore Municipal Corporation, Indore on 19.01.2015 i.e. after 23 years, whereas, impugned application was filed after presentation of his first application to declare him juvenile on 21.10.2013, before the trial Court. Therefore, the same has rightly been disbelieved and ignored.

Perusal of trial Court record shows that earlier application filed by the petitioner to declare him juvenile was withdrawn by him on 20.03.2014 and another application was moved with similar prayer. However, petitioner carried on seeking repeated adjournments on one pretext or the other by filing exemption applications that he was not ready and wants to produce certain documents in support of his application and succeeded in doing so for around two years for the reasons best known to him. Finally the same has been rejected by the trial Court vide impugned order.

The school record i.e. admission and withdrawal register, transfer certificate, driving licence relied upon by the petitioner have rightly been ignored and disbelieved by the trial Court on the ground that there were major contradictions in their issuance and date of birth mentioned therein.

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Learned counsel for the complainant further submits that petitioner, relying upon his date of birth treating himself as major, took loan from the bank prior to the sale deed in question. He had executed two more sale deeds i.e. one in favour of Daljit Singh on 27.08.2009 and another dated 06.01.2009 in favour of one Balwant Singh, declaring himself as major.

Refuting the above submissions, learned counsel for the petitioner contends that above documents were executed through guardian by the petitioner. However, she has not produced any document in support of her assertion.

There is no dispute with Rule 12 of the Act, which prescribes three modes to ascertain the date of birth for declaring a person as juvenile i.e. Matriculation certificate or date of birth record with the Registrar of Deaths and Births or school record. However, the Court can rely upon any of the certificates, if it finds genuine. Since entire record relied upon by learned counsel for the petitioner was with different dates and various contradictions, which has been dealt with in detail by the trial Court, therefore this Court is not inclined to differ with the impugned order.

In view of discussion made above, petition is dismissed.

February 25, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No