

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2 of 2018

Smt. Sarojani Rathore W/o Shri Umashankar Rathore, Aged About 30 Years R/o Village Lahanga, P. S. And Tahsil Baradwar, District Janjgir-Champa Chhattisgarh Present Address Village Sivni, P. S. And Tahsil Champa District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

Umashankar Rathore S/o Shri Firtu Ram Rathore, Aged About 32 Years R/o Village Lahanga, P.S. And Tahsil Baradwar, District Janjgir Champa Chhattisgarh

---- Respondent

For petitioner – Shri Ravindra Sharma, Advocate.

For respondent – Shri Chandra Bhushan Kesharwani, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

12/03/2018

Heard.

1. Instant petition is against the order dated 13/12/2017 whereby interim maintenance claimed by the petitioner/wife has been dismissed on the ground that on 29/08/2013 an agreement was executed and amount of Rs.2,25,000/- was paid as consolidated sum as full and final settlement.
2. Learned counsel for the petitioner would submit that no such amount has been paid pursuant to any agreement and would submit that even assuming contents of the agreement were correct it could only be pressed into motion had amount been paid but actually amount has not been paid, therefore right of maintenance cannot be denied.
3. Learned counsel for the respondent denies the same and would submit that amount of Rs.2,25,000/- was paid before the society members and the entire amount was paid in cash.
4. Perused the documents. Reply as would show that amount of Rs.2,25,000/- has been stated to have been paid pursuant to the agreement dated 29/08/2013. There is nothing on record primarily to

establish such amount whether was paid and how much it was paid. Even alleged agreement purports that amount would be paid. It is written that amount of Rs.2,25,000/- would be paid whether it has been actually paid or not is to be decided and cannot be presumed in absence of conclusive concrete evidence. Taking into such fact, considering the nature of case, it is directed that till application under Section 125 of Cr.P.C. is decided on merits, respondent shall make payment of Rs.3000/- per month to the petitioner by way of interim maintenance. Parties shall be free to adduce all evidence before the court including defence of the respondent.

5. With such observation, petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE