

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

CRR-1209-2020 (O&M)

Date of decision: 04.11.2020

Raj @ Shera

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. Ajay Singh, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This revision petition is directed against the order dated 28.07.2020, passed by the Court of Addl. Sessions Judge, Gurugram, vide which, application moved by the petitioner/accused Raj @ Shera to declare him as a juvenile, was rejected.

According to the petitioner/accused Raj @ Shera, he is aged about 16 years and was juvenile on the day of occurrence i.e. 05.08.2018; the petitioner/accused and his father being illiterate are not in possession of any birth certificate or age proof of the petitioner, therefore, a direction be issued for conducting ossification test of the petitioner to determine his age and to transfer him to Observation Home; that application was resisted by the State counsel, contending that the petitioner is not having any document to suggest that he was juvenile at the time of commission

of crime and the application had be filed just to delay the proceedings; the application was dismissed, vide a detailed and well reasoned order; the reasoning given by learned Addl. Sessions Judge, Gurugram is contained in paras No.5 and 6 of the impugned order; the said paras are being reproduced for ready reference:-

“5. In the present case, there are allegations of the offences punishable under Sections 379B and 200 IPC against the applicant accused Raj Kumar @ Shera and the co-accused Kuldeep @ Ballu Bakra. Charge against the accused persons was framed on 31.10.2018 and after the prosecution evidence, now the case is fixed for defence evidence and arguments. The present applicant-accused was arrested on 05.08.2018 and at the time his arrest, his age was stated to be 18 years during the whole course of the investigation and the trial, the applicant-accused Raj Kumar @ Shera never raised any objection claiming himself to be a juvenile. The present application is not supported by any document or proof of age of the applicant-accused. This has not been disputed by the learned counsel for the applicant-accused that the complainant has identified the applicant-accused Raj Kumar @ Shera during his testimony in the Court. Learned counsel for the applicant-accused has failed to bring out any cogent ground for getting the ossification test of the applicant-accused conducted.

6. In view of the above discussion this Court is of the considered view that the present application by the applicant-accused Raj Kumar @ Shera is without any legal basis and is vexatious in nature. Therefore, the same is hereby dismissed.”

I do not see any reason to disagree with learned Addl.

Sessions Judge, Gurugram with regard to impugned order. The scope of

revision is quite limited. The intervention by this Court in revisional jurisdiction is justified only if the order passed is perverse, arbitrary or against the settled legal position. The order in this case does not appear to be suffering from any of such infirmity. When the petitioner was arrested, the case was investigated; challan was filed and the trial commenced and proceeded, almost getting completed, the petitioner had not raised any such plea. As a matter of fact, the plea of being juvenile at the relevant time is not supported by any document on record. If such document in the form of birth certificate or school certificate etc., was there, prima facie showing that the petitioner was juvenile at the relevant time, then required enquiry in the matter could be got conducted but without any such document and evidence on record, he cannot be declared a juvenile and sent to Observation Home. According to the subjective satisfaction of Addl. Sessions Judge, Gurugram, no ossification test was required to be carried out and I do not see any reason to differ with him on that point, keeping in view the totality of circumstances. Therefore, since the impugned order does not suffer from any illegality or infirmity, there is no ground to set aside the same and allow the petition so moved by the petitioner/accused Raj @ Shera. The revision petition being without merit stands dismissed accordingly.

04.11.2020

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No