

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

CRR-2298-2019(O&M)

Date of decision:-12.3.2020

Satnam Singh

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Vikas Kumar, Advocate
for the petitioner.

Mr.Kuldeep Sharma, DAG, Haryana.

H.S. MADAAN, J.

CRM-27862-2019

Heard.

For the reasons mentioned in the application, the same is allowed and delay of 16 days in filing of the revision petition stands condoned.

CRR-2298-2019(O&M)

This revision petition is directed against order dated 12.4.2018 passed by Principal Magistrate, Juvenile Justice Board, Panchkula vide which the petitioner being a juvenile was ordered to be tried as an adult and the case was transferred to the Children Court as well as judgment dated 21.5.2019 passed by Additional Sessions Judge, Panchkula vide which appeal filed against that order has been dismissed.

Learned Principal Magistrate, Juvenile Justice Board, Panchkula while referring to Section 15 of Juvenile Justice Act, 2015(hereinafter referred to as the Act), which provides that if any heinous offence is committed by child in conflict with law who is more than 16 years of age at the time of alleged commission of offence, then it is mandatory for Juvenile Justice Board to conduct preliminary assessment of that child with regard to his/her mental and physical capacity to commit such offence and capability to understand the consequences of the act, has observed that as per material on record, the juvenile is more than 16 years of age on the date of alleged commission of offences and since he was an accused of a heinous offence, therefore, it was mandatory for the Board to conduct preliminary assessment. The Juvenile had been referred to the Board of Psychiatrists and report therefrom was received, which indicated that juvenile was having IQ of 85 showing below average level of intellectual functioning. It was observed that report of Psychiatrists pointed out that juvenile was physically and mentally capable to commit an offence and to understand its consequences. The Board on its satisfaction has put some questions to the juvenile to which he gave rational answers. The Board had observed that from physical appearance also, the juvenile appeared to be very fit. Therefore, considering the medical report as well as personal observations, the Board concluded that juvenile had enough mental and physical capacity to commit the alleged offences and the ability to understand its consequences. Therefore, there was necessity of trial of juvenile as an adult and in terms of Section (3) of the Act, the trial of the

juvenile was transferred to Children Court having jurisdiction.

Feeling aggrieved by such order dated 12.4.2018, the accused Satnam Singh, now aged about 18 years had preferred an appeal before the Court of Sessions, which was assigned to Additional Sessions Judge, Panchkula and it was dismissed vide a detailed order dated 21.5.2019. Paras No.7 to 9 of the judgment passed by Additional Sessions Judge, Panchkula are quite relevant and the same for ready reference are being reproduced as under:-

7. This case was received by this Court by way of assignment on 20.04.2018 and the appellant was represented by the counsel. The case was taken up on 23.04.2018, 27.04.2018, 01.05.2018, 08.05.2018, 15.05.2018, 19.05.2018 and he was represented by Shri Suresh Parashar, Advocate. On 06.07.2018, Shri Sandeep Aggarwal, Advocate had appeared for the accused and has filed his power of attorney and on his request, case was adjourned to 10.07.2018 and then to 17.07.2018. Arguments were heard on the point of charge and the appellant/accused was ordered to be charge sheeted for the commission of offence punishable under Sections 302, 364 read with Section 34 of Indian Penal Code. Thereafter the case was taken up on 24.08.2018. Ms. Priya Bajaj, Advocate, who is represented the accused/appellant in this case, had appeared for the first time in this case when she had filed application for bail on 16.11.2018 and in the bail application, it was specifically pleaded that the accused was juvenile and once the accused was tried by this Court being the Children Court, the impugned order was in the knowledge of the learned counsel for the accused/appellant. So, this Court is of the view that false plea has been taken in the appeal that only after receiving the copy of impugned order on 28.02.2019, the learned counsel had come to know about the passing of order dated 12.04.2018.

8. Considering the above facts, this Court is of the view that sufficient

cause has not been shown and story has been concocted to get the delay condoned. Accordingly, this Court does not find any merit in the application for condonation of delay and hence, the same is hereby dismissed.

9. Otherwise also, there is no merit in the appeal as I.Q level of a person and physical and mental capacity of a person are totally different things. Only from the fact that I.Q. level of a person is below than the average person, it cannot be said that such a person is not physically and mentally capable to commit the offence. It is not the case of appellant that he is totally mentally retarded. Accordingly, there is no merit in the present appeal and this Court is of the view that the learned trial court has appreciated all the facts in right respective while passing the order dated 12.04.2018 and there is no illegality in the impugned order.

Now the accused has knocked at the door of this Court by way of filing the instant revision petition, notice of which was issued to the respondent, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The impugned order/judgment passed by the Courts below are detailed and well reasoned. 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. The impugned orders/judgments do not appear to be suffering from any illegality or infirmity much less apparent on the face thereof. The orders are certainly not perverse or passed in an arbitrary manner. There is no reason to interfere with the impugned orders by way of exercising the revisional jurisdiction.

Finding no merit in the revision petition, the same stands dismissed.

12.3.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No