

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.899 of 2022

Arising Out of PS. Case No.-24 Year-2019 Thana- BAIKUNTHPUR District- Gopalganj

Manish Kumar Son of Hirala Rai Resident of Pakhba, P.S- Baikunthpur, Dist-
Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, Adv.

For the Respondent/s : Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

5 02-05-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The present criminal revision has been filed against the order dated 23.01.2021 passed in Criminal Appeal No.02 of 2020 passed by Addl. Sessions Judge-1, Gopalganj as well as against the order dated 11.12.2019 passed in J.E. No. 93 of 2019 passed by Principal Magistrate, J.J. Board, Gopalganj by which the Appellate Court has affirmed the order dated 11.12.2019 in connection with Baikunthpur P.S. Case No. 24 of 2019 lodged under Section 363 of the I.P.C.

Counsel for petitioner submits that both the J.J. Board and the Appellate Court have decided concurrently about the age of the petitioner as major, on the basis of his certificate of matriculation. Counsel for petitioner submits that Section 94 of

the Juvenile Justice (Care and Protection of Children) Act, 2015, it has been clearly mentioned that the J.J. Board shall undertake the process of age determination by seeking evidence by obtaining the date of birth certificate from school or the matriculation or equivalent certificate from the concerned examination board, if available. Here in the present case, the date of birth certificate from school as well as the date of birth certificate of the matriculation, both were present and both are in contradiction with each other. According to date of birth from school, petitioner is minor whereas according to date of birth from matriculation, petitioner become major. Both the Courts concurrently decided that with regard to age, the date of birth inserted in matriculation shall prevail.

Counsel for petitioner further submits that the entry of age in the school is fundamental and earlier than the age inserted in the matriculation certificate. Therefore, the age mentioned in the school should prevail in comparison to the age described in matriculation certificate.

Counsel for State submits that for all practical purposes, the age which has been given in matriculation shall prevail particularly, when the official use are there. He also submits that prior to objection raised by the petitioner at the

time of determination of age before the authorities related to juvenile, the petitioner has never raised such objection about his age and he himself considered the age mentioned in matriculation to be true.

In the present facts and circumstances and upon going through the statute particularly, Section 94 of J.J. Act, 2015, this Court is of the firm view that the age narrated in matriculation certificate shall prevail upon the age mentioned in Class- 8th. As such the order under challenge dated 23.01.2021 passed in Criminal Appeal No.02 of 2020 passed by Addl. Sessions Judge-1, Gopalganj as well as against the order dated 11.12.2019 passed in J.E. No. 93 of 2019 passed by Principal Magistrate, J.J. Board, Gopalganj in connection with Baikunthpur P.S. Case No. 24 of 2019 are hereby affirmed and the present criminal revision application is hereby **dismissed**.

(Dr. Anshuman, J.)

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