

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.381 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Md. Awesh Alam @ Awesh Alam, s/o Sheikh Ishaq @ Ishaak, r/o village-
Kumhia, P.S.- Palasi, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi Kalila Khatoon, w/o Md. Awesh Alam @ Awesh Alam, d/o Sheikh Ahmad Hussain, r/o village- Koskipur, P.S.- Araria, District- Araria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Ziaul Quamar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 13-11-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has moved against the order dated
26.02.2018 passed by the Principal Judge, Family Court, Araria,
in Maintenance Case No.237 of 2015 by which Rs.4,000/- per
month maintenance has been directed to be paid to the opposite
party no. 2, who is wife of the petitioner.

3. Learned counsel for the petitioner submitted that
recently the opposite party no. 2 has married another person and,
thus, she is not entitled to any maintenance under Section 125 of
the Code of Criminal Procedure, 1973 (hereinafter referred to as
the 'Code').



4. On a query of the Court as to how such issue should be considered by this Court at the first instance when such fact was not brought before the Court below when the impugned order was passed specially when there is provision in the law under Section 127 of the Code to take care of such situation, learned counsel for the petitioner submitted that the application be disposed off with liberty to him to approach the Court below under Section 127 of the Code.

5. In view thereof, the application stands disposed off with liberty aforesaid.

6. If such an application is filed by the petitioner before the Court below, the same shall be considered on merits, in accordance with law, taking into consideration all materials placed on record by the petitioner, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

J. Alam/-

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