



**HIGH COURT OF ANDHRA PRADESH**  
TUESDAY ,THE TWENTY SEVENTH DAY OF JUNE  
TWO THOUSAND AND TWENTY THREE

**PRSENT**

**THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI**  
**CIVIL REVISION PETITION NO: 5078 OF 2015**

**Between:**

1. N RAJA BABU, EAST GODAVARI DIST S/o. Kondayya  
R/o. D.No. 3-105, Bugurupudi Village,  
Korukonda Mandal, East Godavari District.

**...PETITIONER(S)**

**AND:**

1. NAKKA PRASANNA, EAST GODAVARI DIST & ANOTHER W/o. Nakka  
Raja Babu  
R/o. Opposite Water Tank Street  
Burugupudi Village, Korukonda Mandal  
East Godavari District.
2. Nakka Koushik S/o. Nakka Raja Babu  
Aged about 7 years,  
R/o. Opposite Water Tank Street  
Burugupudi Village, Korukonda Mandal  
East Godavari District.

**...RESPONDENTS**

**Counsel for the Petitioner(s): VENKAT CHALLA**

**Counsel for the Respondents: T V JAGGI REDDY**

**The Court made the following: ORDER**



**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

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**CIVIL REVISION PETITION NO.5078 of 2015**

**Between:**

Nakka Raja Babu

... Petitioner/Respondent

*Versus*

Nakka Prasanna and another

...Respondents/Petitioners

\* \* \* \* \*

DATE OF ORDER PRONOUNCED : 27.06.2023

SUBMITTED FOR APPROVAL:

**HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

1. Whether Reporters of Local Newspapers  
may be allowed to see the Order? Yes/No
2. Whether the copy of Order may be  
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the  
fair copy of the Order? Yes/No

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**JUSTICE B.V.L.N.CHAKRAVARTHI**



**\* HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

**+ CIVIL REVISION PETITION NO.5078 of 2015**

**% 27.06.2023**

**# Between:**

Nakka Raja Babu

... Petitioner/Respondent

*Versus*

Nakka Prasanna and another

...Respondents/Petitioners

**! Counsel for the Revision  
petitioner**

M/s. Challa Dhanamjaya  
:: Sri Venkat Challa  
Ms. M.Anusha

**^ Counsel for the Respondents**

:: Sri T.V.Jaggi Reddy

**< Gist:**

**> Head Note:**

**? Cases referred:**

1. **Muni Anjanappa @ Thammaiah vs. Smt. Roopa @ Gangalakshmi and another in Writ Petition No.22273 of 2022 (GM-FC), dated 16.11.2022 on the file of High Court of Karnataka.**
2. **Aparna Ajinkya Firodia vs. Ajinkya Arun Firodia reported in 2023 SCC Online SC 161.**

This Court made the following:



**THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTI**

**CIVIL REVISION PETITION NO.5078 OF 2015**

**ORDER:**

Heard Ms. M.Anusha, learned counsel representing on behalf of Sri Venkat Challa, learned counsel for the revision-petitioner and Sri T.V.Jaggi Reddy, learned counsel representing for the respondents.

2. This revision-petition is directed against the Order, dated 18.09.2015 in I.A.No.465 of 2015 in O.S.No.498 of 2013 on the file of IV Additional Junior Civil Judge, Rajahmundry.

3. The revision-petition is filed by the revision-petitioner/ plaintiff/husband in the suit questioning the Order delivered by the Trial Court under Section 45 of the Indian Evidence Act, 1872 (for brevity 'the Act'), wherein the request of the mother and son, who are the defendants in the suit, was 'Allowed' for conducting Deoxyribonucleic Acid (DNA) Test, as the revision-petitioner/ plaintiff filed the suit for declaration that the respondents/ defendants in the suit are not his wife and son and to grant Mandatory Injunction restraining the respondents/defendants from claiming as 'wife' and 'son' of the revision-petitioner/ plaintiff using his surname.



4. Parties in this revision-petition are referred to as they were arrayed in the proceedings before the Trial Court.

5. Ms. M.Anusha, learned counsel for the plaintiff contended that the learned Trial Court committed illegality by erroneously ordering DNA Test on an application filed by the mother and son, who are claiming as wife and son, respectively, of the plaintiff. She would further submit that earlier, the defendants presented a report to the police against the plaintiff alleging that the plaintiff, on the pretext of marrying the defendant No.1, had sexual intercourse and as a result, the defendant No.1 begot the defendant No.2 and she also filed a Maintenance Case *vide* M.C.No.67 of 2010 and both the cases i.e., criminal and maintenance cases were 'Dismissed' and in the criminal case, the police got conducted the DNA Test to establish the paternity of the child and the Report of the Forensic Science Laboratory went against the defendants in the criminal case and therefore, when already a DNA Test was conducted, without setting aside the Report in the said DNA Test issued by the Andhra Pradesh State Forensic Science Laboratory, the Trial Court erroneously ordered DNA Test again and thereby, committed illegality and hence, the Order shall be set-aside.



6. In support of the contentions, the learned counsel for the plaintiff has relied upon the decision of the Hon'ble High Court of Karnataka in **Muni Anjanappa @ Thammaiah vs. Smt. Roopa @ Gangalakshmi and another in Writ Petition No.22273 of 2022 (GM-FC), dated 16.11.2022.**

7. Sri T.V.Jaggi Reddy, learned counsel representing for the defendants would contend that the question of setting-aside the earlier DNA Report in the present suit proceedings would not arise as the present suit proceedings are different proceedings from the earlier criminal proceedings and in the Judgment relied on by the plaintiff, the facts are different as the earlier Report was also issued in the same proceedings and the husband filed another application in the same proceedings for conducting DNA Test in some other laboratory alleging that the Report issued by the earlier laboratory was not conducted by the Doctor as directed by the Court. But, in the case on hand, the earlier test was conducted at the instance of police in criminal proceedings and the present suit is filed by the husband for declaration that the child was not born to him, which will have a serious consequences on the future of the child and question of setting-aside the said Report in the present proceedings will not arise and further, on the face of the earlier Report, it is very clear that



the Report was issued after 'One year' of taking the blood samples and the said Report has no information as to when the blood samples were examined by the Expert and why, 'One year' time was taken by the Expert to issue the said Report and in those circumstances, it is not a reliable report and therefore, the defendants filed the application for conducting fresh DNA Test to dispel the suspicion about the earlier Report and it is not known why the plaintiff is vehemently opposing the present application when he is confident that the earlier Report was a genuine Report and not tainted with any illegality and therefore, the Trial Court rightly ordered fresh DNA Test in the suit, ignoring the earlier Report in the above circumstances and to safeguard the future of the child.

8. In support of his arguments that child interest must be safeguarded, he relied upon the Judgment of the Hon'ble Supreme Court in **Aparna Ajinkya Firodia vs. Ajinkya Arun Firodia** reported in **2023 SCC Online SC 161**.

9. In the light of the above rival contentions, the point that would arise for consideration is:

**“Whether the learned Trial Court has committed any irregularity while ordering the DNA Test? If so, whether the Order passed in I.A.No.465 of 2015 in O.S.No.498 of**



**2013 by the IV Additional Junior Civil Judge, Rajahmundry be set-aside under Section 115 of the Code of Civil Procedure, 1908/Article 227 of the Constitution of India?”**

10. **P O I N T**: -

It is an admitted fact that the earlier DNA Test in the case on hand was conducted in the criminal proceedings at the instance of police during investigation of the case. It is also an admitted fact that the earlier DNA Report would disclose that the blood samples were collected on 18.03.2009 at Andhra Pradesh Forensic Science Laboratories and the Report was issued on 17.04.2010 i.e., after ‘One year’. The Report does not disclose the date of examination of DNA extracted from the blood samples collected on 18.03.2009. Further, the Report also would not disclose as to why more than ‘One year’ time was taken to give the Opinion/Report.

11. It is an admitted fact that the plaintiff, after the said Report launched the present suit proceedings, which are separate and independent proceedings from the earlier criminal case proceedings. Hence, as rightly contended by the learned counsel for the defendants, the question of setting-aside of the earlier DNA Examination Report/Opinion will not arise in the present





proceedings, before ordering the second DNA Test. Therefore, the principle laid down in the decision rendered by the Hon'ble High Court of Karnataka relied by the learned counsel for the plaintiff has no application to the facts of the case on hand.

12. The Hon'ble Supreme Court in **Aparna Ajinkya Firodia** case (supra) held that "DNA Testing is the most legitimate and scientifically perfect means that the husband could use, to establish his assertion of infidelity." and "What comes out of a DNA Test, as the main product, is the paternity of the child, which is subjected to a test."

13. The plaintiff impleaded the child i.e., defendant No.2 as a party to the present suit proceedings, denying the paternity.

14. A reasonable doubt raised about the earlier DNA Report issued in the criminal case proceedings. In view of the law laid down by the Hon'ble Apex Court, in the suit proceedings, Court cannot sacrifice or ignore the rights of child, keeping in view of the interest of the child, who is not a party to the criminal case proceedings.

15. Therefore, this Court is of the considered opinion that there is no illegality in the Order of the Trial Court ordering for DNA



Test in the suit proceedings. Hence, the revision-petition is liable to be dismissed.

16. Accordingly, Civil Revision Petition is 'Dismissed'. There shall be no order as to costs.

17. As a sequel, miscellaneous applications pending, if any, shall stand closed.

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**JUSTICE B.V.L.N. CHAKRAVARTHI**

27<sup>th</sup> June, 2023

**Note:**

**LR Copy is to be marked.**

B/o.  
DNB