

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 526/2009

Manohar Lal S/o Sohan Lal, by caste Vishnoi, Resident of Village
Delana Bada, Teh. Loonkaransar, District Bikaner.

-----Petitioner

Versus

1. State of Rajasthan through PP
2. Mangilal S/o Bhanwar Lal B/C Vishnoi, R/o Vill-Sanwatsar,
Teh-Doongargarh, District Bikaner.
(At present lodged in Central jail, Bikaner.)

-----Respondent

For Petitioner(s) : Mr. DS Gharsana

For Respondent(s) : Mr. Shrawan Singh Rathore, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

16/07/2025

1. By way of filing the instant revision petition, a challenge is made to the order dated 01.05.2009, passed by the learned Additional Sessions Judge (Fast Track) No.2, Bikaner, in Sessions Case No.96/2008, whereby the learned trial Court declared the respondent, Mangilal, to be a juvenile and thus sent the matter for trial to the Juvenile Justice Board.
2. Heard learned counsel for the parties and gone through the record of the case.
3. It is a well-nigh settled principle of law that whenever a claim of juvenility is raised before a trial Court, it is supposed to conduct an inquiry for the purpose of determination of age of the accused so that the proper forum for trial or inquiry can be adjudicated. The respondent

Mangilal produced documents Ex.C1, the admission form of the school; Ex.C2, the scholar register; and Ex.C3, the affidavit, on the basis of which the learned trial Court ascertained his date of birth to be 21.11.1991. Since the incident occurred on 08.06.2008, therefore, on that date he was below the age of eighteen years, and therefore, the Court directed to forward the case to the Juvenile Justice Board. The petitioner of the prosecution relied upon the age mentioned by the police in their proceedings, as well as on a ration card issued by the Panchayat Samiti, and on the fact that the respondent Mangilal had solemnized marriage; therefore, he pleaded that a presumption should be drawn about his majority on the day of the commission of the crime.

4. This Court feels that the date maintained in the school way back prior to the date of the incident should be given primacy and supremacy over other documents like the ration card. It does not matter what date of birth has been mentioned by the police in their memos, because this cannot be taken as a piece of evidence. The fact that one has solemnized marriage, ipso facto, would not prove that the person was a major or had attained eighteen years of age.

5. Sub-rule 3 of Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 reads as follows:

In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the Court or the Board or, as the case may be, the Committee by seeking evidence by obtaining-

(a) (i) *the matriculation or equivalent certificates, if available; and in the absence whereof;*

- (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;
- (iii) *the birth certificate given by a corporation or a municipal authority or a panchayat;*
- (b) *and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year; and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.*

6. In this case, the ossification test was neither claimed nor done. I am of the firm opinion that the scholar register maintained by a government school is relevant and also admissible as per Section 35 of the Indian Evidence Act, and this document should be given preference over the ration card, in which the date of birth can be mentioned on random idea. There is no force in the petition, and the same deserves to be dismissed.
7. Accordingly, the instant revision petition is dismissed.
8. All pending applications, if any, are disposed of.
9. Record be sent back forthwith.

(FARJAND ALI),J