

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-.-

Civil Revision 6572 of 2015 (O&M)

Date of decision: 17.11.2017

Mandeep Singh

..... *Petitioner*

Versus

Karamjit Kaur

.....*Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Ms Payal Mehta, Advocate
for the petitioner

Mr. Jashan Deep Sandhu, Advocate
for the respondent

-.-

Rekha Mittal, J. (Oral)

The present petition directs challenge against order dated 17.09.2015 (Annexure P1) passed by the Additional District Judge, Sangrur whereby application (Annexure P4) filed by the respondent - wife for seeking fresh report from the Central Forensic Science Laboratory (Biology and DNA Division), Hyderabad, has been allowed.

Counsel for the petitioner would contend that the petitioner filed an application for conducting DNA test of the petitioner and the child allegedly born out of relationship between the petitioner and respondent in order to determine paternity of Harleen Kaur and the same was allowed by the Court. The necessary blood samples were sent for analysis to Central Forensic Science Laboratory, Chandigarh and test report (Annexure P3) was submitted by the Laboratory and DNA of the child did not match with that

of the petitioner. Later, the instant application was filed by the respondent for re-examination of blood samples of the petitioner and the child from Central Forensic Science Laboratory (Biology and DNA Division), Hyderabad without making out a case for re-examination but the same has been wrongly allowed by the Court below. It is argued with vehemence that in absence of the respondent pointing out any glaring irregularity in conduct of DNA test by the Laboratory at Chandigarh, there was no reason for the Court below to allow prayer for re-examination of blood samples.

Another submission made by counsel is that the Court below has not assigned any valid reason for exercise of its discretion to get conduct DNA analysis at the request of the respondent, in the face of earlier report submitted by the Laboratory at Chandigarh.

Counsel representing the respondent, on the other hand, has supported the impugned order with the submission that no prejudice shall be caused to the petitioner if another report is submitted by a Laboratory of repute with regard to DNA analysis as the issue in question has serious implications for minor Harleen Kaur and her mother.

I have heard counsel for the parties, perused the paper book particularly the application (Annexure P4), reply thereto (Annexure P5) and the order impugned.

The respondent in para 2 of the application has averred that the report received from the Laboratory, Chandigarh is not accepted as correct by her and the same is wrong and against facts. However, in successive para, she has pleaded that she wants to get re-examination of blood samples from Central Forensic Science Laboratory (Biology and DNA Division), Hyderabad about paternity of Harleen Kaur, minor child of the parties.

A plain reading of the application (Annexure P4) would substantiate plea of the petitioner that no reason much less tangible has been brought forth by the respondent for re-examination of blood samples by another Laboratory. No doubt, first report submitted by the Laboratory at Chandigarh may have serious implications for the child but as the respondent has not given any explanation much less point out any glaring irregularity in conduct of DNA test by the Laboratory at Chandigarh, plea of the respondent for another DNA test is unfounded and cannot be allowed. The trial Court has not recorded any legal and valid reason for accepting prayer for second examination of blood samples of the petitioner and minor Harleen Kaur. In this view of the matter, the order impugned is not based upon judicious exercise of discretion and cannot be allowed to sustain.

For the foregoing reasons, the petition is allowed, the impugned order is set aside and application filed by the respondent (Annexure P4) is dismissed. However, nothing stated hereinbefore shall be constructed as an expression of opinion on merits of the case nor would cause prejudice to either of the parties at the time of adjudication on merits.

No order as to costs.

(Rekha Mittal)
Judge

17.11.2017
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No