

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.476 of 2022**

Lal Bachchan Mandal son of Shri Baldeo Mandal, Resident of Village and
P.O. Parghari, P.S.- Sabour, District- Bhagalpur.

... .. Petitioner/s

Versus

Madhu Kumari Wife of Shri Lal Bachchan Mandal and D/o Shri Jai Kant
Paswan, Resident of Village and P.O. Bakudih, P.S.- Taljhari, Dist- Sahibganj
(Jharkhand).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Aditya Narayan Singh, Advocate Mr. Pravin Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Subodh Kumar Jha, Advocate Mr. Pranav Kumar Jha, Advocate

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

Date : 21-03-2025

Heard learned counsel for the parties.

2. The petitioner is aggrieved by the order dated 10.05.2022 passed in Miscellaneous (Maintenance) Case No. 81 of 2019 under Section 125(1) of the Code of Criminal Procedure by learned Principal Judge, Family Court, Bhagalpur, whereby and whereunder interim maintenance amount of Rs.7,000/- was allowed in favour of the respondent.

3. Learned counsel for the petitioner submits that the impugned order has been passed without consideration of



facts and circumstances of the case. The respondent is not the wife of the petitioner and the learned trial court has not considered this fact and passed the impugned order directing the petitioner to make payment of Rs.7,000/- per month to the respondent which is completely unjust. Learned counsel further submits that the respondent claimed that her marriage was solemnized on 17.02.2016 and thereafter she started staying with the petitioner. But the document sought by the petitioner under Right to Information Act shows the respondent continuously pursued her Ph.D. from 01.01.2016 to 31.03.2016 which falsifies the case of the respondent that she got married with the petitioner on 17.02.2016 and went to Punjab with him where they stayed together. Learned counsel further submits that the petitioner filed Matrimonial Case No. 171 of 2017 under Section 12(1)(b)(c) of Hindu Marriage Act, 1955 for declaration of the marriage to be null and void. Learned further submits that the said case was not dismissed on merit rather it was observed that the petitioner has all along denying any marriage taking place but as the petition was filed under Section 12(1)(b)(c) of Hindu Marriage Act for declaring the marriage null and void, the said matrimonial case was dismissed on the ground of maintainability. Thus, learned



counsel submits that in view of the aforesaid facts and circumstances when the marriage itself is in dispute, the petitioner could not be directed to make payment of interim maintenance to the respondent. For this reason, the impugned order is illegal and needs to be set aside.

4. Learned counsel appearing on behalf of the respondent vehemently contends that there is no infirmity in the impugned order and the same needs no interference by this Court. Learned counsel further submits that the learned trial court considered all the contention of the petitioner and thereafter allowed the application for interim maintenance and the impugned order does not suffer from any infirmity.

5. I have considered the rival submission of the parties and also perused the record. The petitioner is aggrieved by the impugned order for the reason that as per claim of the petitioner, respondent is not his wife. But as submitted by learned counsel for the petitioner that after dismissal of Matrimonial Case No. 171 of 2017, no further case for declaration of status of the respondent not being the wife of the petitioner, has been filed. Even if it is accepted that earlier matrimonial case was dismissed on the ground of maintainability, unless the petitioner gets the declaration of



respondent not being his wife from a competent court, the scope for consideration of disputed facts by this Court is very limited. Further, the contention of the petitioner about marriage not taking place and the respondent making a wrong submission in the light of right to information paper, the said contention is about appreciation of facts and the disputed question of facts could only be considered by the learned trial court and would not fall in domain of this Court under Article 227 of the Constitution of India. Further, it is an interim order and the petitioner has got all opportunity to raise all issues before the learned trial court and allow it to pass the final orders.

6. Further more, all the issues raised before this Court have already been raised by the petitioner before the learned trial court and after considering the said facts, the learned trial court allowed the interim maintenance by passing a speaking order and it is well settled that this Court would not re-appreciate the fact to arrive at a different finding while exercising its jurisdiction under Article 227 of the Constitution of India.

7. In the light of the discussion made hereinbefore, I do not find any infirmity in the impugned order and the same



is affirmed. Accordingly, the present petition stands dismissed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2025
Transmission Date	NA

