

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.253 of 2019**

Nilabh Kumar Son of Late Yogendra Rai Resident of Mohalla- Yogipur Near
Shiv Mandir, P.S. Patrakar Nagar, District- Patna.

... .. Petitioner

Versus

Sneha Kumari D/o Sri Machhu Singh, wife of Sri Nilabh Kumar At present
residing of Village Shahpur, Police Station- Gopalpur, District- Patna.

... .. Respondent

Appearance :

For the Appellant/s : Mr.Sahvind Kumar Sharma
For the Respondent/s : Mr.

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

2 18-04-2019 This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 26.11.2018 passed by the learned Principal Judge, Family Court, Patna in Matrimonial Case No. 179 of 2018 whereby he has directed the petitioner to pay a sum of Rs. 8,000/- per month as maintenance allowance to the respondent from the date of filing of the petition under Section 24 of the Hindu Marriage Act, 1955.

It is submitted by the learned counsel for the petitioner that the respondent filed Matrimonial Case No. 179 of 2018 before the Principal Judge, Family Court, Patna under Section 13(1)(i-a) of the Hindu Marriage Act. She has wrongly alleged that the petitioner is impotent. The other allegation that the respondent was pressurized to have physical relationship



with another person is also false. The respondent is a Group-D railway employee. His earning is limited and has got multiple responsibilities towards his family. The award of maintenance granted in favour of the respondent is on the higher side. It is also contended that since the respondent has left the matrimonial home out of her own sweet-will, she is not entitled to receive any maintenance allowance.

Having heard learned counsel for the petitioner and carefully perused the record, I find that the respondent has stated in her application that the petitioner being a Group-D employee in the Indian Railway is getting about Rs. 40,000/- per month as his salary and had substantial movable and immovable properties. He owns 56 bigha of land in his native village and earns Rs. 10 lakhs per year. She has further stated that she has no income of her own and since she has been ousted from the matrimonial home, it is difficult for her to survive without receiving any maintenance allowance.

Having heard the parties, the court below, taking note of the fact that the petitioner himself admitted that being a Group-D employee in Railway is earning Rs. 25,000/- per month, the property of the petitioner and reasonable wants of the respondent, directed the petitioner to pay a sum of Rs.



8,000/-per month as maintenance allowance to the respondent from the date of filing of the case. Since the provisions of Section 24 are beneficent in nature and the order has been passed by the learned Principal Judge in order to see that the indigent spouse may not suffer due to matrimonial discord, I see no reason to interfere with the order impugned in exercise of supervisory power under Article 227 of the Constitution of India.

The application is dismissed.

(Ashwani Kumar Singh, J)

pradeep/sneha

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