

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 52 of 2018

- Smt. Amita Shambharkar, W/o Pankaj Rao Shambharkar, Aged About 32 Years, D/o Shri Dayaram Medhe, R/o H. No. B/5, Type-2, Doorsanchar Colony, Shankar Nagar, Khamhardih, Raipur, District- Raipur, Chhattisgarh, presently Residing At Chhota Ashok Nagar, Gudhiyari, Raipur, District Raipur, Chhattisgarh. (Non- Applicant in Civil Suit Before Court Below)

---- Petitioner

Versus

- Pankaj Rao Shambharkar S/o Shri Krishna Rao Shambharkar, Aged About 40 Years R/o Ganesh Ram Nagar, Near Gopinath Mandir, Raipur, District Raipur, Chhattisgarh. ...(Applicant in Civil Suit Before Court Below)

---- Respondent

Application for review of the order dated 19.01.2018 passed in FAM No.135/2014

By circulation in Chamber

Hon'ble Justice Shri Prashant Kumar Mishra

Hon'ble Justice Shri Arvind Singh Chandel

13/07/2018

IA No.01

1. This is an application for condonation of delay in filing the review petition.
2. For the reasons mentioned in the application (IA No.01), the same is allowed and the delay of 60 days in filing the review petition is condoned.
3. The matter is taken up for consideration in the chamber under provisions of sub-rule (2) of Rule 90 under Chapter VI of the High Court of Chhattisgarh Rules, 2007.
4. The review petitioner seeks review of the order dated 19.01.2018 passed by this Court in FAM No.135/2014 only on the ground

that, in fact, on account of failure on the part of the prosecution, the husband (respondent herein) and his family members were acquitted. According to the review petitioner, while deciding the application filed by the husband under Section 13 of the Hindu Marriage Act, 1955, the Court below has rightly rejected the same after appreciating all the facts and circumstances of the case in its true perspective.

5. After going through the entire record of the first appeal, it is manifest that after appreciating all the grounds as well as the arguments advanced by both the parties, this Court allowed the first appeal filed by the husband by delivering a detailed judgment and set aside the judgment and decree passed by the Court below.
6. On consideration of the above-stated grounds, which are in the nature of taking liberty to re-argue the first appeal, the same are unsustainable in the eyes of law.
7. There is no other ground pointed out by the petitioner showing any manifest error on the record and has not further brought into the notice, any new facts, which could not be produced earlier despite diligent efforts made by the petitioner. It is well settled principles of law that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of the Code of Civil Procedure. Even in exercise of review jurisdiction by the High Court, the petitioner has not produced any ground for review.
8. It appears that the petitioner by presentation of this review petition seeks an opportunity to argue the entire case afresh on merits under the garb of the review petition, which is not permissible and tenable in law.
9. It is well settled principle of law that under the garb of review petition, the petitioner should not be permitted to argue the entire case afresh, which would amount to convert the review petition into an appeal and the same is not sustainable in law. (See: Meera Bhanjan v. Smt. Nirmal Kumar Chowdhary, AIR 1995 SC

455, Lily Thomas etc. v. Union of India and others, AIR 2000 SC 1650, Ajit Kumar Rath v. State of Orissa and others, AIR 2000 SC 85, Government of T.N. & Others v. M. Ananchu Asari and others, (2005) 2 SCC 332, and Kerla State Electricity Board v. Hitech Electrothermicism & Hydropower Ltd. and others, (2005) 6 SCC 651.

10. As a sequel, the review petition, *sans substratum* is liable to be and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Arvind Singh Chandel

Gowri