



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-629-SB-2001 (O&M)

Reserved on: 24.03.2026

Pronounced on: 01.07.2026

Shiv Kumar and another ... Appellants

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present: Mr. Harparteek Singh Sandhu, Advocate (*Amicus Curiae*)
for appellant No.1.

Proceedings against appellant No.2-Attar Kali
already stands abated vide order dated 14.07.2015.

Mr. Karan Veer Singh, Sr. DAG, Haryana.

SUBHAS MEHLA, J.

1. The present appeal has been filed assailing the judgement of conviction dated 10.05.2001 and order of sentence dated 14.05.2001.
2. The present appeal qua appellant No.2, Attar Kali, stands abated vide order dated 14.07.2015, on account of her death.
3. Appellant No.1 i.e. Shiv Kumar was convicted and sentenced as under:

SECTION(S)	SENTENCE
363 of IPC	Rigorous Imprisonment for a period of 3 years, along with fine of Rs.1,000/- and in default of payment of fine, imprisonment for 1 ½ months.
366-A of IPC	Rigorous Imprisonment for a period of 4 years, along with fine of Rs.2,000/- and in default of payment of fine, imprisonment for 3 months.
376 of IPC	Rigorous Imprisonment for a period of 8 years, along with fine of Rs.5,000/- and in default of payment of fine, imprisonment for 6 months.

**CONTENTIONS ON BEHALF OF THE APPELLANT**

4. At the very outset, learned counsel for appellant No.1 submitted that he does not wish to assail the impugned judgement of conviction and order of sentence on merits, and confines the present appeal only to the issue of juvenility of appellant No.1 at the relevant time and existing relevant provisions of law which were not in force at the time of conviction and caused prejudice to the appellant No.1.

5. Learned counsel for appellant No.1 submitted that appellant No.1, Shiv Kumar, was 16 years, 06 months and 17 days old on the date of occurrence i.e. 19.06.1999. It was contended that no plea of juvenility was raised during trial for the reason that at the relevant time the Juvenile Justice Act, 1986 (for short 'Act of 1986') was in force, wherein the age of juvenility for boys was prescribed as 16 years. Subsequently, under the Juvenile Justice (Care and Protection of Children) Act, 2000, (for short 'Act of 2000'), the age of juvenility was enhanced to 18 years. Reliance was placed upon the decision of the Hon'ble Supreme Court in *Hari Ram v. State of Rajasthan & Anr., 2009(13) SCC 211*, to contend that the provisions of the Act of 2000 have retrospective applicability and that even a person who was not a juvenile under the Act of 1986, but had not attained the age of 18 years on the date of commission of offence, would be entitled to the benefit of juvenility. It was, thus, prayed that appellant No.1 be declared juvenile on the date of occurrence.

6. Learned counsel for the appellant No.1 further submitted that CRM-25960-2015 was filed seeking determination of the juvenility claim of appellant No.1. Vide order dated 05.09.2025, in exercise of its jurisdiction under Section 391 of Cr.P.C., this Court had directed learned



Sessions Judge, Yamuna Nagar at Jagadhri, to conduct an enquiry regarding the age of appellant No.1 as on the date of occurrence i.e. 19.06.1999, in accordance with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Rules framed thereunder.

7. Learned counsel for appellant No.1 submitted that in compliance of order dated 05.09.2025, learned District & Sessions Judge, Yamuna Nagar, submitted enquiry report dated 02.12.2025. As per the report furnished by learned District and Sessions Judge, appellant No.1 was found to be a juvenile on the date of occurrence, on the basis of the school leaving certificate issue by S.D. Modern School, Mill View Colony, Saharanpur (U.P.).

The report further stated that Kalpana Gupta, Principal of the school was examined as AW-1, who brought the summoned record, as per which appellant No.1 had taken admission in the school on 06.07.1992 in 5th class, and studied there upto the year 1993. Original admission and withdrawal register of the school was brought, and veracity of the school leaving certificate was verified, which mentions the date of birth of appellant No.1 as 02.01.1983. No other evidence was available as to the date of birth of the appellant No.1. The enquiry was accordingly disposed of by learned District and Sessions Judge, Yamuna Nagar by concluding that appellant No.1 was a juvenile as on 19.06.1999 i.e. the date of occurrence.

8. Learned Counsel appearing on behalf of appellant No.1 further placed reliance on *Hansraj v. State of UP, 2025 INSC 1211 and Dharambir v. State (NCT of Delhi), 2010 INSC 238*. Learned counsel for appellant No.1 contended that as per the decision of Hon'ble Supreme



Court in *Hansraj (supra)*, the claim of juvenility can be raised at any stage, even after final disposal of the case, and the courts are obligated to consider such claim if the convict was a juvenile at the time of commission of offence. Further, in *Dharambir (supra)*, the Hon'ble Supreme Court has held that all the persons who were below the age of 18 years on the date of commission of offence, even prior to 01.04.2001, i.e. the enforcement date of JJ Act of 2000, would be treated as juveniles even if the claim of juvenility is raised after they have attained the age of 18 years on or before the commencement of JJ Act, 2000, and were already undergoing sentence as on the date of enforcement of Act of 2000.

CONTENTIONS ON BEHALF OF THE RESPONDENT-STATE

9. Learned State Counsel has not disputed regarding benefit of the claim of juvenility of appellant No.1 in view of the enquiry report dated 02.12.2025 submitted by learned District & Sessions Judge, Yamuna Nagar, wherein it is observed that appellant No.1 was below 18 years of age as on the date of occurrence.

ANALYSIS AND OBSERVATIONS

10. This Court has heard learned counsel for the parties and perused the record.

11. The only issue which arises for consideration in the present appeal is whether appellant No.1 was a juvenile on the date of commission of offence i.e. 19.06.1999 and, if so, the consequential relief to which he is entitled.

12. It is not disputed before this Court that appellant No.1 did not raise the plea of juvenility during trial, as at the relevant time, the Act of 1986 prescribed the age of juvenility for a male as 16 years. Subsequently,



with the enactment of the Act of 2000, the age of juvenility was enhanced to 18 years.

13. The trial of appellant No.1 was decided/concluded on 10.05.2001 and he was convicted vide order dated 14.05.2001. The Act of 2000 came into force on 01.04.2001 i.e. appellant No.1's trial was pending at that time.

14. The Hon'ble Supreme Court in *Dharambir (supra)* has held as follows:

“The effect of the proviso is that a juvenile who had not completed eighteen years of age on the date of commission of the offence would also be entitled to the benefit of the Act of 2000 as if the provisions of Section 2(k) of the said Act, which defines "juvenile" or "child" to mean a person who has not completed eighteenth year of age, had always been in existence even during the operation of the 1986 Act. It is, thus, manifest from a conjoint reading of Sections 2(k), 2(l), 7A, 20 and 49 of the Act of 2000, read with Rules 12 and 98 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 that all persons who were below the age of eighteen years on the date of commission of the offence even prior to 1st April, 2001 would be treated as juveniles even if the claim of juvenility is raised after they have attained the age of eighteen years on or before the date of the commencement of the Act



of 2000 and were undergoing sentences upon being convicted.”

Hon’ble Apex Court also held:

“It is plain from the language of the Explanation to Section 20 that in all pending cases, which would include not only trials but even subsequent proceedings by way of revision or appeal, etc., the determination of juvenility of a juvenile has to be in terms of Clause (1) of Section 2, even if the juvenile ceases to be a juvenile on or before 1st April, 2001, when the Act of 2000 came into force, and the provisions of the Act would apply as if the said provision had been in force for all purposes and for all material times when the alleged offence was committed”

15. In *Satya Deo @ Bhoorey v. State of Uttar Pradesh, 2020(4) RCR (Criminal) 68*, it was observed that:

“Consequently, in light of section 6 of the General Clauses Act read with Section 25 of the 2015 Act, an accused cannot be denied his right to be treated as a juvenile when he was less than eighteen years of age at the time of commission of the offence, a right which he acquired and has fructified under the 2000 Act, even if the offence was committed prior to enforcement of the 2000 Act on 01.04.2001.”

16. In the present case, pursuant to order dated 05.09.2025 passed by this Court, an enquiry regarding determination of age of appellant



No.1 was conducted by learned District & Sessions Judge, Yamuna Nagar, in accordance with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Rules framed thereunder.

17. A perusal of enquiry report dated 02.12.2025 reveals that the original admission and withdrawal register of S.D. Modern School, Mill View Colony, Saharanpur (U.P.) was produced and proved by AW-1 Kalpana Gupta, Principal of the said school. As per the school record, the date of birth of appellant No.1 is 02.01.1983. Consequently, on the date of occurrence i.e. 19.06.1999, appellant No.1 was 16 years, 05 months and 17 days old and, therefore, below 18 years of age.

18. This Court finds no reason to disbelieve the enquiry report submitted by learned District & Sessions Judge, Yamuna Nagar. The said report is based upon contemporaneous school record and no material has been placed on record to rebut the same. Even learned State counsel has not disputed the claim of juvenility raised by appellant No.1.

19. In view of the aforesaid legal position, coupled with the enquiry report dated 02.12.2025, this Court is of the considered opinion that appellant No.1 was a juvenile on the date of commission of offence i.e. 19.06.1999.

20. Consequently, while maintaining the conviction of appellant No.1 recorded vide judgment dated 10.05.2001, the order of sentence dated 14.05.2001 cannot be sustained in view of the provisions of the Act of 2000 and the law laid down by the Hon'ble Supreme Court.

21. Accordingly, the present appeal is partly allowed. appellant No.1 is declared to be a juvenile on the date of commission of offence. The conviction of appellant No.1 is maintained, however, the sentence awarded



to him vide order dated 14.05.2001 is modified. Since appellant No.1 has admittedly crossed the age of juvenility long ago, no useful purpose would be served by remitting the matter to the Juvenile Justice Board for passing appropriate orders. Further, as per Custody Certificate dated 22.04.2025, appellant No.1 has undergone incarceration for a total period of 02 years 08 months and 16 days. So, in the interest of justice, as maximum sentence as per Act of 2000, is upto 03 years, and appellant No.1 has already undergone sentence for a total period of 02 years, 08 months and 16 days, the sentence of appellant No.1 is hereby modified to the sentence already undergone by him.

22. Pending applications, if any, shall stand disposed of accordingly.

(SUBHAS MEHLA)
JUDGE

01.07.2026

Manisha/Ramesh Malik

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No