

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1452 OF 2014

Madhukar Kisan Chokhande **....Petitioner.**

Versus

Neeta w/o. Madhukar Chokhande
and Anr. **....Respondents.**

Mr. R.K. Temkar, Advocate for petitioner.

Mr. D.R. Dhumal, Advocate for respondent Nos. 1.

CORAM : T.V. NALAWADE, J.

DATED : 19th June, 2015.

ORDER :

1. The petition is filed to challenge the order made on Exh. 68 in Criminal M.A. No. 26/2011 by the learned Judicial Magistrate, First Class, Akole, District Ahmednagar. The learned J.M.F.C. has refused the permission to deposit the cost of D.N.A. test by observing that necessary steps were not taken within the time limit. Another request was made by the husband that test be taken in the lab from Mumbai and it was opposed by the wife.

2. The learned counsel for wife submitted that in this proceeding, the wife has no objection, if the test is taken in Hyderabad as ordered by learned J.M.F.C. in the past when the order was made on Exh. 46. Submissions made show that

expenses were to be born by present petitioner. The learned counsel for petitioner placed reliance on the case reported as **2014 STPL (Web) 6 SC [Nandlal Wasudeo Badwaik Vs. Lata Nandlal Badwaik & Anr.]**. It appears that the Apex Court had given directions for such test under the powers of Apex Court and the Apex Court has considered the material of D.N.A. test. In the present matter, the respondent/wife had given consent to such test. In view of these circumstances, the petition can be allowed.

3. In the result the petition is allowed. The order made by the learned J.M.F.C., Akole below Exh 68 in Cri.M.A. No. 26/2011 is hereby set aside. The D.N.A. test is to be carried out as per the order made on Exh. 46 at Hyderabad. Further orders are to be made by the learned J.M.F.C. In those terms, the petition is disposed of.

[T.V. NALAWADE, J.]

ssc/