

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 752 of 2019**

- Akash Gota, son of Tibru Gota, aged about 32 years, Teacher, Primary School Tadopaal, Tehsil and District Narayanpur, Chhattisgarh

---- Applicant**Versus**

- Smt. Panchbati, wife of Akash Gota, aged about 24 years, resident of Village Teerdul Kalepara, Post Devgaon, Tehsil and District Narayanpur, Chhattisgarh

---- Respondent

For Applicant	:	Mr. U.K.S. Chandel, Adv.
For Respondent	:	Mr. P.K. Tulsyan, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****19.09.2019**

1. Heard on admission.
2. This revision has been filed by applicant (husband) against the order dated 30.04.2019, passed by Sessions Judge, Kondagaon, District Kondagaon (C.G.), whereby the learned Sessions Judge has dismissed the appeal preferred by applicant on the ground of limitation, arising out of the order dated 28.09.2018, passed by Chief Judicial Magistrate in Misc. Criminal Case No. 04/2018.
2. Facts of the case, in short, are that respondent (Wife) filed application under Section 12 of the Protection of Women from Domestic Violence Act 2005 before the Chief Judicial Magistrate. On 28.09.2018, learned Chief Judicial Magistrate has allowed the application of the respondent and ordered to pay Rs. 3,000/- (Rs. 2,000/- to wife and Rs. 1,000/- to daughter) per month as maintenance against the applicant.
3. Against the order of learned Chief Judicial Magistrate, the applicant preferred an appeal before the learned Sessions Judge but the learned Sessions Judge has dismissed the applicant's appeal on

the ground of limitation. Hence, this revision.

5. Learned counsel for the applicant submits that the impugned order dated 30.04.2019 passed by learned Session Judge Kondagaon, is arbitrary, illegal and contrary to the law. He further submits that the learned Court below ought to have considered that the present petitioner had filed an appeal satisfactorily explaining the delay of 149 days in filing the appeal. He also submits that the Court below ought to have decided the appeal on merit of the case rather than dismissing his appeal on the limitation ground.

6. On the other hand, learned counsel for the respondent supports the impugned order.

7. I have heard learned counsel for both the parties and perused the record.

8. This matter is related to husband and wife and maintenance of wife and child. Applicant filed appeal before the learned Sessions Judge and the impugned order reflect the fact that the applicant did not file any application for condonation of delay and on the above ground learned Session Judge dismissed the appeal of applicant.

9. Having heard learned counsel for the parties and having considered the facts and circumstances of the present case, this Court, in the interest of justice, deem it appropriate to direct the learned Sessions Judge to consider the delay application of applicant and decide the appeal on merit, subject to payment of cost of Rs.5,000/-.

10. Accordingly, with the aforesaid direction, criminal revision is disposed of at motion stage itself.

Sd/-
(Rajani Dubey)
JUDGE