

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 663 of 2021**

Smt. Shail Dubey, W/o Suresh Dubey, Presently aged about 53 years, R/o Laxminarayan Mandir, Dharam Hospital Chowk, Juni Line, Bilaspur (C.G.).

---- Petitioner/Applicant

Versus

Suresh Dubey, S/o Late Shivpujan Dubey, aged about 40 years, R/o Village Jondhra, PS Pachpedi, Tahsil Pamgarh, Dist. Bilaspur (CG)

----Respondent/Non-applicant

For Petitioner	: Mr. Vivek Kumar Shrivastava, Advocate.
For Respondent	: None present.

Hon'ble Shri Justice N.K. Chandravanshi

Order On Board

30.09.2021

Heard on admission.

(1) This criminal revision has been filed against the order dated 3.3.2021 passed by Principal Judge, Family Court, Bilaspur in Misc. Judicial Case No. 499/2017 whereby aforesaid case filed by the applicant/wife was dismissed for want of prosecution.

(2) Since, non-applicant did not appear before the Family Court, therefore, notice need not required to be issued to him in the instant revision petition.

(3) Learned counsel for the applicant/wife would submit that the applicant was regularly appearing in the aforesaid case but due to Covid-19 pandemic situation and fear in this regard prevailing in those days i.e. on 20.01.2021 & 03.03.2021,

she could not appear before the court below, therefore, her case was dismissed for want of prosecution by the learned Family Court vide impugned order dated 03.03.2021 but her non-appearance on that date is bonafide, therefore, she prays to allow the revision petition and afford an opportunity to the applicant/wife, so that, she may be able to get maintenance amount from her husband/non-applicant.

(4) I have heard learned counsel appearing for the petitioner and perused the material available on record with utmost circumspection.

(5) Learned counsel for the applicant has produced almost 36 certified copy of the order sheets of the court below of the present case pending before it. Perusal of order sheets would show that the aforesaid case is pending before the court below for the disposal of application under Section 125(3) of the Code filed by the applicant/wife for recovery of maintenance amount granted to her. Order sheets also reflects that the aforesaid case was taken up for hearing for 36 times till the date of passing of the impugned order. In that 36 days of hearing, applicant/wife appeared 30 times in-person before the Family Court and remained absent only for 6 times. Despite order of issuance of warrant of arrest, non-applicant/husband has not been produced before the court below. Aforesaid facts shows that how the applicant/wife is sincere to the conclusion of the case.

(6) Noting of order sheet dated 8.12.2020 shows that before 8.12.2020 regular hearing of the cases were suspended in view of the notification issued by the High Court and in view of the subsequent notification issued by the High Court on 16.10.2020 cases were again taken-up for hearing. The aforesaid facts shows that due to Covid-19 pandemic situation as has been stated by counsel for the applicant, she could not appear before the trial Court but her appearance before the court below on 30 hearings out of total 36 days of hearing shows bonafideness of non-appearance of applicant on 03.03.2021 as those days were Covid-19 pandemic days and movement of public were restricted by the administration, therefore, I am of the opinion that non-appearance of the

applicant on 3.3.2021 was bonafide hence I feel inclined to allow the revision petition.

(7) In view of above, the criminal revision is allowed. Impugned order dated 3.3.2021 passed by Principal Judge, Family Court, Bilaspur in MJC No. 499/2017 (Smt. Shail Dubey v. Suresh Dubey) is set aside. It is directed that the Misc. Judicial Case No. 499/2017 be restored to its original number for hearing and disposal of application under Section 125(3) of the Code filed by the applicant/wife on its own merits in accordance with law.

D/-

Sd/-
(N.K.Chandravanshi)
Judge

