

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 235 of 2018

Manoj Kumar, aged about 30 years, son of Shri Ramlal, Caste Suryawanshi, R/o. Village Tilai, Police Station Janjgir, Tahsil Akaltara, District Janjgir Champa (C.G.)

---- Appellant

Versus

Meena Kumari, aged about 26 years, wife of Shri Manoj Kumar, Caste Suryawanshi, D/o. Shri Banshilal, Presently resided at Village Banari, P.S. and Tahsil Janjgir, District Janjgir Champa (C.G.)

---- Respondent

For the Appellant :- Mr. Sanjay Kumar Dewangan, Advocate
For the Respondent :- None

Shri Justice Prashant Kumar Mishra
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board By
Prashant Kumar Mishra, J.

11.10.2018

1. The family Court has dismissed the appellant's application under Section 13 of the Hindu Marriage Act 1955, for grant of divorce on the ground of desertion.
2. The marriage between the parties was solemnized on 21.05.2015 and thereafter they remained together for about 15 days, during which, as per the findings of the trial Court, the appellant used to have sexual intercourse with the respondent in a cruel, violent and lustful manner, at times causing injuries to her. The Respondent/wife thereafter fell ill and

left the matrimonial house and did not return. During this period, the appellant convened a *panchayat* meeting so as to bring back the respondent/wife where the respondent/wife agreed to join matrimonial chord. However, on insistence of the appellant for the agreement being reduced to writing, she denied to join his company.

3. In view of the above findings which is not alleged to be perverse by the learned counsel for the appellant, there is no element of *animus deserendi*. The respondent has not left the marital house for ever with an intent to abandon the institution of marriage, therefore, the appellant has failed to prove the necessary ingredient constituting ground of desertion as enumerated under section 13(1)(ia) and (ib) of the Hindu Marriage Act 1955.
4. There is no substance in this appeal which fails and is hereby dismissed at the admission stage.

Sd/-
Judge
Prashant Kumar Mishra

Sd/-
Judge
Vimla Singh Kapoor