

Lal Mohd. Vs. State

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Court : Delhi

Decided On : Jan-19-2005

Reported in : 2005CriLJ3055; 119(2005)DLT353; 2005(81)DRJ738

Judge : Manju Goel, J.

Acts : [Juvenile Justice Act, 1986](#); Indian Penal Code (IPC) - Sections 120B, 201, 302 and 364

Appeal No. : Crl. Revision Petition No. 310/2004 and Crl. M. 4440-41/2004

Appellant : Lal Mohd.

Respondent : State

Advocate for Def. : Sunil Sharma, Adv.

Advocate for Pet/Ap. : D.K. Sharma, Adv

Disposition : Petition dismissed

Judgement :

Manju Goel, J.

1. This revision petition arises from the order dated 19.4.2004 whereby the Court of Sessions declined to accept the claim of the petitioner Lal Mohd. to be treated as a juvenile.

2. Accused Lal Mohd. is accused of having been involved in the offence of kidnapping and murder of Vikas Bhandari on 13.11.2000. He and his associates namely Rajnish, Rakesh and Romil were arrested on 18.11.2000. Eventually he was challaned and was committed to Sessions and charges u/s 120B read with 364/302/201 IPC were framed against all the accused including the petitioner. The petitioner moved an application for treating him as juvenile on which Mrs. Aruna Suresh, Ld. ASJ directed that the juvenile along with the documents submitted by him be forwarded to the Juvenile Justice Board for conducting an enquiry and for submitting a report in this regard. Juvenile Justice Board opined that the accused Lal Mohd. was 15 years and 3 months on the date of his arrest and sent the file back to the court of Ld. ASJ. This finding was assailed in criminal appeal No. 81/2003 and the appeal was disposed of vide order dated 8.10.2003 whereby the matter was remanded to the Juvenile Justice Board with the directions to reconsider the documents on record and to consider the deposition of CW-1 Sarju Prasad Yadav, Head Master of the school of the petitioner Lal Mohd. The Juvenile Justice Board having complied with the directions found that the school record was not properly maintained and there was a grave suspicion about the genuineness of admission entry of said Lal Mohd. The Board proposed that the age of the accused be determined by a duly constituted Medical Board and sent the case file back vide its order dated 8.12.2003. Vide order of the Court of Sessions dated 6.1.2004, the age of the petitioner was ordered to be determined by physical, dental and ossification test by doctors of duly constituted Medical Board of All India Institute of Medical Sciences (AIIMS). According to the report of this Board, the petitioner was 21 years of age on 19.1.2004. It means that as per the Medical Board's finding on the date of the commission of offence i.e. 13.11.2000 he was more than 17 years of age. It will be relevant to state here that at that time the definition of juvenile as available in the [Juvenile Justice Act, 1986](#) included those up to the age of 16 years. The impugned order rejects the petitioner's claim that he was a juvenile.

3. I have perused the impugned order, the order has dealt with the matter at great length. It appears to me that the Court had no reliable material except the opinion of the Medical Board because the school records were not found to have been properly maintained. It is submitted by the Ld. State counsel that the school

recorded the date of birth without any documentary proof about it being submitted to it and that it was only on the statement of the father of the petitioner that the date of birth of the petitioner was entered. The school record in this situation loses much of its evidentiary value. I find support to this view from the judgment in the case reported in Chidda Ram v. State reported in : 1992(23)DRJ344 .

4. In the case of Gurmit Singh v. State 2000 (3) CCC 36 and in other case Bhoop Ram v. State of U.P. : 1990 CriLJ2671 , it was observed that the date of birth given by the school leaving certificate was better than the ossification test which leaves the margin of two years. In the present case, the school record, as mentioned above, have been found to be not reliable at all. In this situation the only evidence on which the court can rely is the opinion of the Medical Board which implies that on 19.1.2004, the petitioner was more than 21 years of age.

5. In view of the above, I see no reason to differ with the opinion of the Court of Sessions. The revision petition is accordingly dismissed.

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