

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.96 of 2019**

Roshan Kr. Singh son of Late Ashok Kumar Singh, Resident of Village-
Malaypur, P.S. Malaypur, District- Jamui.

... .. Appellant

Versus

Nidhi Singh daughter of Manoj Kumar Singh, wife of Sri Raushan Singh
Resident of Mohalla- Shivpuri near Ganji Factory, Behind A.N. College, P.S.-
Shastrinagar, District- Patna

... .. Respondent

Appearance :

For the Appellant/s : Mr. Satya Prakash Parasar, Advocate
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 21-01-2019

By way of the instant application preferred under Article 227 of the Constitution of India, the petitioner has challenged the order dated 29.08.2018 passed by the learned Principal Judge, Family Court, Patna whereby he has awarded maintenance *pendent lite* Rs.5000/- per month towards maintenance of respondent from the date of filing of the petition and a lumpsum amount of Rs.10,000/- towards litigation cost.

2. The admitted facts of the case are that the petitioner was married to respondent on 10.03.2016. After marriage, respondent came to her matrimonial home and stayed



for about 15 days. The respondent has alleged that she was subjected to cruelty in various ways in her matrimonial home by the petitioner for non-fulfillment of demand of dowry of Rs.3.50 lakh. She has filed an application under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 seeking divorce in the court of Principal Judge, Patna vide Matrimonial (Divorce) Case No. 405 of 2017. In the said case, she filed an application under Section 24 of the Hindu Marriage Act for maintenance *pendente lite* and expenses of the proceeding. She claimed that she has no independent source of income whereas the petitioner has got landed property and by dealing in cement, he earns huge amount. She claimed Rs.50,000/- per month, as maintenance, *pendente lite*.

3. The petitioner contested the claim. He pleaded that he has no independent source of income whereas the respondent is an educated lady. She is employed as a teacher in a private school and earns Rs.5000/- per month.

4. Learned counsel for the petitioner submitted that the court below failed to appreciate that the petitioner is ready to keep the respondent in her matrimonial home with full dignity and honour. It also failed to appreciate that it is the respondent, who has abandoned her matrimonial home. The



main reason for abandoning the matrimonial home by the respondent is that she is 15 years younger to the petitioner. He contended that the court below also failed to assess the real income of the petitioner.

5. Having heard learned counsel for the petitioner and perused the record, I find that the marriage of the petitioner with the respondent is not in dispute. The petitioner states that he is willing to keep the respondent in her matrimonial home with dignity and honour and the allegations made in respect of subjecting her to cruelty is not true. These facts can be considered by the court below while deciding the case finally on the basis of evidences which would be laid on behalf of the parties. However, for the purpose of awarding maintenance, *pendente lite*, the relevant consideration is that whether the spouse seeking maintenance has got any independent income sufficient for her support or not. Except the assertion of the petitioner that the respondent earns Rs.5000/- per month by teaching in a private school, no material was produced before the court to support such contention. As the court below was satisfied that the respondent had no sufficient independent income for her support, it had to grant maintenance and only discretion left to it was the quantum of maintenance.



6. The provisions of Section 24 of the Hindu Marriage Act is beneficent in nature. The object behind it is to provide interim maintenance to the spouse so that she can maintain herself during the pendency of the proceedings.

7. In my opinion, the amount so awarded by the court below, vide impugned order, is neither unreasonable nor excessive. It is the minimum amount on which the spouse can survive and lead her day to day life.

8. In that view of the matter, I see no reason to interfere with the order impugned. The application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.01.2019
Transmission Date	

