

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****First Appeal (M) No. 81 of 2015**

Piyush Shukla, son of Shri Ashok Kumar Shukla, aged about 33 years, permanent resident of 107, Trimurti Chowk, Sunder Nagar, Housing Colony, Raipur, Tahsil & District Raipur, Chhattisgarh, Civil & Revenue District Raipur

**---- Appellant****Versus**

1. Smt. Neha Shukla, wife of Shri Piyush Shukla, aged about 29 years, resident of House No. 19, Sunder Nagar, Housing Colony, Raipur, Chhattisgarh
2. Ritesh alias Bunt Chandrakar, son of Shri P.L. Chandrakar, Dev Baloda, Police Station Bhilai-3, District Durg, Chhattisgarh

**---- Respondents**


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|-----------------|---|---------------------------------------|
| For Appellant   | : | Shri B.P. Sharma, Advocate.           |
| For Respondents | : | Shri Vivek Shrivastava, Amicus Curiae |

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**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &**  
**HON'BLE SHRI P. SAM KOSHY, J.**

**Judgment on Board****Per NAVIN SINHA, Chief Justice****15/12/2015**

1. No one appears on behalf of Respondents No.1 and 2 despite valid service of notice notwithstanding the fact that further proceedings in the Divorce Case No.67-A of 2011 has been stayed by this Court pending disposal of the appeal. On 8.9.2015 this Court appointed Shri Vivek Shrivastava, Advocate as Amicus to assist the Court.

2. Learned Counsel for the Appellant, who is the husband submits that he filed the suit for divorce on grounds of adultery and cruelty against Respondent No.1. Respondent No.2 was the person with whom Respondent No.1 was stated to be in adulterous relationship. The Appellant relied on an electronic C.D. containing conversations to prove his allegations of adulterous behaviour and relationship between Respondents No.1 and 2. The Family Judge has directed both the sides to give their voice samples on a C.D. by order dated 22.9.2014 for forwarding it to the Forensic Science Laboratory at Chandigarh. It is submitted that the procedure being adopted by the Court is not proper, fair

and reasonable. The possibility of creating evidence *inter alia* by giving voice sample of another cannot be ruled out. The Appellant has already agreed to bear costs.

3. Learned Amicus raises an objection to the maintainability of the appeal under Section 19 of the Family Courts Act submitting that the orders for giving of voice sample being interlocutory in nature, the appeal is not maintainable.

4. We have considered the submissions and do not find substance in the objection with regard to non-maintainability. Insofar as the issue for collecting of voice sample is concerned, that part of the proceeding has been given finality by the impugned order and therefore we are of the considered opinion that the appeal is maintainable. The order has not been challenged by the Respondents.

5. A spectrograph test is one of the methods for voice identification. The procedure adopted by the Family Judge does not meet our approval. We uphold the objection on behalf of the Appellant that leaving the parties to give voice sample *suo motu* is fraught with danger and may lead to wrong conclusions. We therefore set aside the direction to that extent in the order dated 22.9.2014 read with order dated 16.6.2015 with the following directions:

(A) The Family Judge may permit the Appellant to bear the costs for travel of a competent person from Chandigarh Forensic Science Laboratory to Raipur for recording voice samples of the parties in the manner that the Court may direct.

(B) Judges today have been provided with individual Laptops and it contains features for recording of the voice which can then be burnt on a C.D. in the same Laptop. If technology is available with the Principal Judge we see no reason why it cannot be put to good use by the Principal

Judge for advancing and expediting the cause of justice. The Principal Judge can direct the parties to appear before him and voice sample can be taken in his chamber in presence of Counsel for the Parties. If necessary, Judge can take assistance from technical personnel of the NIC deputed in the District Court or from the State Informatics Officer at Raipur. The C.D. will have to be burnt in presence of the Parties and their Lawyers in the Chamber of the District Judge and played back for them simultaneously before being sealed by a judicial order to be forwarded to Forensic Science Laboratory at Chandigarh.

6. Learned Counsel for the Appellant submits that he is willing to bear the necessary expenses.

7. With the aforesaid modification of the order regarding the directions for collection of voice samples, the appeal is allowed.

Sd/-  
(Navin Sinha)  
**CHIEF JUSTICE**

Sd/-  
(P. Sam Koshy)  
**JUDGE**