

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.582 of 2019**

Chandan Kumar, S/o Pramod Kumar Singh @ Pramod Singh, aged about 29 years, resident of Mohalla- Par Nawada Neem Tola Behind Church, P.S.- District-Nawada. Petitioner

Versus

Guriya Devi, W/o Chandan Kumar, Resident of Mohalla-resident of Mohalla-Par Nawada Neem Tola Behind Church, P.S.-District-Nawada, At Present D/o Dayanand Prasad Singh, resident of Village- Sakrama, P.S.-Asthama, District-Nalanda

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Krishna Deo Raj-Advocate
For the Opposite Party : Mr.

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

18-10-2019

Heard learned counsel for the petitioner.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 22.02.2019 passed by the learned Principal Judge, Family Court, Nawada in Matrimonial Case No.140 of 2018 by which he has allowed the application filed by the opposite party under Section 24 of the Hindu Marriage Act, 1955 and directed the petitioner to pay Rs.10,000/- per month as maintenance pendente lite and Rs.1,000/- per month as litigation cost to the opposite party from 11.10.2018 regularly by Rs.10th of every month.

3. Learned counsel appearing for the petitioner submitted that the order impugned passed by the learned Principal Judge is bad in law as also on facts. He has submitted



that the learned Principal Judge has failed to appreciate that for no justifiable reason, the opposite party has refused to live with the petitioner. He has also failed to appreciate that as a matter of fact that it is the petitioner, who is being subjected to cruelty by the opposite party. She has deliberately deserted her matrimonial house. Hence, she is not entitled for pendente lite maintenance allowance.

4. Having heard the learned counsel for the petitioner and perused the materials on record, I find that the opposite party had filed Mahila (Bihar) P. S. Case No.136 of 2016 against the petitioner for the offences punishable under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act for harassing and humiliating her due to non-fulfilment of demand of dowry.

5. The petitioner has not denied his relationship with the opposite party. It is true that he had filed Matrimonial Case No.83 of 2014 on 11.04.2014 under Section 9 of the Hindu Marriage Act, 1995 for restitution of conjugal rights. However, the same alone cannot be the ground for coming to a finding that his wife has deliberately deserted him and has refused to live in the matrimonial house. Since the wife has alleged that she is being subjected to cruelty in her matrimonial house, no



inference can be drawn against her for the reason that she is not living in the matrimonial house.

6. Admittedly, the petitioner is a class-III employee posted at Kolkata in the Finance Department of the Government of India. Though, he has not disclosed his salary, the opposite party has stated that his income is about 50-60 thousand per month.

7. Regard being had to the facts and circumstances of the case, in the opinion of this Court, no illegality can be found with the order impugned whereby the petitioner has been directed to pay Rs.10,000/- per month as pendente lite maintenance allowance to the opposite party.

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

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
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