

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1163 of 2017

Smt. Reeta Banjare, aged about 28 years, wife of Shri Gaukaran Banjare, resident of Agarkhar, Post Pantora, District Janjgir-Champa, Chhattisgarh

---- Applicant

versus

Gaukaran Banjare, aged about 32 years, son of Shri Chintaram Banjare, resident of Gurughasi Das Chowk, Bhadrappara, Balco, Tahsil and District Korba, Chhattisgarh

--- Respondent

For Applicant	:	Smt. N.K. Kashyap, Advocate
For Respondent	:	Shri D.G. Kela, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

6.2.2018

1. This is an admitted revision. Since a short question is involved to be adjudicated in this revision, it is decided finally at this stage.
2. The revision has been preferred against the order dated 15.11.2017 passed by the Judge, Family Court, Janjgir, District Janjgir-Champa in Miscellaneous Criminal Case No.48 of 2017, whereby the Family Court has allowed the application under Order 9 Rule 13 of the Code of Civil Procedure (henceforth 'CPC') read with Section 126(2) of the Code of Criminal Procedure (henceforth 'CrPC') and the *ex parte* order dated 28.1.2017 has been set aside.
3. Facts of the case, in short, are that an application, being Case No.229 of 2016 moved by the Applicant/wife for grant of maintenance under Section 125 CrPC was decided by the Family Court on 28.1.2017 directing the Respondent/husband to pay a maintenance of Rs.8,000/- per month to the Applicant/wife. Thereafter, the Respondent/husband filed an application under Order 9 Rule 13 CPC read with Section 126(2) CrPC on the

ground that he is working in Central Reserve Force and is posted in the security arrangements and, therefore, he could neither appear before the Family Court nor could inform his Counsel. He prayed for setting aside of the *ex parte* order dated 28.1.2017. The said application has been allowed vide the impugned order dated 15.11.2017. Hence, this revision by the wife.

4. Learned Counsel appearing for the Applicant/wife argued that the Family Court, without properly appreciating the evidence and material available on record, has passed the impugned order. The impugned order has been passed in an arbitrary manner. The Family Court has failed to see that the Respondent/husband had knowledge about the proceedings of the original case and he did not appear before the Court deliberately.
5. On the other hand, Learned Counsel appearing for the Respondent/husband submitted that the impugned order passed by the Family Court is a well reasoned order and, therefore, the same does not warrant any interference by this Court.
6. I have heard Learned Counsel appearing for the parties and perused the material available on the record with due care.
7. A bare perusal of the material available on the record reveals that on 25.1.2017 the Respondent/husband did not appear before the Family Court, therefore, the matter was proceeded *ex parte* against him and on 28.1.2017 the *ex parte* order granting the maintenance in favour of the Applicant/wife was passed against the Respondent/husband by the Family Court. It is also clear that the Respondent/husband, who was basically posted at Sukma (Chhattisgarh), had gone out for attending a training programme in

Tamil Nadu held with effect from 20.1.2017. Therefore, the ground raised by him for his non-appearance before the Family Court on 25.1.2017 and 28.1.2017 is *bona fide* and the Family Court has rightly allowed his application under Order 9 Rule 13 CPC read with Section 126(2) CrPC. I find that the impugned order does not call for any interference by this Court.

8. Consequently, the revision, being devoid of any merit, is dismissed.
9. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge