2026 INSC 600

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(@ Special Leave Petition (Civil) No.4016 of 2026)

CHATURBHUJ PRADHAN ... APPELLANT (S)

Versus

AMAR PRADHAN & ANR. ... RESPONDENT (S)

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

2. The appellant-Chaturbhuj Pradhan[1] is aggrieved by the fact that he has been ordered, concurrently, by the Courts below i.e., the First Additional Civil Judge, Class -II, Basna[2] and the

[1] For ease 'CP'
[2] In Civil Suit No. 13A/2019, by Order dated 21st September 2019

learned Single Judge of the High Court of Chattisgarh at Bilaspur[3], to undergo DNA test to determine the paternity of the first respondent[4], and has challenged the same before us in these proceedings.

3. The sequence of events triggering this appeal is that Amar is the son of the second respondent. The former claims to be the son of CP born on 10th September 1999 as a result of consensual relations between his mother and CP that took place in January 1999. The latter, while denying this, relies on his acquittal[5] in a case registered by the second respondent under Section 376 of the Indian Penal Code, 1860. Beginning in 2003 and continuing until sometime in 2010, there were several instances of litigation *inter se* the parties concerning maintenance. However, it is not necessary to refer to those in detail as they do not form part of the present dispute, except to note that in Misc.Crl.CaseNo.113 of 2005 CP's appeal before the High Court against grant of maintenance, an observation is made that Amar and the second respondent had failed to establish any relationship of CP, with them. This order was challenged before this Court[6] and came to be disposed of in Lok Adalat with the observation that at the time of filing, Amar was a minor and as on the date of hearing before the Lok Adalat, he was 24 years old and as such nothing survives

[3] In WP227 No. 540 of 2021, by Order dated 16th June 2025
[4] For ease, 'Amar'
[5] Sessions Case No. 268/1999 by judgement dated 31st December 1999
[6] Criminal Appeal No. 789 of 2011 disposed of on 31st July 2024

in the matter. During the pendency of the appeal before this Court, having attained majority, Amar filed a suit seeking declaration that he is the son of CP and that, accordingly, he is entitled to1/3rd share in his property. The Civil Court, particulars of which have been noted in para-2, passed necessary orders. CP's appeal before the High Court was also dismissed observing that no other kind of evidence would be sufficient to clearly establish the paternity of Amar.

4. Before us it is contended by CP that he cannot be compelled to give DNA sample nor is there an eminent need for the DNA test. Further, there cannot be any adverse inference against him under Section 114(h) of the Indian Evidence Act, 1872[7] at this stage. It is submitted that Amar's civil suit is barred by *res-judicata. Per contra,* it is submitted on behalf of Amar that in view of the continuous denial of paternity by CP, there is no other recourse available to determine the question of paternity and therefore it is in the interest of justice. When the balance of interest between CP and Amar is examined, the same is in favour of the latter since there is no application of presumption under Section 112 of IEA. The right of privacy in as much as it is available to CP is not an absolute right. Regarding the question of *res judicata*, the same is submitted to be not applicable since the previous proceedings under Section 125CrPC were instituted

[7] IEA

by the second respondent, though was also for the benefit of Amar, and further that these proceedings are summary in nature and do not amount to a proper finding.

5. We now examine these competing claims. In doing so, we must take notice of the controlling judgments:

5.1 ***Goutam Kundu v. State of W.B.[8],***

> **"26.** From the above discussion it emerges—
> (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."

5.2 ***Dipanwita Roy v. Ronobroto Roy[9]:***

> **"16.** It is borne from the decisions rendered by this Court in *Bhabani Prasad Jena* [*Bhabani Prasad Jena* v. *Orissa State Commission for Women*, (2010) 8 SCC 633 : (2010) 3 SCC (Civ) 501 : (2010) 3 SCC (Cri) 1053] and *Nandlal Wasudeo Badwaik* [*Nandlal Wasudeo Badwaik* v. *Lata Nandlal Badwaik*, (2014) 2 SCC 576 : (2014) 2 SCC (Civ) 145 : (2014) 4 SCC

[8] **(1993) 3 SCC 418**
[9] (2015) 1 SCC 365

(Cri) 65] that depending on the facts and circumstances of the case, it would be permissible for a court to direct the holding of a DNA examination to determine the veracity of the allegation(s) which constitute one of the grounds, on which the party concerned would either succeed or lose. There can be no dispute, that if the direction to hold such a test can be avoided, it should be so avoided. The reason, as already recorded in various judgments by this Court, is that the legitimacy of a child should not be put to peril."

(emphasis supplied)

5.3 Having considered extensively the previous judgments, the following principles were enunciated in ***Aparna Ajinkya Firodia v. Ajinkya Arun Firodia***[10]**:**

"43. Having regard to the aforesaid discussion, the following principles could be culled out as to the circumstances under which a DNA test of a minor child may be directed to be conducted:

43.1. That a DNA test of a minor child is not to be ordered routinely, in matrimonial disputes. Proof by way of DNA profiling is to be directed in matrimonial disputes involving allegations of infidelity, only in matters where there is no other mode of proving such assertions.

43.2. DNA tests of children born during the subsistence of a valid marriage may be directed, only when there is sufficient prima facie material to dislodge the presumption under Section 112 of the Evidence Act. Further, if no plea has been raised as to non-access, in order to rebut the presumption under Section 112 of the Evidence Act, a DNA test may not be directed.

43.3. A court would not be justified in mechanically directing a DNA test of a child, in a case where the paternity of a child is not

[10] (2024) 7 SCC 773

directly in issue, but is merely collateral to the proceeding.

43.4. Merely because either of the parties have disputed a factum of paternity, it does not mean that the court should direct DNA test or such other test to resolve the controversy. The parties should be directed to lead evidence to prove or disprove the factum of paternity and only if the court finds it impossible to draw an inference based on such evidence, or the controversy in issue cannot be resolved without DNA test, it may direct DNA test and not otherwise. In other words, only in exceptional and deserving cases, where such a test becomes indispensable to resolve the controversy the court can direct such test.

43.5. While directing DNA tests as a means to prove adultery, the court is to be mindful of the consequences thereof on the children born out of adultery, including inheritance-related consequences, social stigma, etc."

5.4 ***Ivan Rathinam v. Milan Joseph***[11],

"35. In the peculiar circumstances of this case, this Court must undertake an exercise to 'balance the interests' of the parties involved and decide whether there is an 'eminent need' for a DNA test. This pertains not simply to the interests of the child, i.e. the Respondent, but also to the interests of the Appellant.

36. On one hand, courts must protect the parties' rights to privacy and dignity by evaluating whether the social stigma from one of them being declared 'illegitimate' would cause them disproportionate harm. On the other hand, courts must assess the child's legitimate interest in knowing his biological father and whether there is an eminent need for a DNA test.

…

46. When dealing with the eminent need for a DNA test to prove paternity, this Court balances

[11] 2025 SCC OnLine SC 175

> the interests of those involved and must consider whether it is possible to reach the truth without the use of such a test.
> **47.** First and foremost, the courts must, therefore, consider the existing evidence to assess the presumption of legitimacy. If that evidence is insufficient to come to a finding, only then should the court consider ordering a DNA test. Once the insufficiency of evidence is established, the court must consider whether ordering a DNA test is in the best interests of the parties involved and must ensure that it does not cause undue harm to the parties. There are thus, two blockades to ordering a DNA test : (***i***) insufficiency of evidence; and (***ii***) a positive finding regarding the balance of interests."
>
> *(emphasis supplied)*

5.5 All of the judgments referred to above were recently followed by this bench in ***Nikhat Parveen v. Rafique***[12].

6. It is clear from the above judgments that when the Court is confronted with the question whether or not to order a DNA test, the only test to be satisfied is whether the result of the DNA test is directly in issue and whether any other evidence-on-record can substitute for the answer that may be arrived at through this scientific process. Also, whether it is in the best interest of the parties and/or justice.

6.1 In the present case, the alleged relationship between CP and the second respondent was in January

[12] 2026 SCC OnLine SC 652

1999 and Amar was born in September 1999. CP has consistently denied paternity and there is no other evidence that can provide a categorical answer. It is nobody's case that the second respondent had ever had an intimate relationship with someone else.

6.2 Although there have been findings that state that the second respondent has been unable to establish any link between CP and Amar, those findings were not as a consequence of the full-dress trial. The civil suit filed by Amar is for this very purpose and as such, the question of paternity is directly in issue. On this count as well, we find in favour of the respondent.

6.3 In view of the above observation, the question of *res judicata* also is closed. As far as the right of privacy is concerned, we are balancing, in this case CP's privacy with Amar's desire for closure on a question that has loomed large on his life throughout. He has seen, right from childhood, his mother assert that CP is the father but the authorities, consistently found otherwise. If no positive answer is ever found out to the question, it is quite possible that Amar would forever be denied the rights he may otherwise be entitled to by virtue of being CP's son.

7. The balance of interests definitely lies in favour of Amar. As such, no error can be found in the impugned judgment. The appeal is dismissed. Let the matter be taken up by the concerned Civil Court for fixing a date to conduct a DNA test and proceed further in the civil suit pending before it as per the result received subsequently.

Pending application(s) if any shall stand disposed of. No order as to cost.

……..J.
(SANJAY KAROL)

……...J.
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi;
May 29, 2026