

GAHC010128512013



2025:GAU-AS:7251

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./17/2013

MD. MATAB UDDIN
S/O MD. ABDUL KHALIQUE @ KULA MIA, R/O VILL- MALAIDIGIRPAR P.O.
MARJAD KANDI P.S. BADARPUR DIST. KARIMGANJ, ASSAM.

VERSUS

THE STATE OF ASSAM

Advocate for the Petitioner : MR.S C BISWAS, MR.B CHOUDHURY,MS.A DEY,MS.A DAS

Advocate for the Respondent : PP, ASSAM, ,,

:: PRESENT ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Petitioner	:	Mr. S.C. Biswas, Advocate.
For the Respondent	:	Mr. P. Borthakur, Addl. P.P., Assam.
Date of Hearing	:	06.05.2025.
Date of Judgment	:	04.06.2025.

JUDGMENT AND ORDER (CAV)

Heard Mr. S.C. Biswas, the learned counsel appearing for the petitioner. Also heard Mr. P. Borthakur, the learned Addl. Public Prosecutor, Assam.

2. This is an application under Section 397 and 401 of the Criminal Procedure Code (CrPC) challenging the judgment and order dated 20.11.2012 passed by the learned Sessions Judge, Karimganj, in Sessions Case No.60/2011.

3. In Sessions Case No.60/2011 pending in the court of the learned Sessions Judge, Karimganj, there were 9 accused persons and one of them is the present petitioner. He claimed to be a juvenile on 10th April, 2009, the date of occurrence of the offence.

4. In order to establish his date of birth, he produced the school certificate, wherein his date of birth was shown as 15.02.1994. In order to come to a decision, the court examined 4 witnesses, namely- Sabbir Ahmed, the son of the deceased, Juber Ahmed and Jakir Hussain.

5. The court accepted that the school certificate that showed the petitioner to be below 18 years of age on 10th April, 2009. The court further held that except this certificate, there were no other documents to support that fact.

6. In respect of the School Admission Register, the first court witness Sabbir Ahmed told the court that the petitioner was admitted into the school on the basis of verbal information regarding his date of birth. On the basis of the said statement, the learned Sessions Judge refused to believe the school certificate.

7. I have considered the submissions made by the learned counsel of both sides.

8. No parents would tell a false date of birth at the time of admission of his/her child in a school on an assumption that within a fixed period of time, his/her child would commit an offence and he/she will therefore, get the benefit of being a juvenile/child in conflict with law. Even, Section 94 of the *Juvenile Justice (Care and*

Protection of Children) Act, 2015 also speaks about a school certificate showing date of birth for determination of age of a child. The learned Sessions Judge unnecessarily disbelieved the school certificate.

9. This Court is of the opinion that the learned Sessions Judge had erroneously oriented himself and arrived at an incorrect finding. Therefore, the impugned order is set aside. The petitioner Md. Matab Uddin shall be considered as a juvenile/child in conflict with law, below 18 years of age on 10th April, 2009. The learned Sessions Judge shall do accordingly.

The Criminal Revision Petition is disposed of accordingly. Send back the LCR. Stay order, if there is any, shall stand vacated.

JUDGE

Comparing Assistant