



CRR-152-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRR-152-2024 (O&M)
Date of Decision: 08.09.2025
... Petitioner

RAHUL

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rahul Duhan, Advocate
for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition is for setting aside the order dated 13.08.2019 passed by the Addl. Sessions Judge, Karnal whereby the application for declaring the accused/petitioner as a minor moved by the petitioner in case titled '*State of Haryana Vs. Rahul & others*' has been dismissed.

2. The brief facts of the case are that an FIR No.275 dated 21.05.2017 U/s 302 read with Section 34 IPC, P.S. Gharaunda came to be registered at the instance of Pardeep Kumar and the same reads as under:-

"The copy of the statements of Pardeep Kumar S/o Isham Singh, Caste Barber, R/o Village Bal Rangdon, Police Station Gharaunda, District Karnal, Mobile No. 90342-15412, Stated that I am resident of the above said address and do welding work, we are three brothers, my eldest brother is Sandeep and I am younger than him. My brother Sandeep does Truck driving on 20.05.2017, I and my brother Sandeep was an altercation with Rahul S/o Pala Ram and Dinesh Kumar S/o Ranjit Akwam Pandit, R/o Bal Rangdon on

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20.05.2017, when I and my brother Sandeep Devi Singh were standing in the field of resident of Pabana. The time was around 6 0'clock. Rahul and Dinesh also came there and started telling my brother Sandeep that they will teach him a lesson of abusing and competing, Dinesh caught hold of my brother Sandeep and Rahul who hold Serva (Bahhi of cot in his hand, hit on the head of my brother Sandeep Singh. I tried a lot to free him, but my brother became unconscious and fell down on the ground, then I made a lot of noise, Rahul and Dinesh took the serva in their hands and said that today you survived they will kill you in the future and ran away from the spot. Then I called my uncle's son Ajmer, who arranged a vehicle and brought my brother Sandeep to Kalpana Chawla Hospital, Karnal, due to the condition of my brother Sandeep being very bad, Doctor Sahib referred him to PGI Chandigarh, we have got our brother admitted in Arvind Hospital, Karnal, and who is now admitted in Arvind Hospital Karnal for treatment, who is unconscious, Rahul and Dinesh has given unjust injuries to my brother Sandeep, legal action should be taken against them, statements got recorded, heard and are correct. Sd/- Pardeep Kumar.”

3. When the case was nearing completion and listed for defence evidence, an application was moved for determining/ declaring the petitioner- Rahul as a minor. A reply thereof was filed. Based on the material on record, the Court of Addl. Sessions Judge, Karnal dismissed the said application vide order dated 13.08.2019.

4. The aforementioned order dated 13.08.2019 is under challenge in the present petition.

5. I have heard the learned counsel for the parties.

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6. It would be useful to extract the relevant paragraph of the impugned order dated 13.08.2019 and the same reads as under:-

“4.By moving the present application, the applicant wants to declare himself as juvenile conflict in law and wants to send his case before the Principal Magistrate Juvenile Justice Board, Karnal. The case of the applicant/accused Rahul rests upon the school leaving certificate, wherein, his date of birth has been mentioned as 5.5.2000. As per the document on the file i.e. school leaving certificate, the accused has averred that his age is less than 18 years but his age is mentioned as 21 years by the police in the present case. There is the certificate of Kamlesh wife of Satpal who is mother of Rahul who has given in writing to the police wherein it is mentioned that the accused has not got prepared the Aadhar Card till today. There is nothing mentioned on the file why the accused Rahul has not got prepared his Aadhar Card from the concerned authority. Neither the birth certificate of accused Rahul is on the file nor the record of the Chowkidar, Lambardar is on the file which goes to show the fact that the date of birth of accused Rahul is 5.5.2000. There is nothing on the file, by which, it can be ascertained that on what basis, the accused Rahul has got incorporated his date of birth in the school record. Neither any detail marksheet of middle class nor any authentic document is on the file, by which, it can be ascertained that the date of birth of accused Rahul has been rightly incorporated in the school leaving certificate by the school authority. It was the duty of the accused or his family members to place on the record any authentic document to prove the fact that the date of birth of accused Rahul is 5.5.2000. Further, it is worthwhile to mention here that when the accused was charge sheeted by the court of Shri G.S. Wadhwa, the then learned Addl. Sessions Judge, Karnal on 9.11.2017, then he has disclosed his age as 21 years and in his statement, he has also mentioned his age as 21 years and when the statement of accused under section 313 Cr.RC. was recorded on 2.5.2019, then he has disclosed his age



22 years twice in the presence of his counsel. It is not the case of the applicant/accused Rahul that he is illiterate. Moreover, he is an educated person and as per his school leaving certificate, he has left the school in 9th class, so, he is aware about his date of birth when he put his signatures on the charge sheet as well as his statement made in the court as well as his statement under section 313 Cr.P.C. made in the court. Meaning thereby, the applicant/accused Rahul has failed to prove on the file that how his date of birth has been incorporated in the school leaving certificate as 5.5.2000. Neither any witness has been examined by the applicant to prove his date of birth by placing on record the relevant document nor the application is supported by any affidavit. When in the present case, as many as 12 witnesses have been examined and when the case was fixed for defence evidence, then the present application has been moved by the applicant just to prolong the proceeding of this Court which is a sheer abuse of process of law. As such, the present application is uncalled for, unsustainable and the same is not maintainable. Accordingly, the application merits dismissal and the same is hereby dismissed.”

7. The entire case of the petitioner claiming to be a minor is based on a School Leaving Certificate showing him to be born on 05.05.2000 thereby making him out to be a juvenile on the date when the FIR was registered on 21.05.2017. Other than the said document, there is absolutely nothing on record to establish his date of birth as 05.05.2000. Neither has his birth certificate nor the record of the Chowkidar or Lambardar been brought on record to establish the fact that the date of birth of the petitioner is 05.05.2000. At the time of framing of charges on 09.11.2017 he claim to be of the age of 21 years. When his statement under Section 313 Cr.P.C. was recorded on 02.05.2019, he claimed to be of the age of 22 years. As per the



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School Leaving Certificate, he had left school in Class 9th and therefore, he cannot claim to be illiterate and that he was unaware of his date of birth. Interestingly, the petitioner moved his application claiming to be a minor when the case was listed for recording of defence evidence. This delay in raising the plea of juvenility also creates a significant doubt in the claim of the petitioner.

8. In the case of **Babloo Pasi Versus State of Jharkhand & another, 2008(4) RCR (Criminal) 756**, the Hon'ble Supreme Court held as under:-

“22. Insofar as the Board is concerned, it is evident that it has mechanically accepted the entry in Voters List as conclusive without appreciating its probative value in terms of the provisions of Section 35 of the Indian Evidence Act, 1872. Section 35 of the said Act lays down that an entry in any public or other official book, register, record, stating a fact in issue or relevant fact made by a public servant in the discharge of his official duty especially enjoined by the law of the country is itself a relevant fact. It is trite that to render a document admissible under Section 35, three conditions have to be satisfied, namely : (i) entry that is relied on must be one in a public or other official book, register or record; (ii) it must be an entry stating a fact in issue or a relevant fact, and (iii) it must be made by a public servant in discharge of his official duties, or in performance of his duty especially enjoined by law. An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act but the entry regarding the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded. (See : Birad Mal Singhvi v. Anand Purohit, 1988 (Supp) SCC 604).”



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(Emphasis supplied)

9. In the case of **Brij Mohan alias Anil Kumar alias Chhotu Vs. State of Himachal Pradesh, Cr. Appeal No.127 of 2009, decided on 06.10.2010**, the Hon'ble Himachal Pradesh High Court held as under:-

“28. The prosecution has also next relied upon the school leaving certificate Ex.PW15/B of the prosecutrix, wherein her date of birth has been mentioned as "15.3.1993". PW15 Ghanshyam Sharma, Principal of the Government Senior Secondary School, Upperli Kothi admitted that to verify the age of the child at the time of first admission in the school, birth certificate is required to be submitted, which is an authenticated document, but the admission record contained such certificate has not been produced in evidence. The perusal of the school leaving certificate shows that the prosecutrix was admitted in the school on 19.4.2005 itself in 'middle standard ' in Govt. High School, Kharet, she had left the school in the same year on 6.12.2005. It means that the prosecutrix was in some other school prior to seeking admission in the aforesaid High School.

29. Although, an entry relating to the date of birth made in the school register is relevant and admissible under Section 35 of the Evidence Act, but the entry regarding to the age of a person in a school register is of not much evidentiary value to prove the age of a person in the absence of the material on which the age was recorded. Merely by its production and proof thereof, such a document like Ext.PW15/B would not tantamount to be the proof of all the contents or the correctness of date of birth stated therein. Relevancy of the document is one thing but what value should be attached to it, is another thing. In the absence of the primary evidence with respect to the date of birth, the school leaving certificate in the aforesaid circumstances can also not be believed to be true.”

(Emphasis supplied)

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10. Apparently, an entry relating to the date of birth made in a school register is relevant only when there is a primary evidence with respect to the date of birth available on the record. In other words, there must be material to show as to on what basis was the entry regarding the age made in the school records. In the present case, there is absolutely no material to show as to on what basis was the entry made in the School Leaving Certificate showing his date of birth as 05.05.2000.

11. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

08.09.2025

JITESH

**(JASJIT SINGH BEDI)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:-****Yes/No**