

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.1641 of 2012

ORDER:

In this Criminal Revision Case, the petitioner/respondent challenges the order dated 21.08.2012 in CrI.M.P.No.2371 of 2012 in M.C.No.15 of 2010 passed by learned Judicial Magistrate of First Class, Kodad, allowing the petition filed under Section 45 of Indian Evidence Act praying the Court to order for DNA Test for proving the paternity of 2nd respondent herein who is said to be the son born to them.

2a) The 1st respondent herein filed M.C.No.15 of 2010 against the petitioner herein with the averments that she is the wife of petitioner and their marriage took place 12 years prior to the petition and out of their wedlock the 2nd respondent herein was born to them and thereafter, the petitioner ill-treated her and demanded for dowry and though Panchayats were held there was no use. She claimed Rs.3,000/- for herself and Rs.2,000/- to her son towards maintenance.

b) In the counter filed by the petitioner herein, he *inter alia* contended that there is no marital relationship between him and 1st respondent and therefore, the question of his providing maintenance to respondents 1 and 2 herein does not arise.

c) In the light of aforesaid plea, the 1st respondent herein filed CrI.M.P.No.2371 of 2012 praying the Court to order for DNA Test for proving the paternity of her son with the petitioner herein. Her case

was that petitioner is a highly influential person in the village and he is not allowing the villagers to give evidence to establish her case and therefore, DNA test is the only source for her to prove her case.

d) Petitioner herein opposed the petition.

e) The trial Court opined that unless an opportunity is given to the respondents 1 and 2 herein to prove the paternity of the child, they would suffer irreparable loss and injury. On the aforesaid observation, the trial Court allowed the petition.

Hence, the instant Criminal Revision Case.

3) Heard arguments of Sri Praveen Kumar Veerjala, learned counsel for petitioner, Sri P.Prabhakara Rao, learned counsel for respondents 1 and 2 and learned Additional Public Prosecutor (TS) for R3.

4) Learned counsel for petitioner sought to argue that DNA test is only wasteful exercise and respondents 1 and 2 herein can establish their case through other mode of evidence and in fact, there was no marital relationship between the parties and petitioner has never exercised influence on the villagers to desist from giving evidence and such an allegation is fanciful one.

5) Learned counsel for respondents 1 and 2 while supporting the impugned order would submit that because of the influence exercised

by the petitioner only the respondents had to take recourse through DNA test, which is quite essential to establish their case.

6) As can be seen from the counter averments of the petitioner/respondent, he categorically denied the marital relation between him and 1st respondent herein. In that view of the matter, to establish the paternity, DNA test, which is a scientific and more accurate one, can be taken aid by the respondents. Of course, merely because the Court permitted the respondents to go for DNA test, that is not the end of the matter and the petitioner can establish his defence plea that he had no marital relationship between him and 1st respondent by other mode of evidence to disprove DNA test report if it goes against him.

7) In that view of the matter, I find no illegality or irregularity in the order impugned. Accordingly, this Crl.R.C. is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 24-10-2018
Murthy

U.DURGA PRASAD RAO, J