

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 1937 of 2023

Petitioner :- Shiv Ram

Respondent :- Smt.Pinki And 2 Others

Counsel for Petitioner :- Archit Mandhyan,Hari Bans Singh,Vijai Kumar Tiwari,Yusuf Ali

Hon'ble Ajit Kumar,J.

1. The office report regarding service of notice upon opposite party already there and yet opposite party has failed to appear.
2. Petitioner before this Court is husband of the opposite party no. 2. He has instituted a suit for divorce under Section 13 of Hindu Marriage Act, 1955 registered as Matrimonial Case No. 852 of 2014 and another case no. 1 of 2014 under Section 25 of Guardians and Wards Act, 1890 for the custody of his two minor daughters.
3. The proceedings of the aforesaid cases came to be transferred under the orders of Apex Court from the Family Court, Dwarka, New Delhi to Principal Judge, Family Court, Kanpur Nagar upon the transfer application being filed by the opposite party.
4. Petitioner led some electronic evidence and moved an application accordingly before the Family Judge for getting the CDs/ DVDs that contained some audio and videos to be verified from a Science Laboratory and also to collect the sample of voice of the opposite party to be sent along with the CDs. The objections were filed to the same but ultimately the application of the petitioner stood granted and the Audio and Video CDs were sent to Science Laboratory to be examined under the orders of Additional Principal Judge, Family Court on 18.02.2018. When Director, Forensic Science Laboratory, U.P., Lucknow demanded voice sample of the respondent no. 1 and upon which the Principal Judge, Family Court asked the respondent no. 1 to appear before the Director, Forensic Science Laboratory, U.P., Lucknow to give her voice sample, both the petitioner and respondent no. 1 appeared there and after taking their voice samples the Forensic Science Laboratory had sent a report on 28.07.2022 in which it came to be reported that the female and male voices in the digital data were found to be optimum probable similar with that of the Pinki and Shivram but so for the video digital data was concerned, since it was not as per the transcription so it could not be examined while

examining the audio and video CD and DVD. Petitioner accordingly, moved another application that if the Forensic Science Laboratory, U.P., Lucknow is not able to test the DVD and send report, it should be sent to some other agency and it is this application which has been rejected.

5. Petitioner before this Court has been heard.

6. According to the claim set up by the petitioner, his wife is involved in some sex racket and doing pornography which is the reason why they are both now living separately and petitioner has the apprehension that his two minor daughters may also be forced to be part of the sex racket. It is submitted by the petitioner that he is quite worried father and wants to save life of his two minor daughters and wants to educate them properly so that they become good citizens.

7. Looking to the allegations made in the affidavit filed in support of this petition and serious complaints made by him against his own wife, the details of websites upon which the pornography shots were uploaded, I find it necessary to direct for technical examination of the DVD and CDs afresh by some other recognized laboratory.

8. In the order impugned passed by the Judge, Family Court, the application has been simply rejected on the ground that such matrimonial matters are being directed by the High Court to be decided expeditiously.

9. In my considered view, expeditious disposal does not mean that important aspects as to evidence may be shelved. The principle is well laid "justice hurried is justice buried".

10. In the circumstances, therefore, I set aside the order passed by the Additional Principal Judge, Family Court on 30.01.2023 and direct the Family Judge to get the CDs/ DVDs both audio and video be examined afresh by the Forensic Science Laboratory, Karnataka, Bangalore. The laboratory may be asked to furnish report within a period of one month from the date of receipt of CDs/ DVDs. The Family Court will be passing appropriate order within two weeks of production of certified copy of this order. After receiving the report, as directed herein above, the trial court will proceed to decide the cases finally.

11. With the aforesaid observations and directions, this petition stands **disposed of**.

Order Date :- 20.5.2024

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