



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1224 OF 2024

AKILABANO W/O. SYED ASHPAK AND ANOTHER
VERSUS
SYED ASHFAK SYED MOHAMMED AND OTHERS

Mr. D. S. Manorkar, Advocate for the applicant
Mr. T. M. H. Shaikh, Advocate for the respondents.

CORAM : S. G. MEHARE, J.
DATE : 18th SEPTEMBER, 2024

PER COURT :-

1. Heard the learned counsel for the applicants and the learned counsel for the respondents.
2. The applicant is the wife. She prayed to direct the CMO, Government Pathology, Government Medical College and Hospital, Aurangabad to take DNA samples of applicant no.2 Sayyad Rihan, herself and respondent no.1 husband.
3. The learned counsel for the applicants would submit that this Court in Criminal Writ Petition No. 1080/2021 directed the learned Judicial Magistrate First Class to pass an appropriate order about conducting the DNA test. Thereafter, the DNA test was conducted. However, the applicant learnt that the control samples of applicant no.2 and the respondent no.1 were taken and the control samples of the applicant-wife were not taken. The

Assistant Chemical Analyzer to Government Regional Forensic Science Laboratory State of Maharashtra, Aurangabad had expressed his opinion by letter dated 17/03/2022 that in the absence of control sample of biological mother, Syed Ashpak Mohamad is excluded to be biological father of Rehan Ashpak Sayed. It seems from the opinion that the control sample of the biological mother and respondent no.1 were also required for determining the paternity of a child. It seems to be a technical defect. Such relief could be sought before the Magistrate who passed the order for DNA test. Hence, this Court does not find substance in the petition. The applicant may approach before the learned Magistrate who had passed judicial order for DNA test. The learned Magistrate may pass an appropriate order to make the DNA test complete.

4. Learned counsel for the applicant seeks leave to withdraw this application with permission to file an appropriate application before the learned Magistrate. Leave granted as prayed for.

5. In view of the statement, application stands disposed off as withdrawn.

(S. G. MEHARE, J.)

ssp