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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2216-2024

Date of Decision:- 05.05.2025

Jyoti Tiwari

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sushil Bhardwaj, Advocate
for the petitioner.

Ms. Ambika Sood, Addl. A.G. Haryana.

AMARJOT BHATTI, J.(Oral)

1. Petitioner Jyoti Tiwari filed criminal revision against impugned order dated 17.09.2024 passed by learned Principal Magistrate, Juvenile Justice Board, Gurugram, whereby application filed by complainant for conducting ossification test of respondent No. 2 has been dismissed in an illegal, arbitrary manner, without appreciating actual facts of the case.

2. Brief background history of case is, FIR No. 266 dated 01.07.2024 (Annexure P-1) was registered under Section 103(1), 238(a), 305, 62 of Bharatiya Nyaya Sanhita, 2023 at Police Station Rajendra Park, Gurugram on the statement of complainant Jyoti Tiwari. As per the facts, complainant Jyoti Tiwari was mother of two children, elder daughter i.e. deceased victim age about 9 years and son age about 2 years. On the day of occurrence i.e. 01.07.2024, her husband left for his office at 08:00 AM. At about 08:30 AM, their known 'A' (juvenile in conflict with law) came and



took her son along with him for playing. After about 30 minutes, she went to the house of 'A' to bring back her son and stayed there for about 30 minutes. At that time, her daughter i.e. victim was alone in flat. She called from landline number to inform that milkman had come. She told her daughter to take milk and close the gate. After taking milk, she (victim) closed the gate and this fact was confirmed by her later to her mother. When she (complainant) returned home she noticed that grill of gate was close and wooden gate was open. She saw 'A' inside the house and smoke was coming due to burning inside her house. She collected people and fireman Anil also reached there. Fireman went inside the flat and opened the grill. She saw that her daughter i.e. victim was lying on the bed and she was put on fire and at that time her daughter had already expired. 'A' killed her daughter by strangulating her and then to destroy the evidence, he set her (victim) on fire on the bed itself. He also stole gold and silver items from the house which were found on the spot. With these allegations, present FIR was registered.

3. Learned counsel for petitioner argued that on coming to know about the age of respondent No. 2/Juvenile in conflict with law 'A', she filed application for conducting ossification test. Investigating Agency alleged that juvenile in conflict with law 'A' was less than 16 years of age. As per record collected by Investigating Agency his date of birth is mentioned as 02.07.2008 and concluded his age as 15 years 11 months and 29 days. Respondent No. 2/Juvenile in conflict with law 'A' is able bodied person having good physic and even from his appearance he seems to be more than 16 years of age. As per deposition of mother, age of Juvenile in



conflict with law 'A' was recorded towards lower side. In fact, he was born on 02.07.2007 instead of 02.07.2008. Application filed by petitioner is Annexure P-2. Status report alongwith Birth Certificate, School Certificate referred therein is Annexure P-3. Copy of impugned order dated 17.09.2024 is totally wrong, illegal, arbitrary, against the facts and evidence on record. Respondent No. 2/Juvenile in conflict with law 'A' completed his 16 years on 01.07.2008. Therefore, as per provisions of Section 15 of Juvenile Justice (Care and Protection of Children) Act, 2015, preliminary inquiry was required to be held by the Board with regards to his mental and physical capacity to commit the offence and ability to understand the consequences thereof and circumstances under which the offence was committed. Without holding said preliminary inquiry, impugned order has been passed. Respondent No. 2 has committed heinous crime. He was wrongly declared less than 16 years of age. Impugned order dated 17.09.2024 is liable to be set aside by accepting present revision.

4. Status report has been filed confirming the facts narrated in FIR. It is pointed out that proper investigation was carried out regarding the occurrence. Respondent No. 2 was found to be juvenile in conflict with law. He was apprehended. His birth record was procured. On completion of investigation, final report was prepared before the competent judicial forum for trial. On the application filed by petitioner, status report was filed along with necessary documents. As per record collected during investigation, date of birth of Juvenile in conflict with law 'A' was found to be 02.07.2008, thus, on the date of occurrence on 01.07.2008, he was 15 years 11 months 29 days. It is submitted that impugned order dated 17.09.2024



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passed by learned Principal Magistrate, Juvenile Justice Board, Gurugram does not require any interference.

5. I have considered the arguments and have gone through the record carefully. Petitioner had filed application dated 27.08.2024 calling for status report pertaining to the age of Juvenile in conflict with law 'A'. In the said application, it was alleged that Juvenile in conflict with law 'A' was born on 02.07.2007 instead of 02.07.2008 and there was prayer for ossification test. I have considered the status report filed by Investigating Agency (Annexure P-3). Along with status report there is copy of Birth Certificate, according to which Juvenile in conflict with law 'A' was born on 02.07.2008. There is verification of Birth Certificate from Registrar, Births and Deaths, Municipal Corporation, Gurugram dated 10.09.2024 confirming the Birth Certificate as well as date of birth of Juvenile in conflict with law 'A'. Apart from this there is certificate issued by Raj Dai International School, copy of Aadhaar Card, copy of Admit Card Class-X Examination 2024, confirming the date of birth of Juvenile in conflict with law 'A' as 02.07.2008. Aforesaid records show that Investigating Agency collected sufficient record as referred above, confirming the date of birth of Juvenile in conflict with law 'A' as 02.07.2008. Learned trial Court while passing impugned order rightly concluded that on the date of occurrence i.e. 01.07.2024, said juvenile was 15 years 11 months 29 days old, thus less than 16 years of age. So far as prayer for ossification test is concerned that is not a sure test to ascertain the age of an individual. In the presence of aforesaid records, there was no necessity to conduct ossification test of respondent No. 2/Juvenile in conflict with law 'A'. Therefore, considering



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the aforesaid factual position, impugned order dated 17.09.2024 passed by learned Principal Magistrate, Juvenile Justice Board, Gurugram does not require any interference and same is accordingly, upheld and criminal revision preferred by petitioner is accordingly, dismissed.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

05.05.2025

*lalit***(AMARJOT BHATTI)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No