

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.13542-43 of 2015 in/and
CRM No.M-14947 of 2014 (O&M)
Date of Decision : 27.4.2015

Ranvir Singh

.....Petitioner

Vs.

Kamalpreet Kaur

.....Respondent

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. P.K. Jain, Advocate for the petitioner.
Mr. Jaswinder Singh, Advocate for the respondent.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

CRM No.13542 of 2015

Applicant seeks permission to place on record documents
Annexures R-1 to R-3 and also seeks exemption from filing certified copies
thereof.

Application is allowed as prayed for.

Crl.Misc. stands disposed of.

CRM No.13543 of 2015

Applicant-respondent Kamalpreet Kaur seeks litigation expenses
for the instant petition.

Sh.P.K. Jain, Advocate, accepts notice and fairly states that the
petitioner is not running away from his responsibility in this regard.

Having heard the learned counsel for the parties, instant application is allowed and the petitioner is directed to pay an amount of ₹ 20,000/- to the applicant-respondent Kamalpreet Kaur as litigation expenses for the present petition. The amount of ₹ 20,000/- has been paid by the petitioner, who is present in the court to the learned counsel for the respondent, which has been duly accepted by him.

The instant applicant stands disposed of accordingly.

CRM No.M-14947 of 2014

Feeling aggrieved against the order dated 16.4.2014 (Annexure P-8) passed by the learned Additional Sessions Judge, Ludhiana, whereby revision of the petitioner against the order dated 1.11.2013 (Annexure P-7) passed by the learned JMIC, Ludhiana, was dismissed and the order dated 1.11.2013 was upheld rejecting the application of the petitioner for conducting DNA test, petitioner has approached this court by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short) for quashing the above said impugned order.

Notice of motion was issued and pursuant thereto, reply was filed on behalf of the respondent. Learned counsel for the petitioner submits that to put the controversy at rest, it was the safest and scientific way to get the DNA test conducted. Petitioner applied for the DNA test before the learned JMIC, Ludhiana, during the proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 ('Act of 2005' for short). However, the learned JMIC, Ludhiana, passed the impugned order without appreciating the true facts of the case despite the fact that there was no objection raised on behalf of the respondent-wife, through her father, as recorded in the order dated 14.10.2013 (Annexure P-6) at page 55 of the paper book. Petitioner filed his

revision, which also came to be dismissed by the learned Additional Sessions Judge vide impugned order dated 16.4.2014 (Annexure P-8). He concluded by submitting that since there was no objection on behalf of the respondent-wife, the learned courts below ought to have ordered conducting of DNA test by accepting the application of the petitioner. He prays for allowing the present petition.

Faced with the above, learned counsel for the respondent also fairly states that as a matter of fact, there had been no objection on behalf of the respondent at any relevant point of time. He has got no objection even now if the DNA test is ordered to be conducted. The only objection he raised was that during the pendency of the application of the petitioner before the learned Magistrate at Ludhiana, since the birth of the child has taken place, his application had been rendered infructuous, and the petitioner should have filed the fresh application.

Be that as it may, the unwarranted litigation between the parties deserves to be avoided, particularly when there is no serious dispute. Once the respondent-wife has raised no objection at any point of time, as rightly submitted by learned counsel for the respondent, the learned courts below ought to have directed conducting of the DNA test. Even if the birth of the child has taken place during the pendency of the application, the DNA test could have been ordered to be conducted of both the parties as well as that of the child.

In view of the peculiar fact situation of the case noticed herein above, present petition is disposed of, with a direction to the Chief Medical Officer, Civil Hospital, Ludhiana, to take sample of the petitioner Ranvir Singh, respondent Smt. Kamalpreet Kaur as well as their female child, who is with the respondent-wife. The petitioner as well as Ms. Kamalpreet Kaur alongwith

their child are directed to appear before the Chief Medical Officer, Civil Hospital, Ludhiana, for the purpose of taking samples on 6.5.2015 at 10 AM. Chief Medical Officer, Civil Hospital, Ludhiana, is directed to ensure that after taking samples of the petitioner-Ranvir Singh, respondent-Kamalpreet Kaur as well as their female child, all the three samples be sent for conducting the DNA test to the same laboratory at the expense of the petitioner. After receiving the report of DNA test, the same shall be considered by the learned court of competent jurisdiction, in accordance with law.

Learned counsel for the parties are ad-idem that the learned court of Judicial Magistrate Ist Class, Ludhiana, granted an amount of ₹ 5,000/- p.m. as maintenance to the respondent-wife namely; Smt.Kamalpreet Kaur vide order dated 16.7.2014 in her application under Section 12 of the Act of 2005.

Subject to payment of maintenance by the petitioner to the respondent-wife as granted by the learned Judicial Magistrate Ist Class, Ludhiana, vide his above said order dated 16.7.2014, proceedings under Section 12 alongwith other relevant provisions of Act of 2005, shall remain stayed till receipt of the report of DNA test.

With the above said observations made and directions issued, the present petition stands disposed of.

27.4.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE