

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1569 of 2016**

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Ritesh Kumar @ Guddu

.... Appellant/s

Versus

The State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Ranjan

For the Respondent/s : Mr. Partha Sarthi- Ga4

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 23-12-2016

It appears that the respondent no. 1 has wrongly been made party in this Civil Miscellaneous Application. Therefore, the name of the respondent no. 1 is deleted.

The husband-petitioner has filed this application under Article 227 of the Constitution of India against the order dated 26.07.2016 passed by the learned Principal Judge, Family Court, Patna in Matrimonial Case No. 4921 of 2014 whereby the learned court below has directed the husband-petitioner to pay Rs. 4,000- / per month as maintenance in exercise of jurisdiction under Section 24 of the Hindu Marriage Act.

It appears that the divorce case has been filed by the petitioner against the wife. The wife appeared and filed an application under Section 24, praying for the grant of Rs. 15,000/- as maintenance under Section 24 of the Hindu Marriage Act alleging that the monthly earning of the husband



is about 45,000/- including the salary of Rs. 10,000/- which he is getting from Frontline Company wherein he is a supervisor and his earning is Rs. 30,000/- per month from the rent from the shop premises situated at 13 Katra Market at Lalu Path, Etwarpur. The petitioner appeared and denied the income to the extent of Rs. 45,000/- per month and he earns 4500/- per month only.

By the impugned order, the court below disbelieved the case of the petitioner and then directed the husband-petitioner to pay Rs. 4,000/- per month as maintenance under Section 24 of the Hindu Marriage Act.

The grievance of the petitioner is that the court below has not at all granted any opportunity to adduce evidence and without evidence has directed the petitioner to pay Rs. 5,000/-.

So far the submission of the learned counsel for the petitioner is concerned, it may be stated that it is not the condition precedent that prior to passing an order under Section 24 of the Hindu Marriage Act, the court must record evidence and then after appreciating the evidence, the direction can be made under Section 24 of the Hindu Marriage Act.

The quantum fixed in the present case is only Rs.



4,000/-. Considering the day to pay expenses in these days in no case it can be said that the quantum is excessive or arbitral. Therefore, in exercise of the supervisory jurisdiction, this Court cannot hold Panchayati for the purpose of fixing the quantum of maintenance under Section 24 of the Hindu Marriage Act. Thus, in my opinion, it is not a case for interference in supervisory jurisdiction. Accordingly, this Civil Miscellaneous Application is dismissed.

(Mungeshwar Sahoo, J)

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