
(1995) 05 P&H CK 0083
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 777 of 1993

Pappan alias Rajesh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 02-05-1995

Acts Referred:

Citation : (1995) 3 RCR(Criminal) 41

Hon'ble Judges : V.S. Aggarwal, J

Advocate : K.S. Godara, Pankaj Bhardwaj, Advocates for appearing Parties

Judgement

V.S. Aggarwal, J.

1. This is a revision petition directed against the judgment passed by the learned Addl. Sessions Judge, Sonapat dated 12.10.1993. The learned Addl. Sessions Judge, Sonapat by virtue of the impugned judgment set aside the order passed by the Juvenile Court, Sonapat and held that petitioners were not juveniles within the meaning of Juvenile Justice Act, 1986.

2. The relevant facts are that petitioners Pappan and Anju besides other had been challaned by the police for offences punishable under sections 302/323 read with section 34 of the Indian Penal Code. It was alleged that on 27.1.1991 Sham Singh deceased accompanied his mother Murti Devi to the Municipal Tap, which was situated near their house for bringing water. Both the petitioners accompanied by others took up a quarrel with Smt. Murti Devi. Sham Singh intervened to save his mother. Pappan petitioner gave danda blow on the head of the deceased while petitioner Anju gave fist blows. As a result of the said injuries Sham Singh became unconscious and subsequently died in the hospital.

3. Both the petitioners claim that they were juveniles. Learned Addl. Sessions Judge, Faridabad sent the record alongwith the report submitted under section 173, Code of Criminal Procedure to the Juvenile Court Sonapat to decide whether both or any of the petitioners was the juvenile.

4. The learned Principal Magistrate Juvenile Court at Sonapat after recording of evidence held that petitioners were juveniles on the date of incident.

Aggrieved by the said order passed by the Principal Magistrate, Juvenile Court, Sonapat, an appeal was preferred in the Court of Sessions at Sonapat. Learned Addl. Sessions Judge, Sonapat accepted the appeal and set aside the impugned order passed by the Principal Magistrate, Juvenile Court, Sonapat. As a consequence thereto, it was directed that petitioners were not juveniles.

5. Aggrieved by the said judgment passed by learned Addl. Sessions Judge, Sonapat, present revision petition has been filed.

6. I have heard parties counsel and have seen the relevant record.

7. Learned counsel for the petitioners at the outset urged that the learned Addl. Sessions Judge, Sonapat did not have the jurisdiction to hear the appeal. In the view of the learned counsel, occurrence took place within the jurisdiction of the Courts at Faridabad. It had simply been sent because the Principal Magistrate, Juvenile Court is stationed at Sonapat. Therefore, appeal should have been filed at Faridabad.

There is no controversy that was raised that pertaining to offence committed within the jurisdiction of District Faridabad, the Principal Magistrate, Juvenile Court is stationed at Sonapat. Under Section 37 of the Juvenile Justice Act, 1986 within 30 days of the order passed by the Principal Magistrate, Juvenile Court, an aggrieved person can prefer an appeal to the Court of Sessions. It does not explain as to whether the appeal would lie to the Court of Sessions at Faridabad or at Sonapat. In the absence of any specific rule, in this regard, or the law debarring an appeal at Sonapat, appeal must be filed in the Court to which the Magistrate at Sonapat is stationed. The Juvenile Court functions at Sonapat. He would be subordinate to the Court of Sessions at Sonapat. Therefore, only the Sessions Court at Sonapat would be competent to hear the appeal. Somewhat similar situation arose in the case of Shori Lal v. The State, AIR 1952 All 193.

It was held that appeal or revision would lie against the orders of Magistrate, where the headquarters of the said Magistrate are situated. This court finds itself in respectful agreement with the said view. Therefore, this contention of the learned counsel must fail.

8. The short question otherwise agitated was as to if petitioners on the date of the incident were juveniles or not ? Strong reliance on behalf of the petitioners was placed on the copies of birth certificates and the ration card so as to allege that they were juveniles on the relevant date i.e. 27.1.1991, when the occurrence took place. Learned Addl. Sessions Judge rightly rejected the said evidence because all these documents came into being after the incident. In paragraph 7 learned Addl. Sessions Judge had held :

"Making brief reference to the condition of documents produced on behalf of accused, Ex. A.1 purports to be attested copy of some birth entry made in

Faridabad Administration Record on 8.3.1991 showing the date of birth of Rajesh son of Subhash Chand and Shakuntala Devi as 17.2.1976. In the other such copy Ex. A. 2 date of birth of Ajay Kumar has been shown as 4.3.1978. This entry also was made on 18.3.1991 i.e. after the registration of the criminal case. At the foot of both certificates there is a note that the entries were being made in view of the order dated 6.3.1991 made by Sub Divisional Magistrate Ballabgarh. No such order or copy of such order passed by S.D.M. Ballabgarh was produced to show as to what was the basis of the entry being made many years after the birth of the two children. Such order was very material. The very fact that the two entries had been made after the registration of the criminal case and many years after the birth of the two children points towards foul play in the genuineness of these two documents. There is no reason to take a contrary view."

While the parents of the petitioners appeared as witnesses and wanted the Court to believe that both the petitioners were born in Faridabad, they did not recollect if their birth entries have been made by the Faridabad Administration or not. They had also opined that they were married in 1974 and their first child was born in February, 1976. Falsity of this claim became apparent from the documents produced by the State. Ex. P.1 is the copy of Voters List of the year 1976. The names of the parents of petitioners appeared therein at Serial Nos. 1232 and 1233. Ex. PA is the copy of Voters List of the year 1971, herein also names of parents of the petitioners appeared at Serial Nos. 1045 and 1046. It shows that they had been married before 1974 and what is being stated in the Court cannot be accepted as true. No school record has been produced. In face of the evidence produced by the petitioners being not consistent and the State showing otherwise, the learned Addl. Sessions Judge rightly held that petitioners were not juveniles on the date, when the alleged offence was committed. There is no ground, thus to disturb the findings of learned Addl. Sessions Judge, Sonapat.

9. For these reasons, the revision petition being without merit, fails and is dismissed.