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HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 123 of 2015**

(Arising out of judgment/order dated 19.8.2015 in Civil Suit No.F-09A/2015 passed by learned Judge, Family Court, Raigarh)

- Smt. Subhadra Sahu. Aged about 24 years, W/o Ram Kumar Sahu, Occupation None, R/o Sitapur, Khairpur, Transformer Ke Pass, Tahsil & Thana Raigarh, Civil And Revenue District Raigarh(Chhattisgarh)

---- **Petitioner****Versus**

- Ram Kumar Sahu S/o Ramhaiya Lal Sahu, Aged About 31 Years Occupation Electrician And Agriculturist, R/o Village Sendri, Thana & Tahsil Janjgir Champa, Civil And Revenue District Janjgir Champa(Chhattisgarh)

---- **Respondent**

For Appellant
For Respondent

Mr. Punit Ruparel, Advocate
Mr. Atanu Ghosh, Advocate

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

Order On Board By**Prashant Kumar Mishra, J.****24/8/2017**

1. Heard.
2. This is an appeal by the wife assailing the impugned judgment and decree passed by the Family Court, rejecting her prayer under Section 9 of the Hindu Marriage Act, 1955 for restitution

of conjugal rights.

3. Admittedly, the parties were married on 18.4.2008 and have two issues, one son and one daughter, out of the wedlock. It is also not in dispute that in proceedings under Section 125 of Cr.P.C. before the Family Court, initiated by the appellant-wife for herself and minor daughter Nabya, the prayer was allowed only in respect of minor daughter Nabya, while the appellant's prayer for maintenance was rejected vide order dated 08.11.2013. It is further not in dispute that on the appellant's complaint/report, a criminal case for offence under Section 498-A/34 of IPC was registered and tried against the husband and his family members, which too has ended in their acquittal.
4. Assailing the said order passed by the Family Court on 08.11.2013 in Cr. MJC No.118 of 2013, the appellant preferred Criminal Revision No.215 of 2014, which was allowed by this Court in part vide order dated 01.07.2014 with the following observations in para 2 & 6 :

“(2) Shri Punit Ruparel, learned counsel appearing for the applicants would confine his submission to enhancement of maintenance for applicant No.2/minor Nabya. He would submit that the amount of Rs.1000/- granted to applicant No.2/Nabya is shockingly low and it deserves to be enhanced.

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- (6) Consequently, the revision is allowed in part. Now, from today, non-applicant Ram Kumar Sahu shall pay

Rs.2000/- (Rupees Two Thousand) per month to applicant No.1 Smt. Subhadra Sahu for maintenance of applicant No.2/Nabya."

5. It appears after the above proceedings, the appellant preferred the subject application under Section 9 of the Act, 1955 for restitution of conjugal rights on the ground that the husband has denied conjugal rights without any just and reasonable cause, therefore, a direction may be issued to the husband for restitution of the conjugal rights.
6. In the proceedings before the Family Court, both the parties led evidence to prove their respective cases. Once again, the wife admitted the fact that after she walked out of the marital house, three Panchayat meetings were convened at different points of time and on each occasion, a compromise was effected by the Caste Panchayat, pursuant to which, she was allowed to join the company of the husband but every time, again, the wife moved out of the marital house on some or the other dispute.
7. As against the sole testimony of the appellant, the husband examined himself and his witnesses DW-2 Vishram Sahu and DW-3 Firat Ram Sahu. According to DW-3 Firat Ram Sahu, who is one of the Panch and Village Servant of the Sahu Samaj, the appellant used to raise quarrel every now and then and leave the marital house without any reason and justification.
8. In view of the above evidence, since the Family Court found that the appellant-wife has left the company of the respondent-

husband without any just and reasonable cause, it did not allow the application under Section 9 of the Act, 1955 in her favour and thereby, rejected the same.

9. We have examined the record only to find out whether there is any perversity in the finding recorded by the Family Court, however, we have not found any such perversity in the finding or reasoning assigned by the Family Court.

10. Apart from the evidence available in the present case, it is also to be noticed that in proceedings under Section 125 of Cr.P.C., the Family Court refused to allow the maintenance in favour of the appellant, which was assailed before this Court in Criminal Revision No.215 of 2014, however, in the said Criminal Revision, no argument was advanced in favour of the appellant-wife and thus, her Revision was impliedly not pressed before this Court.

11. For all the afore-stated reasons, we do not find any substance in this appeal, which deserves to be and is hereby dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

Sd/-

Judge

(Arvind Singh Chandel)

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