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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.361 OF 2015

Sravan Kishan Methekar

..PETITIONER

VERSUS

Shailesh Sravan Methekar

..RESPONDENT

Mr Balaji S. Chondhekar, Advocate for petitioner;
Mr Sudhir K. Chavan, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 29th April, 2016

ORAL ORDER :

One Shailesh, claiming to be son of the present petitioner, filed application for maintenance under section 125 of the Code of Criminal Procedure, in which the present petitioner moved an application Exh.26 for conducting D.N.A. test of said Shailesh. The said application came to be rejected by learned Judicial Magistrate First Class, Sengaoon on 21st February, 2015.

2. While questioning the legality, learned Counsel appearing on behalf of the petitioner submits that since the petitioner has denied the relationship with Shailesh, burden to prove that Shailesh is not his son is on the petitioner and he has every right to bring on record such evidence which is necessary for discharging the burden.

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3. Learned Counsel would as such submit that the application Exh.26 for D.N.A. Test of Shailesh ought to have been granted.

4. Mr Chavan, learned Counsel appearing on behalf of the respondent opposed the application and supported the order impugned.

5. It is noted that the petitioner has already entered into settlement with the mother of Shailesh, namely, Suman. It is noted that the petitioner has settled the dispute as regards payment of maintenance to Suman.

6. In view of above, having regard to the presumption under section 112 of the Evidence Act, in my opinion, learned Magistrate was right in rejecting the application Exh.26. No interference in extraordinary jurisdiction is called for. Thus, the present writ petition fails and stands dismissed.

(N.W. SAMBRE, J.)

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