

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
HYDERABAD**

Criminal Miscellaneous Application No.S-102 of 2023

1. For orders on office objection.
2. For hearing of main case.

06.04.2023.

Mr. Ali Ahmed @ Zaman Khan Patoli, advocate for applicant.

Mr. Imran Ahmed Abbasi, A.P.G. Sindh.

Through this criminal miscellaneous application, the applicants/accused have impugned the order dated 07.02.2023 wherein the application filed by them U/A 8 of Juvenile Justice System Ordinance, 2018 for bifurcation of the case of applicants/accused and trial under Juvenile Court, was dismissed.

2. Per learned counsel for the applicants/accused are minors as is evident from their School Certificates/Birth Registration Certificates. He contended that the learned trial Court ought to have considered the very fact that the applicants/accused are minors, and tried their case under Juvenile Justice System Ordinance 2018 but failed to consider this material fact and dismissed the application of the applicants without applying judicious mind, as such, the impugned order is liable to be set aside. He, therefore, prayed that the case of the applicants/accused may be ordered to be bifurcated and tried separately.

3. On the other hand, learned A.P.G. Sindh has supported the impugned order.

4. Heard and perused the record.

5. Record reflects that ossification tests of the applicants/accused have already been taken place and the applicants have been found to be majors. Learned trial Court has elaborately stated in the impugned order, the relevant part thereof is reproduced as under:-

“Perusal of record shows that investigation officer of this case was directed by the concerned Magistrate at the time of first remand to get the ossification test of the applicant/accused Shahid to ascertain his age vide order dated 19.07.2022. Thereafter ossification test of applicant/accused Shahid Ali was conducted through Dr. Zeeshan Jamal, Assistant Professor of Radiology Peoples University of Medical & Health Science for Women, Shaheed Benazirabad, who issued such certificate dated 26.07.2022 in which he opined that the age of applicant/accused Shahid Ali between 18 to 19 years, whereas the applicant/accused Abdul Samad is shown as major through his physical features, therefore, at this stage plea of learned counsel for the complainant carries weight that at this stage the question of determining the age of applicants/accused and conducting ossification parade through conducting medical board does not arise.”

6. In view of the above facts and circumstances, the impugned order is well reasoned, just and proper which does not require any interference by this Court. Consequently, instant criminal miscellaneous application is dismissed.

JUDGE