

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.978 of 2016**

Rocky Kumar

.... Appellant/s

Versus

Swati Kumari @ Khusboo

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Ranjan Kumar Sinha

For the Respondent/s : Mr.

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

2 28-10-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 12.07.2016 passed by Principal Judge, Family Court, Jehanabad in Matrimonial Case No.44 of 2015 whereby the learned Court below directed the petitioner-husband to pay Rs.5000/- per month as maintenance and Rs.5000/- lump sum as litigation cost.

From perusal of the order, it appears that the Court below has passed a reasoned order considering all the objections which is being raised here by the petitioner.

The grievance of the petitioner is that the application is not affidavited and / or that the wife has not disclosed in her application under Section 24 of the Hindu Marriage Act the income of the petitioner.

So far the question relating to defect of the application, i.e., the application is not affidavited or it is not verified is concerned, it may

be stated that it may be a procedural defect and do not go to the root to the jurisdiction of the Court. So far the non-disclosure of the income of the husband by the respondent is concerned, from perusal of the impugned order, it appears that it was submitted before the Court below that the husband has got income of Rs.1 lakh per month. From perusal of the rejoinder application filed by the husband to the application under Section 24 of the Hindu Marriage Act, it appears that the husband is not disclosing his income.

This Court in the case of ***Veena Kumar Vs. Sri Kant 2004 (4) PLJR 533*** has held that ‘whether the husband is avoiding to disclose his income then the contention of the wife is to be accepted.’

Further it appears in these days, considering day to day expenses, the Court has only directed to pay Rs.5000/- as monthly maintenance. In no case, this amount can be said too excessive or it is irrational or arbitrary. Nor, it can be said that the order passed by the Court below suffers from jurisdictional error or it occasioned failure of justice. Thus, this is not a case for interference in exercise of supervisory jurisdiction.

Accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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