

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 1087 of 2019**

- Rahul Chhabra son of late Preetam Singh Chhabra, aged about 41 years, Proprietor - Hotel Siddhant & Chhabra Bichhayat Center, Tekriline, Sitabardi, Nagpur (Maharashtra)

----Petitioner**Versus**

1. Smt. Shipra Chhabra wife of Rahul Chhabra, aged about 29 years.
2. Aanya Chhabra daughter of Rahul Chhabra, aged about 12 years.
3. Gurman Chhabra son of Rahul Chhabra, aged about 9 years.

No. 2 & 3 are minor, represented through mother Smt. Shipra Chhabra,

All are resident of LIG-15-16, Mansarowar Colony, Bhilai-3, Tahsil - Patan, District - Durg (C.G.)

---- Respondents

For Petitioner	:	Shri Goutam Khetrapal, Adv.
For Respondents	:	None

Hon'ble Smt. Justice Rajani Dubey**Order on Board****16/09/2019**

Heard on admission.

01. Challenge in this revision is to the order dated 04.06.2019 passed by Principal Judge, Family Court, Durg, in Miscellaneous Criminal Case No.46/2019, whereby the learned

Family Court has struck off the opportunity of applicant/husband to file reply.

02. Orders sheet dated 04.06.2019 reveals that when the case was fixed for reply of petitioner/husband herein, the counsel appearing for respondent No.1-wife herein was present but she was absent. Surendra Ukey, Advocate appearing for applicant-husband herein informed that applicant-husband was ill, therefore, he could not present before the Court and he also filed medical certificate to that effect. An application for granting one more opportunity to file his reply was also filed, but the learned trial Court rejected the application of the applicant-husband herein and closed the opportunity to file reply. Hence, this revision.

03. Learned counsel for the applicant submits that on the date when the impugned order was passed, the applicant could not mark his presence as he was ill and in support of this he had also filed medical document, but the trial Court ignoring the fact, passed the impugned order dated 04.06.2019, which is not in accordance with law and the same is liable to be set aside.

04. I have heard learned counsel for the applicant and perused the material on record.

05. The material appended with the petition goes to show that an application of respondents filed under Section 127 of Cr.P.C. is pending consideration before the Family Court. The petitioner is husband herein and he has every right to file his

reply to defend himself. The cause shown before the Family Court by the petitioner-husband appears to be bonafied, but the learned Family Court, ignoring the facts and circumstances of the case, passed the impugned order on 04.06.2019 and stuck off his right to file reply. This order of the learned Family Court, in the opinion of this Court, is not in accordance with law, and in the interest of justice, it is ordered that instead of issuing notice to respondents, the petitioner is granted one more opportunity to file his reply subject to payment of cost of Rs.5,000/-, which shall be paid to the respondent No.1-wife.

06. With the aforesaid direction, the revision is disposed of at the motion stage itself.

07. The copy of this order be sent to the Court below concerned for information and necessary action.

Sd/-

(Rajani Dubey)
JUDGE