

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.464 of 2021**

Abhishekh Roy S/o Ram Jee Roy resident of 4, BT Road Sinthee More,
Police Station- Baza Nagar, Kolkata, West Bengal.

... .. Petitioner/s

Versus

Anjali Kumari @ Anjali Roy W/o Akhilesh Roy and D/o Alakh Narayan
Singh resident of Mohalla- Pakari Chowk Ara, Police Station- Ara Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar, Advocate
For the Respondent/s	:	Mr. Rahul Nath, Advocate

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 01-07-2024

Heard learned counsel for the petitioner as well as
learned counsel for the respondent and I intend to dispose of the
instant petition at the stage of admission itself.

2. The instant petition has been filed under Article 227
of the Constitution of India against the order dated 16.12.2019
passed by Principal Judge, Family Court, Bhojpur at Ara in
Maintenance Case No. 216 of 2017 whereby and whereunder the
learned family court has directed the petitioner to pay an amount
of Rs.6000/- per month to the respondent as interim maintenance
from the date of application.

3. Learned counsel for the petitioner submits that
petitioner is a taxi driver in Kolkata and hardly earns Rs.10,000/-
to Rs. 12,000/- per month. Still the learned Principal Judge,
without considering the financial position of the petitioner, has

directed him to make payment of Rs.6,000/- per month to the respondent as interim maintenance from the date of application. The learned Principal Judge has also not taken into consideration that petitioner is only a matriculate whereas the respondent lady is a post-graduate and could easily take care of her needs as well as the need of the child. Learned counsel further submits that petitioner is ready and willing to keep his wife and daughter with honour and dignity but the respondent is not agreeable to the proposal. Since the learned family court has not considered all the facts and circumstances, the impugned order is not sustainable. The petitioner was also compelled to file a suit for restitution of conjugal rights being Matrimonial Suit No. 1800 of 2017 in the District of North-24-Parganas. Learned counsel further submits that the petitioner is even willing to pay the interim amount of maintenance if it is reduced keeping in view the fact that petitioner is a taxi driver and earns a meager amount towards his monthly income.

4. Learned counsel for the respondent submits that there is no merit in the present petition and it has been filed only to deny the interim maintenance to the respondent. Till the passing of the impugned order no payment has been made of any amount to the respondent. Learned counsel further submits that the amount of interim maintenance could not be said to be

excessive as the petitioner has other sources of income. The respondent was tortured and treated with cruelty and she was driven out from her matrimonial home. She is living in a wretched condition and petitioner being the husband is duty bound to maintain his wife and his daughter. The purpose of Section 125 of the Code of Criminal Procedure is to save the wife from destitution and vagrancy. When the daily wages in Bihar have reached an amount of approximately Rs. 400/- per day, it is unfair on the part of the petitioner to make such submission that Rs.6,000/- per month which comes to Rs.200/- per day is an excessive amount. Whatever may be the claim of the petitioner against respondent and allegation and counter allegation, the same could be looked into by the learned family court while disposing of the maintenance petition. The maintenance case is pending since 2019 and the petitioner has not made payment of the interim maintenance amount since the date of filing of the case. This shows the contentions made on behalf of the petitioner are devoid of any merit and not made in good faith. The petitioner lacks *bona fide* and his petition needs to be thrown out at the admission itself.

5. Having regard to the facts and circumstances and the rival submission of the parties, I am unable to convince myself that Rs.6,000/- per month as ordered by learned Principal

Judge, Family Court, Bhojpur at Ara in the year 2019 is an excessive amount. Further considering the fact that the said maintenance amount has been allowed as interim maintenance for the respondent and her daughter, I do not think the impugned order needs any interference and hence the same is affirmed.

6. Furthermore, the petitioner is directed to make the payment of the interim amount to the respondent in terms of orders of the learned Principal Judge, Family Court, Bhojpur at Ara dated 16.12.2019 within three months from the date of this order and learned family court is directed to ensure that payment is made during this period. Learned Family Court is further directed to take immediate steps for disposal of Maintenance Case No. 216 of 2017 pending before it within four months of the date of receipt of copy of this order. If the learned Principal Judge, Family Court, Bhojpur at Ara finds any possibility of settlement in the matter, he will personally try to reconcile the matter.

7. With the aforesaid directions, the present petition stands dismissed.

(Arun Kumar Jha, J)

anuradha/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	03.07.2024
Transmission Date	-