

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 250 of 2019

- Sanjeet Sharma S/o Shri Basant Shukla Aged About 29 Years R/o Shiksha Colony, Near Gayatri Convent School, Infront of Pani Tanki Daganiya Raipur District-Raipur, Chhattisgarh.

---- Petitioner

Versus

- Priya Sharma W/o Sanjeet Sharma Aged About 23 Years R/o Professor Colony, Sector-3, Street No. 3, Near New Golden Public School, Raipur District-Raipur, Chhattisgarh.

---- Respondent

For petitioner	:	Mr. Shashank Thakur, Advocate.
For respondent	:	Mr. Rahim Ubwani, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

06/12/2019

1. Petition has been brought being aggrieved by the order dated 2.3.2019 passed by the learned Family Court, Raipur dismissing the application filed under Section 10 of Code of Civil Procedure.
2. It is submitted that the respondent has filed an application under Section 12 of Protection of Women from Domestic Violence Act, 2005(for short 'the Act, 2005') before the Court of JMFC, Raipur, in which she has made specific prayer for return of Stridhan in Paragraph-26C under Section 19 of the Act, 2005. Similarly, the respondent has filed an application under Section 26 of Hindu Marriage Act vide **Annexure-P3** before the learned Family Court, Raipur, praying for return of Stridhan. Therefore, the application was filed under Section 10 of CPC praying to stay the subsequent proceedings. The learned Family Court has erroneously rejected the application. Therefore, prayed that with respect to the same relief the respondent has initiated multiple proceedings, hence, one of the proceedings must be stopped, hence, prayed that impugned order be

set aside and relief be granted to the petitioner.

3. Learned counsel for respondent submits, that the respondent has a right to claim under the provision of Protection of Women from Domestic Violence Act, 2005 as well as under the provision of Hindu Marriage Act, in which ever case the matter is decided first the such decision of the Court concerned shall be taken into consideration by the subsequent Court to adjust the relief to be granted to the respondent. Further, the provision under Section 10 of CPC would not apply in such cases, because the proceedings under Section 12 of the Act is a criminal proceedings where the proceedings before the Family Court is a civil procedure.
4. Considering on the submissions made and also perused the documents filed along with the petition, I am of this view that Section 10 of CPC will not be applicable as the proceedings are of different nature one being civil and one being criminal in nature, therefore, there is no error in the order passed by the learned Family Court. However, it is left to the option of the respondent to prosecute the relief of receiving her Stridhan back in one of the proceedings. With this direction, the petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge