

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous (Petition) No. 3603/2026

Sajauddin Kaji S/o Sirajuddin Kaji, Aged About 36 Years,
Gulnagri Gali No 01 Sanganer Gate Bhilwara Raj

-----Petitioner

Versus

1. Iram Khan W/o Sajauddin Kaji, D/o Mubarak Hussain, R/o 105- B- Block Sajjan Nagar Malatalai Udaipur Raj
2. Noorfatma D/o Sajauddin Kaji, Minor Through Natural Guardian Smt Iram Khan W/o Sajauddin Kaji, D/o Mubarak Hussain, R/o 105- B- Block Sajjan Nagar Malatalai Udaipur Raj

-----Respondents

For Petitioner(s)	:	Mr. Naved Khan Sndhi for Mr. M.A. Siddiqui
For Respondent(s)	:	Mr. Lalit Kishor Sen, PP

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

07/05/2026

1. The present Criminal Misc. Petition under Section 528 BNSS, 2023 (formerly Section 482 Cr.P.C.) has been preferred against the order dated 19.03.2026 passed by the Family Court No. 01, Udaipur in Criminal Misc. Case No. (CIS No.) 362/2022, whereby the application filed by the petitioner for recalling/quashing the ex-parte proceedings has been rejected.
2. The brief facts of the case are that the respondent No. 1 filed an application under Section 125 Cr.P.C. on 03.08.2022 seeking maintenance from the present petitioner, to which the petitioner submitted his reply stating, *inter alia* that the respondent was financially independent and capable of maintaining herself and the

minor child. Thereafter, the learned Family Court vide order dated 20.04.2025 directed the petitioner to pay monthly maintenance of Rs. 5,000/- each to the respondent-wife and the minor child and fixed the matter for evidence. However, on account of the petitioner's non-appearance on the date fixed, the learned Family Court proceeded *ex-parte* against him on 16.01.2026. Subsequently, the petitioner moved an application dated 20.02.2026 seeking setting aside/quashing of the *ex-parte* proceedings, which came to be rejected by the learned Family Court vide impugned order dated 19.03.2026, hence the present petition.

3. Learned counsel for the petitioner submits that the respondent-wife filed an application under Section 125 Cr.P.C. seeking maintenance, wherein the learned Trial Court fixed the matter for 16.01.2026; however, due to the serious illness of the petitioner's mother, the petitioner could not appear before the learned Court on the said date. Subsequently, upon appearing before the Court on 20.02.2026, the petitioner came to know that *ex parte* proceedings had been initiated against him.

3.1. Learned counsel further submits that the absence of the petitioner was neither intentional nor deliberate, but purely *bona fide* and beyond his control. The petitioner tenders his unconditional apology for the said absence and undertakes to remain present before the learned Court on each and every date as may be directed.

4. *Per contra*, learned Public Prosecutor vehemently opposes the submissions made by the learned counsel for the petitioner.

5. Considering the totality of the facts and circumstances of the present case, the petition is allowed and the impugned order dated 19.03.2026 is set aside.

6. The application seeking setting aside of the *ex-parte* order is restored to its original number. Learned trial court is directed to decide the same on merits. The application as submitted by the petitioner would be considered subject to the condition that the petitioner deposits a cost of Rs.15,000/- before the learned trial court.

7. All pending applications stand disposed of.

(SUNIL BENIWAL),J