

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1155 of 2017

Moazzam Ali Son of Abdur Rasheed, Resident of Village- Jaisingh Pur
Khirwa, P.S.- Turkolia, District- East Champaran.

... .. Petitioner

Versus

1. The State Of Bihar
2. Rukhsana Khatoon Allaged null Resident of Jaisinghpur Kherwa, P.S.-
Turkolia, District- East Champaran. At present and Permanent resident of
Village Jhit Kayan , P.S.- Lokhora, District- East Champaran.

... .. Respondents

Appearance :

For the Petitioner : Mr. Pramod Kumar Prasad, Adv.
For the Respondent/s : Mr. Md.Raisul Haque-SC10

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 25-07-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application under Article 227 of the Constitution
of India has been filed by the petitioner for quashing the order
dated 27.03.2017 passed by the learned Principal Judge, Family
Court, Motihari in Maintenance Case No. 238 of 2016 whereby the
ad interim of Rs.4,000/- per month has been allowed to the
respondent no.2 together with Rs.5,000/- lump sum amount as
litigation cost.



3. From the pleadings of the petitioner, it would be manifest that he has not denied that the respondent no.2 is his legally wedded wife. His contention is that she is not living together with him and out of her own sweet-will she has left her matrimonial home.

4. Simply because the respondent no.2 is not living together with the petitioner is no ground for disallowing an application filed under Section 125 of the Code of Criminal Procedure for grant of interim maintenance. Though the respondent no.2 has stated in her application that the petitioner has a medicine shop from which he earns Rs.50,000/- per month and possesses 6 bighas of agricultural land from which he earns Rs.2 lakhs per annum, the petitioner has stated in reply that he is an employee in a medicine shop and he does not own and possess 6 bighas of land.

5. Be that as it may, having regard to the fact that the respondent no.2 has got no source of income and is a destitute lady, the court below has awarded ad interim maintenance of Rs.4,000/- per month. The amount so awarded is neither excessive nor unreasonable. The order impugned does not suffer from any illegality or want of jurisdiction. In that view of the matter, I see no reason to interfere with the same.



6. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29-07-2019
Transmission Date	

