

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.568 of 2018**

**In
Miscellaneous Appeal No.302 of 2017**

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Bipin Kumar Singh son of Sri Ram Bricchh Singh, Resident of Village-
Madadpur, PS-Pundarakh, District-Patna

... .. Petitioner/s

Versus

Smt. Pushpa Devi wife of Bipin Singh, daughter of late Alakhdeo Singh,
Resident of Village-Ratana, PS-Chhabilapur, District- Nalanda.

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Appearance :

For the Petitioner/s	:	Mr. Sriram Krishna, Mr. Amarjeet Dr. Kamal Deo Sharma, Advocates.
For the Respondent/s	:	Mr. Rabindra Prasad Singh, Advocate
Amicus Curiae	:	Ms. Surya Nilambari, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV JUDGMENT/ORDER**

12 09-01-2023

The only issue that arises for consideration in this case is whether a direction should be given for conducting the DNA Test on one Khushi Kumari, a minor daughter of the respondent to ascertain her biological connection with the petitioner who denies that he is not Khushi Kumari's biological father to prove the allegation of infidelity brought by the petitioner against the respondent in a Divorce Case. The petitioner seeks to establish that Khushi Kumari was born of illicit relationship between his wife and another person. The paternity of the child is not a question in this case, thus, is only incidental to the main issue which pertains to whether or not the petitioner's wife has been faithful to him. To substantiate the ground of adultery, on which the divorce is being sought along



with other grounds, the case of the petitioner is that Khushi Kumari is the living example of adultery of his wife. The petitioner has not only pleaded that he had no contact with his wife/respondent at the time she conceived i.e., in 2005, but also claims that he is incapable of fathering a child and had been so in the entire course of marriage.

2. The petitioner has filed the present case for setting aside the order dated 15.02.2017 passed in Matrimonial Case No. 833/2010 by the Principal Judge, Family Court, Patna whereby the prayer of the petitioner to conduct DNA Test of the female child and the petitioner to ascertain as to whether the petitioner is the biological father of the child, has been rejected.

3. The brief fact giving rise to the present petition is that the marriage of the petitioner was solemnized with the respondent as per Hindu rites on 05.06.1987. The petitioner was in Indian Army from where he retired from his service on 01.01.2005. The petitioner sent his brother to the respondent's maternal home, where she had been residing at the time of petitioner's retirement, to bring her back to her matrimonial home but the respondent refused to return. The petitioner made several efforts to bring his wife back but the same went in vain. On 29.06.2007, the respondent/wife filed a Complaint Case No.



715-C/2007 in the court of Judicial Magistrate 1st Class, Biharsharif, Nalanda against the petitioner and his relatives including one Vibha Devi with whom, the respondent claims, the petitioner performed second marriage, for the offence punishable under Sections 498A, 323, 379, 307/34 of the IPC.

4. The petitioner preferred anticipatory bail application before this Court bearing Cr. Misc. No.37124/2008, in which, the petitioner was granted privilege of provisional bail on his undertaking that he was ready and willing to resume matrimonial relations with his wife/respondent. The provisional bail was to be confirmed in case his wife returned to the matrimonial home with the settlement of dispute or if the wife was found to be unreasonable. Order dated 23.06.2009 passed in Cr. Misc. No. 37124/2008 has been annexed as Annexure-1 to this petition.

5. On 15.12.2009, the petitioner filed an application in the court of Judicial Magistrate 1st Class, Biharshaif, Nalanda for confirmation of his provisional bail. In his petition, the petitioner has stated that he has always shown willingness to take Pushpa Devi i.e., respondent/wife to her matrimonial home but she is not willing to go to her matrimonial home. On several dates, the petitioner attempted to take his wife back to her



matrimonial home but she did not accompany the petitioner. The provisional bail granted to the petitioner was confirmed by the learned Judicial Magistrate 1st Class, Biharsharif, Nalanda vide order dated 15.12.2009.

6. In 2010 i.e., 18.12.2010, the petitioner filed a Matrimonial Case No. 833/2010 before the Principal Judge, Family Court, Patna under Section 13(1), (ia), (ib) of the Hindu Marriage Act, 1955 for dissolution of marriage stating therein that his wife had been leading an adulterous life which would be evident by birth of a female child given by respondent at the time when the petitioner had no access to his wife. He also pleaded that no child was born out of wedlock between him and the respondent and the medical examinations of the petitioner has led to the conclusion that the petitioner was incapable of procreation.

7. On 13.10.2011, respondent/wife filed her written statement in which she has claimed that female child, namely, Khushi Kumari was born out of her relation with the petitioner and she has been living with her parents because her husband i.e., the petitioner has married another lady, namely, Vibha Devi. She denied the petitioner's allegation that her behaviour towards him was not cordial. On 24.04.2016, the petitioner filed an



application in Divorce Case seeking a direction from the Family Court for conducting DNA Test of the petitioner along with respondent's female child. On 26.05.2016, a reply was filed by the respondent/wife to the aforesaid petition for rejecting the petitioner's prayer of DNA Test.

8. Mr. Sri Ram Krishna, learned counsel for the petitioner argued that in January 2005, the petitioner returned to his native place after retirement from the Indian Army but to his dismay, the petitioner found that the respondent/wife was not at her matrimonial home and despite several efforts, the respondent did not come to reside with the petitioner. Suddenly, in February 2006, the petitioner and his parents were informed that the respondent had given birth to a girl child. This information struck the petitioner and his family with surprise because since 1987 the petitioner and the respondent had been trying to beget a child but with no success. In fact, the quarrelsome nature of the respondent was one of the deterring factors in the petitioner and the respondent in not sharing an amicable relationship. Moreso, the type of duty that the petitioner was performing in the armed forces, particularly, in the light of the fact that the petitioner was posted at very high altitudes had led to the onslaught of impotency in the petitioner



and then a child being born to the respondent was indeed a surprise to the petitioner. It was, in this light, that the petitioner got himself medically examined wherein as per the ultrasonography report dated 09.11.2006 (page 91 of the brief), it was concluded as “early varicocele on the left” i.e., lack of semen resulting in impotency. Therefore, it is submitted that the medical examination of the petitioner indicating impotency cannot be categorised as an after thought, because the petitioner was well aware about his disability to procreate and a child when born to the respondent, the petitioner got himself examined. This was much prior to the Complaint Case No. 715-C/2007 filed by the respondent against the petitioner and his family members before Judicial Magistrate 1st Class, Biharsharif, Nalanda. Further, medical report dated 31.05.2016 (at page 89) and medical report dated 24.01.2012 (internal page 28 of the supplementary affidavit filed by the petitioner) will further substantiate the case of the petitioner. In both reports mentioned above, no sperm has been seen i.e., ‘NIL sperm counts’ which corroborates with the 2006 medical report.

9. Learned counsel further submits that the ground reality in the rural-cum-semi-urban areas where the petitioner and the respondent are situated cannot be lost sight of. The first



thing that anyone would do is to hide a fact like impotency. No person would as a first choice want to get himself anointed as impotent. It is only due to some uncontrollable, intolerable circumstances that one would come out in public as 'impotent'. That the very coming to the terms with the fact that one is 'impotent' can be very depressing for the person suffering it. In our society even today, the inability of a man to be able to procreate is very much looked down upon and therefore, it is submitted that the contention of the respondent that the ground of impotency as raised by the petitioner is an after thought deserves to be rejected. Moreso, in the light of 2006 medical report as mentioned above.

10. Leaned counsel relies upon the judgment of Hon'ble Supreme Court in the case of *Dipanvita Roy v. Ronobroto Roy* reported in (2015) 1 SCC 365 and submits that it is fairly well settled that the DNA Test cannot be directed in routine but only in deserving cases. However, the Courts have held that the DNA tests can also be directed for in a matrimonial dispute as well. What is required to be seen is a prima facie case and not a proven case. The case in hand does indicate a prima facie case taking into consideration the conduct of the respondent herein; (1) never residing with the husband, (2) the



medical report of 2006, (3) suddenly disclosing the birth of a girl child and (4) subsequently, filing complaint case against the petitioner. In fact, the allegation of the respondent that the petitioner performed second marriage with one Vibha Devi is further negated and in fact substantiates the case of impotency of the petitioner as no child has been born out of the wedlock and the marriage if at all, at best is invalid and is not an issue in the instant case.

11. The 2012, 2016 medical reports of the petitioner is only in furtherance to the 2006 medical report as the petitioner was getting himself examined periodically to be ruled out any contrary allegation. The attention of this Court has been drawn to the orders dated 23.03.2013, 07.06.2013, 21.06.2013 and 24.07.2013 passed in Complaint Case No. 715-C/2007 (page 53-56 of the brief) wherein it has been noted that in spite of the fact that the respondent agreed to the DNA Test of the child and the petitioner herein, yet she was running shy of it and evading the same. Even in deposition in Matrimonial Case No. 833/2010 (page 76-79 of the brief), the respondent wife accepted that she had been directed for DNA Test in Complaint Case No. 715-C/2007 but she did not go for the same.

12. Leaned counsel next submits that it would be



evident from perusal of the order dated 17.09.2014 passed in Miscellaneous Case No. 18/11 by the learned Family Court, Biharsharif, Nalanda that the learned court below declined to enhance maintenance amount payable to the so called daughter, Khushi Kumari on the ground that the respondent/wife was running shy of getting the DNA Test conducted of the so called daughter in spite of previous orders passed by the learned court. A perusal of the order dated 05.05.2014 in the said Miscellaneous Case also shows that while the maintenance amount of the respondent/wife was further enhanced to Rs. 1500/- per month, the maintenance amount payable towards the so called daughter, Khushi Kumari remained at Rs. 500/- per month. (page 10-13 and page 25-27 of the petitioner's supplementary affidavit).

13. That in the light of what has been stated above and on the facts and in the circumstances of the case, a prima facie case for DNA Test has been made out particularly keeping in mind the conduct of the respondent/wife. The fact that the respondent/wife never resided with the petitioner, yet there was a child as late as in the year 2005/2006. The fact that the petitioner has ever been ready to undergo the DNA Test and the respondent has been running shy from it in spite of agreeing to



send the child for the same, the Court observed as stated above leave several questions for the respondent/wife to answer. It is submitted that the petitioner's prayer for DNA Test cannot be rejected on the ground that the instant case is one of the routine matrimonial disputes simpliciter. It is submitted that this dispute has also had ramifications on the petitioner's service record as well as with respect to pension etc., as usually such things are withheld in cases of disputes. Lately, it is submitted that in a situation like instant one, where a child has been thrust upon the petitioner in spite of his impotency, the DNA Test is the most scientifically precise method to determine the paternity of the child and to balance the interests of the parties.

14. *Per contra*, Ms. Surya Nilambari, learned Amicus Curiae argues that the respondent/wife has stated in her written statement filed in a Divorce Case (Annexure-5 Page 45) and in her deposition (Annexure-12/Page 76) that the female child Khushi Kumari was born of the matrimonial relations between the petitioner and the respondent on 19.12.2005. It was in December 2005 itself, the respondent came to her paternal home from matrimonial home, the petitioner got married again to one Vibha Devi which is why the respondent was not residing in her matrimonial home (at the time of filing of the case and WS).



This marriage was entered into before the filing of the complaint case itself by the respondent in the year 2007. As proof of his impotency, the petitioner has brought on record certain documents which are as follows:-

1. By Prof. V.K. Srivastava dated 31.05.2016 (Annexure 15/ page 88)
2. Report dated 31.05.2016 by Anand Diagnostic , Page 89.
3. Ultrasonography report dated 31.05.2016 by Dr. Mamta Singh, Page-90.
4. Ultrasonography report dated 09.11.2006 by Dr. P.K. Jaiswal, Page-91.
5. Medical report by Christian Medical College, Vellore, dated 24.01.2012 (Annexure 19/Pg. 28, Supplementary affidavit)

15. She next submits that before referring to the reliability of these documents produced by the petitioner before this Court, it would be useful to highlight the averments made by the petitioner with regard to his impotency, in his application for divorce, as well as in his deposition before the Family Court in the divorce case and in a petition filed before this Court. It has been stated by the petitioner that no child was born of the marriage between him and the respondent despite conjugal relations between the two, which led to medical examinations revealing that the petitioner was incapable of procreation



(relevant paragraphs are para 5/page 3 of the main petition; para 7/pg. 31 of the divorce petition; Para-1/Pg 61 of his deposition in the divorce case). The petitioner got exhibited Dr. Pravin Kumar Jayswal's report, the authenticity of which report has been challenged by the respondent/wife.

16. Learned *Amicus Curiae* further submits that it is the petitioner's case that he had been medically examined much prior to 2005, in course of leading conjugal life with the respondent. However, none of the documents on record relates to the period between 1987-2005, the documents being recent, of the years 2006, 2012, 2016 i.e., after filing of the divorce, save the one dated 2006. The report of Dr. P.K. Jayswal, referred to in the petitioner's deposition (marked as Ext-1), was prepared on 09.11.2006, after the petitioner's claim to have learnt about the birth of the child. Most important, the report is an ultrasonography report, lacking the necessary details pertaining to the petitioner's ability to procreate. For instance, the said report does not contain the spermatozoa count which is the relevant criterion for determining the ability to procreate. From a reading of this report, it cannot be said authoritatively that the petitioner is impotent. The genuineness of the report has been disputed by the respondent which would be evident from para-8



of the reply filed by the respondent (Annexure 14/Pgs 86-87) opposing the prayer for DNA Test. Accordingly, this document cannot be taken as sacrosanct.

17. Another report i.e., by Anand Diagnostic, at page 89 of the brief, on “examination of seminal fluid”, shows that the spermatozoa count of the patient is nil, indicating impotence of the person examined, namely, Bipin Kumar Singh. However, this report is dated 31.05.2016 demonstrating that it was prepared/obtained only after filing of the prayer in the divorce case for holding DNA Test which was made on 24.04.2016 (Annexure 13/Pgs 80-85).

18. With regard to report of CMC Vellore dated 2012 (Annexure 19/Supplementary Affidavit by the petitioner), it is interesting to note that it bears the name of one Vibha Devi, along with the name of the petitioner. The respondent has alleged throughout, both in the criminal case lodged by her against the petitioner as well as in her written statement in the matrimonial case, that the petitioner got married to one Vibha Devi, despite the subsistence of marriage between her and the petitioner. This report by CMC, Vellore brought on record by the petitioner himself seems to prima facie vindicate the respondent’s allegation that the petitioner has entered into



another matrimonial alliance with said Vibha Devi.

19. Based upon the aforesaid, it is submitted that the petitioner has not offered any solid, reliable proof of impotence from which any prima facie satisfaction could be derived of his assertion.

20. Learned *Amicus Curiae* also submits that although the petitioner claims to have learnt regarding birth of the female child in February, 2006, he took no steps immediately thereafter to sever connections with the respondent who, according to the petitioner, was neither willing to live with him nor had been faithful to him. The respondent lodged a complaint case against the petitioner in 2007 for offence under Section 498A IPC, in which, he was finally convicted. In course of this case, the petitioner expressed his desire to continue the matrimonial relations with the respondent, notwithstanding her alleged adulterous behaviors. The petitioner filed a petition for confirmation of provisional bail (Annexure 2/Pg 24) in which he stated that he had always been willing to live with his wife who was not co-operating in the resumption of a happy married life. The petitioner claims in his divorce petition that after his retirement from the Army when he returned to his village, his wife was not at her matrimonial home but was living with her



parents. The petitioner, in an attempt to persuade her to come back, sent his brother in January 2005 and then made several attempts to bring back his wife. The petitioner has not disclosed the nature of attempts made by him.

21. The divorce case was filed by the petitioner only after lodging of the criminal case by the respondent and it has been stated by the petitioner that despite the best of his efforts, the respondent showed no willingness to resume harmonious life with the petitioner. The respondent/wife, on the other hand, claims that in view of the second marriage entered into by the petitioner with one Vibha Devi, sometime in early 2006, she has been residing with her parents. The petition for holding of the DNA test was filed by the petitioner in the family Court on 24.04.2016 after the examination of the witnesses including the petitioner.

22. She next submits that the legal principles involved in matters wherein the courts are called upon to consider the desirability and propriety of directing reluctant parties to submit to medical examination must be applied in the peculiar factual context of each case. The Hon'ble Supreme Court has laid down certain parameters within which applications for holding DNA Test or other medical tests in



matrimonial disputes may be decided.

23. She relies upon the following judgments:-

- 1. 2003 (4) SCC 493 (Sharda v. Dharmpal)**
- 2. 1993 (3) SCC 418 (Goutum Kundu v. State of Bengal)**
- (3) 2010 (8) SCC 633 (Bhabhani P. Jena v. Convenor Secretary, Orissa Women Commission,**
- (4) 2015 (1) SCC 365 (Dipanwita Roy v. Ronobroto Roy).**

24. I have heard learned counsel for the parties and have gone through the materials on record. As per the case of the parties, the marriage was solemnized on 05.06.1987. The petitioner retired from Indian Army on 01.01.2005 and the female child was born on 19.12.2005. The petitioner has pleaded that he had no contact with his wife at the time she conceived i.e., in 2005 but also claims that he is incapable of fathering a child and had been so in the entire course of marriage. In support of this argument, the petitioner has placed first medical document dated 09.11.2006 which is Ultrasonography report and from perusal of the same, it appears that both testes are normal in size, both epididymis are normal in size and appearance, gross hydrocele is seen on either side and it concludes with the finding of “early varicocele on the left”.

25. Admittedly, the ultrasonography report is of the



year 2006 i.e., after birth of the girl child in December 2005. The petitioner had retired in January 2005 and returned back to his home. The Divorce Petition was filed much after filing of the Complaint Case by the respondent in which she had made one Vibha Devi as an accused claiming that the petitioner performed marriage with the said Vibha Devi sometime in the year 2006. The petitioner in his divorce petition filed on 18.12.2010 has claimed that the respondent had been leading an adulterous life and gave birth to a female child at the time the petitioner had no access to his wife. He has also pleaded that the medical examination of the petitioner has led to the conclusion that the petitioner was incapable of procreation. The wife in her written statement has denied this allegation and has stated that the female child, Khushi Kumari was born out of her relationship with the petitioner and she has been living with her parents because her husband i.e., the petitioner has married another lady, namely, Vibha Devi sometime in early 2006.

26. The claim of the respondent that the petitioner performed second marriage with one Vibha Devi has not been specifically denied by the petitioner and it has been argued by learned counsel appearing for the petitioner that impotency of the petitioner is further substantiated by the fact that no child



has been born out of the wedlock/marriage of the petitioner with Vibha Devi.

27. From perusal of the medical report of CMC, Vellore dated 24.01.2012 (Annexure-19 of the Supplementary Affidavit by the petitioner), it appears that Vibha Devi along with the petitioner were examined with diagnosis of primary infertility. The report dated 31.05.2016 of Anand Diagnostic produced by the petitioner shows that spermatozoa count of the patient was nil. The said report has been prepared only after filing of the prayer in the divorce case for holding DNA Test filed on 24.04.2016.

28. Further, it also appears from the material on record that the petitioner for the first time learnt about the birth of the female child in February 2006. He took no steps immediately thereafter to sever connections with the respondent. For the first time, respondent lodged a complaint against the petitioner in 2007. In course of this case, the petitioner expressed his desire to continue the matrimonial relations with the respondent and in a petition for confirmation of provisional bail, the petitioner has stated that he had always been willing to live with his wife who was not co-operating him in the resumption of a happy married life. This conduct of the



petitioner appears to be inconsistent inasmuch as after coming to know about the adulterous behaviour of the wife at least in the year 2006, the petitioner was still ready to resume matrimonial relationship with his wife. This Court is of the impression that after performance of second marriage with one Vibha Devi sometime in the year 2006, an acrimony developed between the husband and the wife which led to filing of complaint case by the wife against the petitioner and one Vibha Devi with whom the petitioner allegedly performed second marriage. The medical report of petitioner as well as Vibha Devi produced by the petitioner himself, prima facie, substantiates this allegation. The petitioner initially tried to settle the matter with the respondent but after having not succeeded in the same, he filed the divorce suit on the ground of adultery/cruelty as well as desertion.

29. The first medical report relied upon by the petitioner which was prepared on 09.11.2006 i.e., approximately, one year after the birth of the female child. This report can be said to be relevant for the purpose of issue raised by the petitioner regarding DNA Test. The other two reports are of later in time i.e., of 2012 and 2016 which, in my opinion, are not very important for the purpose of deciding the present issue



inasmuch as the risk of impotency increases with age. It is four-fold higher in men in their 60s compared with those in their 40s according to a study published in the journal of Urology (2000;163;460-463){Medical Editor: Charles Patrick Davis, MD, PhD}.

30. The report dated 09.11.2006 is Ultrasonography report which shows “early varicocele on the left”. The said report does not contain spermatozoa count. The report does not show that it is second grade or third grade varicocele. 8th Edition of D.C. Dutta’s Text Book of Gynecology has dealt with the common cause of male infertility and one of them is thermal factor which describes that “scrotal temperature is raised in conditions such is varicocele. Varicocele probably interferes with cooling mechanism or increases catecholamine concentration. However, no definite association between varicoceles and infertility has been established”. Accordingly, the report of 2006 does not, prima facie, establish the claim of the petitioner for DNA Test.

31. Now, let me examine the contention of the petitioner that the respondent gave birth to a female child at the time when the petitioner had no access to his wife. The petitioner’s witness who is his father, Ram Briksh Singh



deposed in the said divorce suit and in his cross-examination recorded on 03.07.2014, he has stated that Pushpa Devi was his daughter-in-law and used to come and go from matrimonial home but after 2005, she did never come.

32. Admittedly, the child was born in 2005 and from the statement of the petitioner's witness, it prima facie, appears that in 2005 and prior thereto, the petitioner had access to his wife/respondent. The medical report of CMC, Vellore submitted by the petitioner regarding infertility records the age of the petitioner as on 24th January, 2012 as 36 years. According to this document, the petitioner was about 11 years old in 1987 when the marriage of the petitioner was performed with the respondent. The age of the respondent must have been around 9 to 10 years or may be less than that. Meaning thereby, this marriage was solemnized at the time both were minors and that may be the reason that the birth of the female child was delayed i.e., after both the parties attained adulthood. Even if taking into consideration the age of the petitioner disclosed in this petition at the time of filing it in the High Court as 46 years in 2018, the age of the petitioner in 1987 comes to 16 years and the respondent must be 2-3 years below 15 years. Still it shows that both the parties were minors and this may be the reason that the



first child was born out of wedlock in 2005.

33. The Hon'ble Supreme Court in the case of ***Goutam Kundu v. State of West Bengal & Anr.*** reported in ***(1993)3 SCC 418*** has formulated the following points:-

(1) that courts in India cannot order blood test as a matter of course;

(2) wherever applications are made for such prayers in order to have roving inquiry, the prayer for blood test cannot be entertained.

(3) There must be a strong prima facie case in that the husband must establish non-access in order to dispel the presumption arising under Section 112 of the Evidence Act.

(4) The court must carefully examine as to what would be the consequence of ordering the blood test; whether it will have the effect of branding a child as a bastard and the mother as an unchaste woman.

(5) No one can be compelled to give sample of blood for analysis.

34. In the case of ***Bhabani Prasad Jena v. Orissa State Commission for Women*** reported in ***(2010) 8 SCC 633***, the Hon'ble Supreme Court has held that *the Courts in India cannot order blood test as a matter of course and such prayer cannot be granted to have roving inquiry. There must be strong prima facie case and the Court must carefully examine as to what would be the consequence of ordering the blood test. The Court should exercise such power if the application has strong prima facie case and there is sufficient material before the*



Court.

35. In view of the discussions held hereinabove on the factual background and the law and taking into consideration the conduct of the petitioner of filing petition for DNA Test six years after filing of divorce petition, in my opinion, the petitioner has failed to make out a strong prima facie case for passing any order by this Court for DNA Test. The Court is of the opinion that such prayer cannot be allowed for collecting evidence and to have roving inquiry upon the allegation made by the petitioner. The petitioner has filed the divorce suit for dissolution of marriage not only on the ground of adultery but also tried to make out a case of cruelty and desertion against the respondent. It would, thus, appear that the petitioner is taking chance for collecting evidence after the closure of his evidence in the suit in support of ground of adultery. This, in my opinion, is not permissible.

36. The acceptance, in principle, of the usefulness of DNA Test as proof of infidelity notwithstanding, the Hon'ble Supreme Court has cautioned against the holding of such tests as a matter of course that too without the consent of the parties.

37. As has been discussed, the petitioner has not offered any credible, satisfactory proof of impotence to make



out prima facie case of his claim for DNA Test and the wife has also not given her consent. Consequently, I have no difficulty in confirming the order impugned dated 15.02.2017 passed in Matrimonial Case No. 833/2010 by the Principal Judge, Family Court, Patna whereby the prayer of the petitioner to conduct DNA Test of the female child and the petitioner has been rejected.

38. In the result, this application stands dismissed.

39. Before parting with the judgment, I must appreciate the sincerity of learned *Amicus Curiae* who extended valuable assistance to this Court. For the valuable services rendered by her to this Hon'ble Court, I direct the Secretary, Patna High Court Legal Services Committee to pay her, namely, Ms. Surya Nilambari a token amount of Rs. 11,000/- (Eleven Thousand) within a period of one month from the receipt/production of a copy of this judgment/order.

(Anil Kumar Sinha, J)

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