

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Petition No.7576 of 2014

And

Criminal Revision Case No.3303 of 2015

COMMON ORDER:-

The controversy in these two cases is identical. As a matter of fact, Criminal Petition No.7576 of 2014 is not maintainable for the reason that what is challenged therein is the letter Dis.No.1164 of 2014, dated 24.06.2014, from the Court of the III-Additional Metropolitan Magistrate, Cyberabad at L.B.Nagar, addressed to the Director, CDFD, Mojamjahi Market, Hyderabad, directing the petitioner herein to undergo DNA Test for determining the paternity of the child vis-à-vis the petitioner herein. The said letter issued by the learned III-Additional Metropolitan Magistrate is in pursuance to an order in CrI.M.P.No.985 of 2010 in DVC No.5/2010 dated 11.06.2010 on its file which was confirmed by the Additional Metropolitan Sessions Judge, Cyberabad, Hyderabad, in Criminal Appeal No.475 of 2012, dated 22.11.2012. Therefore, the letter issued by the Magistrate in pursuance to the judicial orders of the trial Court as confirmed by the appellate Court cannot be challenged. However, the petitioner has already filed CrI.R.C.No.3303 of 2015 challenging the orders referred to above directing the petitioner herein to undergo DNA Test and in that view of the matter, Criminal Petition No.7576 of 2014 is dismissed.

Insofar as CrI.R.C.No.3303 of 2015 is concerned, as noted above, the same is filed questioning the correctness of the orders of the learned Magistrate as well as the appellate Court by and under which the petitioner was directed to undergo DNA Test for determining the paternity of the child. Briefly stated, the facts are that the petitioner in D.V.C. has filed the petition claiming herself to be the wife of the petitioner herein and the child having born out of the wedlock. The petitioner herein denied any relationship in between the said lady and himself. His case is that the said woman is planted by none other than his own wife with whom he is having certain disputes. It is also on record that in between the parties as many as fifty complaint are filed in different courts.

The point for consideration is as to whether the order of the Courts below directing the petitioner to undergo DNA Test is justified or not?

Both the Courts below have relied upon the Judgment of the Supreme Court wherein it is stated that the Court in a given set of facts can direct the DNA Test to be done. In the instant case, while the first respondent in the revision case viz., Smt.P.Arathi who filed the D.V.C. claims that the petitioner – Narasimha Raju is her husband, he denies the same and he also denies the paternity of the child that is born to them. Therefore, the best evidence that could be gathered for adjudicating the controversy is the DNA Test and both the Courts below have given cogent reasons for issuing the directions to that effect. The orders of the Courts below do not suffer from any illegality or irregularity warranting any interference. Therefore, the criminal revision case is liable to be dismissed.

In the result, both the Criminal Petition and Criminal Revision Case are dismissed.
Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.Jaiswal, J

July, 2016

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