

Pramod Kumar Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Apr-02-2013

Appellant : Pramod Kumar

Respondent : The State of Madhya Pradesh

Judgement :

Cr.R.No.718/2009 02.04.2013 Shri Narendra Nikhare, Advocate for the applicant.

Shri Prakash Gupta, Panel Lawyer for the respondent-State.

Heard the learned counsel for the parties finally.

The applicant has challenged the order dated 6.4.2009 passed by the learned Special Judge under ST/SC (Prevention of Atrocities) Act, 1989 Raisen whereby the learned Special Judge did not find the applicant to be a juvenile, and therefore the application dated 5.8.2006 filed by the applicant was dismissed.

After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that the incident took place on 3.10.2006.

According to the Rule 12(3) of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as Rules, 2007.) the age of the accused shall be computed by the various documents and the priorities fixed in that rule.

According to that priority, if the matriculation certificate or an equivalent certificate is available, then the date of birth be considered from that certificate.

In the present case, the applicant has filed a certificate of High School Examination 2003 issued by the Madhyamik Shiksha Parishad, Uttar Pradesh in which the date of birth of the applicant was mentioned as 4.9.1988.

When the certificate as required under Rule 12(3)(a)(i) of the Rules is available, then the Enquiry Officer was not required to proceed further in the enquiry.

Under such circumstances, according to the Rule 12(3) of the Rules, date of birth of the applicant should be considered as 4.9.1988, and therefore at the time of incident he was below 18 years of age, hence he was juvenile.

The learned Special Judge has committed an error of law in considering the age of the applicant.

Consequently, it is a fit case in which an interference is required from the side of this Court by way of this revision.

Accordingly, the present revision filed by the applicant Pramod Kumar is hereby allowed.

The impugned order dated 6.4.2009 passed by the learned Special Judge, Raisen is hereby set aside.

It is declared that the applicant was juvenile at the time of incident.

The matter may be returned to the police concerned so that a charge sheet may be filed before the Juvenile Justice Board concerned.

A copy of this order be sent to the trial Court for information and compliance.

Certified copy as per rules.

(N.K.Gupta) Judge Ansari