



Crl.R.C.(MD)No.693 of 2024
and Crl.M.P.(MD)No.7121 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.07.2024
Pronounced on:16.08.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD)No.693 of 2024
and
Crl.M.P.(MD)No.7121 of 2024

Muneeswaran

... Petitioner/Petitioner/Accused No.2

Vs.

The State
Rep. By the Inspector of Police,
Vadamadurai Police Station,
Dindigul District.
(Cr.No.332 of 2019)

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 442 of BNSS(397 r/w 401 of Cr.P.C.), to call for the records in connection with the order passed by the learned Principal Sessions Judge, Dindigul dated 03.07.2024 made in Crl.M.P.No.3224 of 2023 in S.C.No.156 of 2021, dated 03.07.2024 petition filed under Section 9(2) and (3) of Juvenile Justice (Care and Protection) Act, 2015 and set aside the same and direct the Juvenile Justice Board to hold an enquiry and fix the juvenility of the petitioner on date of occurrence (i.e) on 28.07.2019.



Crl.R.C.(MD)No.693 of 2024
and Crl.M.P.(MD)No.7121 of 2024

WEB COPY

For Petitioner : Mr.N.Sathish Babu

For Respondent : Mr.B.Thanga Aravindh
Government Advocate(Crl.side)

* * * * *

ORDER

This Criminal Revision has been filed to set aside the order passed by the learned Principal Sessions Judge, Dindigul dated 03.07.2024 made in Crl.M.P.No.3224 of 2023 in S.C.No.156 of 2021, dated 03.07.2024 petition filed under Section 9(2) and (3) of Juvenile Justice (Care and Protection) Act, 2015 and direct the Juvenile Justice Board to hold an enquiry and fix the juvenility of the petitioner on date of occurrence (i.e) on 28.07.2019.

2.The petitioner and other three accused are said to have committed the offences under Sections 342, 307, 302 and 34 of IPC. On 20.08.2019, a dispute arose between the defacto complainant and the petitioner's family. The petitioner and three accused have unlawfully assembled together with deadly weapons and attacked the deceased and he died and the FIR was registered against all the accused under Sections 342, 307, 302 and 34 of IPC.



Cr.L.R.C.(MD)No.693 of 2024
and *Cr.L.M.P.(MD)No.7121 of 2024*

3. After investigation, the final report was filed with specific allegation that this petitioner caused stab injury to the deceased. The said final report was taken on file in S.C.No.156 of 2021. Subsequently, the trial was commenced and all witnesses were examined under Section 313(1)(b) of Cr.P.C. At this stage, the petitioner has filed the application under Section 9(2) and (3) of Juvenile Justice (Care and Protection) Act, 2015 and claim the benefit under the said Act.

4. The learned trial judge dismissed the same after conducting detailed enquiry. Challenging the same, the petitioner has filed the present petition before this Court.

5. The learned Counsel for the petitioner submits that he has produced the birth certificate obtained from the Municipality, Dindigul and examined the said officer of Municipality. As per the Birth certificate, the date of birth of the petitioner is 25.02.2002 and hence he is entitled to the benefit as per the Act. The learned Counsel for the petitioner further submits that the learned trial Judge has dismissed the petition on the basis of the entries made in SSLC certificate, which is not correct, when two sets of evidence of age are available, the benefit is to be given to the petitioner.



Crl.R.C.(MD)No.693 of 2024
and Crl.M.P.(MD)No.7121 of 2024

WEB COPY

6.The learned Government Advocate(Crl.side) on instructions submits that as SSLC certificate is an authenticated document and the birth certificate has subsequently been obtained from the Municipality it is not admissible one and the same is liable to be rejected.

7.The learned trial Judge has correctly conducted the enquiry on the basis of the certificate issued by the Department of School Education as per the rule 12(3)(a) of the Juvenile Justice(Care and Protection) Act, 2007. Hence he seeks for dismissal of the same.

8.The learned Government Advocate(Crl.side) has further submitted that after the amendment in the year 2017, there are three categories of the case, namely, the petty offences, heinous offence and serious offence. This case is heinous offence and hence, 16 years is to be taken into consideration.

9.The learned trial Judge has made assessment of the mental capacity and hence the order is in accordance with law. Hence, there is no reason to interfere with well considered Judgment of the Court below.



Cr.L.R.C.(MD)No.693 of 2024
and Cr.L.M.P.(MD)No.7121 of 2024

WEB COPY

10.This Court has carefully considered the rival submission and also perused the records and also the documents produced before this Court.

11.As per the final report, the petitioner is said to have committed heinous offences of murder. There is a specific overtact against him i.e., he caused injuries with deadly weapons.

12.In the said circumstances, the final report was filed against him and the same was taken on file in S.C.No.156 of 2021.

13.The trial has also been completed and 313(1)(b) of Cr.P.C. Questioning is also completed. At this stage, the petitioner has filed a petition in Cr.M.P.No. 3224 of 2023 under Section 9(2) and (3) of the Juvenile Justice (Care and Protection Act, 2015).

14.In the petition, it is stated that his date of birth is 25.02.2002. To prove the same, he has produced the certificate obtained from the Municipality, Dindigul and also delivery card (Ex.P1) issued by the Hospital and on the side of



Crl.R.C.(MD)No.693 of 2024
and Crl.M.P.(MD)No.7121 of 2024

the prosecution, Ex.R1 dated 21.05.2018, copy of transfer certificate issued by the Head Master of Government Boys Higher Secondary School and Ex.P2-web copy of the birth certificate were marked.

15. According to the prosecution, the date of birth of the accused is 10.06.2001 and he has completed 10th standard on 01.06.2016. Thereafter, he has completed 12th standard on 21.05.2018. The occurrence took place on 28.07.2019. As per the rules in 12(3)(a) of the Juvenile Justice Act (Care and Protection Act), the matriculation or equivalent certificate is the primary evidence. Only in the absence of the same, the other evidence is to be considered. In this case, the prosecution has produced the matriculation certificate issued by the school authorities and the birth certificate obtained by the petitioner at belated stage, is without containing the name and other required particulars. Even the said certificate did not contain the material particulars.

16. It is a well settled principle that when there is conclusive proof to dispel some adequate evidence is to be produced. In this case, no such evidence is available. Hence, this Court is not inclined to entertain this petition. In the said circumstances, this Court is not inclined to accept the arguments of the learned



Crl.R.C.(MD)No.693 of 2024
and Crl.M.P.(MD)No.7121 of 2024

Counsel for the petitioner that the petitioner was under the age of 18 years on the date of occurrence on the basis of the said certificate obtained without name and other particulars. On contrary, the prosecution has produced the legally admissible evidence, namely the matriculation or equivalent certificate. In the said circumstances, this Court is unable to entertain this revision and finds that there is no reason to interfere with the order passed by the learned trial Judge.

17.Apart from that as rightly argued by the learned Government Advocate(Crl.side) after Delhi Nirbhaya case, the parliament has brought the various amendments to the provision of the Juvenile Justice Act. They have divided the offences into heinous offence and other offences and so far as the heinous offence is concerned, 16 years age is fixed and the Court has to assess the mental capability of the accused.

18.This Court has perused the records and also the learned trial Judge has assessed the mental capability of the accused and this Court finds that there is no case made out for the petitioner to claim the benefit under the Act.



Crl.R.C.(MD)No.693 of 2024
and Crl.M.P.(MD)No.7121 of 2024

WEB COPY

19.In such circumstances, the learned Counsel for the petitioner has placed number of Judgments which are not applicable to the present case. The learned Counsel has also placed the Judgment of the Hon'ble Supreme Court in ***Pawan Kumar vs. State of Uttar Pradesh and Ors. in Criminal Appeal No.3548 of 2023.***

20.In the said case, the petitioner has not completed his matriculation at the time of the occurrence. Therefore, the learned trial judge has not accepted the evidence produced by the School authorities. In this case, as per rule, the admitted case of the petitioner is that he has completed 12th standard State Board Examination. The State Board has issued a transfer certificate as Ex.R1. Therefore, the judgment of ***Pawan Kumar vs. State of Uttar Pradesh and Ors. in Criminal Appeal No.3548 of 2023*** cannot be applied. He has also produced the Judgment in ***Sanjay Patel & anr. Vs. The State of Uttar Pradesh*** reported in ***2022 LiveLaw (SC) 369***. In the said case, the Hon'ble Supreme Court of India has issued a direction to conduct the enquiry. The enquiry report established that on the date of occurrence, his age was 17 years. Hence he has granted the benefit in that case. Here, the competent Court namely the learned trial Judge



Crl.R.C.(MD)No.693 of 2024
and Crl.M.P.(MD)No.7121 of 2024

considering all the evidence and recorded findings that he is above the age of 18 years.

21.The learned Counsel for the petitioner has further relied the Judgment of the Hon'ble Supreme Court of India of ***Rishipal Singh Solanki Vs. State of Uttar Pradesh & ors.*** reported in ***Criminal Appeal No.1240 of 2021***. In this Judgment, the Hon'ble Supreme Court has categorically stated in para 36 extracted below:

“It is settled position of law that if the matriculation or equivalent certificate are available and there is no other material to prove the correctness of date of birth, the date of birth mentioned in the matriculation certificate has to be treated as a conclusive proof of the date of birth of the accused. However, if there is any doubt or a contradictory stand is being taken by the accused which raises a doubt on the correctness of the date of birth then as laid down by this Court in Abuzar Hossain, an enquiry for determination of the age of the accused is permissible which has been done in the present case.”

22.The Hon'ble Supreme Court of India has held that in case of any doubt or contradictory stand is taken by the accused, then the enquiry has to be



Crl.R.C.(MD)No.693 of 2024
and Crl.M.P.(MD)No.7121 of 2024

ordered. In this case, an enquiry was conducted by the learned trial Judge and found that the certificate produced by the Juvenile is doubtful and the same is not sufficient to disprove the date mentioned in the matriculation certificate.

23.In the result, this Criminal Revision case stands dismissed.
Consequently, connected miscellaneous petition is also closed.

16.08.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR

To

- 1.The learned Principal Sessions Judge, Dindigul.
- 2.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD)No.693 of 2024
and *Crl.M.P.(MD)No.7121 of 2024*

K.K.RAMAKRISHNAN, J.

RJR

Pre-delivery order made
in
Crl.R.C.(MD)No.693 of 2024
and
Crl.M.P.(MD)No.7121 of 2024

16.08.2024