

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 519 of 2016**

Dilip Sharma S/o Ram Lochan Sharma Aged About 46 Years R/o Flate No. 202, Chaman Highits Chadda Badi, Nehru Nagar, Bilaspur, P.S. Civil Line, Distt. Bilaspur Chhattisgarh

---- Applicant**Versus**

1. Smt. Madhulika Sharma W/o Dilip Sharma Aged About 43 Years R/o H. No. H.I.G. 1/128, Sector - 1, D. D. Nagar, P.S. D. D. Nagar, Raipur, Tah. & Distt. Raipur Chhattisgarh
2. Swati Sharma D/o Dilip Sharma Aged About 16 Years Minor Through Natural Guardian Mother Smt. Madhulika Sharma R/o H. No. H.I.G. 1/128, Sector - 1, D. D. Nagar, P.S. D. D. Nagar, Raipur, Tah. & Distt. Raipur Chhattisgarh
3. Shashank Sharma S/o Dilip Sharma Aged About 11 Years Minor Through Natural Guardian Mother Smt. Madhulika Sharma R/o H. No. H.I.G. 1/128, Sector - 1, D. D. Nagar, P.S. D. D. Nagar, Raipur, Tah. & Distt. Raipur Chhattisgarh

----Non-Applicants

For Applicant:	Shri Ravindra Sharma, Advocate.
For Non-Applicant :	None.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

17.6.2016

1. The present Revision has been preferred challenging the order dated 27.6.2015 passed by the 2nd Additional Principal Judge, Family Court, Raipur in Miscellaneous Case No.279/2013 whereby grant of maintenance of Rs.17,000/- has been ordered against the present Applicant in favour of the Non-applicants in a proceeding under Section 125 of the Cr.P.C.
2. A perusal of the record shows that the present Applicant was proceeded ex-parte before the Family Court. The main ground of the Applicant is that Non-Applicant No.1 had not disclosed the correct address in the application

under Section 125 Cr.P.C and for the purpose of execution of the said ex-parte award, she has now filed the correct address and has initiated action against the Applicant. He further submits that the order has been obtained by suppression of facts in as much as Non-Applicant No.1 has not disclosed about her working as a Siksha Karmi at Dhamtari. So far as the passing of the ex-parte order in an application under Section 125 Cr.P.C is concerned, proviso to sub-Section (2) of Section 126 Cr.P.C clearly envisages that in case of any ex-parte order passed, the same may be set aside for good cause shown on an application made within three months from the date thereof subject to such terms including terms as to payment of costs to the opposite party as the Magistrate may think just and proper.

3. The records clearly indicate that the Applicant has a remedy available under the aforesaid provision of law which he has not availed before the appropriate Court and is now challenging the ex-parte award before this Court invoking the revisional powers of this Court under Section 19(4) of the Family Court's Act r/w Section 397 & 401 Cr.P.C.

4. In the opinion of this Court, the proper course available for the Applicant would be by approaching the Court below under Section 126(2) of Cr.P.C showing the reasons of his not being able to appear before the Court below and the date when he had first got the intimation so far as the ex-parte award is concerned.

5. In view of the above, the present Revision in its present form being not maintainable, the same is disposed with a liberty to the Applicant to approach the Court below by filing of a proper application under Section 126(2) Cr.P.C.

6. It is made clear that in the event of such application being allowed, the same shall be entertained and decided as expeditiously as possible taking into consideration the facts and circumstances produced by the present Applicant by passing a speaking order after due application of judicial mind.

Sd/-
(P. Sam Koshy)

JUDGE

Priya