

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 282 of 2018

- Smt. Rekha Patel, W/o Sitlesh Patel and D/o Rajbahadur Patel (Constable) Aged About 31 Years, (Shikshakarmi Grade-1), R/o Sarda Nagar Rudri Road Dhamtari, District - Dhamtari, Chhattisgarh, Government High School Koliyari, Tahsil and District - Dhamtari, Chhattisgarh

---- Petitioner

Versus

- Sitlesh Patel, S/o Brijnandan Prasad, Aged About 27 Years, (Constable), R/o Police Line Colony Rudri, Quarter No.H-17, Dhamtari, Tahsil and District - Dhamtari, Chhattisgarh

---- Respondent

For Appellant

Shri Kunal Das, Advocate

Hon'ble Justice Mr. Prashant Kumar Mishra

Hon'ble Justice Mrs. Vimla Singh Kapoor

Order On Board

17/01/2019

1. The impugned decree for restitution of conjugal rights allowed in favour of the respondent husband has been assailed on the ground that the respondent husband being responsible for committing cruelty on the appellant, the decree for restitution of conjugal rights should not have been allowed.
2. It appears, the appellant wife is not willing to join the company of respondent husband for the reason that according to her, the respondent was committing cruelty on her. If such be the case, the appellant may initiate proceedings for seeking divorce. It is also important to mention that both the spouses are employed

and are presently posted at different places within the same district.

3. Considering the nature of proceedings and for the fact that the appellant is not willing to join the company of the respondent, the appeal is disposed of with observation that in any fresh proceeding between the parties, the finding in respect of the cruelty or negligence recorded under the impugned decree shall be independent of any evidence, which may be recorded in any subsequent proceeding. In other words, any fresh proceeding between the parties shall be decided on the basis of evidence adduced by the parties in such proceedings.
4. The appeal stands disposed of.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Vimla Singh Kapoor
Judge

Nirala