



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:02.04.2018

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THE HON'BLE MRS.JUSTICE R.THARANI

Crl.RC (MD)No.870 of 2017

and

Crl.MP (MD)No.10682 of 2017

John Bosco

... Petitioner

-vs-

1.Stella Mary

2.John Ivanjalin

... Respondents

Prayer: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records and set aside the order dated 07.08.2015 passed in Crl.M.P.No.1 of 2014 in M.C.No.2 of 2014 on the file of the Family Court, Dindigul.

For Petitioner : Mr.M.Karuppan Chettiar

For Respondents : Mr.K.Mu.Muthu

O R D E R

On the side of the petitioner, it is stated that the petitioner is the husband of the first respondent/wife, and that the minor child was not born to this petitioner. The petitioner has filed a petition for DNA test and the same was dismissed by the Lower Court. Challenging the dismissal order, the petitioner has filed this petition.

2.The petitioner has stated that the petition for DNA test was dismissed for non-prosecution before the Family Court, Dindigul and prayed that while the petitioner was working as a Mason, he fell down, there was a fracture on his knee and therefore, he was not able to conduct the case, at that stage and hence, this petition may be allowed.

3.M.C.No.12 of 2012 was filed by the first respondent which was allowed by the District Judge, Family Court, Dindigul directs the petitioner to pay a sum of Rs.3,000/- per month as maintenance. It is further stated that only after the order passed by the Family Court, Dindigul, the petitioner has come



forward to file a petition for D.N.A test. Further, already two such petitions were dismissed for non-prosecution and this is the third petition prayed to dismiss this petition.

4. I have considered the rival submissions and perused the entire materials available on records carefully.

5. It is stated that the child was born in the year 2005 and the petitioner filed a divorce petition in the year 2011. The petitioner has appeared before the Lower Court in the maintenance petition and filed a counter. Though he has made allegations regarding the paternity of the minor child, he has not taken any steps for D.N.A test at that time. Only after, the first respondent has filed a petition for maintenance in M.C.NO.12 of 2012, the petitioner has filed a petition for D.N.A test. Further, already two petitions for D.N.A test was dismissed for non-prosecution. Hence, I find no merit in this petition. Accordingly, this petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Judge,
Family Court, Dindigul.

- + 1 cc TO Mr.K.Mu.Muthu , Advocate in SR No. 59408
- 1 cc TO Mr.M.Karuppan Chettiar , Advocate in SR No.59196

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AE/JC/SAR2/18.04.2018/2P/4C

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