

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.1179 of 2019**

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Sridhar Chetan Son of Mr. P.K. Rai, Resident of Priyadarshi Nagar, house no. 192/39 near D.P.S. School, P.S.- Rupapur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Law Dept. Bihar.
2. Mrs. Bhawani Roy, Wife of Sridhar Chetan, Resident of E-108, Sai Poorna Apartment, Harlur road- 560068, Bengaluru (Karnataka).

... .. Respondent/s

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**Appearance :**

For the Petitioner/s	:	Ms. Archana Sinha @ Archana Shahi, Sr. Adv.
For the State	:	Mr. Prashant Pratap (G.P. 2)
For the Respondent/s	:	Mr. Nawlesh Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH  
ORAL JUDGMENT**

**Date : 02-02-2026**

The instant application has been filed against order dated 28.02.2019 by which the learned Principal Judge, Family Court, Patna has passed the order of interim maintenance u/s 24 of Hindu Marriage Act. The learned Principal Family Court, Patna vide order 28.02.2019 has allowed the maintenance of Rs. 30,000/- (thirty thousand rupees) per month to the baby girl of the petitioner and Rs. 2,00,000/- (two lakh rupees) as a litigation cost to the wife of the petitioner.

2. Heard learned counsel for both parties.



3. Learned counsel for the petitioner submits that Matrimonial Case No. 373 of 2016 was instituted by the petitioner/applicant seeking a decree of divorce, in which the respondent/wife appeared and filed an application under Section 24 of the Hindu Marriage Act. By the impugned order, the learned Principal Judge, Family Court, Patna, granted her litigation costs of Rs. 2,00,000/- (two lakh rupees) and a further sum of Rs. 30,000/- (thirty thousand rupees) per month as interim maintenance towards the educational expenses of their sole daughter, with effect from the date of the said order. Learned counsel for the petitioner has placed reliance on the judgment of the High Court of Kerala at Ernakulam in Mat. Appeal No. 759 of 2018 (P.V.G. Menon vs. Anjana Menon).

4. Learned counsel for the petitioner contends that the impugned order is not sustainable in view of Section 24 of the Hindu Marriage Act, as the respondent/wife was employed and earning Rs. 15,00,000/- (fifteen lakh rupees) per annum at the time of passing of the order. This fact was



admitted by her in her evidence dated 20.12.2019 (para 27).

5. The petitioner has further challenged the impugned order on the ground that Section 24 of the Hindu Marriage Act does not empower the Court to award interim expenses for the child. Such an order, if at all, could only have been passed under Section 26 of the Act. Section 26 of the Hindu Marriage Act reads as follows:

“26. **Custody of Children** – In any proceeding under this Act, the Court may, from time to time, pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, consistently with their wishes, wherever possible, and may alter the decree, upon application by petition for the purpose, and may from time to time revoke, suspend or vary any such orders and provisions previously made.”



6. Under Section 24 of the Hindu Marriage Act, either spouse may be granted litigation expenses only if he or she has no independent income sufficient for support or to meet the expenses of the proceeding. In the present case, the respondent/wife has specifically admitted that she was earning Rs. 15,00,000/- (fifteen lakh rupees) per annum on the date of passing of the impugned order.

7. In such circumstances, the order, awarding litigation costs to the respondent/wife is not justified and is accordingly set aside.

8. Insofar as the interim educational expense awarded for the minor daughter is concerned, the statutory provision is intended to secure the welfare of the child. Mere citation of an incorrect provision does not defeat the substantive right of a minor child, whose welfare is of paramount consideration. The interest of minor child cannot be allowed to suffer due to litigation between his/her father and mother. Therefore, for the ends of justice, the direction regarding educational expense is upheld and shall be



deemed to have been made under Section 26 of the Hindu Marriage Act.

9. The petitioner is directed to deposit the entire amount in the account of the minor daughter to ensure her proper education.

10. Accordingly, Civil Misc. No. 1179 of 2019 stands disposed of.

**(S. B. Pd. Singh, J)**

Nirajkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.02.2026
Transmission Date	N/A

