

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.429 of 2021**

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Anu Kumari @ Annu Kumari Wife of Sri Mithilesh Kumar, Daughter of Sri Anil Kumar Chaurasia, Resident of Village - Nokha Ward No. 5, Post Office - Nokha, Police Station - Nokha, District - Rohtas at Sasaram.

... .. Petitioner/s

Versus

Mithilesh Kumar Son of Sri Lalan Chaurasia, Resident of Village - Dhangai Ward No. 07, Police Station - Bikramganj, District - Rohtas at Sasaram at Present 172 Bahani Central Rijarb Police Bal, New Police Line, Gardhwa, Jharkhand.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|---------------------------------------|
| For the Petitioner/s | : | Mr. Raghunandan Kumar Singh, Advocate |
| For the Respondent/s | : | Mr. Sanjay Kumar Tiwary, Advocate     |

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

**Date : 27-11-2024**

Heard learned counsel for the parties.

2. The petitioner has filed this petition challenging the order dated 25.02.2020 passed by learned Principal Judge, Family Court, Rohtas in Maintenance Case No. 121 of 2017 whereby and whereunder the application filed by the petitioner for interim maintenance has been allowed granting interim maintainable amount of Rs.5000/- per month from the date of filing of the petition for interim maintenance i.e., 20.07.2019.

3. Learned counsel for the petitioner submits that the petitioner is the wife of respondent and their marriage was solemnized on 25.02.2015. Some dispute arose and the

respondent deserted the petitioner and the petitioner filed a case seeking maintenance in which the impugned order has been passed. Learned counsel further submits that it is not clear from where the learned family court came to the conclusion that the respondent has been earning Rs.27000/- per month as salary since the claim was made that the income of the respondent from all sources was Rs. 1 lakh per month. Though this fact has been brought to the notice of the learned trial court it did not take it into consideration and fixed the quantum of interim maintenance on the lower side. The learned trial court further failed in its duty when it did not ask the respondent, a constable of C.R.P.F., to produce his salary slip. Further, the interim maintenance should have been allowed from the date of filing of the main petition and not from the date of filing of the petition for interim maintenance. Learned counsel further submits that till date not a single penny has been paid by the respondent to the petitioner and it has frustrated the whole idea of providing interim maintenance to the petitioner. Thus, learned counsel submits that the order dated 25.02.2020 is not sustainable and the same needs to be set aside.

4. Learned counsel appearing on behalf of the respondent vehemently contended that there is no infirmity in

the impugned order and the same does not need any interference. Learned counsel further submits that the learned trial court considering the submission made on behalf of the petitioner about salary of the respondent and thereafter passed an order granting a reasonable interim maintenance to the petitioner. Therefore, the order does not suffer from any infirmity.

5. I have considered the rival submission of the parties and perused the record. From perusal of the impugned order it appears that respondent did not appear and did not participate in the hearing when the application for interim maintenance was taken up. It appears that the order for interim maintenance was passed without any concrete material about the income of the respondent. In any case, the maintenance case has been filed in the year 2017 and the orders for interim maintenance was passed in the year 2020 and approximately seven years had been lapsed since the institution of the maintenance case and it would be in the fitness of things and for the benefit of the parties that the maintenance case is disposed of at the earliest. Since it has come in the submission of the learned counsel for the petitioner that no amount of interim maintenance has been paid till date by the respondent, the impugned order has been merely a futile

exercise if the impugned order has not been enforced whether for the lack of initiative on the part of the petitioner or due to the tactics adopted by the respondent. In the light of these facts and circumstances, considering the long pendency of the maintenance case, instead of interfering with the interim order, the learned Family Court needs to be directed to dispose of the maintenance case itself by passing final orders.

6. So without entering into the merits of the impugned order, I am of the opinion that the maintenance case should be disposed of at the earliest and preferably within six months from the date of receipt/production of copy of this order and while passing the final order, the learned trial court would take into consideration all the facts brought on record by the parties and also take into consideration the submission on behalf of the petitioner about the respondent not making any payment till date in terms of the impugned order.

7. With the aforesaid direction, the present petition stands disposed of.

8. The learned trial court is further directed to ensure that if the evidence of the petitioner has been closed as submitted by the learned counsel for the petitioner, no unnecessary adjournments would be granted to the respondent-

husband and if any adjournments is granted, it should be subject  
to imposition of reasonable cost.

**(Arun Kumar Jha, J)**

anuradha/-

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