

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 406 of 2017

1. Smt. Abha Sahu W/o Yashwant Sahu Aged About 32 Years D/o Manharanlal Sahu, R/o Naya Sarkanda, Banglapara, Police Station Sarkanda, Tahsil & District Bilaspur, Chhattisgarh.
2. Aanya Sahu D/o Yashwant/ Abha Sahu Aged About 1 Years Through Natural Guardian Mother Smt. Abha Sahu, R/o Naya Sarkanda, Banglapara, Police Station Sarkanda, Tahsil & District Bilaspur, Chhattisgarh. --- **Petitioners**

Versus

- Yashwant Sahu S/o R. P. Sahu Aged About 34 Years R/o Makan No. 377, Sunder Nagar, Raipur Tahsil & District Raipur, Chhattisgarh. --- **Respondent**

For the applicant	: Mr. Saleem Kazi, Advocate
For the State	: Mr. D.N. Prajapati, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

27.09.2017

1. This revision is against the order dated 23.03.2017 passed by the Family Court of Addl. Principal Judge, Bilaspur (C.G) in MJC No.94/2016 whereby the right of the cross-examination of the applicants was closed.
2. The germane of the case is that an application was filed by Smt. Abha Sahu and her daughter (applicants) u/s 125 of Cr.P.C., for maintenance on 27.04.2016. A perusal of the order sheets would show that initially the husband/the non-applicant was served with the notice, thereafter he failed to appear and consequently on 15.07.2016 since the reply was not filed, the trial Court proceeded exparte. Thereafter, the case was fixed for applicant's (wife) evidence on 30.07.2016. On 30.07.2016, two witnesses i.e., wife as P.W.1 and one Manharan Sahu, as P.W.2 were examined and the case was

fixed for rest of the witnesses of the parties on 05.08.2016. Thereafter, different dates were given on 05.08.2016, 09.08.2016 and eventually on 12.08.2016, the ex-parte order was set aside. Then different dates were further given for evidence and in between the interim maintenance was ordered for. The case was fixed from time to time for cross examination and evidence of the applicant. The order sheet shows that on different dates, the applicant appeared but her evidence could not take place. The presence of the applicant is marked and the dates were given for the cross examination and the evidence of the parties. Eventually on 23.3.2017, the order sheet shows that when the case was fixed for cross examination and rest of the evidence of the applicant, certain application was filed for adjournment as it was prayed that the applicant wife has gone out to other place and a date was prayed for. Such an application was dismissed and the evidence of the applicant was closed.

3. The record shows that on different dates though the applicant and non-applicant both appeared but the case was adjourned and in any case if the right of the applicant to adduce further evidence is closed, it will have a far reaching effect and irreparable loss may be caused. Closure of evidence of parties is always have a serious effect since the primary court which carves out the fact may be deprived to adjudicate the case on merits.
4. In view of this, in order to provide the opportunity to the applicant one last chance is provided to the applicant to lead her evidence before the Court below as it would be too harsh to close the evidence of the applicants and the wife along-with minor children will be deprived of their right. Taking

into consideration the pendency of the application for maintenance which appears to have been filed in the month of April, 2016, no exorbitant delay appears to have been committed. In view of this, the order dated 23.3.2017 is set aside.

5. It is directed that the applicant shall be entitled to lead her evidence and further evidence and to present their witnesses before the Court. The applicant along-with witnesses shall appear before the trial Court on the next date which is fixed by the Court.
6. In the result, the revision is allowed. No order as to cost.

**Sd/-
GOUTAM BHADURI
JUDGE**