

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 169 of 2019**

- Nehru Lal Sahu S/o Khemram Sahu Aged About 38 Years Occupation Service Shiksha Karmi Grade - II, R/o Village Sakreli Kalan, Police Station And Tahsil Sakti, District Janjgir Champa Chhattisgarh

---- Appellant**Versus**

- Smt Subhadra Sahu W/o Nehru Lal Sahu Aged About 33 Years D/o Sukhram Sahu, Occupation Service, Shiksha Karmi Grade - III, R/o Patharripara, C.S.E.B. Colony, N.E. No. 60, Korba, At Present Assistant Teacher, School Gurudwari (Rawa), Post Semra, Shankul Kendra Semra, Block And Janpad Panchayat Pondi Uroda, District Korba Chhattisgarh

---- Respondent

For Appellant	:	Ms. Rashmi Sen, Advocate
For Respondent	:	Shri Vikas Pandey, Advocate

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****25/02/2020**

Heard on admission.

By this impugned judgment and decree, the appellant / husband's application for restitution of conjugal rights has been rejected by the Family Court. Before taking up the matter on merits, this Court made an attempt to amicably settle the dispute between the parties and for this purpose, both the parties were called and interacted. Thereafter, the parties were referred to Mediation Centre of the High Court. The mediation report also show that the mediation has failed.

2. The appellant / husband moved an application for grant of decree of restitution of conjugal rights on the pleadings that the appellant and respondent / wife married on 21/05/2011 and also blessed with a son. According to appellant's pleadings, the

respondent / wife belongs to an affluent and rich family and she was not inclined to reside with the appellant in the matrimonial house and was insisting him to reside in her parental house. The respondent / wife left the matrimonial house on 17/06/2013 along with her parents and her brother and also took away her entire ornaments. Thereafter, the appellant went to take her back but he was misbehaved by her parents and the respondent was not allowed to come back. According to him, he never subjected the respondent / wife to cruelty nor she was shunted out of the matrimonial house.

3. On the other hand, the respondent / wife has come out with the case that the appellant and the respondent, both are working as Shiksha Karmi at different places and the husband was not allowing her to take up the employment at a place which is situated away from the matrimonial place. According to respondent's pleading, when the respondent / wife insisted that she should be allowed to join her duties, the appellant raised dispute, whereupon, the respondent / wife called her parents and brother and then a dispute arose. The appellant indulged in assault and violence and therefore, a report had to be lodged and then she came back to her parental house along with her parents and brother.

4. Both the parties led their respective evidence and the learned Trial Court, after allowing the parties to lead oral and documentary evidence, recorded a finding that the respondent / wife has reasonable cause for living separately from her husband.

5. Learned counsel for the appellant submits that the finding of the learned Court below, disbelieving the evidence led by the husband and believing the evidence of respondent / wife and that of her brother – Arun Kumar (NA2) that respondent / wife and her family members were assaulted and subjected to violence, due to which, the respondent / wife had to leave the matrimonial house, is bad in law. The evidence of the respondent / wife has not been supported by any clinching evidence and there is no material to show that on such allegation of assault and violence, any Criminal Court has convicted the appellant or his family members. Specific evidence has also been

led to prove that the appellant made more than one attempt to bring his wife back. Therefore, in these circumstances, the respondent / wife could not establish a reasonable cause for living separately.

6. We have gone through the impugned judgment and decree and the evidence on record.

7. The learned Trial Court has meticulously examined the evidence on record, particularly, the evidence of the respondent / wife, who has been examined as non-applicant witness No.1. She has categorically stated that on 15/06/2013, her husband entered into quarrel, restricted her proceeding to join duties, assaulted her and she was wrongfully confined and finally, she called her family members and only with the help of police, she had come to her parental house. She also deposed that her signatures were obtained on a blank paper and false report was lodged and for that reason only, she lodged report in the police station.

8. Her brother Arun Kumar (NA2) has also stated in his evidence to support the case of the respondent that in an incident, quarrel had happened in the house because the respondent / wife had to join her duty at some other place and the learned Trial Court, after considering the uncontroverted testimony and evidence of the respondent / wife and her brother- Arun Kumar as also documentary evidence of settlement proceedings, has recorded a finding that the respondent / wife, having been subjected to assault, has reasonable cause for living separately.

9. The finding of the learned Court below does not call for any interference. The appeal has no merit and is accordingly dismissed. Parties to bear their respective costs. Let appellate decree be accordingly drawn.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge