



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Crl.R.C.(MD)No.528 of 2014

and

M.P.(MD)No.1 of 2014

A.Rehamathullah : Petitioner/Respondent/
Respondent

Vs.

R.Maheswari : Respondent/Petitioner/
Petitioner

COMMON PRAYER: Appeal is filed under Section 397 r/w 401 of the Code of Criminal Procedure to call for records and set aside the order dated 30.10.2014 made in Crl.M.P.No.664 of 2014 in M.C.NO.3 of 2013 on the file of the learned Judicial Magistrate, Natham, Dindigul.

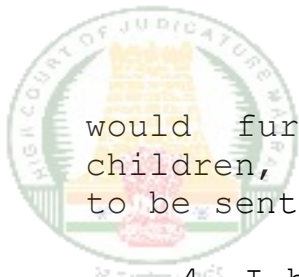
For Appellant : Mr.B.Jameel Arasu
For Respondent : Mr.S.Ramakrishnan

ORDER

The respondent claims to be the wife of the petitioner. She filed a petition under Section 125 of the Criminal Procedure Code before the learned Judicial Magistrate, Natham, for maintenance. During the course of enquiry, she filed a petition before the learned Judicial Magistrate seeking a direction to conduct D.N.A Test for her second child with the petitioner, so as to ascertain the parentage of the child. The said petition was resisted by the petitioner. The lower Court allowed the said petition and directed him to undergo D.N.A. Test. Challenging the same, the petitioner has come before this Court with this petition.

2. I have heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

3. The learned Counsel for the petitioner would submit that the respondent is living a wavered life and she has got cases under the provision of Immoral Traffic Act. She has also given different names as her husband in different documents including the passport. There is no such relationship of husband and wife between the petitioner and the respondent. Thus, the request of the respondent to send the petitioner for D.N.A examination is unnecessary and the same is not warranted. He



would further submit that when the respondent has got two children, it is not known as to why the first child was not asked to be sent for D.N.A examination.

4. I have considered the above said submissions.

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5. All these questions raised by the learned counsel for the petitioner are to be answered only by the trial Court. It is not proper for this Court to express any opinion about the character of the respondent and the marital relationship between the petitioner and the respondent. If any opinion is expressed by this Court, certainly, it would have an impact in the mind of the trial Court. So far as this revision is concerned, this Court is very much concerned only with the question, as to whether the child was born to the petitioner and the respondent or not. The respondent claims to be in the affirmative, whereas the petitioner tries to negative the same. In order to prove the parentage, the respondent wanted D.N.A. Test with the petitioner. The lower Court rightly allowed the petition, in which, I do not find any infirmity. Thus, I do not find any merit at all.

6. Accordingly, the Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

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To

1.The Judicial Magistrate, Natham, Dindigul.

2.Do through The Chief Judicial Magistrate, Dindigul District.

+1cc to MR.B.JAMEEL ARASU, ADVOCATE IN SR NO.17788

+1cc to MR.A.ATHISELVAN,ADVOCATE IN SR NO. 18086

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and

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