

M/L - 259
07/07/2025
Court No.29
S.Kundu

CRR 3224 of 2018

**Biswajit Ghosh @ Bhombal
Vs.
Dolly Biswas & Anr.**

Mr. Prabir Majumder
Mr. Snehansu Majumder
Mr. Debraj Shil

...for the petitioner.

Mr. Anindya Ghosh
Mr. Pronojit Roy

...for the O.P. No. 1.

Mr. Debasish Roy
Ms. Anasuya Sinha
Mr. Soumya Basu Roy Chowdhuri

...for the State.

1. The petitioner herein challenged the order dated 2nd August, 2018 passed by Additional Sessions Judge, Fast Track Court, Nadia in connection with Hanskhali Police Station case no. 124/2003 under Sections 148/149/326 of the IPC.
2. It appears from the impugned order that the question raised before the learned Trial Court is whether the petitioner herein was a juvenile on the date of commission of the offence i.e. on 17/8/2003. Investigating Officer during the investigation has collected entry in the Admission Register of NSCPB vidya niketan (H.S), where petitioner afterwards took admission, in class V, which discloses that the date of birth of the petitioner is 13/1/1986 and to that extent,

a certificate was also issued by the Haldipara N.S.C.P.B Vidyaniketan.

3. Learned counsel appearing on behalf of the petitioner filed a supplementary affidavit which discloses that the petitioner herein first took admission in Hatisala Primary School where petitioner studied from class I to class IV and it also recorded his date of birth as 13/1/1986.
4. It is submitted on behalf of the State that this particular certificate issued by Hatisala primary school, where he first took admission was not brought to the notice of the Court below.
5. However, the learned Trial Court rejected the petitioner's claim of juvenility on the ground that without any direct or primary evidence, the Court is not in a position to accept date of birth entered in the School Admission Register, as the actual date of birth. The order further recorded that on 26.3.2018 the Court received a report from Hanskhali Police Station along with copies of several documents wherefrom it appears that I.O visited Haldipara N.S.C.P.B Vidyaniketan and while he interrogated the school authority, they failed to produce any supportive document in respect of the petitioner's age, as they claimed that the documents have been lost due to flood in the year 2000.
6. Rule 12(3) of JJ (Care and Protection) Rules, 2007, deals with the hierarchy of documents that are to be

looked into while determining the age of the child in conflict with law and it states that in the absence of matriculation or equivalent certificate, the Date of Birth Certificate from the school first attended is material as per hierarchy and if such certificate is available then no other material whatsoever is to be taken into consideration for determining the age of child concerned as the said certificate would conclusively determine the age of the child. In this context reliance has been placed upon *Jarnail Singh Vs. State of Haryana* reported in (2013) 7 SCC 263 and *Om Prakash vs. Union of India & Another* reported in 2025 SCC OnLine SC 47.

7. It is clear from the order impugned that inspire of availability of school certificate and entry in admission register of Haldipara NSCPB Vidyaniketan about date of birth of petitioner, Court below rejected petitioner's claim of juvenility, primarily on the ground of non-availability of supportive document about petitioner's date of birth as entered in the said school admission register.
8. As it appears that the petitioner first took admission in Hatisala Primary School where he studied from class I to class IV there might have the availability of supportive documents in respect of his date of birth entered in the Admission Register.

9. In such view of the matter, the order impugned is hereby set aside.

10. The learned Trial Court is directed to ask the Investigating Officer to make an enquiry at the school namely, Hatisala Primary School to ascertain whether any supportive document in connection with the date of birth entered in the school Admission Register is available or not and after making such enquiry or any further enquiry, as the Trial Court will think fit and proper preferably within a period of thirty days, he will re-hear the petitioner's prayer for juvenility afresh after giving opportunity to all the parties to contest, preferably within a period of eight weeks from the date of communication of the order and to pass a reasoned order in respect of such prayer in accordance with settled principles of law and thereafter will proceed for further trial.

11. Accordingly, CRR 3224 of 2018 stands disposed of.

12. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)