

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1002 of 2018**

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Alok Kumar son of Late Chhotan Singh resident of Labhuani, P.O. Bankat,
P.S. Garhani, District Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ishika Singh daughter of Shri Shivnath Singh resident of Village and P.O.
Kulharia, P.S. Koilwar, District Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satyabir Bharti, Advocate
For the Respondent/s	:	Mr. Md.Raisul Haque, SC -10
		Mr. Pramod Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

13 12-05-2023 Heard learned counsel for the parties.

2. This Civil Miscellaneous Application has been filed under Article 227 of the Constitution of India for quashing the order dated 25.04.2018 passed by the learned Principal Judge, Family Court, Bhojpur at Ara in Matrimonial Suit No. 454 of 2017 whereby the Court has ordered for payment of Rs. 10,000/- per month as interim maintenance to the applicant/respondent No. 2 under Section 24 of the Hindu Marriage Act.

3. The brief fact of this case is that the petitioner and



respondent No. 2 are husband and wife whose marriage was solemnized on 22.04.2016 as per the Hindu rites and ceremonies. The respondent wife started residing with the petitioner, who is engineer in Merchant Navy. The allegation of the respondent wife is that the petitioner used to harass her with cruelty and not allowed her to pursue her further studies and she forced to file the divorce petition vide divorce case No. 454 of 2017 in the court of Principal Judge Family Court, Ara at Bhojpur. It is stated in the petition that the petitioner / husband has monthly income of Rs. 1 lac and also he has 10 Bigha fertile agricultural land and he has total income of Rs. 1 lac 16 thousands per month. The respondent wife filed a petition dated 07.04.2018 for maintenance at the rate of Rs. 21,000/- per month from the petitioner / husband as she has no source of income for her maintenance and also prayed to allow litigation cost. The petitioner / husband filed rejoinder stating that the respondent's wife is leading her life in adultery with other. It is further stating that his service in merchant navy was on contract but the same has discontinued and now he is himself unemployed having no source of income. In further application he has also stated that the respondent wife is also teaching in school and getting Rs. 15,000/- per month.



4. Learned trial court after hearing the parties and on perusal of the record observed that it is the duty of the husband to maintain his wife properly. The petitioner/ husband has good income from all source which is disclosed by the respondent wife in her application. It is not in dispute that respondent is the wife of the petitioner. Accordingly, considering the fact and circumstances of the case, the learned trial court directed the petitioner/ husband to pay Rs. 10,000/- per month as interim maintenance to his wife.

5. Learned counsel for the petitioner submits that the respondent / wife has herself deserted the petitioner to maintain her illegitimate relationship and she has falsely stated that she desires pursuing higher education and preparing for competitive examination. Further, he has submitted that petitioner is jobless having no source of income and not in a position to maintain the respondent/wife. Accordingly, the impugned order is unreasonable and arbitrary. He further submits that the respondent / wife has not brought on record any material with respect to the source of income of the petitioner.

6. On the other hand, learned counsel for the respondent/wife submits that the petitioner started neglecting and torturing the defendant wife in various ways including



character assassination which compelled the respondent wife to file a suit for dissolution of marriage and claim maintenance and the learned trial court on the facts and circumstances of the case granted the interim maintenance but the petitioner failed to make payment for maintenance of the respondent who is unable to maintain herself. He has further submitted that there is no illegality or infirmity for interference by this Court in its supervisory jurisdiction.

7. Having heard learned counsel for the parties and on perusal of the material on record, it appears that it is not in dispute that the petitioner is the husband of the respondent wife. The learned Court below on the facts and circumstances of the case granted Rs. 10,000/- per month as maintenance to the respondent wife which is interim maintenance i.e., *pendente lite*. It is not in dispute that petitioner was working in Merchant Navy and the applicant / respondent has claimed that he has income of more than 1 lac from his service as well as from the agricultural land. The learned trial court has rightly observed that it is the duty of the husband to maintain his wife if the wife is not able to maintain herself. The parties can prove their respective claim in proceeding at the time of the disposal of the case.



8. In my considered opinion, there is no illegality or error in the impugned order of granting interim maintenance to the respondent / wife and no valid ground is made out by the petitioner for interference by this Court in its supervisory jurisdiction under Article 227 of the Constitution of India. The Civil Misc. Application is devoid of merit and liable to be dismissed.

9. This Civil Miscellaneous Application is, accordingly, dismissed.

(Sunil Dutta Mishra, J)

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