(2009) 11 P&H CK 0084

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Sahab Singh alias Sat Pal		APPELLANT
	Vs	
State of Haryana		RESPONDENT

Date of Decision: Nov. 5, 2009

Acts Referred:

- Penal Code, 1860 (IPC) - Section 302, 377

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

L.N. Mittal, J.
Sahab Singh alias Sat Pal has filed this revision petition assailing order dated 15.1.2009 passed by learned Sessions Judge, Ambala, thereby dismissing petitioner"s application seeking to declare him as juvenile in case FIR No. 70 dated 12.3.2007 under Sections 302, 377 IPC, Police Station Baldev Nagar, Ambala.

2. The petitioner alleged that his date of birth was 12.1.1992 and therefore, he was juvenile on the date of occurrence i.e. 12.3.2007. The application was opposed by the State. Parties led evidence. After appreciating evidence, the learned Sessions Judge, Ambala vide impugned order dated 15.1.2009 dismissed the application. Feeling aggrieved, the accused has preferred this revision petition.

3. I have heard learned Counsel for the parties and perused the case file.

4. The petitioner examined Chetni Devi, School Teacher as AW1. She stated from admission register of the school that date of birth of the petitioner was recorded as 6.9.1990. However, statement of this witness has been rightly discarded by the Sessions Judge because the petitioner himself alleged his date of birth to be 12.1.1992 and not 6.9.1990. Moreover, there was no document with this witness on the basis of which the

aforesaid date of birth was recorded. In addition thereto there were two entries in the admission register relating to the petitioner. In the first entry, his date of birth was recorded as 6.9.1990 and in the second entry, his date of birth was recorded as 12.1.1992. Consequently, such evidence could not be relied upon.

5. The petitioner also examined Karamvir Singh, Statistical Assistant AW2 from the office of Civil Surgeon, Ambala. This witness stated from the birth register that date of birth of petitioner was 6.9.1990 entered at Sr. No. 18. However, this witness stated in examination-in-chief that there is no cutting in the name of Sahab Singh in the birth register. However, in cross-examination he had to admit that there is over-writing in the name of Sahab Singh. Even certificate Ex. AW-2/A produced by this witness contained a specific note that there is over-writing in the name of the child in the basic record. It would mean that there was over-writing in the name of child in the register of Police Station as well. In the register brought by this witness entry at Sr. No. 15 was lying blank. Moreover, entry of birth of petitioner had been attested by SHO on 7.8.2007, although there was no occasion for such attestation. The attestation, if any, could have been done in the year 1990 when the entry was allegedly made and not in the year 2007. Obviously this attestation was obtained during the pendency of the instant case to corroborate the claim of the petitioner that he was juvenile. Such birth entry which has been manipulated and tampered with cannot be relied upon.

6. AW-3 Beant Singh Chowkidar also stated from chowkidara register that there is birth entry of the petitioner showing his date of birth as 6.9.1990. However, the said register appeared to be doubtful as witness Beant Singh had been working as Chowkidar for two years but had not made any entry in the register. It cannot be said that no birth had taken place in the village for two years. The witness also admitted that serial numbers in the register had been changed after entry No. 31 and there were also overwritings at serial numbers after entry No. 31.

7. In addition to the aforesaid, the petitioner at the time of his arrest on 14.3.2007 i.e. two days after the occurrence stated his age as 19 years vide arrest memo Ex. R-1. At the time of medico legal examination, the petitioner himself stated his age as 18 years. At the time of framing of charge on 15.6.2007, the petitioner stated his age as 19 years. In view thereof also, it cannot be said that the petitioner was under the age of 18 years at the time of occurrence.

8. In addition to the aforesaid, the petitioner has not examined his either parent as witness without any explanation whatsoever. This gives rise to an adverse inference against the petitioner. Parents could state about his date of birth as well as entries made in the birth register and also if the petitioner was their 4th child as mentioned in the birth entries.

9. In view of the aforesaid, I find no illegality or infirmity in the impugned order of the trial judge. The instant revision petition is accordingly dismissed.