

28.09.2020
Ct. No.13
SL No.15
KS

IA No: CAN 1 of 2020

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C.O. No.1198 of 2020

Tirtha Majumdar

Versus

Smt. Tandara Majumdar alias Tanushree Majumdar
(Via Video Conference)

Mr. Arijit Sarkar

.....For the Petitioner

Mr. Rwitendra Banerjee

Mr. Saugata Mitra

Mr. Rameshwar Sinha

Ms. Ankita Dey

.....For the Opposite Party

In this revisional application the petitioner-husband has challenged the order dated January 7, 2020 passed by the Additional District Judge, 3rd Court, Purulia in Mat Suit No.81 of 2015. It is the petitioner who is filed the matrimonial suit claiming dissolution of marriage. The opposite party-wife also filed an application for maintenance under Section 125 of the Criminal Procedure Code as well as an application under Section 24 of the Hindu Marriage Act, 1955.

By the impugned order the learned Court below rejected the petitioner's application seeking a direction for

D.N.A. Test of the child born out of the wedlock between the parties to the matrimonial suit. The marriage between the parties took place in the year 2005 and a male child was born in the year 2007.

After considering the materials on record and the submissions of the respective parties, I find that the learned Court below passed the impugned order after recording the relevant facts of the case. In this regard, it would be appropriate to record the following findings of the learned Court below recorded in the impugned order:

“On careful scrutiny of the facts and circumstances of the instant case and the materials on record, this Court finds that the petitioner husband himself contended that the respondent i.e. his wife left his house in the month of October, 2006 and she gave birth of the male child on 19-06-2007. The fact remains that the date 19-06-2007 is well within 280 days from any day of the month of October, 2006. The petitioner husband has not stated the name of any person alleging that his wife had intimacy with that person. In his Show Cause filed against the Application for Maintenance filed by the respondent he admitted the factum that the petitioner had conceived and given birth to a male child on 19-06-2007, and, in

the Application for Revision being Criminal Revision No.28 of 2012, the petitioner inter alia stated:- "So far the child is concerned the petitioner as a responsible father is always ready to take charge of the minor child for his proper up-brining in a better academic atmosphere if O.P. no.1 is agreed to such proposal.... Admittedly the respondent did not lodge any case for maintenance or the criminal case u/s 498A/323/34 I.P.C. before 17-11-2011. The petitioner himself contended that in November 2020 he brought the respondent and the baby at Kolkata, sent the respondent and the child to Ladhurka and admitted the child in a school, and, this Court finds reason to believe, that at the time of admission of the child in school the petitioner obviously gave his own name as father of the child."

The petitioner has not been able to substantiate that any of the above findings of the learned Court below recorded in the impugned order is vitiated by perversity.

Considering the above findings of the learned Court below, I do not find any infirmity in the impugned order.

Accordingly, the revisional application being, C.O. No.1198 of 2020 stands rejected with costs assessed at Rs.10,000/- (Rupees Ten Thousand Only) to be paid by the

petitioner to the opposite party-wife within three weeks from date.

The learned Court below shall ensure compliance of the above direction for payment of costs by the petitioner to the opposite party -wife.

The application, CAN 1 of 2020, being the urgency petition, stands disposed of accordingly.

(Ashis Kumar Chakraborty, J.)