

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.1881 of 2017

ORDER:

Heard learned counsel for the petitioner, who is the respondent in M.C.No.21 of 2012 maintained by his wife for herself and for minor child, who are the present petition respondent Nos.2 & 3.

The M.C. is pending since 2012 and trial is in progress. It is based on the so called cross-examination version of the MC 1st petitioner-PW.1, in the course of her cross-examination stated as she has no objection if at all to seek for DNA examination. He is seeking for DNA examination to determine the paternity of MC 2nd petitioner minor child. Though the expression of the Apex Court in **Nandlal Wasudeo Badwaik Vs. Lata Nandlal Badwaik**¹ is very clear that such a recourse can be availed including in a maintenance case under Section 125 Cr.P.C. and it is a scientific evidence, it all depends upon the facts of each case. In fact coming to the facts as can be seen from the concurrent findings of the Courts below in dismissing the application including in the revision. In the restitution of conjugal rights filed by his wife, he filed his counter by stating in their wedlock they blessed with the male child and having so admitted and that too restitution of conjugal rights O.P. was ended in compromise for living together by Lok Adalat settlement dated 18.11.2012 that is also born by record and his seeking for DNA examination as observed of the trial court and confirmed by lower revisional court is only to delay the proceedings.

¹ 2014 (2) SCC 576

Having regard to the above, while sitting against the concurrent findings, there is nothing to interfere, but for to say these findings are no way bar if at all he wants to seek in any civil lis.

Accordingly and in the result, the Criminal Petition is disposed of with the above observations.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.10.2017
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