

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.R. No. 409 of 2021**

Anujram Sidar, S/o- Hemlal Sidar, aged about 31 years, R/o- Bajnipali, Post- Salheona, P.S.- Sariya, Tehsil – Baramkela, District Raigarh (C.G.), current R/o – House Father, Bal Sampreshan Grah, near new Dhaba, Rajnandgaon, District Rajnandgaon (C.G.)

---- Applicant**Versus**

Smt. Manorma Sahu, W/o- Anujram Sidar, aged about 33 years, R/o – Bajnipali, Post- Salheona, P.S.-Sariya, Tehsil – Baramkela, District – Raigarh (C.G.), current R/o – Village – Patrapali, Post Patrapali, P.S. -Chakradhar Nagar, Tehsil & District – Raigarh (C.G.)

----Respondent

For Applicant	:	Mr. Krishna Tandon, Advocate
For Non-applicant	:	None present.

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****07.07.2021**

(1) Proceedings of the matter have been taken-up through Video Conferencing.

(2) This revision petition has been preferred against the order dated 06.3.2021 passed by learned Family Court, Raigarh in M.J.C. (Criminal) No. F-07/2020 whereby on the ground of non-appearance of the applicant, application filed by him under Section 126 (2) of the Cr.P.C. was dismissed.

(3) Learned counsel for the applicant would submit that on an application made by non-applicant under Section 125 of the Cr.P.C., on 7.1.2020 *ex-parte* order was passed by learned Judge, Family Court, Raigarh in M.J.C (Cr.) No.

133/2019. He would further submit that the applicant had filed an application under Section 126 (2) of the Cr.P.C. before the Family Court, Raigarh for setting aside the ex-parte order and for affording due opportunity of hearing to the applicant on merits of the case. He would also submit that the applicant was appearing on each date of hearing, but due to Covid-19 pandemic situation and lock-down period, he could not appear on 6.3.2021, therefore, application under Section 126 (2) of Cr.P.C. was dismissed by Judge, Family Court, Raigarh for want of prosecution. He further argued that non-appearance of the applicant on 6.3.2021 was *bonafide* and unintentional, therefore, he prayed that the impugned order dated 6.3.2021 be set aside and the matter be decided on merits after affording due opportunity of hearing to the parties concerned.

(4) I have heard learned counsel appearing for the applicant and perused the documents available on record including impugned order with utmost circumspection.

(5) Perusal of the certified copy of order sheet of M.J.C. (Cri.) No. F-07/2020 would show that applicant was appearing personally on each date of hearing but only on his non-appearance on 6.3.2021, the application under Section 126(2) of the Cr.P.C. was dismissed by the learned Judge, Family Court, Raigarh for want of prosecution. Those days, are of-course pandemic days and lock-down period and the applicant wants fair and *bi-parte* trial of the case. Therefore, looking to the afore-stated reasons, I am inclined to allow the revision petition.

(6) In view of above, criminal revision is allowed. Order dated 6.3.2021 passed by the court below rejecting the application filed by the applicant under Section 126 (2) of the Cr.P.C. for want of prosecution, is set aside. It is directed

the M.J.C. (Cr.) No. F-07/2020 [**Anujram Sidar v. Manorama Sahu**] be restored to its original number and the matter be decided on merits after affording due opportunity of hearing to the parties, in accordance with law.

Sd/-

(N.K. Chandravanshi)
Judge

D/-

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Proceedings through Video Conferencing

Criminal Revision No. 409 of 2021

Anujram Sidar **Versus** Smt. Manorma Sahu

07/7/2021	Mr. Krishna Tandon, counsel for the applicant. Learned Counsel appearing for the Applicant would submit that he does not want to press on the relief seeking setting aside the order dated 7.1.2020 passed by Judge, Family Court, Raigarh in M.J.C. Case No. 133/2019 {Smt. Manorama Sahu v. Anuj Ram Sidar} in this revision petition. Accordingly, the criminal revision is dismissed as not pressed so far as it relates to order dated 7.1.2020 passed by Judge, Family Court, Raigarh in M.J.C. Case No. 133/2019. Looking to the submission made by counsel for the applicant, this revision petition will remain for consideration only pertaining to order dated 6.3.2021 passed by the Judge, Family Court, Raigarh in M.J.C. (Cr.) No. F-07/2020. Detailed order passed separately with regard to order dated 6.3.2021 passed by the Judge, Family Court, Raigarh in M.J.C. (Cr.) No. F-07/2020. Sd/- (N.K. Chandravanshi) Judge
D/-	

