

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
Criminal Miscellaneous No.29171 of 2017**

Arising Out of PS.Case No. -111 Year- 1997 Thana -  
MAUZAHDIPUR District- BHAGALPUR

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Md. Azam S/o- Md. Qamruzzaman @ Md. Kammo Master,  
resident of Mohalla- Hussainabad, Kathgar, P.S.-  
Mojahidpur, District- Bhagalpur.

..... Petitioner/s  
Versus  
The State of Bihar

..... Opposite Party/s  
=====

**Appearance :**

For the Petitioner/s : Mr. Praveen Kumar  
For the Opposite Party/s : Mr. Sri Amit Kumar Rakesh

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
ORAL ORDER

2    13-08-2018            The petitioner is aggrieved by the order dated  
15.04.2017 passed by the learned 5<sup>th</sup> Additional Sessions  
Judge, Bhagalpur in Sessions Trial No. 607 of 2000, arising  
out of Mojahidpur P.S. Case No. 111 of 1997, whereby the  
application preferred on behalf of the petitioner for the DNA  
test of the child and the victim to ascertain the paternity of  
the child has been rejected on the ground that such prayer  
has been made at a belated stage when the prosecution  
evidence has already been closed.

The learned counsel for the petitioner has fairly  
informed this Court that the petitioner has been convicted  
under Section 376 of the Indian Penal Code and has been  
sentenced to imprisonment. Against the aforesaid judgment



of conviction, the petitioner has also preferred an appeal.

The present petition, therefore has become infructuous. If so advised, the petitioner may prefer such an application before the learned Appellate Court under the provisions of Section 391 of the Code of Criminal Procedure.

With the aforesaid observation, the present petition is dismissed as having become infructuous.

**(Ashutosh Kumar, J)**

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