

12.09.2025

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CRR 3283 of 2025

In Re : An application under Section 528 read with Section 438 of the Bhartiya Nagarik Suraksha Sanhita, 2023 and under Section 482 read with Section 397 of the Code of Criminal Procedure.

In Re : Tapash Bal .....petitioner

Mr. Akash Dutta  
..... for the petitioner

The instant revisional application has been filed seeking quashing of the Maintenance Case No. 95 of 2022, a proceeding under Section 125 of the Code of Criminal Procedure, 1973.

Mr. Dutta, learned Advocate appearing for the petitioner, submits that following matrimonial discord, the petitioner's wife filed an application under Section 125 of the Code of Criminal Procedure (in short, "the Code") seeking an order of maintenance. He submits that, pursuant to an order passed in the said proceeding, the petitioner was directed to pay maintenance @ Rs. 4,000/- per month to his wife. He further submits that, to date, the petitioner has paid a total sum of approximately Rs. 66,000/- towards her maintenance. Mr. Dutta also states that during the pendency of the said proceeding, the petitioner instituted a suit for divorce and has since obtained a decree of divorce against his wife. He claims to have reliable information that the petitioner's former wife has remarried. In view of these subsequent developments, Mr. Dutta contends

that the maintenance proceeding is no longer maintainable and, therefore, seeks quashing of the same.

In response to my query, he submits that the petitioner has not filed any application under Section 127 of the Code to bring the subsequent developments to the notice of the learned court below, which had passed the order of maintenance. Section 127 of the Code provides that where any order has been made under Section 125 in favour of a woman who has been divorced by, or has obtained a divorce from, her husband, the Magistrate shall, if satisfied that the woman has remarried after the date of such divorce, cancel the said order from the date of her remarriage.

Therefore, the Court has already empowered the Magistrate to cancel the order of maintenance if the woman, in whose favour the order was passed, has obtained a divorce from her husband and remarried another person.

Therefore, the revisional application is disposed of, granting liberty to the petitioner to file an application under Section 127 of the Code to bring the subsequent development to the notice of the learned court below and seek appropriate orders.

In the event such an application is filed, the learned court below shall dispose of the same in accordance with law, as expeditiously as possible, without granting any unnecessary adjournments to either party.

**(Partha Sarathi Chatterjee, J.)**