

(2003) 04 AHC CK 0226**Allahabad High Court****Case No:** Criminal Revision No. 503 of 2003

Ram Janam (in Jail)

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision: April 18, 2003**Citation:** (2003) 2 ACR 1605 : (2003) 4 RCR(Criminal) 592**Hon'ble Judges:** K.N. Sinha, J**Bench:** Single Bench**Advocate:** V.P. Srivastava, for the Appellant; S.K. Dubey and A.G.A., for the Respondent**Final Decision:** Allowed**Judgement**

@JUDGMENTTAG-ORDER

K.N. Sinha, J.

The present revision has been filed against the order dated 17.1.2003 passed by the Additional Sessions Judge, Fast Track Court, Jaunpur in S.T. No. 280 of 2002 refusing to declare the revisionist as juvenile.

2. The brief facts giving rise to this revision are that the revisionist Ram Janam was facing trial in S.T. No. 280 of 2002 wherein an application was moved on behalf of the revisionist for separating his case from other accused as he was a juvenile. According to the school leaving certificate, his date of birth was given to be 15.8.1987. The Chief Medical Officer, Jaunpur, was asked to determine the age of Ram Janam. After medical examination, he was found to be between 18 to 19 years of age. As against it, the prosecution has produced the copy of the voters list, in which he is shown to be of 24 years. However, the Court ignored the school leaving certificate and medical report and on the basis of the voters list, held him to be of 26 years of age.

3. I have heard the learned Counsel for the revisionist, the learned Counsel for O.P. No. 2 and the learned A.G.A.

4. The approach of the Additional Sessions Judge appears to be erroneous. The reasons therefore are that the school leaving certificate has been very lightly ignored wherein the date has been shown to be 15.8.1987. Calculated on this basis, the age of the applicant will come to be about 15 years. According to the medical examination report, it is between 18 to 19 years, which is only an opinion. It can vary two years either way.

5. So far as the voters list is concerned, it is not based on any proper enquiry of any document. Generally, in the voters list, the age is given so that one may be enable to cast his vote. The medical examination of the revisionist has taken place on 8.1.2003, i.e., about seven months after the occurrence. Thus, the variation of two years cannot be taken on the higher side but it would be on the lower side.

6. The Court should have considered the school leaving certificate and the medical examination report. If the medical examination report and the school leaving certificate are read together, the only result would come that the revisionist is juvenile.

7. The Apex Court in the case of *Rajinder Chandra v. State of Chhattisgarh and Anr.* 2002 (1) ACR 639 (SC): 2002 (1) JIC 609, has held as follows:

While dealing with the question of determination of the age of the accused for the purpose of finding out whether he is a juvenile or not, a hyper-technical approach should not be adopted while appreciating the evidence adduced on behalf of the accused in support of the plea that he was a juvenile and if two views may be possible on the said evidence, the Court should lean in favour of holding the accused to be a juvenile in border line cases.

The law laid down by the Apex Court in the above case is fully applicable on the facts of the present case.

8. Consequently, the revision is allowed. The order dated 17.1.2003 is set aside. The revisionist Ram Janam is declared to be a juvenile. His case shall be separated and dealt with according to the relevant provisions of law.