

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.139 OF 2014

JUDGMENT:

The present Criminal Revision Case is filed by the revision petitioner - respondent - husband in M.C. No.7 of 2010, aggrieved over the order, dated 26.11.2013, passed by the learned Judicial Magistrate of First Class, Sullurpet, allowing the application in CrI.M.P. No.524 of 2013 filed under Section 45 of the Indian Evidence Act, 1872, whereby and where-under, the respondent - petitioner - wife requested to send the revision petitioner herein to D.N.A. test and to ascertain that the son of the respondent herein is born through the revision petitioner - husband.

2. The learned Magistrate having heard both sides and on considering the facts and circumstances of the case, opined that it was just and necessary to send the revision petitioner herein, who is respondent herein, and the son of respondent herein also to undergo D.N.A. test to ascertain that the son of respondent herein is born through the revision petitioner.

3. That order has been under challenge in the present Criminal Revision Case filed by the revision petitioner - husband.

4. Since in the fore-noon session though, there was representation requesting to put it in the after-noon session, it is called

in the after-noon session, but, there is no representation for the revision petitioner. In fact, on 31.01.2014, the revision petitioner obtained interim stay for a period of four weeks and later it was extended for further period on 06.03.2014 and again on 11.04.2014, the interim stay was extended till it was directed to be listed after summer vacation of 2014. Thus, despite obtaining the stay, there is no representation for the revision petitioner. Whereas, the learned counsel for respondent No.2 - wife is present throughout. The order, which is challenged now, reads thus:

“Both parties present. Perused the record. On considering the facts and circumstances of the case, it is just and necessary to send the Respondent and the son of the petitioner to DNA Test and to ascertain that the son of the petitioner is born to the respondent. Accordingly, the petition is allowed and the respondent is directed to attend before the District and Medical and Health Officer, Nellore for DNA test on 30.12.2013, on payment of Batta, issue proceedings accordingly.”

5. Now, the question is, whether there is any error that is crept in, in the order passed by the learned Magistrate.

6. When paternity of the son of the respondent - wife is disputed by the revision petitioner - husband, certainly, the only way out is in the direction of subjecting the revision petitioner - husband and his son to DNA test. In that direction, the learned Magistrate did

pass the order, directing them to attend before the District Medical and Health Officer, Nellore on 30.12.2013, ordering to issue proceedings on payment of batta. Therefore, it cannot be said that the order passed by the learned Magistrate is tainted with either irregularity or illegality. In such an event, it is to be held that there is no merit in the present Criminal Revision Petition.

7. The Criminal Revision Case is, accordingly, dismissed, confirming the order, dated 26.11.2013, passed in Crl.M.P. No.524 of 2013 in M.C. No.7 of 2010 by the learned Judicial Magistrate of First Class, Sullurpet.

As a sequel thereto, Miscellaneous Petitions, if any, pending in criminal revision case, stand closed.

November 14, 2017.
Mgr

A. SHANKAR NARAYANA, J