

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.303 of 2017

Order Reserved on : 3.10.2018

Order Passed on : 22.11.2018

Smt. Rajkumari Suryavanshi, age 31 years, W/o Shri Rajendra Kumar Suryavanshi, resident of Village Baghoida, Post Darang, P.S., Tahsil Champa, District Janjgir-Champa, Chhattisgarh

---- Applicant

versus

Rajendra Kumar Suryavanshi, age 31 years, S/o Shri Shiv Prasad Suryavanshi, Caste Suryavanshi, resident of Gajrabasti, Bankimongra, Tahsil Katghora, District Korba, Chhattisgarh

--- Respondent

For Applicant	:	Ms. Bulbul Agrawal, Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. ORDER

1. The instant revision is directed against the order dated 24.1.2017 passed by the Judge, Family Court, Janjgir, District Janjgir-Champa in M.Cr.C. No.52 of 2016, whereby the Family Court has rejected the application under Section 125, Cr.P.C. filed by the Applicant on the ground that she is residing separately without any sufficient and reasonable cause.
2. It was pleaded by the Applicant that her marriage with the Respondent was solemnised according to Hindu rites and rituals on 13.5.2011. 1-2 days after the marriage, the Respondent started doubting on her character and also started committing *marpeet*

with her. The Respondent and his family members were saying that she has brought lesser dowry and they were demanding a sum of Rupees Two Lakhs from her and were harassing her mentally therefor. It was further pleaded that in April, 2012, the Respondent and his family members, after committing *marpeet* with her, expelled her out of her matrimonial house and since then she is residing separately at her paternal house. She is unable to maintain herself. The Respondent earns Rs.20,000/- per month. He also owns 10 acres of agricultural land.

3. In reply, the Respondent denied the allegations levelled upon him and pleaded that the Applicant herself did not like him and wanted to live separately from him. For this reason, she used to neglect him. They never demanded any dowry. It was further pleaded by him that the mother and grand mother of the Applicant by telling that they were taking the Applicant for few days took her with them, but thereafter, the Applicant did not return to her matrimonial house. The Respondent and his family members went to take the Applicant back many times, but she did not return. They also called social meetings, but she did not attend those meetings and did not return to her matrimonial house. He preferred an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rites, which was allowed in his favour. Despite that, she did not return. Thus, it is clear that she is residing separately from him without any reasonable cause. Therefore, she is not entitled to get any maintenance from him.

4. Before the Family Court, the Applicant/wife examined herself as Applicant Witness No.1 and also examined her father Itwari Ram

as Applicant Witness No.2, her grand mother Laxminbai as Applicant Witness No.3. The Respondent examined himself as Non-Applicant Witness No.1, his mother Sumitrabai as Non-Applicant Witness No.2 and one Ramkumar as Non-Applicant Witness No.3.

5. The Family Court rejected the application under Section 125, Cr.P.C. moved by the Applicant/wife as already stated in the first para of this order.
6. Learned Counsel appearing for the Applicant/wife submitted that despite sufficient evidence being available on record with regard to the fact that the Applicant/wife has reasonable and sufficient cause to reside separately from the Respondent, the Family Court without appreciating the evidence on record has rejected the application of the Applicant. The order of rejection is contrary to law.
7. None appeared for the Respondent/husband.
8. I have heard Learned Counsel appearing for the Applicant/wife and perused the record with due care.
9. The Applicant and the Respondent have made their statements before the Family Court commensurate to their pleadings. Applicant Rajkumari, in her statement, in para 3, has stated that on 30th April, 2012, the Respondent/husband beat her and expelled her out of his house and thereafter he did not come to take her back. She has also stated that after the marriage, she was being

beaten for demand of dowry. In her cross-examination, she has admitted that she resided at her matrimonial house for about 10 months and during that period she also visited her paternal house 4-5 times, but she did not disclose this fact to her family members. She has admitted that she disclosed this fact for the first time to her mother in the month of April, 2012. She has also admitted that she had not made any report in police station in this regard. She has also admitted that her parents also did not try to compromise the matter. She has further admitted that after her visit to her paternal house, the Respondent/husband had come to take her back after a week, but she did not return. She has further admitted that thereafter again the family members of the Respondent had come to take her back, but she did not return. She has also admitted that the Respondent filed an application for restitution of conjugal rights before the Family Court and she got summons also. Her father Itwari Ram has also admitted that neither he made any report in police station nor did he try to compromise the matter. He has also admitted in para 5 that elder father of the Respondent and few neighbours had come to take the Applicant back, but they did not send her back to her matrimonial house.

- 10.** From the above, it is clear that the Applicant is residing separately from the Respondent from April, 2012. She was tortured or beaten for demand of dowry is suspicious. From the above, it is also clear that after April, 2012, the Respondent/husband had himself gone to take the Applicant back, but she did not return. Family members of the Respondent/husband had also gone to take her back, but even thereafter she did not return. From the evidence on record, it is also clear that despite passing of a decree by the Family Court in

favour of the Respondent/husband under Section 9 of the Hindu Marriage Act, she did not return to her matrimonial house. Thus, from the evidence on record, it is established that the Applicant/wife is residing separately from the Respondent/husband without any reasonable cause. Therefore, the finding of the Trial Court is just and proper and does not warrant any interference by this Court.

11. Consequently, I do not find any merit in the instant revision. It is, therefore, dismissed.
12. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
JUDGE