

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

CRR-988-2022

Date of Decision: 13.5.2022

Gurjant Singh

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Tarun Seth, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

The petitioner has approached this Court by way of filing the present revision petition impugning the order dated 2.8.2021 passed by the learned Additional Sessions Judge, Fast Track Special Court, Kurukshetra, whereby, the application filed by the petitioner for conducting ossification test of the prosecutrix, was declined.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present FIR. He submits that though the prosecutrix has herself alleged that she remained away with the petitioner for two days, however, thereafter, a false and frivolous FIR was lodged against him. He submits that there is a dispute regarding the age of the prosecutrix. He contends that the prosecutrix is major being more than 18 years of age. However, the prosecution has produced admission form of school and school leaving certificate before the trial Court, on the basis of which the date of birth of the prosecutrix has taken to be as 4.11.2003. He submits that as both these certificates are not reliable, hence, her ossification test needs to be carried out in the interest of justice. He submits that the petitioner duly filed an application before the learned trial Court for conducting ossification test of the victim to ascertain her age, however, the

same was declined by the learned trial Court, which is totally unsustainable in the eyes of law.

Heard.

The only issues involved in the present case is determination of the age of the prosecutrix. The prosecution has produced the admission form of school and school leaving certificate of the prosecutrix, wherein, her date of birth has been found to be as 4.11.2003 and as per the same she was minor on the date of occurrence i.e. 3.12.2019. As per Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, 'the Act'), the admission form of school and/or school leaving certificate mentioning therein the date of birth of a person, are enough proofs to determine age of a person. Section 94 of the Act reads as under:-

“94. Presumption and determination of age.- (1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining -

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

- (ii) the birth certificate given by a corporation or a municipal authority or a panchayat;
- (iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.”

The aforesaid Section deals with presumption and determination of age. As per Clause (i) of the aforesaid Act, prosecution has already produced the certificates from the school of the prosecutrix, wherein her date of birth has been found to be mentioned as 4.11.2003. The Act provides that only in the absence of Clause (i) and (ii) of Section 94 of the Act, the age shall be determined by an ossification test or any other latest medical age determination test. However, when the prosecution has also produced the admission form of school and school leaving certificate, where the prosecutrix had studied, there was no need for the prosecution to go for the ossification test. In view of the same, this Court finds no infirmity or illegality in the conclusion arrived at by the trial Court in declining the application filed by the petitioner. Resultantly, the petition is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

13.5.2022
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No