

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****FA(MAT) No. 80 of 2019**

- Dayalu Ram Miri S/o Motiram Miri Aged About 50 Years R/o Bakli, Tahsil - Rajim, District - Gariyaband Chhattisgarh

**---- Appellant****Versus**

- Pun Bai D/o Sagnu Ram Satnami Aged About 41 Years R/o Village - Kurrur, Police Station - Rakhi, Tahsil - Nayapara, Post - Abhanpur, District - Raipur Chhattisgarh

**--- Respondent**


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For Appellant : Mr. S. A. Ansari, Advocate.

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**DB : Hon'ble Shri Justice Manindra Mohan Shrivastava****Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****13/12/2019**

1. Heard on admission.
2. This appeal has been filed against impugned judgment and decree dated 06.09.2019 by which the appellant's application for grant of custody of his minor daughter, aged 6 years on the date of submission of application, has been rejected.
3. This appeal has also been barred by 44 days, for which application (I.A. No.1) for condonation of delay has been filed.
4. Taking into consideration the short period of delay, we are inclined to condone the delay. The application (I.A. No.1) is allowed. Delay is condoned.
5. Application for grant of custody of the child has been filed by the appellant before the learned Family Court. The daughter admittedly was 6 years of age at the time when the application was filed. The learned Court below after taking into consideration this very aspect of the matter that the

daughter is hardly 6 years of age and that the mother is competent to maintain her and is also providing proper facility and education, application has been rejected.

6. The order rejecting appellant's application does not appear to be suffering from any illegality or impropriety calling for interference, particularly, taking into consideration the age of the daughter on the date of hearing of the application which obviously shows that she was less than 7 years of age. Therefore, no interference is called for. The age of daughter as of now is more than 10 years. We give the appellant liberty to move afresh if he is able to establish that the welfare of the child is not served in allowing her to remain in custody of her mother.

7. With the aforesaid observation, the appeal is disposed off.

**Sd/-**  
**(Manindra Mohan Shrivastava)**  
**Judge**

**Sd/-**  
**(Vimla Singh Kapoor)**  
**Judge**