

HIGH COURT OF CHHATTISGARH, BILASPUR
FAM No. 169 of 2018

---- Appellant

Smt. Rajni Singh D/o. Yadunath Singh, Aged about 29 years, R/o.
Village Tilwadand, P.S. Charcha, Tahsil Baikunthpur, District
Korea (C.G.)

For the Appellant :- Shri Ravindra Sharma, Advocate
For the Respondents :- Smt. Madavi Bhardwaj, Advocate

Order on Board By Prashant Kumar Mishra, J.

1. The parties are tribal, therefore, they are not governed by the provisions of Hindu Marriage Act, 1955. The impugned order has been passed by the family Court rejecting appellant's application under Section 22 of the Special Marriage Act 1954, thereby refusing to grant decree for restitution of conjugal rights in favour of the appellant.
2. The parties were married on 27.05.2015 according to custom and ritual of Gond tribal community. After the marriage, the respondent was residing with the appellant. In February 2016, the

appellant went to Coimbatore for training under the Mukhya Mantri Skill Development Scheme. After his return from training he found that respondent has left the matrimonial house and is residing in her parental house. The appellant's efforts to bring back his wife to join his company yielded no result, therefore, the subject application was moved.

3. Respondent raised the plea of ill treatment by the appellant's parents during his absence when he had gone to attend training at Coimbatore. It was also pleaded that after return from training the appellant did not take care of her and no effort was made to bring her back to the marital house. The respondent was compelled to convene meeting of caste panchayat but despite persuasion by elders the appellant did not take back the respondent.
4. The trial Court has dismissed the application for the reason that the respondent has moved an application under Section 125 CrPC for grant of maintenance alleging ill treatment and avoidance to maintain her.
5. We have perused the record of the trial Court. There is no denial of the fact that the application for restitution of conjugal right was moved after the appellant was served with the notice of the proceeding under Section 125 Cr.P.C. initiated by respondent/wife. Thus, the present proceedings appears to be a counter blast or reaction to the proceedings under Section 125 CrPC. Any finding that the appellant is not willing to take back the wife and is negligent in performing the marital obligation would affect the

125 CrPC proceedings, therefore, without commenting on the said aspect of the matter, we are satisfied that in the obtaining evidence on record the trial Court has not committed any illegality or perversity in dismissing the application for restitution of conjugal rights. The appeal deserves to be and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Vimla Singh Kapoor