

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 734 of 2016

Teklal Patel, S/o. Late Pandulal Patel, aged about 52 years, R/o. Kotara Road, Raigarh, Tahsil and District- Raigarh (C.G.)

----Petitioner

Versus

Smt. Uttara Patel, W/o. Teklal Patel, aged about 43 years, R/o. Kotara Road, Raigarh, Tahsil and District – Raigarh (C.G.)

---- Respondent

For Petitioner : Mr. Vinit Kumar Pandey, Advocate

For Respondent : Mr. Abhisek Saraf, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24/01/2017

1. Challenge in this petition is to the order dated 09.11.2016, passed in Civil Suit No.51-A/2015, passed by the Family Court, Raigarh, whereby certain documents, which was tendered by the petitioner were not accepted to be part of record and application was dismissed.
2. Learned counsel for the petitioner would submit that the petitioner has filed a petition under Section 13 of Hindu Marriage Act for divorce, wherein the written statement has been filed and before the evidence started, the documents were placed, which pertains to social meeting as also the report made to the police by the petitioner/plaintiff about the conduct of the wife/respondent.

However, without going into facts, the trial Court has mechanically rejected the application, therefore, the petitioner's right would be seriously prejudiced, if such documents are not accepted on record. Therefore, it is prayed that the documents may be allowed to be taken on record so as to allow the petitioner to place his case on merits.

3. Learned counsel for the respondent opposes the same.
4. Perused the order dated 09.11.2016 as also the documents, which were filed before the Court.
5. Perusal of the record would show that case is in between husband and wife for divorce. The husband has filed a petition for divorce alleging different ground including the ground of cruelty. Perusal of the document would show that document pertains to social meeting, which was conducted as also the report made to the police City Kotwali, Raigarh by the petitioner/husband against wife about her conduct and behaviour. Perusal of the document would show that admission of such documents would not prejudice the right of the respondent. Further more the case being in between the husband and wife, the nature of allegation which has been made, if the documents are taken on record and the plaintiff is allowed to lead evidence on that it will advance the cause of justice on merits and refusal may lead to denial of fact come to fore.
6. Considering the nature of documents and the fact that the evidence has not yet commenced between the parties and in order to advance the cause of justice on merits, the documents are admitted

on record. However, it is made clear that this Court has not given any finding about the admissibility of the document and it is left open for trial Court to adjudicate the same in course of evidence.

7. With such observation, the petition stands allowed.

Sd/-
(Goutam Bhaduri)
Judge