

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 67 of 2017

(Arising out of Judgment dated 27-02-2017 passed by the Principal Judge,
Family Court, Durg, in Civil Suit No. 691/2015)

- Dinesh Verma S/o Mehattruram Verma, Aged About 32 Years Caste Lodhi, Occupation Contract Computer Operator, Mantralaya, New Raipur, Resident Of Gaya Nagar, Ward No.4, Durg, District Durg, Chhattisgarh

---- Appellant

Versus

- Smt. Uttara Verma W/o Dinesh Verma, Aged About 30 Years Caste Lodhi, Occupation Shiksha Karmi Grade-2, Address C/o Ganesh Janghel, Shastri Chowk, Ward No.3, Krishna Nagar, Supela Bhilai, Tahsil & District Durg, Chhattisgarh

---- Respondent

For Appellant
For Respondent

Shri Rohitashra Singh, Advocate
Ms Kiran Singh, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Arvind Singh Chandel

Judgment On Board

By

Prashant Kumar Mishra, J.

07/09/2017

1. The trial Court has refused to decree the appellant's application under Section 9 of the Hindu Marriage Act, 1955 (for short 'the Act, 1955') for restitution of conjugal rights on the ground that the appellant has moved a criminal compliance against the wife for offence under Section 406 of the Indian Penal Code and the wife has also moved an application under Section 13 of the Act, 1955 for obtaining a decree of divorce, therefore, there is a reasonable excuse for the wife not to join the company of the appellant/ husband.

2. We have heard learned counsel for the parties and perused the record.
3. True it is that on the basis of the pleadings and the evidence, the trial Court has held that the respondent/wife has withdrawn from the society of the appellant without reasonable excuse, but at the same time it is also to be seen that there being more than one litigation pending between the parties one of which is a criminal complaint case instituted by the appellant/husband, it cannot be expected of the respondent/wife to join the husband's company and start performing her marital obligations under threat and mental stress of a criminal case.
4. In **Shailendra Koshti v. Kavita Koshti** (AIR 2007 MP 46) the High Court of Madhya Pradesh held that when there is series of litigations between the parties, there is reasonable cause on the part of the wife not to live together.
5. In view of the above, in our considered opinion, the Family Court has not committed any illegality nor the approach adopted by it is perverse in view of pendency of cases between the parties.
6. Accordingly, we do not find any substance in this appeal, which fails and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Sd/-

Judge

Arvind Singh Chandel