

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1302 of 2026

Arising Out of PS. Case No.-61 Year-2020 Thana- MAHILA P.S. District- Muzaffarpur

Aarti Devi S/o- Late Raghunath Sah village and PS- Saraiya District-
Muzaffarpur

... .. Petitioner

Versus

1. The State of Bihar
2. Arjun Kumar S/o- Sri Suresh Sah village and PS- Saraiya District-
Muzaffarpur

... .. Opposite Parties

Appearance :

For the Petitioner : Mf. Bela Singh, Advocate

Mr. Rajeev Ranjan, Advocate

For the Opposite Party-State: Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
CAV ORDER

3 08-04-2026 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The present application has been filed for quashing the impugned order dated 13.11.2025 passed by the learned Exclusive Special Court POCSO-III, Muzaffarpur in Sessions Trial No. 399 of 2023, arising out of Mahila P.S. Case No. 61 of 2020, whereby the application of the petitioner/informant for Re-D.N.A. Test through Central Forensic Sciences Laboratory (CFSL) has been rejected.

3. The prosecution case is that the petitioner/victim was sexually exploited by the accused, namely, Arjun Kumar, for about 10 years as a result of which she gave birth to a child.

4. Learned counsel for the petitioner has submitted



that the victim-informant filed a petition for a direction for re-D.N.A. Test of the child allegedly born out of sexual exploitation of the informant by opposite party No.2. Learned counsel for the petitioner has submitted that the application was filed stating that D.N.A. evidence required proper documentation and handling from collection to analysis and break in the chain of custody protocol can raise doubt about the evidence as regards tampering and errors or contamination during collection, storage and testing and as such can lead to incorrect result. It has been further submitted that the date of sample collection of D.N.A. is not mentioned and it is only mentioned in the D.N.A. report that your Memo/letter No. NIL dated 27.09.2024 advising dispatch of one parcel received on 03.10.2024, whereas D.N.A. report was prepared after 27 days, which is against the instructions of D.N.A. testing and the petitioner is ready for re-D.N.A. testing and, therefore, has submitted that in the facts and circumstances, it would be necessary to order for re-D.N.A. testing under the supervision and direction of the learned trial court for proper adjudication and natural justice. Learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court passed in the case of *Nandlal Wasudeo Badwaik v. Lata Nandlal*



Badwaik, reported in **(2014) 2 SCC 576**. The Hon'ble Supreme Court having observed in paragraph 5 of the said judgment as under: -

5. Taking note of the challenge to the paternity of the child, this Court by order dated 10-1-2011 [Nandlal Wasudeo Badwaik v. Lata Nandlal Badwaik, SLP (Cri) No. 8852 of 2008, order dated 10-1-2011 (SC)] passed the following order:

“1. ... However, the petitioner husband had challenged the paternity of the child and had claimed that no maintenance ought to have been awarded to the child. The petitioner had also applied for referring the child for DNA test, which was refused. It is against the said order of refusal that the present special leave petition was filed and the same prayer for conducting the DNA test was made before us. On 8-11-2010 [Nandlal Wasudeo Badwaik v. Lata Nandlal Badwaik, SLP (Cri) No. 8852 of 2008, order dated 8-11-2010 (SC), wherein it was directed:

“1. Although, a prayer for filing rejoinder has been made on behalf of the petitioner, having regard to the facts involved, we are also inclined to give certain directions while adjourning the matter for filing rejoinder. The dispute regarding the paternity of the child, for whom an amount of Rs 500 has been directed to be paid by way of maintenance, was raised by the petitioner at the very first instance in his written objection to the application filed on behalf of the respondent wife under Section 125 CrPC for maintenance. The explanation given on behalf of the respondent wife regarding conception through the petitioner



was accepted by the trial court as well as the Revisional Court. However, the question of paternity was never considered in the light of the prayer made by the petitioner before the High Court for conducting a DNA test, which would have scientifically put an end to the dispute.

2. However, we have also been informed that no amount has been paid by the petitioner either to the wife or to the daughter in terms of the order passed by the learned Magistrate. While we are inclined to consider the petitioner's prayer for having a DNA test conducted, we are also of the view that until all dues are paid in terms of the order passed by the learned Magistrate, such a DNA test cannot be allowed to be conducted.

3. Accordingly, we adjourn this matter for a period of six weeks for the present, within which time all dues payable both to the wife and the child in terms of the order of the learned Magistrate dated 20-3-2006, are to be paid by the petitioner. Thereafter, we shall consider giving directions with regard to the holding of a DNA test of the child to determine her paternity. List this matter immediately after six weeks.”]

we had accordingly, directed the petitioner husband to deposit all dues, both arrears and current, in respect of the maintenance awarded to the wife and child to enable us to consider the prayer for holding of such DNA test. Such deposit having been made on 3-1-2011, we had agreed [Nandlal Wasudeo Badwaik v. Lata Nandlal Badwaik, SLP (Cri) No. 8852 of 2008, order dated 3-1-2011 (SC), wherein it



was directed: "From the application for directions, it appears that the arrears of maintenance directed to be deposited have been duly deposited and receipt thereof has been acknowledged by the respondent wife. The said sum of Rs 95,400 is the amount of arrears payable till 20-12-2010. In that view of the matter, we are inclined to allow the petitioner's prayer for conducting DNA test to ascertain the paternity of the child. Let this matter be adjourned for a week to enable the counsel for the respective parties to take instructions as to where and in what manner such test can be conducted, either in Maharashtra or in Hyderabad."] to allow the petitioner's prayer for conducting DNA test for ascertaining the paternity of the child.

2. We have since been informed by the counsel for the parties that a forensic science laboratory in Nagpur conducts the very same test, as has been asked for by the petitioner. Accordingly, we direct the petitioner Nandlal Wasudeo Badwaik and Respondent 1 Ms Lata Nandlal Badwaik to make a joint application to the Forensic Science Laboratory, Nagpur, situated at Jail Road, Dhantoli, for conducting such test. The petitioner, as well as Respondent 1, shall present themselves at the laboratory with Respondent 2 for the said purpose on the date to be fixed by the laboratory, and, thereafter, the laboratory is directed to send the result of such test to this Court within four weeks thereafter. The expenses for the test to be conducted shall be borne by the petitioner husband."

In the light of the aforesaid order, the



Regional Forensic Science Laboratory, Nagpur has submitted the result of DNA testing and opined that appellant “Nandlal Vasudev Badwaik is excluded to be the biological father of Netra alias Neha Nandlal Badwaik”, Respondent 2 herein.”

5. Learned counsel for the State opposed the prayer of the petitioner.

6. Perused the records and considered the submissions of the parties, it transpires from the impugned order itself that earlier, a petition, dated 05.06.2025, was filed on behalf of the informant before the learned court wherein it was stated in paragraph 4 that all the procedure of the D.N.A. report were duly completed and the instruction prescribed for the D.N.A. Test were strictly followed and on the prayer of the informant the said D.N.A. report also came to be exhibited as P-8. The learned trial court has rightly observed in the impugned order that at such a belated stage, the informant cannot question the genuineness of the said D.N.A. report contradicting her own statement and rejection of the prayer of the informant for re-D.N.A. profiling by the trial court is not erroneous. So far as the judgment of the Hon’ble Supreme Court as relied upon by the petitioner is concerned, the same is not applicable in the facts and circumstances of the present case and the facts of that case



are completely different.

7. No interference is warranted with the impugned order in the facts and circumstances as discussed hereinabove.

8. This application is devoid of merit and is accordingly dismissed.

(Praveen Kumar, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	18.03.2026
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