

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.328 of 2018**

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Krishna Kumar Verma Son of Sudama Prasad Seth, Resident of Turha Toli,
Mahavir Asthan, P.O., P.S. and District- Buxar.

... .. Petitioner/s

Versus

Smt. Babli Verma wife of Krishna Kumar Verma, daughter of Om Prakash
Verma, Resident of Lodipur, Kasba, Jamania, P.S.- Jamania, District- Gajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Verma
For the Respondent/s : NONE

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 14-11-2022 Heard learned Counsel for the petitioner. No one

appears on behalf of the respondent despite valid service of

notice.

The petitioner is aggrieved by the order, dated
27.11.2017, passed in Matrimonial case No. 213 of 2015, by
which a sum of Rs. 5,000/- has been awarded as maintenance
pendente lite by learned Principal Judge, Family Court, Buxar,
to the respondent-wife, under Section 24 of the Hindu Marriage
Act.

Learned Counsel for the petitioner submits that the
petitioner has no income and the learned Family Court taking
into considerations the fact that the petitioner is able body as
well as healthy person and is in a position to earn and has also
moral obligation to maintain his wife and minor child, has
passed the order of maintenance. He further submits that the



marriage was solemnized in the year 2012 and the petitioner is studying since then.

Learned Counsel for the petitioner placed reliance on the judgment of the Supreme Court in the case of **Manish Jain v. Akanksha Jain**, reported in **2017 (2) PLJR (SC) 333** (paragraphs 11 and 14), and submits that the Court has a wide discretion in the matter of granting alimony pendente lite but the discretion is judicial and neither arbitrary nor capricious.

He further submits that without arriving at the finding about the income of the petitioner, the learned Family Court has awarded a sum of Rs. 5,000/- for the wife and the minor child.

I have heard learned Counsel for the petitioner and have perused the materials available on record, including the impugned order.

It is admitted position that the petitioner is the husband of the respondent-wife and out of the wedlock, a child has born. The respondent-wife has got no income; whereas the respondent-wife has stated that the petitioner has the business of gold and silver, at Buxar, and has been earning more than Rs. 50,000/- per month.

The submission of learned Counsel for the petitioner is not acceptable that the petitioner is studying since the date of



his marriage.

The Supreme Court, in the case of **Anju Garg and Another v. Deepak Kumar Garg**, reported in **2022 SCC ONLINE SC 1314**, has held that the respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child.

The maintenance awarded by learned Family Court is not excessive inasmuch as for the wife and minor child, a sum of Rs. 5,000/- has been awarded as maintenance pendente lite.

Accordingly, I do not find any illegality and/or jurisdictional error in the impugned order.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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