



CGHC010154852025



2026:CGHC:35603

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 593 of 2025

Manoj Kashyap S/o Shri Chandraram Kashyap @ Firatram Aged About 42 Years R/o Near Manoranjan Mandir, Behind Qt. No. 40/1, Bankimongra, Dist-Korba (C.G.)

... Applicant

versus

1. Nitu Kashyap W/o Manoj Kashyap Aged About 37 Years R/o Near Manoranjan Mandir, Behind Qt. No. 40/1, Bankimongra, Dist-Korba (C.G.) Present Address- Indira Nagar, Ward No. 20, Behind Sharda Manglam, Janjgir, P.S. And Tah Janjgir, Dist- Janjgir- Champa (C.G.)
2. Naman Kashyap S/o Manoj Kashyap Aged About 7 Years (Through Mother Natural Guardian Nitu Kashyap) R/o Near Manoranjan Mandir, Behind Qt. No. 40/1, Bankimongra, Dist-Korba (C.G.) Present Address- Indira Nagar, Ward No. 20, Behind Sharda Manglam, Janjgir, P.S. And Tah Janjgir, Dist- Janjgir- Champa (C.G.)

... Respondents

For Applicant : Mr. H.V. Sharma, Advocate.

For Respondents : Mr. Vikas Kumar Pandey, Advocate.

Hon'ble Mr. Ramesh Sinha, Chief Justice

Order on Board

12.08.2026

1. Heard Mr. H.V. Sharma, learned counsel, appearing for the applicant.
Also heard Mr. Vikas Kumar Pandey, learned counsel, appearing for the respondents.
2. The present revision has been filed by the applicant with the following

prayer:

“It is therefore prayed that this Hon'ble court may kindly be pleased to allow the revision and set aside the order dated 12.04.2024 passed by Learned Additional Principal Judge Family Court Janjgir, Dist – Janjgir - Champa (C.G.) in M.C.R.C. No. 39/2023, in the interest of justice.”

3. Facts of the case are that the respondent No. 1 filed an application under Section 125 of the Code of Criminal Procedure seeking maintenance for herself as well as on behalf of respondent No. 2. The marriage between the applicant and respondent No. 1 was solemnized on 29.05.2013 in accordance with Hindu rites and customs at Janjgir. Out of the said wedlock, one female child, namely Arushi, and one male child, namely Naman, were born. Arushi is residing with her father. Therefore, respondent No. 1 claimed maintenance of Rs. 6,000/- per month for herself and Rs. 4,000/- per month for respondent No. 2. The claim for maintenance made by the respondents is based on the alleged desertion and neglect on the part of the applicant. The respondents have also alleged that the applicant had contracted a second marriage with one Smt. Rajkumari.
4. The respondent No. 1 filed an application under Section 125 of the Code of Criminal Procedure on 17.01.2023 before the learned Family Court, Janjgir. The learned Family Court issued notice on the said application on 20.01.2023. The said notice was returned unserved on 10.03.2023. Thereafter, another notice was issued through registered post without assigning any reason for resorting to substituted service. Several notices were returned un-served, however, on 12.03.2024, the registered notice was returned with an endorsement stating that the applicant had refused

to accept the notice.

5. The learned Family Court proceeded ex-parte against the applicant on the basis of the postal report, without verifying the veracity of the said report. The postal report was not duly proved by examining any witness, and the concerned postman was also not examined to verify the correctness of the postal endorsement. The learned Family Court also failed to assign any reason for the delay in the proceedings attributable to the applicant.
6. The learned Trial Court awarded maintenance to the respondents, despite the fact that a decree for restitution of conjugal rights had already been passed by the learned Family Court, Katghora (Camp Court), vide judgment dated 11.12.2019 in Civil Suit No. 63-A/2019. However, the respondents suppressed the said material fact. Respondent No. 1 specifically denied compliance with the said decree on 21.06.2023 and remained absent.
7. In view of the facts stated hereinabove, respondent No. 1 has suppressed material facts before the learned Family Court in the proceedings under Section 125 of the Code of Criminal Procedure. The notice issued by the learned Family Court through registered post was issued without assigning any reason for resorting to substituted service, and the ex-parte order was passed without proper verification of the postal report/endorsement. This deprived the applicant of an opportunity to appear and represent his case before the learned Family Court, Janjgir, and also deprived him of his valuable right of hearing.
8. Learned counsel for the applicant submits that the order dated 12.04.2024 passed by the learned Family Court is illegal, improper, and not sustainable in the eyes of law. The order granting maintenance is

based on an improper procedure adopted by the learned Family Court, which has caused serious prejudice to the applicant in defending the case. He also submits that the respondent has suppressed the decree for restitution of conjugal rights before the learned Family Court and has also suppressed the fact that she herself failed to comply with the said decree. The learned Family Court has failed to consider the fact that the earlier application filed by the respondent for grant of maintenance had been withdrawn. The learned Family Court has erred in awarding maintenance at an excessively high rate, without properly appreciating the facts and circumstances of the case. In view of the facts stated hereinabove, the subsequent application for maintenance was not maintainable in view of the respondent's non-compliance with the decree for restitution of conjugal rights. Therefore, the ex-parte order passed by the learned Family Court is liable to be set-aside.

9. On the other hand, learned counsel, appearing for the respondent opposes the prayer made by the learned counsel for the applicant and supports the impugned order passed by the learned Family Court, Janjgir, District – Janjgir - Champa (C.G.), in M.C.R.C. No. 39/2023.
10. I have heard learned counsel for the parties and perused the judgment of the learned Family Court.
11. Upon perusal of the impugned order, it transpires that the learned Family Court, after considering the material available on record, awarded maintenance to the respondents. The applicant was proceeded ex parte on the basis of the postal endorsement regarding refusal of notice. The applicant has failed to establish that the said endorsement was incorrect or that he was prevented from appearing before the learned Family Court. The decree for restitution of conjugal rights relied upon by the applicant does not, by itself, disentitle the respondents from claiming

maintenance.

12. Considering the submission advanced by the learned counsel for the parties, materials available on record and also considering the price index and medical expenses, total amount awarded to the respondents cannot be said to be shockingly high warranting interference by this Court in the present revision petition.
13. Accordingly, the criminal revision being devoid of merit is liable to be and is hereby **dismissed**.

Sd/-
(Ramesh Sinha)
Chief Justice

Abhishek