

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.249 of 2018**

Masud Ahmed @ Md. Masud Ahmad S/o- Riyazuddin, resident of Village-  
Budheshwari, Rampur, P.S. Bairagachi, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sanober Perween, W/o Masud Ahmed, D/o- Ahmed Hasan.
3. Safaque Sama, aged 12 years, D/o Masud Ahmed,
4. Zeeshan Alam, age 10 years, S/o- Masud Ahmed,
5. Sidra Khatoon, age 3 years, D/o Masud Ahmed, O.P. No. 3 to 5 are minor child under guardianship of O.P. No. 2 Sanober Perween, O.P. No. 2 to 5, resident of Village- Islam Nagar, Ward No. 26, Araria, P.S. Araria, District- Araria.

... .. Respondent/s

**Appearance :**

|                          |   |                                 |
|--------------------------|---|---------------------------------|
| For the Petitioner/s     | : | Mr. Md. Ziaul Quamar, Advocate  |
| For the State            | : | Mr. Satya Nand Shukla, APP      |
| For the O.Ps. No. 2 to 5 | : | Mr. Anil Prasad Singh, Advocate |

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date : 14-10-2019**

Heard learned counsel for the petitioner; learned APP for  
the State and learned counsel for the opposite parties no. 2 to 5.

2. The petitioner has moved the Court under Section 19(4) of the Family Courts Act, 1984 against the judgment and order dated 09.02.2018 passed in Maintenance Case No. 286 of 2016 by the Principal Judge, Family Court, Araria by which Rs. 3,000/- per month maintenance has been awarded in favour of the opposite party no. 2, who is said to be the ex-wife of the petitioner and Rs. 2,000/- per month each in favour of opposite parties no. 3



to 5, who are the children born out of the wedlock of the petitioner and the opposite party no. 2, the total being Rs. 9,000/- per month.

3. Learned counsel for the petitioner submitted that the opposite party no. 2 has already been divorced by him and further that she herself is a teacher earning sufficiently to maintain herself and since the application was under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') which is to be invoked by the Court only when the wife is unable to maintain herself, and in the present case, the wife herself earning sufficient amount is able to maintain herself, and, thus, the application under Section 125 of the Code was not fit to be allowed in her favour. With regard to opposite parties no. 3 to 5, it was submitted that the petitioner was not contesting award of Rs. 2,000/- each per month to them.

4. Learned APP and learned counsel for the opposite parties no. 2 to 5 submitted that the opposite party no. 2 is also a contractual teacher and payments are not made on a regular basis and, thus, she also requires financial support. It was submitted that the petitioner just after six months of giving *talaq* to the opposite party no. 2 had contracted second marriage.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court



finds that with regard to the opposite party no. 2, who herself has admitted before the Court below that she gets Rs. 11,000/- per month as a contract teacher, the maintenance allowed in her favour under Section 125 of the Code requires to be interfered with as the same is to be awarded to a wife, which includes a woman who has been divorced, only if she is unable to maintain herself and in the present case, the same not being fulfilled, the order awarding Rs. 3,000/- per month as maintenance to her cannot be sustained.

6. Accordingly, the order to pay Rs. 3,000/- per month maintenance to the opposite party no. 2 by the petitioner stands set aside. The remaining order granting Rs. 2,000/- per month each to the opposite parties no. 3, 4 and 5 is left uninterfered with. The Court below shall ensure that the order is strictly complied with and the petitioner pays the up-to-date amount within time to the opposite parties no. 3, 4 and 5.

7. The application stands disposed off in the aforementioned terms.

**(Ahsanuddin Amanullah, J)**

Anjani/-

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