

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.315 of 2019**

=====

Pintu Kumar, S/o Sri Munrik Sao, Resident of Village-Goraiya Asthan, P.O.-
Sadikpur, P.S.-Maner, District-Patna.

... .. Opposite Party-Petitioner

Versus

Anita Devi, W/o Sri Pintu Kumar, Resident of village-Goraiya Asthan, P.O.-
Sadikpur, P.S.-Maner, District-Patna, at present resident of village-
Pursushotampur, P.O.-Amarpura, P.S.-Naubatpur, District-Patna.

... .. Petitioner-Respondent

=====

Appearance :

For the Petitioner : Mr. Ranjan Kumar Dubey, Advocate
For the Respondent/s : Mr. Sarvan Kumar, Advocate

=====

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

Date : 09-05-2019

Heard learned counsel for the opposite party-petitioner
and learned counsel for the petitioner-respondent.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 28.11.2017 passed by the learned Principal Judge, Family Court, Patna in Matrimonial Case No.669 of 2012 by which he has allowed the petitioner dated 28.11.2017 as filed on behalf of respondent under Section 24 of the Hindu Marriage Act and the directed the petitioner to pay maintenance allowance *pendente lite* to the tune of Rs.3000/- per month for the maintenance of the respondent and the minor daughter as also to pay Rs.2,500/- as cost of litigation.



3. Learned counsel appearing for the petitioner submitted that the court below has failed to appreciate that the petitioner is always ready to keep his wife, but she is not willing to live with him. The court below also failed to appreciate that respondent has filed Matrimonial Case No.669 of 2012 against the petitioner under Section 13 of the Hindu Marriage Act for dissolution of marriage on the ground of cruelty, but the action of respondent shows that all her averments in the petition are false and baseless. He submitted that the court below ought to have considered that the respondent is already getting Rs.1500/- per month in terms of the order passed by this Court while granting bail in connection with a case instituted under Section 498A of the Indian Penal Code (for short 'IPC'). The court below also failed to appreciate that the additional amount of Rs.3,000/- per month, as awarded by the court, would cause undue hardship to the petitioner.

4. *Per contra*, learned counsel appearing for the respondent submitted that while passing the order impugned, the court below has taken into consideration the submission of the petitioner that he is already making payment of Rs.1,500/- per month as undertaken by him at the time of grant of bail in connection with a case under Section 498A IPC. He contended that



the court below has awarded the amount taking into consideration the income of the petitioner and the basic minimum need of the respondent. He contended that the minor daughter is also living with the respondent and the respondent is finding it extremely difficult to provide food, clothing, shelter, education, medical assistance, treatment, etc. to her for want of money. Under these circumstances, the amount awarded as maintenance allowance cannot be termed to be excessive or unreasonable.

5. Having heard the learned counsel for the parties and perused the order impugned, I find substance in the submission of the learned counsel for the respondents.

6. The law under Section 24 of the Hindu Marriage Act is well settled. At the time of awarding maintenance *pendente lite*, the court is required to keep in mind the following factors:-

- (a) Status of the parties,
- (b) Reasonable wants of the claimant,
- (c) Number of persons to be maintained by the husband,
- (d) Liabilities, if any, of the husband and
- (e) The amount required by the wife to live a similar lifestyle as was enjoying in the matrimonial home.

7. There is no doubt in my mind that an amount to the tune of Rs.3,000/- per month would be basic minimum need for a



spouse during the pendency of the proceedings so that she can maintain herself and also to have sufficient funds to carry on the litigation. The petitioner has not denied the fact that the respondent is his wife. He has also not denied that he has daughter living with the respondent. It is true that petitioner has disputed that he does not have monthly income of Rs.1,03,000/- per month, as claimed by the respondent. However, if a prima facie assessment, which appears to be reasonable in the present case, has already been made regarding the financial resources of the petitioner, no ground for interference with the order is made out under Article 227 of the Constitution of India.

8. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2019
Transmission Date	NA

