



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.20203 of 2021

and

Crl.M.P. (MD)No.11439 of 2021

WEB COPY

Mydeen Pitchai

... Petitioner

Vs.

1. The Superintendent of Police,
Office of Superintendent of Police,
Tenkasi District, Tenkasi.
2. The Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Tenkasi District, Tenkasi.
3. The Inspector of Police,
Puliyankudi Police Station,
Puliyankudi, Tenkasi.

4.S.Salish Fathima

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the 1st respondent to transfer the investigation from the file of the 3rd respondent to the 2nd respondent and consequentially directing the 4th respondent to cooperate for the DNA Test for the baby Afrah born on 04.02.2021 by taking samples from the petitioner and the 4th respondent by considering the petitioner's representation dated 30.11.2021, within the period as stipulated by this Court.

For Petitioner : Mr.A.Haja Mohidden
For Respondents : Mr.M.Sakthi Kumar,
Govt.Advocate (Crl.Side) for R1 to R3.

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondents 1 to 3.

2.The petitioner states that he got married to the fourth respondent on 15.06.2015. Two children were born through the said wedlock. The petitioner went to Dubai on 28.11.2018. He returned to India only on 09.08.2020. But his wife namely, the fourth respondent gave birth to a child on 04.02.2021. According to the petitioner, he is not the father of the third child. Therefore, the petitioner wants this Court to direct the fourth respondent to submit to DNA test so as to ascertain the paternity of the child.



3.The learned Government Advocate (Crl. Side) submitted that the petition mentioned complaint given before the third respondent has already been enquired into and closed on 30.11.2021. Under Section 112 of the Indian Evidence Act, a conclusive presumption attaches in such matters. Law always frowns upon stigmatizing the child. However, there has been a paradigm shift. The Courts are now taking a view that ascertaining truth is more important. However such a direction can be given only in a matrimonial proceedings between the petitioner and fourth respondent. It is not open to this Court to grant the relief sought for under Section 482 of CrPC.

4.Leaving open the petitioner's other remedies, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Superintendent of Police,
Office of Superintendent of Police,
Tenkasi District, Tenkasi.
2. The Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Tenkasi District, Tenkasi.
3. The Inspector of Police,
Puliyankudi Police Station,
Puliyankudi, Tenkasi.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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