

Compilation of Important Cases on Juvenile Justice

Method of Ascertainment of age of juvenile:-

- **Shah Nawaz v. State of U.P. &Anr.[AIR 2011 SC 3107]**

[\[2011 J.O.T.I. Note No.399\]](#)

JUVENILE JUSTICE (CARE & PROTECTION OF CHILDREN) ACT, 2000-Section 7

JUVENILE JUSTICE (CARE & PROTECTION OF CHILDREN) RULES, 2007- Rule 12

Age of juvenile - How to be determined? According to Rule 12 (3) (a), matriculation or equivalent certificate has been given first preference and in the absence of it, the date of birth certificate from the school (other than play school) first attended and in its absence, the birth certificate given by a Corporation of a Municipal Authority or a Panchayat and only in the absence of all the above, medical opinion will be sought from a duly constituted Board.

- **Ummed Singh v. State of M.P. [2007 (3) MPLJ 214]**

[\[2007 J.O.T.R.I. Part-II Note No.306\]](#)

Section 7 Age of juvenile, ascertainment of - Law explained. Age must be determined by the trial Court by holding an enquiry - If two views are possible, then the view favourable to accused ought to be accepted.

Held:

On perusal of both the orders of the Court below, it does not appear that enquiry was conducted by the learned Magistrate. When an application was filed on behalf of the petitioner mentioning himself to be below 18 years of age at the time of incident, it was obligatory on the learned Magistrate to hold an enquiry under section 7 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the Act). As observed by the Apex Court in [Gopinath Ghosh vs. State of W.B., AIR 1984 SC 237](#) in the case of [BholaBhagat v. State of Bihar, 1998 Cri. L.J. 390](#) and by this Court in [Rajendrasingh @ Sonu s/ o Gopal Singh, 2002 \(3\) MPLJ 315](#), although these judgments are related to the former enactments but on the same point. The provisions being similar this observation of the Court is equally applicable to the provisions of this Act. In absence of such enquiry, the observation of the learned Judge in impugned order dt. 17.2.2003 that no academic record has been produced on behalf of the petitioner, is of no importance. Unless an opportunity is provided to the party while holding an enquiry to produce the evidence in support of its claim such observation does not call for. Vide copy of mark-sheet

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of primary school education 1995 his date of birth appears 20-12-1986. It is correct or not can be decided after holding an enquiry. If it could not be filed in the trial Court the petitioner cannot be blamed because no such opportunity was given to him. Although it all depends on the facts and circumstances of the case, but at the same time it cannot be denied that sometimes the age mentioned in the school record and stated in the statements of the parents are deserved to be accepted. For this, judgment delivered by the Apex Court in *Vishnu vs. State of Maharashtra, (2006) 1 SCC 283* and order passed by this Court in *Sandeep @ Pappi vs. State of M.P., 1994 (2) C.Cr.J.128 (MP)* are to be perused. A juvenile cannot be tried along with the other co-accused persons as observed in *Bablu vs. State, 2006 (4) MPHT 302*.

Both the Courts below have simply relied on the ossification test without considering fact that there is a presumption of having 2-3 years margin in either side as observed by the Apex Court in *Jaya Mala vs. Home Secy., Government of Jand K and others, 1982 Cri. L.J. 1777* and also by this Court in *Akeel S/o Rehman Khan vs. State of M.P. 1998 (2) MPLJ 199 = 1998 Cri.L.J. (M.P.) 82*, after conducting the enquiry if two views are possible for the purpose of determination of the age then the view favorable to the accused ought to be accepted. In such cases, hyper technical approach should always be avoided as observed by the Apex Court in *Rajinder Chandra vs. State of Chhattisgarh and another, AIR 2002 SC 748*.

- *Jyoti Prakash Rai v. State of Bihar. [AIR 2008 SC 1696]*

(From : Patna)* S. B. SINHA AND V. S. SIRPURKAR, JJ.

Criminal Appeal No. 440 of 2008 (arising out of SLP (Cri) No. 4082 of 2007), D/- 4-3-2008.

(A) Juvenile Justice (Care and Protection of Children) Act (56 of 2000), S. 2(k)

— **Juvenile — Who is — Question to be determined on basis of materials brought on records by parties — Orders passed by Court on earlier occasion, would also be relevant.**

The 2000 Act is indisputably a beneficial legislation. Principles of beneficial legislation, however, are to be applied only for the purpose of interpretation of the statute and not for arriving at a conclusion as to whether a person is juvenile or not. Whether an offender was a juvenile on the date of commission of the offence or not is essentially a question of fact which is required to be determined on the basis of the materials brought on records by the parties. In absence of any evidence which is relevant for the said purpose as envisaged under S. 35 of Evidence Act, the same must be determined keeping in view the factual matrix involved in each case. For the said purpose, not only relevant materials are required to be considered, the orders

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passed by the Court on earlier occasions would also be relevant.

(Para 9)

(B) Juvenile Justice (Care and Protection of Children) Act (56 of 2000), S. 2(k)

— Juvenile — Determination of age of offender — Delinquent examined by two different Medical Boards on two different dates — Both reached to identical opinion that age of delinquent was between 18 and 19 years — Court may in facts and circumstances resort to some sort of hypothesis to arrive at definitive conclusion.

Where the delinquent was examined by two different medical boards, who on two different dates have reached the identical opinion, viz., the age of the appellant between 18 and 19 years, and, thus, resulting in two different conclusions, a greater difficulty arises for the Court to arrive at a correct decision. For the said purpose, the Court may resort to some sort of hypothesis, as no premise is available on the basis whereof a definitive conclusion can be arrived at. It is in the aforementioned situation, that the test which may be applied herein would be to take the average of the age as opined by both the medical boards. Even applying that test, the age of the appellant as on 1-4-2001, date of enforcement of Act, would be above 18 years. The Court further clarified to have taken recourse to the said method only for the purpose of this case. (Para 11, 12)

- **[Vishnu v. State of Maha-rashtra \[\(2006\) 1 SCC 283\]](#)**

SC opined:-

"20. It is urged before us by Mr. Lalit that the determination of the age of the prosecutrix by conducting ossification test is scientifically proved and, therefore, the opinion of the doctor that the girl was of 18-19 years of age should be accepted. We are unable to accept this contention for the reasons that the expert medical evidence is not binding on the ocular evidence. The opinion of the Medical Officer is to assist the court as he is not a witness of fact and the evidence given by the Medical Officer is really of an advisory character and not binding on the witness of fact. 21....."

- **[Birad Mal Slnghvi v, AnandPurohit \[1988 Supp SCC 604\]](#)**

"To render a document admissible under Section 35, three conditions must be satisfied, firstly, entry that is relied on must be

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one in a public or other official book, register or record; secondly, it must be an entry stating a fact in issue or relevant fact; and thirdly, it must be made by a public servant in discharge of his official duty, or any other person in performance of a duty specially enjoined by law. An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act but the entry regarding the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded."

- ***Jitendra Ram v. State of Jharkhand [(2006) 9 SCC 428]***

,Supreme Court stated :

"20. We are, however, not oblivious of the decision of this Court in *BholaBhagat v. State of Bihar* wherein an obligation has been cast on the court that where such a plea is raised having regard to the beneficial nature of the socially oriented legislation, the same should be examined with great care. We are, however, of the opinion that the same would not mean that a person who is not entitled to the benefit of the said Act would be dealt with leniently only because such a plea is raised. Each plea must be judged on its own merit. Each case has to be considered on the basis of the materials brought on records."

- ***State of MP v. Dilip and others [2002(2) MPHT 564]***

S.7-A of the JJ Act makes it apparent that no court should waste time once the question of juvenility crops up and after making the requisite inquiry.

It has been held in this case:-

“that if the juvenility is determined in the affirmative, return the charge sheet to the police for being submitted before the Board”.

- ***BholaBhagat Vs. State of Bihar, [AIR 1998 SC 236]***

It has been clarified:-

"Keeping in view the beneficial nature of the socially oriented legislation, it is an obligation of the Court where such a plea is raised to examine that plea with care and it cannot fold its hand without returning a positive finding regarding the plea.... The Court must hold an enquiry and return a finding regarding the age one way or the other. We

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expect the High Court and subordinate courts to deal with such cases with more sensitivity, as otherwise the object of the Act will be frustrated and the effort of the legislature to reform the delinquent child and reclaim him as a useful member of the society will be frustrated."

- ***Sunil v State of MP, [2001(2) MPHT102]***

It has been held that the Court of Session has the jurisdiction to hold enquiry regarding age of an accused in a trial pending before it

- ***Anjali BaanerjeevAzad Kumar Ratha[2003(4) MPLJ 40]***

It has been held that Sessions Court cannot interfere in the finding recorded by the Juvenile Justice Board except by way of appeal which is provided under Section 52 of the Act.

- ***Naseem v. State of U.P., [1995 All LJ1473]***

It was held that the juvenile court will not hold enquiry as to the age of the person after the high court or the sessions court has recorded a finding as to juvenility after enquiry and receiving evidence. However, if only an opinion is expressed without holding an enquiry or on the basis of visual perception only then the juvenile court will proceed to hold an enquiry.

"If the High Court or the Court of Session holds an inquiry and declares that the accused is a juvenile, it can make further order to separate the case of the juvenile and refer to the Juvenile Court and can also grant bail to the juvenile or refer the bail application also to the Juvenile Court for grant of bail. However, if the High Court or the Court of Session, as the case may be, immediately records its opinion 'without holding an inquiry' on evidence that the applicant appears to be juvenile on the basis of visual perception or on the basis of some document and then directed the Juvenile Court to make an inquiry as to the age of the applicant whether he is a juvenile or not, only then the Juvenile Court on receipt of the records will proceed to hold an inquiry about the age under S. 32 of the Act. It is crystal clear that the Juvenile Court will not hold an inquiry again as to the age of the person whether he is a juvenile or not after the High Court or the Court of Session, as the case may be, has already held the inquiry and after receiving

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evidence has recorded a finding declaring the person as a juvenile."(emphasis supplied)

Date how to be calculated:-

- **EERATILAXMAN Vs STATE OF ANDHRAPRADESH [(2009) 3 SCC 337]**

(BEFORE S.B. SINHA AND DR. M.K. SHARMA, JJ.)

criminal Appeal No. 139 of 2009^f, decided on January 23, 2009 A. Juvenile Justice Act, 1986 — Ss. 2(e) and (h) — Applicability — Accused if a juvenile on date of commission of offence — Process for calculating a person's age, restated — Appellant's date of birth 10-5-1978 — Question whether he completed the age of 16 years on 9-5-1994 at about 1 p.m. (date and time of offence of murder) — Reiterated, in absence of any express provision, while calculating a person's age, the day of his birth must be counted as a whole day and any specified age in law is to be computed as having been attained on the day preceding the anniversary of the birthday — Legal day commences at 12 o'clock midnight and continues until the same hour the following night — Therefore, herein, appellant having been born on 10-5-1978, the said day was to be counted as a whole day and, thus, he had not attained the age of 16 years before 12 o'clock in the midnight of 9-5-1994 — Hence, impugned judgment, held, unsustainable — Matter remitted to Juvenile Justice Board in terms of S. 20, 2000 Act (as during pendency of the instant case, 1986 Act was repealed and replaced by 2000 Act) — Juvenile Justice (Care and Protection of Children) Act, 2000 — S. 20 — General Clauses Act, 1897 — Ss. 3(35) and (66) — Majority Act, 1875 — S. 3 — Penal Code, 1860 — S. 302 (Paras 2,3, 5, 6, 9 and 13 to 15)

- **PrabhuDayalSesma v. State of Rajasthan, (1986) 4 SCC 59**, this Court categorically held that: (SCC p. 59)

"In absence of any express provision, while calculating a person's age, the day of his birth must be counted as a whole day and any specified age in law is to be computed as having been attained on the day preceding the anniversary of the birthday. A legal day commences at 12 o'clock midnight and continues until the same hour the following night."

[See *Salag Ram Sharma v. State of Rajasthan, (2005) 10 SCC 77*]

The appellant, therefore, having been born on 10.5.1978, the said day was to be counted as a

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whole day and, thus, he had not attained the age of 16 years before 12 o'clock in the midnight of the previous day, i.e. 9.5.1978 (sic 9.5.1994). This aspect of the matter has recently been considered in [*AchhaibarMaurya v. State of U.R. \(2008\) 2 SCC 639*](#), wherein it was held: (SCC p. 642, para 14)

"14. It is interesting to note, however, that the common law rule stated in *Shurey, Re, Savory v. Shurey*, (1918) 1 Ch 263, in respect of anniversaries has been abrogated by virtue of the Family Law Reform Act, 1969. The effect of the change is that, in respect of anniversaries falling after 1-1-1970, the time at which a person attains a particular age expressed in years is the commencement of relevant anniversary of the date of his birth. (See Halsbury's Laws of England, 4th Edn., Reissue, p. 209) We do not have such statute. We have, therefore, to determine the cases on the touchstone of statute operating in the field and in absence thereof by common law principle."

Age in School Admission register to be relied on:-

- [*Ravinder Singh Gorkhi vs. State of U.P \[\(2006\) 5 SCC 584\]*](#)

It was held :—

"21. Determination of the date of birth of a person before a court of law, whether in a civil proceeding or a criminal proceeding, would depend upon the facts and circumstances of each case. Such a date of birth has to be determined on the basis of the materials on records. It will be a matter of appreciation of evidence adduced by the parties. Different standards having regard to the provision of Section 35 of the Evidence Act cannot be applied in a civil case or a criminal case."

It was furthermore held :—

"38. The age of a person as recorded in the school register or otherwise may be used for various purposes, namely, for obtaining admission; for obtaining an appointment; for contesting election; registration of marriage; obtaining a separate unit under the ceiling laws; and even for the purpose of litigating before a civil forum e.g. necessity of being represented in a court of law by a guardian or where a suit is filed on the ground that the plaintiff being a minor he was not appropriately represented therein or any transaction made on his behalf was void as he was a minor. A court of law for the purpose of

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determining the age of a party to the lis, having regard to the provisions of Section 35 of the Evidence Act will have to apply the same standard. No different standard can be applied in case of an accused as in a case of abduction or rape, or similar offence where the victim or the prosecutrix although might have consented with the accused, if on the basis of the entries made in the register maintained by the school, a judgment of conviction is recorded, the accused would be deprived of his constitutional right under Article 21 of the Constitution, as in that case the accused may unjustly be convicted.

39. We are, therefore, of the opinion that until the age of a person is required to be determined in a manner laid down under a statute, different standard of proof should not be adopted. It is no doubt true that the court must strike a balance. In case of a dispute, the court may appreciate the evidence having regard to the facts and circumstances of the case. It would be a duty of the court of law to accord the benefit to a juvenile, provided he is one. To give the same benefit to a person who in fact is not a juvenile may cause injustice to the victim. In this case, the appellant had never been serious in projecting his plea that he on the date of commission of the offence was a minor. He made such statement for the first time while he was examined under Section 313 of the Code of Criminal Procedure.

40. The family background of the appellant is also a relevant fact. His father was a "Pradhan" of the village. He was found to be in possession of an unlicensed firearm. He was all along represented by a lawyer. The court estimated his age to be 18 years. He was tried jointly with the other accused. He had been treated alike with the other accused. On merit of the matter also the appellant stands on the same footing as the other accused. The prosecution has proved its case. In fact no such plea could be raised as the special leave petition of the persons similarly situated was dismissed when the Court issued notice having regard to the contention raised by him for the first time that he was a minor on the date of occurrence."

- **Ram Suresh Singh v. Prabhat Singh @ Chhotu Singh & Anr. [AIR 2009 SC 2805]**

(From : Patna)*

S. B. SINHA AND CYRIAC JOSEPH, JJ. Criminal Appeal No. 909 of 2009 (arising out of SLP (Cri.) No. 4601 of 2006), D/- 5-5-2009.

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(A) Juvenile Justice (Care and Protection of Children) Act (56 of 2000), Ss. 6, 68 — Juvenile Justice (Care and Protection of Children) Rules (2001), R. 22 — Age of accused — Determination — Age in School Admission register to be relied on — Opinion of Medical Board is to be preferred only when date of birth certificate from school first attended is not available.

(Para 14)

(B) Juvenile Justice (Care and Protection of Children) Act (56 of 2000), S. 68

— Juvenile Justice (Care and Protection of Children) Rules (2001), R. 22 — Evidence Act (1 of 1872), S. 35 — Age of person — Determination — Entry in School Admission register — Application of S. 35 — Same standard of proof is required to be applied for both in civil and criminal proceedings. (Para 18)

(C) Juvenile Justice (Care and Protection of Children) Act (56 of 2000), S. 68 — Juvenile Justice (Care and Protection of Children) Rules (2001), R. 22 — Age of accused — Age in School admission register — An entry in a School register may not be a public document — It must be proved in accordance with law.

(Para 16)

(D) Juvenile Justice (Care and Protection of Children) Act (56 of 2000), Ss. 6, 68 — Juvenile Justice (Care and Protection of Children) Rules (2001), R. 22 — Evidence Act (1 of 1872), S. 35 — Age of accused — Determination — Entry as to date of birth in school admission register — Medical opinion corroborating entry — Date of birth in admission register can be given effect to. (Paras 18, 22)

When Radiological test is conclusive for age determination:-

- **[BANTI @ SANTOSH Vs. STATE OF M.P.\] I.L.R. \(2010\) M.P.280](#)**

Before Mr. Justice Piyush Mathur

26 November, 2009* ...

Juvenile Justice (Care and Protection of Children) Act (56 of 2000), Section 2(k) & 7-A - Juvenile - Opinion of Medical Board - When the opinion of the Medical Board is in confirmation with the established norms in the field of Medicine and Radiology, its opinion becomes primary evidence - Ossification test and exact opinion of Medical Board in relation to fusion of iliac bone gives conclusive evidence for reaching the conclusion about the age of

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person. (Paras 9 to 12)

Evidentiary value of entry in school register

- [Birad Mal Singhvi Vs. AnandPurohit | AIR 1988 SC 1796|](#)

Section 35 of the Indian Evidence Act lays down that an entry in any public or other official book, register, record, stating a fact in issue or relevant fact made by a public servant in the discharge of his official duty especially enjoined by the law of the country is itself a relevant fact. It is trite that to render a document admissible under Section 35, three conditions have to be satisfied, namely : (i) entry that is relied on must be one in a public or other official book, register or record; (ii) it must be an entry stating a fact in issue or a relevant fact, and (iii) it must be made by a public servant in discharge of his official duties, or in performance of his duty especially enjoined by law. An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act **but the entry regarding the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded**

- [State of Chhattisgarh v. Lekhram|AIR 2006 SC 1746|= 2006 AIR SCW 1982](#)

(From : Madhya Pradesh)*

Para-13 and 14:-

"13. **It may be true that an entry in the school register is not conclusive but it has evidentiary value. Such evidentiary value of a school register is corroborated by oral evidence as the same was recorded on the basis of the statement of the mother of the prosecutrix.**

14. **Only because PW-3 the father of the prosecutrix could not state about the date of birth of his other children, the same, by itself, would not mean that he had been deposing falsely.** We have noticed hereinbefore, that he, in answer to the queries made by the counsel for the parties, categorically stated about the year in which his other children were born. His statement in this behalf appears to be consistent and if the said statements were corroborative of the entries made in the register in the school, there was no reason as to why the High Court should have disbelieved the same."

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- **Desh Raj v. Bodh Raj [AIR 2008 SC 632]**

(From : Himachal Pradesh)

Coram : 2 K. G. BALAKRISHNAN AND R. V. RAVEENDRAN, J.

Para-20:-

"20. Section 35 of the Evidence Act provides that an entry in any public or other official book or register or record, stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty or by any other person in performance of a duty specifically enjoined by law of the country in which such book or register is kept, is itself a relevant fact. Having regard to the provisions of Section 35, entries in school admission registers in regard to age, caste etc., have always been considered as relevant and admissible. [See - : Umesh Chandra vs. State of Rajasthan - 1982 (2) SCC 202 and State of Punjab v. Mohinder Singh - 2005 (3) SCC 702]. In Kumari Madhuri Patil v. Addl. Commissioner [1994 (6) SCC 241], this Court observed that caste is reflected in relevant entries in the public records or school or college admission register at the relevant time and certificates are issued on its basis. In Birad Mal Singhvi (supra), this Court after referring to the ingredients of Section 35 held thus :

"An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act, but the entry regarding to the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of material on which the age was recorded. **The entries regarding dates of birth contained in the scholar's register and the secondary school examination have no probative value, as no person on whose information the dates of birth of the aforesaid candidates was mentioned in the school record, was examined.** In the absence of the connecting evidence, the documents produced by the respondent, to prove the age of the aforesaid two candidates have no evidentiary value."

- **Jyoti Prakash Rai Vs. State of Bihar [AIR 2008 SC 1696]**

15. The court has to determine the age keeping in view a large number of factors. It is in that context it was opined in Birad Mai Singhvi v. Anand Purohit [1988 Supp SCC 604] : AIR 1988 SC 1786, Para 15

- "To render a document admissible under Section 35, three conditions must be satisfied, **firstly**, entry that is relied on must be one in a public or other official book, register or

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record; **secondly**, it must be an entry stating a fact in issue or relevant fact; and **thirdly**, it must be made by a public servant in discharge of his official duty, or any other person in performance of a duty specially enjoined by law. An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act but the entry regarding the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded."

- **Ravinder Singh Gorkhi vs. State of U.P : (2006) 5 SCC 584 para-38 same view as above**

Mode of Proof:-

- **Baba @ Akhilesh Vs. State of MP [2000 (2) MPLJ SN 10]**

Entry of date of birth in school admission register, would not stand proved by its production. Entry can only be proved by person who made it or by person who had given details for making entry.

- **Shudha v. Charan Singh and another [2007(II) MPWN118]**

S.L. Kochar and Mrs. Manjusha P. Namjoshi, JJ.

*Criminal Revision No. 353 of 2007 (I); Decided on 22.3.2007. **

(1) Age — *school record — no basis of mention of date of birth disclosed — cannot be relied on.*
" ———""[Para 7]

(2) **Penal Code, 1860** — *Ss. 363, 366 and 376—prosecutrix remained with accused for more than 4 months -- visited several places including Courts — she is a consenting party — being 19 years of age no offence made out - acquittal is proper. 1981 CriLJ 1 (SC) and AIR 1989 SC 1329 distinguished. [Paras 8 and 9]*

“ The prosecution has heavily relied on the entry in school register about age of the prosecutrix i.e., 1.6.1989, but prosecution has failed to lead any evidence as to who, and on what basis, this date of birth disclosed before the school authority. The father of the prosecutrix Kanhyala (PW 4) has admitted that he did not get 'Janpatri' of the prosecutrix prepared and also not having in writing the date of birth of the prosecutrix. He also admitted that at the time of birth of the prosecutrix, the intimation was not given to village Kotwar, Sarpanch, or village chowkidar. He

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has stated that prosecutrix was taken to school for admission by his brother Radheshyam(PW 6), but as discussed herein above, PW6 Radheshyam's statement is completely silent on this issue. Kanhyalal (PW 4) is not able to give his own date of birth and date of birth of other children. In the light of these factual situations, prosecution has failed to establish the basis for date of birth of the prosecutrix in the school register and in our considered view, the learned trial Court, after detailed evaluation of evidence has given correct finding about age of the prosecutrix and prosecution has failed to discharge this burden by adducing cogent and reliable evidence”.

Production of document for getting recorded age in school not necessary:-

- **State of Maharashtra v. Gajanan Hemant Janardhan Wankhede[(2008) 8 SCC 38]**
Para-14:-

“There is no requirement that at the time of admission documents are to be produced as regards the age of the student.”

- **Naseem v. State of U.P., [1995 All LJ1473]**

It was held that the juvenile court will not hold enquiry as to the age of the person after the high court or the sessions court has recorded a finding as to juvenility after enquiry and receiving evidence. However, if only an opinion is expressed without holding an enquiry or on the basis of visual perception only then the juvenile court will proceed to hold an enquiry.

Power of Sessions Court to ascertain the age of juvenile

- **Sunil v State of MP, [2001(2) MPHT102]**

It has been held that the Court of Session has the jurisdiction to hold enquiry regarding age of an accused in a trial pending before it

- **Anjali BaanerjeevAzad Kumar Ratha[2003(4) MPLJ 40]**

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It has been held that Sessions Court cannot interfere in the finding recorded by the Juvenile Justice Board except by way of appeal which is provided under Section 52 of the Act.

Radiological opinion is not conclusive

- **BablooPasi v. State of Jharkhand & Ann [AIR 2009 SC 314]**

(From : Jharkhand) C. K. THAKKERAND D. K. JAIN, JJ.

Criminal Appeal No. 1572 of 2008 (arising out of SLP (Cri.) No. 1620 of 2007), D/- 3-10-2008.

(A) Juvenile Justice (Care and Protection of Children) Act (56 of 2000), S. 49 — Jharkhand Juvenile Justice (Care and Protection of Children) Rules (2003). R. 22 — Age of accused — Determination — Medical Board's opinion based on radiological examination is a useful guiding factor — However, opinion per se is not conclusive proof of age.(Para 16)

- **Ramdeo Chauhan alias Raj Nath Vs State of Assam[(2001) 5 SCC 714]**

“An X-ray ossification test may provide a surer basis for determining the age of an individual than the opinion of a medical expert but it can by no means be so infallible and accurate a test as to indicate the exact date of birth of the person concerned. Too much of reliance cannot be placed upon text books, on medical jurisprudence and toxicology while determining the age of an accused. In this vast country with varied latitudes, heights, environment, vegetation and nutrition, the height and weight cannot be expected to be uniform.”