

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 920 of 2018

Umashankar Rathore, S/o. Shri Firturam Rathore, Aged About 32 Years,
R/o. Village Lahnga, Police Station & Tahsil- Baradwar, District- Janjgir-
Champa, Chhattisgarh.

---- Petitioner

Versus

1. Smt. Sarojani Rathore, W/o. Shri Firturam Rathore, Aged About 30 Years,
R/o. Village Lahnga, Police Station & Tahsil- Baradwar, District- Jangir-
Champa, Chhattisgarh. Present Address- Village Sivni, P.S. & Tahsil
Champa, District- Janjgir-Champa, Chhattisgarh.
2. State Of Chhattisgarh, Through- Station House Officer, Police Station-
Sakti, District- Janjgir-Champa, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Shrawan Agrawal, Advocate
For Respondent No.1	:	Mr. Ravindra Sharma, Advocate
For Respondent No.2	:	Mr. Sangharsh Pandey, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16.07.2018

Heard

1. This is a petition to recall the order dated 12.03.2018 passed in
Cr.M.P. No.02/2018.
2. Learned counsel for the petitioner would submit that as per
Annexure A-5, an amount of Rs.2,10,000/- was already paid in
cash to the respondent No.1 and therefore wrong submission was
made by the respondent No.1 while earlier order was passed,
therefore, the same may be recalled.
3. Learned counsel for the respondent No.1 submits that the
document was not produced before the Court and false signature
of the respondent No.1 appears in the document; therefore, the
said finding of fact cannot be arrived at by this Court about
payment made of maintenance.

4. At this moment, it is for the petitioner to prove that the respondent No.1 has received the entire amount when the respondent No.1 did not admit the fact that the amount has been paid. It is for the parties to lead their evidence in the proceeding before the Court below under Section 125 of Cr.P.C. and also to examine or cross-examine on that point. Only on the mere say that the amount has been paid, which has been denied by the other party, this Court cannot presume any fact in favour of the either party. The parties shall be at liberty to lead necessary evidence before the Court below.
5. Under the circumstances, I am not inclined to recall the order dated 12.03.2018 passed in CRMP No.02/2018. Accordingly, the petition is dismissed.

Ashok

Sd/-
(Goutam Bhaduri)
Judge