
(2019) 09 DEL CK 0400

In the Delhi High Court

Case No : Criminal Writ Petition No. 2558 Of 2019

Asha Rathore

APPELLANT

Vs

Commissioner Of Police& Ors

RESPONDENT

Date of Decision : 30-09-2019

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2015 — Section 94
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2019) 09 DEL CK 0400

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Shahid Azad, Meenu Sharma, Rahul Mehra

Final Decision : Dismissed

Judgement

Manmohan, J

1. Present writ of habeas corpus had been filed seeking a direction to the respondents to produce the petitioner-minor daughter, Ms. Jyoti.
2. On the last date of hearing, this Court had held that Ms. Jyoti's date of birth is 30th July, 2000 and she is a major.
3. Today, learned counsel for the petitioner has sought to reargue that the petitioner is a minor. He submits that the principle enshrined in the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'Act, 2015') should not be applied to the present case as the said Act, 2015, is a beneficial Act which protects the juveniles when they are arrayed as an accused. He submits that in the present case the juvenile is a victim and the certificate which shows a lower age should be preferred.
4. He also contends that the age difference between the two daughters of the petitioner according to the school certificates is not even nine months.
5. However, in view of Section 94 of the Act, 2015, this Court is of the opinion

that the birth certificate issued by the School has to be given precedence. It is only in the absence of a certificate from school or a matriculation certificate that a birth certificate given by a corporation or a municipal authority can be relied upon.

6. It is pertinent to mention that there is no other Act which lays down a rule for determination of age of a juvenile. Moreover, in the opinion of this Court, the rule for determination of age of juvenile cannot be different when he/she is a victim than when he/she is an accused. Since in the present case the School Certificate shows the date of birth of Ms. Jyoti as 30th July, 2000, she is a major.

7. As far as the contention of the petitioner that the age difference between her two siblings, according to the birth certificates issued by the school, is less than nine months, this Court is of the view that only the petitioner has to be blamed for entering 30th July, 2000 as the date of birth of Ms. Jyoti.

8. Further, in the absence of any pleading disputing the birth certificate issued by the Jyoti's school, this Court is of the view that the petitioner cannot urge the contentions that it is now seeking to urge.

9. Today, police has produced Ms. Jyoti in Court. She states that she would like to live with her husband and in-laws. The aforesaid statement made by Ms. Jyoti is in consonance with the statement she has already made under Section 164 Cr. P.C. to the Magistrate.

10. Consequently, present writ petition is dismissed.