REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

DIPANWITA ROY V. RONOBROTO ROY (2015)

BENCH: Mr. Justice Jagdish Singh Khehar & Mr. Justice R.K. Agrawal **DECIDED:** October 15, 2014

RATIO DECIDENDI & PRECEDENTIAL CRUX:
In a divorce petition alleging adultery, the court can direct a DNA test of the child, but if the wife refuses, an adverse inference must be drawn.

1. Factual Matrix & Background:

The husband filed for divorce under Section 13(1)(i) HMA alleging adultery by the wife and non-access, praying for a DNA test of the male child born during marriage. The wife opposed the test, claiming it violated her privacy and branded the child as illegitimate.

2. Substantive Legal Questions Framed:

Whether a matrimonial court can order a DNA test to substantiate allegations of adultery against the wife, and what is the consequence if the wife refuses to undergo the test.

3. Analysis & Ratio Decidendi:

The Supreme Court held that DNA testing is the most authentic scientific evidence to establish infidelity and adultery. The court should direct the test only when the husband has established strong prima facie non-access. However, if the wife refuses to submit herself and the child to the DNA test, she cannot be physically compelled; instead, the court shall draw an adverse inference against her under Section 114 Evidence Act.

4. Principles Enunciated:

- 1. DNA testing is permissible to prove adultery where prima facie non-access is pleaded.
- 2. No physical force can be used to compel a woman to submit to a DNA test.
- 3. Refusal to comply with a DNA test direction entitles the court to draw an adverse inference.

5. Practical Litigation Implications:

- Husbands seeking divorce on adultery grounds should pray for DNA testing; if the wife refuses, argue that the refusal warrants an adverse inference establishing adultery.

.....J.
[SUPREME COURT BENCH]

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