

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2620 of 2018

Chamaru Ram, S/o. Gyan Lal Sahu, Aged About 31 Years, R/o. Village Dokridih, Police Chowk Bhatgaon, P.S. Bilaigarh, District- Balodabazar-Bhatapara, Chhattisgarh.

---- **Petitioner**

Versus

Girja Sahu, S/o. Mangaluram, Aged About 30 Years, W/o. Chamru, R/o. O.D. 27, Near Junior Club, C.S.E.B. Colony Korba, Tahsil & District-Korba, Chhattisgarh, At Present R/o. Gopalpur, P.S. Sarsiva, Tahsil Bilaigarh, District- Balodabazar-Bhatapara, Chhattisgarh.

---- **Respondent**

For Petitioner : Mr. Shikhar Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

08.02.2019

Heard

1. The present petition is against the order dated 03.10.2018 passed by the learned Sessions Judge, Balodabazar, District Balodabazar-Bhatapara in Criminal Revision No.48/2018.
2. Learned counsel for the petitioner submits that an application filed by the respondent under Section 125 of Cr.P.C. was dismissed in the year 2016 on the basis of compromise entered in between the petitioner & respondent that they have mutually divorced and a deed was executed; however, subsequently the wife again filed an application under Section 125 of Cr.P.C. In such circumstances, preliminary objection was raised by the petitioner about maintainability of the same. However, the Court below dismissed the preliminary objection on the ground that the marriage has not been dissolved. Subsequently, when it was subject of revision, the revision was also dismissed, therefore, the present petition. It is further stated that the marriage having been dissolved and a deed

was executed, therefore, the subsequent application for maintenance would not be maintainable.

3. Perusal of the order and the documents shows that there is no decree of divorce of marriage as required under Section 15 of the Hindu Marriage Act, 1955. When the marriage has not been dissolved by the decree and the marriage still subsists, the wife will have the right to claim maintenance. Consequently, I do not find any reason to interfere with the finding arrived at by the Court below. Accordingly, the petition is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok