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Manjyoti Vs State

Criminal Miscellaneous No. 4619-M of 2001

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Nov. 9, 2001

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) â€" Section 482#Penal Code, 1860 (IPC) â€" Section 302

Citation: (2002) CriLJ 2777 : (2002) 1 RCR(Criminal) 703

Hon'ble Judges: V.M. Jain, J

Bench: Single Bench

Advocate: S.K. Vohra, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

V.M. Jain, J.
This is a petition dated 2-11-2001 u/s 482, Cr. P.C. filed by the accused-petitioner, seeking the quashment of the order

dated 6-4-1998, passed by the Juvenile Court, copy Annexure P-2 and also seeking the quashment of the order dated 23-11-1998, copy

Annexure P-3, passed by the Sessions Judge, dismissing the appeal of the accused-petitioner and up-holding the order dated 6-4-1998 passed by

the learned Juvenile Court.

2. The learned counsel for the accused-petitioner has submitted before me that in view of the birth certificate Ex. A1, the accused-petitioner was a

juvenile on the date of the alleged occurrence and as such he should have been declared as a juvenile.

3. However, I find no force in this submission of the learned counsel for the accused-petitioner. The alleged occurrence had taken place on 23-4-

1997, for which FIR No. 51 dated 24-4-1997 u/s 302, IPC was registered in Police Station East, Chandigarh. It was much after the commission

of the crime that Joginder Lal (Pal) filed an application for making an entry in the birth register regarding the birth of his son Manjyoti (accused-

petitioner), alleging therein that his son Manjyoti was born on 2-10-1981. After obtaining the report from the Patwari and the Kanungo, the Sub

Divisional Magistrate, passed the orders on 13-11-1997 for making an entry in the birth register about the birth of accused-petitioner Manjyoti

having taken place on 2-10-1981. It was on the basis of this birth entry that the accused-petitioner was seeking a verdict from the Juvenile Court

that in fact he was juvenile on the date of occurrence. However, as referred to above, the learned Junevile court, vide order dated 6-4-1998, copy

annexure P-2 did not place any reliance on the said birth entry and after considering the other material available on the record including the

ossification test came to the conclusion that accused-petitioner Manjyoti was not a Juvenile on the date of the commission of the offence. The

appeal filed by the accused-petitioner against the said order of the Juvenile Court, was also dismissed by the learned Sessions Judge on 23-11-

1998, copy Annexure P-3. The learned Sessions Judge also did not place any reliance on the birth entry of the accused-petitioner, which had

come into existence much after the commission of the crime. The learned Sessions Judge also placed reliance on other material on the record,

including ossification test and came to the conclusion that the accused-petitioner was not a juvenile and accordingly, the order of the Juvenile Court

was up-held and the appeal was dismissed.

4. So far as the present petition u/s 482 Cr. P.C. is concerned, the same has been filed by the accused-petitioner after almost three years of the

passing of the order dated 23-11-1998, passed by the learned Sessions Judge, dismissing the appeal and up-holding the order of the Juvenile

Court and holding that the accused-petitioner was not a juvenile. No explanation whatsoever has come on the record to explain the delay of almost

three years in filing the present petition u/s 482, Cr. P.C. and challenging the orders passed by the Courts below.

5. Furthermore, both the Courts below had given a categorical finding that the accused-petitioner was not a juvenile, keeping in view the facts and

circumstances of the present case. No reliance was placed on the birth entry, keeping in view that the same had come into the existence much after

the commission of the crime, I find no illegality or irregularity in the orders passed by the Courts below, which may require interference by this

Court in the present petition u/s 482, Cr. P.C. The authority Santenu Mitra Vs. State of W.B., relied upon by the learned counsel for the accused-

petitioner, in my opinion would have no application to the facts of the present case. In the reported case, the birth entry was made some time

between 14-8-1978 and 8-11-1978 showing the date of birth of the accused-appellant as 19-11-1972. In this manner, the birth entry was made

less than six years after the birth of the accused-appellant. The alleged offence was committed (in the reported case) on 19-2-1988. It was under

those circumstances that reliance was placed by the Hon''ble Supreme Court on the said birth entry. The Hon''ble Supreme Court had specifically

noticed as under :--

It cannot be forgotten that the occurrence took place much later, say 10 years. It could not have been expected on the date when the entry was

made that the appellant would claim benefit thereof on the commission of some offence. That entry is not. alone but added thereto is the LIC policy

and the matriculation certificate likewise mentioning the date of birth of the appellant being 19-11-1972.

6. So far as the present case is concerned, as referred to above, the birth entry in question came into exisence much after the commission of the

offence. Furthermore, except the oral evidence, there is nothing else on the record to show that the accused-petitioner was born on 2-10-1981 or

that he was a juvenile at the relevant, time. On the other hand, the Courts below placing reliance on the ossification test came to the conclusion that

accused-petitioner Manjyoti was not a juvenile. Furthermore, reliance had also been placed on the copy of the statement made by accused-

petitioner Manjyoti as a prosecution witness in a Sessions trial in which he had given his age as 21 years on the date when he had appeared as a

witness i.e. 4-11-1996 in the said Sessions case.

7. In my opinion, the Courts below had rightly come to the conclusion that no reliance could be placed on the birth entry in question and on the

basis of the said birth entry, the accused-petitioner could not be declared as a juvenile.

8. In view of my detailed discussion above, in my opinion, there is no merit in this petition and the same is hereby dismissed.