

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.2342 of 2017
and CMP.No.11019 of 2017

D.Kirubakaran

..Petitioner

Vs.

1.K.Sugantha priya
2.V.Prakash

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair order and decreetal order in IA.No.219 of 2016 in HMOP.No.472 of 2015 dated 15.03.2017 passed by the Subordinate Judge at Poonamallee.

For Petitioner : Mr.G.Veerapathiran

For Respondent : Mr.T.S.Rajamohan

ORDER

This civil revision petition is filed against the fair order and decreetal order passed in IA.No.219 of 2016 in HMOP.No.472 of 2015 dated 15.03.2017 passed by the Subordinate Judge at Poonamallee thereby dismissing the petition filed for DNA test.

2. The petitioner is the husband. The first respondent is the wife.

The petitioner filed petition for divorce on the ground of cruelty and adultery. While pending the divorce petition, the petitioner made allegation as against his wife i.e. the first respondent that she is having illegal intimacy with the second respondent herein, therefore the male child born through only the second respondent and not through the petitioner herein. Since he made allegation, he filed petition for divorce on the ground of cruelty. He has denied the birth of the male child through the petitioner herein and as such he seeks DNA test to prove that the child not born through the petitioner.

3. On perusal of the petition revealed that the first respondent used to make call to the second respondent everyday after marriage in spite of his advice and warning. Further the petitioner lived with the first respondent only for 40 days and thereafter he doubted the paternity of the child. The marriage took place between the petitioner and the first respondent on 11.09.2014 and the child said to be born in June 2015. That apart, the present petition has been filed only after filing the petition for interim maintenance.

4. Though the court below rejected the interim maintenance

petition filed by the first respondent, stated that the petitioner has to prove the allegations made against the first respondent by way of let in evidence. The petitioner stated several allegations as against the first respondent connecting with the second respondent and he never denied the paternity of the child born through the petitioner. Therefore, the court below rightly dismissed the petition and this Court finds no irregularity or infirmity in the order passed by the court below.

5. Accordingly, this Civil Revision Petition is dismissed. Further, considering that the HMOP is of the year 2015 and PW1 is in the box for cross examination, the trial court is directed to dispose of the HMOP within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

03.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The Subordinate Judge
at Poonamallee.



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