

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.263 of 2025

Arising Out of PS. Case No.-216 Year-2024 Thana- KALYANPUR District- Samastipur

Md. Aziz Son of Md. Shadik @ Gulab Resident of Village - Jatmalpur, P.S. -
Kalyanpur, District - Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Gufran Son of Md. Nazir, Resident of Village - Jatmalpur Dabha Ward
No.-03, P.S. - Kalyanpur, District - Samastipur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar, Advocate
For the Opposite party	:	Mr. Shubhesh Pandey, Advocate
		Mr. Ankit Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 08-05-2025 The petitioner is the informant of Kalyanpur P.S. Case No. 216 of 2024, dated 28th August, 2024. Under Section 103(1)/190 of the BNS read with Section 37 of the Arms Act. Suffice it to say that on 28th August, 2024, one Md. Aziz made a written statement before the SHO, Kalyanpur Police Station, alleging, *inter alia*, that the opposite party, along with four others, illegally trespassed into the house of the informant on the night of 26-27/08/2024 at about 2:30 am, and one Md. Saddam opened fire at the father of the informant when he was sleeping. Receiving a gunshot injury, the injured father of the informant started throwing his hands and legs. Then one Md. Aszad and the opposite party got hold of the hands and legs of



the injured till he breathed his last. Thus, there is a direct allegation against the opposite party no. 2 for committing offence under Section 103(1)/190 of the BNS.

2. After his arrest, the opposite party claimed himself to be a juvenile on the date of commission of the offence. The Juvenile Justice Board summoned the Principal of Upgraded Middle School, Jatmalpur, to produce the admission register of the opposite party. He produced the admission register where the Date of Birth of the opposite party was recorded on 25th May, 2005. However, the opposite party also produced his matriculation certificate, where his Date of Birth is recorded as 13th April, 2008. The JJB accepted the Date of Birth recorded in the admission register of the Upgraded Middle School and held that the opposite party was aged about 19 years, 3 months, and 3 days on the date of commission of offence.

3. The opposite party challenged the said order in appeal before the learned Special Judge, Children Court at Samastipur, which was registered as Criminal Appeal No. 34/2024. The learned Judge while setting aside the order passed by Juvenile Justice Board, directed the Board to assess the age of the appellant after considering the independent documents produced by the appellant/petitioner.



4. It is submitted on behalf of the petitioner that there are discrepancies regarding Date of Birth in the admission register of the opposite party, maintained by the Upgraded Middle School, and the matriculation certificate. In the matriculation certificate, Date of Birth was shown as 13th April, 2008. Therefore, the finding of the JJB on the basis of the admission register of the school ought to be revived, and the order passed by the appellate court is liable to be set aside.

5. The learned Advocate for the private opposite party, on the other hand, submits that the Date of Birth of the opposite party was actually 13th April, 2008. In support of his contention, he files a birth report of the opposite party issued by the hospital authority on 13th April, 2008. On the basis of the said birth certificate, Date of Birth of the opposite party was registered by the municipality on 6th May, 2021, as on 13th April, 2008. On the basis of the said birth certificate issued by the municipality, the said Date of Birth was introduced in the secondary examination. The Registrar of Births and Deaths, Darbhanga, issued a certificate that the Date of Birth of the opposite party is on 13th April 2008. Thus, two dates of birth of the petitioner are coming before the JJB and the appellate court.

6. Under such circumstances, the Board is under



obligation to conduct an inquiry under Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015. When there are discrepancies between the Date of Birth certificates from the school and the matriculation or equivalent certificate, as well as the birth certificate given by the municipal authority. As per Section 94(2)(iii), the only course left before the Board to assess and determine the age of the opposite party is by way of an ossification test or any other latest medical age test conducted on the orders of the Committee or the Board.

7. In view of the findings of this Court, this Court is of the considered opinion that the court of appeal did not commit any wrong in transmitting the record of the case of the Board for assessment of Date of Birth on due consideration of all the documents already filed or to be filed by the parties.

8. In addition to such direction issued by the appellate court, this Court further directs that if the Board finds discrepancy in respect of the Date of Birth of the opposite party in different documents, the Board shall take recourse of Section 94(2)(iii) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

9. With the above direction, the instant revision is disposed of. Further, the entire exercise shall be made within



three months from the date of communication of this order.

(Bibek Chaudhuri, J)

Suraj Dubey/-

U		T	
---	--	---	--

