

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-788-2021**Date of Decision: 16.11.2022**

Navdeep

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Chanderhas Yadav, Advocate for the petitioner

Mr. Chetan Sharma, AAG Haryana

Sandeep Moudgil, J.

This criminal revision petition has been preferred by the petitioner seeking quashing of the impugned judgment dated 01.07.2021 passed by the Additional Sessions Judge, Bhiwani passed in an application filed by petitioner for declaring him a juvenile on the ground that his date of birth is 29.10.2001 and for this reason, on the date of alleged occurrence i.e. 15.09.2018, he was of 17 years, 11 months and 14 days, has been dismissed.

It has been contended on behalf of the petitioner that the petitioner was falsely implicated in case FIR No.204 dated 15.09.2018 under Sections 15, 27(a) & 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Siwani, District Bhiwani. He has averred that the petitioner was arrested with a Swift car from which some contraband was allegedly recovered.

It is further averred that before the investigating agency also, the petitioner had categorically stated that he is a juvenile and even produced date of birth certificate but police did not consider the same and as such the

petitioner was left with no other option but to file application for getting him declared as juvenile. The said application was dismissed by the trial court vide judgment dated 01.07.2021 on the ground that the petitioner has proved on record to have born on 29.10.1998 and as such he was major on the date of the alleged occurrence.

Learned counsel for the petitioner submitted that the petitioner and his parents are illiterate and at the time of admission in the school, inadvertently, wrong date of birth was mentioned and the actual date of birth of the petitioner is to be read as 29.10.2001 entered in Ex.AW1/A bearing his date of birth wherein a certificate issued by the Birth and Death Registration Department of State of Rajasthan. He has relied upon the statement made by Rajender Kumar from the office of Gram Vikas Office, Gram Panchayat, Binjawas, Churu, Rajasthan, to say that as per the concerned register/certificate, the date of birth of petitioner is 29.10.2001 (Ex.AW1/A) coupled with Aadhar card and PAN Card (Annexures P4 & P5, respectively).

Learned counsel for the petitioner has referred to Sections 76, 77, 79 read with Section 35 of the Indian Evidence Act, to urge that as per Section 76, the public officer is bound to give certified copy of the public record which can be proved under Section 77 as has been done in the present case and as such, under Section 79, there is a presumption of genuineness of such document issued under Section 76 of the said Act. It is further averred that the entries in public record have admissibility in the eyes of law, as mandated under Section 35 of the Indian Evidence Act.

Learned counsel for the petitioner also refers to Section 94 of the Juvenile Justice (Care and Protection of Children) Act, wherein it is provided

that when there is confusion between two dates, being a beneficial legislation, the law mentioned in that Act would incline in favour of the juvenile and every decision would be taken for the betterment of the juvenile. In the present case, the petitioner proved the birth certificate by leading cogent and convincing evidence, as such the benefit of Section 94 ought to have been extended to the petitioner which has not been done by the trial Court.

Learned State counsel strongly agitates that the submission made by the petitioner is misleading because had there been the birth certificate, as issued by the Birth and Death Registration Department of State of Rajasthan, Ex.AW1/A, in the knowledge of the petitioner and his family, as to how at the time of admission of the child, for the first time in the school, his age was mentioned to be born on 29.10.2001. He also averred that matriculation certificate has a preference of applicability under Section 94 of the Juvenile Justice (Care and Protection of Children) Act and by the same, the petitioner was major in age, on the date of alleged offence.

Having heard learned counsel for the parties and going through the record, this Court does not find any merit in the contention so raised on behalf of the petitioner and as such there is no legal or factual infirmity or illegality in the order passed by the trial court.

It is crystal clear from the records that there is discrepancy regarding the date of birth of the petitioner, who is stated to have born on 29.10.2001, as per documents Ex.AW1/A and Ex.AW1/C and the same differs from the record of date of birth of the petitioner as per his school records, having born on 29.10.1998, as shown in the documents Ex.RW1/A to Ex.RW1/E. It was necessary for the petitioner to explain as to how once, in

the records before the Municipal Committee, records of Birth and Death Registration Department of State of Rajasthan, his date of birth gets recorded as 29.10.2001, but later, when the petitioner takes admission in Class-1st and finally passes out Class-10th by certificate Ex.R2, his date of birth gets recorded as 29.10.1998. The difference in both the dates is larger in time period and once the date of birth was already recorded in the Municipal Committee records, immediately after the birth of the child as per information supplied by the parents of the child, viz. petitioner herein, there finds no reason to provide different date of birth at the time of admission in the school.

Learned court below rightly held that the essential documents to be relied upon under Section 94 of the Act is the “date of birth certificate from the school or the matriculation or the equivalent certificate” and as such the petitioner was proved to have born on 29.10.1998. A perusal of both the documents would reveal that document, Ex.R2, has been issued by Arya High School, Mandholi Kalan, Bhiwani having date of birth as 29.10.1998. There is no explanation on behalf of the petitioner that as to how the second document, namely, birth certificate Ex.AW1/A came in existence from a different State Government of State of Rajasthan whereas the address of the petitioner is of Bhiwani in State of Haryana.

In view of the above, this Court do not find any illegality or infirmity in the order passed by the trial court and as such the same is upheld, being based on law and evidence.

Dismissed.

16.11.2022
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No