

120.

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-28124-2021 IN
CRM-M-6745-2020 (O&M)**
Date of Decision: 09.09.2021
(Heard through VC)

BALJEET KUMAR RAO

.... Petitioner

Versus

DHRUV KAUSHAL THROUGH MOTHER

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ved Parkash, Advocate,
for the applicant-petitioner.

Mr. Vivek Suri, Advocate,
for the respondent.

JAISHREE THAKUR.J (Oral)

CRM-28124-2021

This is an application that has been filed under Section 482 Cr.P.C. for preponement of date of hearing of the main case, which is otherwise fixed for hearing on 18.11.2021.

For the reasons stated in the application, same is allowed and the hearing of the main case is preponed and taken on board today itself.

CRM-M-6745-2020

Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of petition under Section 125 Cr.P.C. (Annexure P-1) which is pending before the Principal Judge, Family Court, Panchkula.

Learned counsel appearing on behalf of the petitioner herein would contend that the respondent-Dhruv Kaushal through his mother Ritu

Kaushal, had filed a petition claiming maintenance and the same would not

be maintainable. In the petition, it had been contended that in fact said Ritu Kaushal was married to one Harihar Puri and they were living together after the marriage at Kalka. However, as the husband of Ritu Kaushal was not a good person, he left respondent's mother and two minor children and ran away. Subsequent thereto, the complainant's mother came in contact with one Baljeet Kumar Rao, the petitioner herein, and intimacy developed between them. The respondent-complainant claiming to be the son of the petitioner filed a petition for maintenance.

Learned counsel for the petitioner would further contend that the petitioner is not the biological father of the complainant-Dhruv Kaushal as would be evident from the aadhar card, school certificate and birth certificate and, therefore, the petition filed under Section 125 Cr.P.C. against him would not be maintainable. It is contended that in the FIR that was registered under Sections 376, 506 IPC, Police Station Kalka by Ritu Kaushal, mother of the complainant, he had offered to get his DNA test done, however, the same was not conducted. He is now on bail in the said matter and the FIR stands quashed on merits. On the asking of this Court whether an application for DNA test had been filed before the courts below, the court is informed that no such application has been preferred.

I have heard learned counsel for the petitioner and find that without a conclusive scientific proof regarding the factum of the petitioner being the biological father or not of the complainant, it is difficult for the court to arrive at a conclusion based only on oral assertions and documentary evidence. Consequently, at the very outset, this Court finds no ground to quash the complaint case seeking maintenance.

Faced with this, counsel for the petitioner submits that he will move an appropriate application for getting his DNA test done before the court below. In case, any such application is filed, the same be decided in accordance with law as expeditiously as possible.

Petition stands disposed of accordingly.

CRM-3519-2021

Since the main petition itself has been disposed of, the present application has become infructuous and the same is disposed of as such.

(JAISHREE THAKUR)
JUDGE

09.09.2021

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No