

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1272 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Saharsa

=====

Bebi Maimul Nisha @ Maimul Khatoon, Wife of Md. Shafique, D/o
Niyamant Miyan Resident of Village- Itawa, P.O.- Chilauni, P.S.- Raghapur,
District- Supaul.

... .. Petitioner/s

Versus

Md. Shafique, Son of Late Oli Mohamad Resident of Village- Itawa, P.O.-
Chilauni, P.S.- Raghapur, District- Supaul.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Amrit Abhijat
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 12-01-2024 1. Heard the learned Advocate for the petitioner as
well as the learned APP for the State.

2. An order, dated 7th of August, 2019, passed in
Maintenance Case No. 182 of 2012, by the learned Principal
Judge, Family Court, Supaul is under challenge in the instant
revision.

3. On perusal of the impugned order, this Court finds
that the order is patently illegal, inoperative and in violation of



the law of the land.

4. It is needless to say that divorce under the Mohammedan Law by pronouncing Triple Talaq has been declared to be void and inoperative by the Hon'ble Supreme Court. Moreover, it is no longer *res integra* that a divorced Mohammedan lady who has not remarried, is entitled to get maintenance under Section 125 of the Cr.P.C. The decision of the Hon'ble Supreme Court in the case of ***Danial Latifi & Anr vs Union Of India***, reported in ***(2001) 7 SCC 740***, may be relied on in this regard.

5. The learned Trial Judge accepted divorce of the petitioner by pronouncement of *Talaq* which was held to be in force w.e.f. 27th of September, 2012, when the petitioner received the copy of the show cause/written statement against her application under Section 125 of the Cr.P.C. Thus, he granted maintenance allowance from the date of the filing of the application under Section 125 of the Cr.P.C on 7th of August, 2012 to 27th of September, 2012 @ Rs. 5,000/- per month.

6. In view of the above-mentioned decisions, the impugned order is illegal and inoperative. Accordingly, the impugned order is quashed and set aside.

7. The learned Trial Judge is directed to dispose of the



maintenance application filed by the petitioner in accordance with law within six months from the date of communication of the order passed by this Court and after serving notice to the Opposite Party.

The instant revision is thus allowed.

(Bibek Chaudhuri, J)

uttam/-

U			
---	--	--	--

