

Surjeet Singh Vs. State

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Court : Delhi

Decided On : Feb-05-2013

Judge : S. P. Garg

Appellant : Surjeet Singh

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI RESERVED ON: January 28, 2013 DECIDED ON : February 05, 2013 + CRL.A.No.376/2001 SURJEET SINGH STATE Appellant Through : Mr.A.J.Bhabhani withMs.Nisha Bhabhani and Ms.Lakshita Sethi, Advocates. Versus Respondent Through : Mr.M.N.Dudeja, APP for the State. CORAM: MR. JUSTICE S.P.GARG S.P.GARG, J.

Crl.M.A.No.18898/2010 in Crl.A.No.376/2001 1. The appellant Surjeet Singh has claimed juvenility. It is stated that he was below 18 years of age on the date of commission of the offence i.e. 17.09.1996. His date of birth as recorded in the school certificate is 14.11.1980.

2. I have heard the learned Additional Public Prosecutor and the counsel for the appellant. The appellant was convicted for committing offence punishable under Section 376(g)/34 IPC and sentenced to undergo RI for ten years with fine `5,000/- by judgment dated 15.11.2000. He has challenged the conviction. Substantive sentence of the appellant was suspended vide order dated 29.04.2002.

3. Perusal of the Trial court record reveals that earlier also the appellant had claimed juvenility and the matter was referred to the Juvenile Court for determination of appellants age. After conducting detailed inquiry vide order dated 17.03.1999, the Juvenile Court concluded that the appellant was above 16 years on the date of commission of the offence. Since in 1999, the age for trial of cases before the Juvenile Court was 16 years, the matter was sent back for trial before Sessions Court. The 1986 Act was replaced by the Juvenile Justice (Care and Protection of Children) Act 2000 (hereinafter referred to as Act). Clause (K) of Section 2 of the Act defined Juvenile or child to mean a person who had not completed 18th year of age. The appellant claims that he was below 18 years on the date of alleged commission of the offence i.e.17.09.1996. He has produced school certificate where his date of birth recorded is 14.11.1980. The Juvenile court had conducted ossification test for determination of age and had examined the concerned doctor who was of the opinion that the age of the appellant was 17-18 years on 17.09.1996. The Juvenile Court discarded the age recorded in the school record but relied on the medical evidence and was of the view that the appellant was above 16 years. Section 7A came to be inserted by Act 33 of 2006. It provides the procedure to be followed when the claim of juvenility is raised before any Court. The Central Government has framed rules titled the Juvenile Justice (Care and Protection of Children), Rules 2007. Rule 12 provides for the procedure to be followed in determination of age.

4. Since the earlier inquiry was conducted before coming into force of Section 7A of the Act and Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007, a fresh inquiry for determination of age of the appellant is required to be conducted to ascertain his age on the date of alleged commission of the offence. Accordingly, Trial Court is requested to conduct inquiry under Section 7A of the Act read with Rule 12 of Juvenile Justice (Care and Protection of Children) Rules, 2007 for determination of the age of the appellant and submit its report preferably within two months.

5. The parties are directed to appear before the Trial Court on 11th February, 2013. The matter be listed before the Court on 17th April, 2013. Trial Court record be sent back forthwith. (S.P.GARG) JUDGE February 05, 2013 sa

