

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.853 of 2019**

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Bhola Bhaskar Son of Ramanand Prasad Singh, Resident of Mohalla- Dinkar Nagar Barbiga, P.S.- Barbiga, District- Sheikhpura, temporary reside at Harina Bagan Company Quarter No. V/104, P.S.- Barra, District- Dhanbad, Jharkhand, at present reside at Kotak Mahindra Bank, Pimpri Chinwad Shop K-16, 17,18, 19 Empire Estate Chinwad Pune, P.S.- Pimpri, P.O.- Chinbad, District- Pune (Maharashtra), Pin- 411019.

... .. Petitioner

Versus

Dolly Wife of Bhola Bhaskar, D/o Kumar Kalika Singh, Resident of Mohalla- Dinkar Nagar Bbarbiga, P.S.- Barbiga, District- Sheikhpura, temporary reside at Harina Bagan Company Quarter No. V/104, P.S.- Barra, District- Dhanbad, Jharkhand, at present reside at village- Neeemi, P.S.- Shekhopursarai, District- Sheikhpura.

... .. Respondent

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Appearance :

For the Petitioner : Mr.Syed. Rizwanul Haque, Advocate
For the Respondent/s : Mr.

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

Date : 21-06-2019

The defects, as pointed out by the registry,
are ignored.

2. Heard Mr. Rizwanul Haque, learned counsel
for the petitioner.

3. This application under Article 227 of the
Constitution of India has been filed by the petitioner challenging
the order dated 26.02.2019 passed by the learned Principal
Judge, Sheikhpura in Maintenance Case No.19M of 2018



whereby he has allowed ad interim maintenance of rupees eight thousand per month to the respondent from the date of the order.

4. Learned counsel appearing for the petitioner submitted that the order impugned is not sustainable in law. The petitioner has already filed a divorce suit bearing Matrimonial (Divorce) Case No.20 of 2018 before the Family Court which is pending adjudication. During the pendency of the divorce suit, the petition for an interim maintenance is not maintainable. He contended that though the marriage was solemnized on 12.06.2006, the maintenance case has been filed after lapse of 12 years on 31.03.2018 making several erroneous allegations against the petitioner. He has further contended that the respondent is a working lady. She is engaged in stitching and sewing business and is earning more than 15,000/- per month. Hence, she is not entitled to claim maintenance allowance.

5. On query, learned counsel for the petitioner submitted that the petitioner is employed in Kotak Mahindra Bank Limited at Pune and is drawing salary of Rs,46,497/- per month.

6. On perusal of materials on record including the order impugned, I find that the respondent has claimed that she is unable to maintain herself. In her application under



Section 125 of the Cr.P.C., she has contended that the petitioner is drawing a handsome salary of Rs.75,000/ per month from the bank and is not supporting her in any manner financially.

7. The marriage of the respondent with the petitioner is not denied. Mere filing a divorce petition in the court is no ground from denying maintenance allowance. If a divorced wife is entitled for maintenance, there is no reason why a wife against whom a divorce petition has been filed is not entitled for maintenance.

8. I further find that though a plea was taken by the petitioner before the court below that the respondent is earning Rs.15,000/- per month, no material to support the contention was produced before the court. The petitioner had admitted that he is earning Rs. 46,497/- per month from the Kotak Mahindra Bank Limited at Pune. He has also filed salary sheet indicating his monthly salary as Rs.46,497/-. Considering the facts and circumstances of the case, the court below has allowed the application of the respondent and directed the petitioner to pay her Rs.8,000/- per month as interim maintenance allowance.

9. Having regard to the facts and circumstance of the case, I find that there is neither any illegality nor any



perversity in the order impugned passed by the court below. The vague plea of the petitioner that the respondent is a working lady earning Rs.15,000/- per month without leading any other corroborative material in this regard cannot be made an excuse for denying maintenance to the wife.

10. In that view of the matter, I am not inclined to interfere with the order impugned.

11. The application is dismissed.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.06.2019
Transmission Date	

