



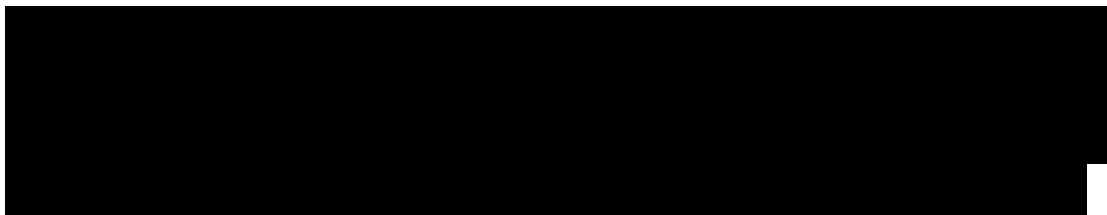
CGHC010311892026



2026:CGHC:37889

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 1046 of 2026

... Applicant(s)

versus



For Applicant : Mr. Amit Kumar Chaki, Advocate.

For Non-applicant : Mr. Purnendra Khichariya, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice**Order on Board****24/08/2026**

1. Heard Mr. Amit Kumar Chaki, learned counsel for the applicant.
Also heard Mr. Purnendra Khichariya, learned counsel for the non-applicant.
2. Mr. Purnendra Khichariya, learned counsel is present on behalf of the non-applicant. It is submitted by him that the present matter pertains to Mr. Sanjay K. Agrawal, Advocate and therefore, he is



not having instructions in the matter. However, learned counsel could not dispute that he has signed the composite Vakalatnama on behalf of the non-applicant. In such circumstances, this Court is not inclined to accept the submission that learned counsel has no instructions to represent the non-applicant. Accordingly, this Court proceeds to hear and decide the present revision on the basis of submission made by learned counsel for the applicant and the material available on record.

3. The present criminal revision has been preferred by the applicant under Section 19(4) of the Family Courts Act, 1984, being partially aggrieved by the order dated 09.07.2026 passed by the learned 3rd Additional Principal Judge, Family Court, Durg (C.G.) in M.J.C. No.277/2020, whereby the application preferred by the applicant under Section 125 of the Code of Criminal Procedure has been partly allowed and the non-applicant has been directed to pay maintenance of Rs.7,000/- per month to the applicant from the date of passing of the order till the applicant attains the age of majority.
4. Brief facts of the case, as projected by the applicant, are that the applicant had filed an application under Section 125 of the Code of Criminal Procedure, 1973, seeking maintenance from the non-applicant, which was registered as M.J.C. No.277/2020. It is the case of the applicant that the marriage between the non-applicant and the mother of the applicant was solemnized on 14.06.2006 at District Durg in accordance with the customary rites and rituals prevailing in the Hindu community. Out of the said wedlock, the



present applicant was born on 11.05.2012. Due to matrimonial discord between the parents of the applicant, the mother of the applicant left her matrimonial home and has been residing separately along with the applicant since 25.05.2015. It is further the case of the applicant that the non-applicant was addicted to excessive consumption of liquor and, when the applicant was about one year old, the non-applicant allegedly poured liquor into the mouth of the applicant on several occasions, resulting in serious physical consequences and affecting his speech. Despite medical treatment and intervention, the applicant continued to suffer from Speech Disorder and Autism Spectrum Disorder. It is stated that the applicant is presently studying at Akanksha Lions School of Mentally Handicapped, Raipur, and requires specialized education, continuous care and medical attention. According to the applicant, all expenses relating to his education, transportation, uniform, books, medical treatment, therapy and other day-to-day requirements are being borne by his mother, whereas the non-applicant has not been contributing towards his maintenance and other necessary expenses. Therefore, the applicant was filed an application under Section 125 of Cr.P.C. before the learned Family Court concerned for grant of monthly maintenance of Rs. 30,000/- from the non-applicant. It is also the case of the applicant that, along with the application under Section 125 of the Code of Criminal Procedure, an application seeking interim maintenance of Rs.30,000/- per month was filed. The learned Family Court, vide order dated 20.01.2023, allowed the said application and directed



the non-applicant to pay a sum of Rs.7,000/- per month towards interim maintenance to the applicant from the date of filing of the application.

5. Upon service of notice of the application under Section 125 of the Code of Criminal Procedure, the non-applicant appeared before the learned Family Court and filed his reply. The non-applicant denied his liability as alleged and submitted, inter alia, that the mother of the applicant had earlier filed an application before the Sub-Divisional Magistrate, Katghora, District Korba, seeking custody of the applicant on the ground that she was competent to take care of him. The said application was opposed by the non-applicant, however, custody of the applicant was ultimately granted to his mother vide order dated 23.11.2015. The non-applicant further submitted that if the mother of the applicant was unable to take proper care of him, he was ready and willing to take custody of the applicant.
6. After completion of the proceedings and after affording opportunity to the parties to lead evidence, the learned Family Court passed the impugned order dated 09.07.2026. By the said order, the application preferred by the applicant was partly allowed and the non-applicant was directed to pay maintenance of Rs.7,000/- per month to the applicant from the date of passing of the order till he attains the age of majority. Being partially aggrieved by the impugned order, the applicant has preferred the present criminal revision on the ground that the principal grievance of the applicant



is that, considering his Autism Spectrum Disorder and Speech Disorder, the learned Family Court ought not to have restricted the payment of maintenance only till the applicant attains the age of majority. It is also the case of the applicant that the maintenance amount of Rs.7,000/- per month is inadequate considering the recurring expenses required for his specialized education, therapy, treatment and other necessities.

7. Learned counsel for the applicant submits that the learned Family Court, while awarding maintenance of Rs.7,000/- per month, has erred in restricting the same only till the applicant attains the age of majority. It is submitted that the applicant is suffering from Autism Spectrum Disorder and therefore, his requirement of care and financial assistance may continue even after attaining majority. It is further submitted that the applicant is entitled to receive maintenance so long as he remains unable to maintain himself on account of his physical or mental condition. Accordingly, he prays that the impugned order be modified to the extent of enhancing the maintenance amount already awarded, as claimed by the applicant and further directing that such maintenance shall continue beyond the age of majority for so long as the applicant remains unable to maintain himself due to his disability, in the interest of justice.
8. On the other hand, learned counsel appearing for the non-applicant submits that the learned Family Court, after due consideration of the material available on record, has rightly awarded maintenance of Rs.7,000/- per month to the applicant and therefore, no interference



with the quantum of maintenance is called for. It is, therefore, prayed that the present revision be dismissed.

9. I have heard learned counsel for the parties and also perused the impugned order and the material available on record.
10. From perusal of the impugned order as well as the material available on record, it appears that the learned Family Court, after considering the pleadings and evidence adduced by the parties, has awarded a sum of Rs.7,000/- per month towards maintenance in favour of the applicant. The applicant has assailed the impugned order primarily on two grounds, firstly, that the maintenance amount awarded is inadequate considering his educational, medical and other requirements and, secondly, that the learned Family Court has erred in restricting the payment of maintenance only till he attains the age of majority.
11. So far as the prayer for enhancement of the maintenance amount is concerned, this Court finds that the learned Family Court has taken into consideration the material placed before it and has determined the maintenance amount at Rs.7,000/- per month. The determination of maintenance is essentially dependent upon the facts and circumstances of each case, including the needs of the claimant and the financial capacity of the person liable to maintain him. Upon consideration of the material available on record, this Court does not find any such patent illegality or perversity in the determination of the quantum of maintenance by the learned Family Court so as to warrant interference in the revisional jurisdiction of



this Court. Accordingly, the prayer of the applicant for enhancement of the maintenance amount is not liable to be accepted.

- 12.** However, this Court finds substance in the grievance of the applicant with regard to the restriction imposed by the learned Family Court that the maintenance shall be payable only till he attains the age of majority. It is not in dispute that the applicant has placed on record a disability certificate and other material indicating that he is suffering from Autism Spectrum Disorder and Speech Disorder. The material available on record, therefore, indicates that the applicant may require continued care, assistance and support even after attaining the age of majority. The mere attainment of the age of majority cannot, by itself, be treated as a circumstance resulting in the automatic cessation of the right to receive maintenance in the case of a child who is suffering from a physical or mental abnormality or disability and is unable to maintain himself. The relevant consideration would be whether, after attaining majority, such person is capable of maintaining himself and earning his livelihood. In other words, the age of the applicant cannot be the sole determining factor for discontinuance of maintenance, particularly when his entitlement is required to be examined in the light of his physical and mental condition and his capacity to maintain himself.
- 13.** In the considered opinion of this Court, the learned Family Court was not justified in pre-determining that the maintenance awarded in favour of the applicant would automatically come to an end upon



his attaining the age of majority. Whether the applicant, upon attaining majority, would continue to remain unable to maintain himself on account of his mental condition is a matter which has to be considered on the basis of the circumstances and evidence available at the relevant point of time. Therefore, the condition contained in the impugned order restricting the payment of maintenance only till the applicant attains the age of majority cannot be sustained.

14. Accordingly, the impugned order dated 09.07.2026 passed by the learned 3rd Additional Principal Judge, Family Court, Durg (C.G.) in M.J.C. No.277/2020 deserves to be modified to the aforesaid limited extent. The findings and directions of the learned Family Court awarding maintenance of Rs.7,000/- per month in favour of the applicant are maintained and do not call for any interference. However, the condition restricting such maintenance only till the applicant attains the age of majority is liable to be set aside.
15. Accordingly, the present criminal revision is **partly allowed**. The impugned order dated 09.07.2026 passed by the learned 3rd Additional Principal Judge, Family Court, Durg (C.G.) in M.J.C. No.277/2020 is modified to the limited extent that the direction restricting the payment of maintenance of Rs.7,000/- per month only till the applicant attains the age of majority is hereby set aside. The non-applicant shall continue to pay a sum of Rs.7,000/- per month towards maintenance to the applicant, as awarded by the learned Family Court, even after the applicant attains the age of majority,



unless and until it is established before the learned Family Court, on the basis of cogent and reliable evidence, that the applicant has become capable of maintaining himself and earning his livelihood.

16. With the aforesaid modification and directions, the present criminal revision stands partly allowed.
17. Let a certified copy of this order be transmitted to the learned Family Court, concerned for information and necessary compliance.

Sd/-
(Ramesh Sinha)
Chief Justice

Kunal