

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 712 of 2016**

- Smt. Manbai W/o. Human Sahu Aged About 20 Years R/o. Village : Jamgaon (B), Tahsil & District : Balod Chhattisgarh

---- Applicant**Versus**

1. Human Sahu S/o Jivrakhan Lal Sahu Aged About 23 Years R/o. Village : Bharda, Police Station : Gurur, District : Balod Chhattisgarh
2. Jivrakhan Sahu S/o Moti Ram Sahu Aged About 51 Years R/o. Village : Bharda, Police Station : Gurur, District : Balod Chhattisgarh
3. Sulochni Bai W/o. Jivrakhan Sahu Aged About 45 Years R/o. Village : Bharda, Police Station : Gurur, District : Balod Chhattisgarh

---- Non-applicants

For Applicant:

Mr. P.K. Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08.08.2016**

1. The present Criminal Revision has been preferred challenging the judgment dated 25.06.2016 passed by the Second Additional Session Judge, Balod, whereby the appeal preferred by the Applicant under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act, 2005') has been rejected.

2. The facts in brief are that the present Applicant had initially filed a case under Section 12, 18, 19, 20, 22, 23 and 31 of the Act, 2005 against the Non-applicants which after due consideration by the Chief Judicial Magistrate, Balod in Misc. Suit No. 223/2014 had rejected on 09.10.2015. Against which the Applicant had preferred an appeal before the Second Additional Sessions Judge, Balod vide Criminal

Appeal No. 07/2016, which too has been rejected on 25.06.2016, leading to the filing of the present Criminal Revision.

3. Learned Counsel for the Applicant submits that there were ample evidences produced before the Trial Court to establish the facts of the case of the act of ill-treatment, harassment and cruelty on part of the Respondents. The Applicant had therefore to leave her matrimonial house and start living separately. He further submits that once when the ill-treatment, cruelty on part of the Respondents against the present Applicant has been established, the Court below ought not to have rejected the Application. This fact has also not been properly appreciated by the Appellate Court, therefore both the orders are bad in law.

4. However, a perusal of the record would show that the Court below had specifically taking into consideration the fact that there were more than a couple of occasions meetings were held at the village elders level and in the presence of the village's elders, the Applicant is said to have refused to accept the proposal of going and staying with the husband at her matrimonial home. Since, there was a categorical refusal by the present Applicant in going along with the husband and his family members, the Court below has rejected the claim application.

5. On a query being put to learned Counsel for the Applicant, he does not dispute the fact that there were meetings held on more than a couple of occasions and he also does not dispute that the Applicant had refused to go and stay with the Non-applicants. But, according to the learned Counsel for the Applicant it was due to her apprehension of

being again subjected to ill-treatment and cruelty, she had taken such decision.

6. In the opinion of this Court, when there was being on more than a couple of occasions assurances given by the Non-applicants for taking care of the Applicant without subjecting to ill-treatment and cruelty, there was no reason for apprehension on part of the Applicant and the Court below was justified in refusing to accept the contentions of the Applicant and rejecting the claim Application as well as the appeal preferred by the Applicant. This Court does not find a strong case made out by the Applicant calling upon interference on the two orders passed by the Courts below.

7. Accordingly, the present Criminal Revision being devoid of merit, the same is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE