

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1271 of 2018

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

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Md. Firoz Khan Son of Late Jahir Khan, resident of Village- Anjuman Tola
Pawariya Tola, Bagaha, P.S.- Bagaha, District- West Champaran.

... .. Petitioner/s

Versus

Sumayla Bismil Wife of Md. Firoz Khan, Dauhgter of Ali Imam Bismil,
resident of Mohalla- Chikpatti, Motihari Town, P.S.- Motihari Town, District-
East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 10-01-2024 An order dated 17th July, 2018 passed by the

learned Principal Judge, Family Court, East Champaran,
Motihari allowing an application for maintenance filed by the
opposite party no.2 and granting maintenance allowance in her
favour at the rate of Rs. 5,000/- per month and also at the rate of
Rs. 1500/- per month for the maintenance of their minor child,
is under challenge in the instant Revision on the ground that this
court while granting anticipatory bail to the petitioner/husband
on 11th January, 2016 directed the petitioner to pay Rs. 2,500/-
per month from February 2016 towards maintenance. Secondly,
the petitioner divorced the opposite party no.2 by
pronouncement of *talak*, and thirdly, he has no financial
capacity to make payment of Rs. 6,500/- per month towards



maintenance allowance to his wife.

2. I have heard the learned Advocate for the petitioner. I have also perused carefully the impugned order.

3. At the outset, this court likes to record that a direction to pay certain sum of money as a condition for anticipatory bail cannot be treated as an order of maintenance passed by superior court and the learned Judge, Family Court is not bound by that order. At best, the petitioner/husband can make a prayer for adjustment of the said amount in the trial court in execution proceeding. Secondly, it is no longer *res integra* that a divorced wife belonging to mohammadan faith is entitled to get maintenance under Section 125 of the Code of Criminal Procedure. The law is settled by the Hon'ble Supreme Court in the case of ***Danial Latifi & Anr. vs. Union of India (2001) 7 SCC 740*** which has been followed consistently in subsequent decision. On perusal of the impugned order, I find that the learned Judge considered the evidence on record in detail and passed the impugned order, therefore, I do not find any reason to interfere with the order impugned.

4. However, the petitioner is given liberty to make appropriate application in the execution proceeding for adjustment of the sum of Rs. 2,500/- which he has been going



on payee as per the order passed by this court in Cr. Misc. No.
39472 of 2015.

5. With the above order, the instant Revision is
dismissed.

(Bibek Chaudhuri, J)

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