

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1507 of 2019

- Pankaj Kenwat, S/o Late Phool Sai, Aged About 26 Years, R/o Vill Shivrinarayan(Moghapara) , P.S. and Tah.-Shivrinarayan, District-Janjgir-Champa, Chhattisgarh.

---- Applicant

Versus

- Smt. Geeta Kenwat, W/o Pankaj Kenwat, Aged About 25 Years, R/o Village-Shivrinarayan, P.S. and Tahsil-Shivrinarayan, District-Janjgir-Champa, Chhattisgarh, Presently Address Village-Hareli Bhatha, P.S. Hasaud, Tahsil-Jaijaipur , District-Janjgir-Champa, Chhattisgarh.

---- Respondent

For applicant	:	Mr. Ravindra Sharma, Advocate.
For Respondent/State	:	None.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

04/12/2019

Heard.

1. This revision petition has been filed against the order dated 24.10.2019 passed by the learned Judge, Family Court, Janjgir-Champa thereby recalling the order of providing Amicus Curiae to the applicant and also not affording opportunity to examine witnesses of the respondent through the Amicus Curiae.
2. It is submitted that vide order dated 3.5.2019 the applicant was permitted to take assistance of Amicus Curiae to defend himself in the proceedings filed by the respondent herein under Section 125 of CrPC before the Family Court below. On the date of hearing i.e. 24.10.2019, firstly the respondent was not present and later on, she appeared along with her witnesses. The applicant prayed for time to cross-

examine the witnesses of respondent on the ground that the Amicus Curiae representing him is out of station. Just because the Amicus Curiae for the applicant was not present, the Family Court has recalled the order dated 3.5.2019 and closed the opportunity of the applicant to cross-examine the witnesses through his Amicus Curiae, which is illegal, arbitrary and liable to be set aside.

3. On perusal of the order-sheets of the proceedings pending before the learned Family Court below, it is found that the Court has exercised the powers under Section 13 of the Family Court Act, 1984, which clearly provides that if the Family Court considers it necessary in the interest of justice, it may provide the service of a 'Amicus Curiae' to a party. In the present case, after due consideration, the Court has provided the service of Amicus Curiae to the applicant, which could not have been withdrawn by the Court in the manner in which it has been withdrawn vide impugned order. The kind of order passed appears to be an order penalizing the applicant for non-appearance of the Amicus Curiae so appointed on his behalf. Further, non-grant of opportunity for cross-examining the witnesses through Amicus Curiae also appears to be an arbitrary order.
4. On due consideration, without notice to the respondent, this Court is of the opinion that the order impugned is against the spirit of provisions of Section 13 of the Act, 1984. Therefore, the revision is allowed and the impugned order recalling the order providing services of Amicus Curiae to the applicant and closing opportunity of the applicant to cross-examining the respondent witnesses is set aside. The learned Court is directed to provide opportunity to the applicant to cross-examine the witnesses of the respondent through his Amicus Curiae on the next date of hearing.

Sd/-

(Rajendra Chandra Singh Samant)
Judge