

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No. 745/2023 CrIM No. 1706/2023

Bashir Ahmad Bhat

...Petitioner(s)

Through: Mr. S. N. Ratanpuri, Advocate.

Vs.

Gulshana and Anr.

...Respondent(s)

Through:

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

27.12.2023

- 1.** In the instant petition inherent power enshrined under Section 482 CrPC is being invoked by the petitioner while seeking quashment of order dated 17.02.2020 passed by the Court of Judicial Magistrate 1st Class, Chadoora, (for short the Magistrate) and order dated 12.08.2023 passed by the Court of Additional Sessions Judge, Budgam, (for short the Revisional Court).
- 2.** The facts emerging from the petition as stated therein would reveal that the respondent 1 herein and the petitioner herein got married in the year 2009 after the death of first husband of respondent 1 being the brother of petitioner herein which marriage however, got dissolved by mutual consent on 11.12.2016 and respondent 2 had born therein the said wedlock between the petitioner and respondent 1 and upon dissolution of said marriage, an amount of Rs. 10.00 lacs came to be paid to the respondent 1 against an agreed amount of Rs. 15 lacs through cheques and after receiving the said amount, yet, the respondent 1 chose to maintain an application for grant of maintenance before the Magistrate wherein on 17.02.2020, an order came to be passed directing the petitioner herein to pay Rs. 2500/- per month to respondent 1 herein and Rs. 1500 per month to respondent 2 herein, aggrieved whereof the petitioner filed a revision petition before the Revisional Court which came to be dismissed on 12.08.2023.
- 3.** Both the orders passed by the Magistrate and Revisional Court dated 17.02.2020 and 12.08.2023 respectively are challenged by the petitioner in the instant petition *inter-alia* on the grounds that both Courts below

without going into the controversy in right perspective passed the impugned orders even without considering the material annexed with the objections filed by the petitioner herein inasmuch as without there being any *prima-facie* evidence on record entitling the respondent 1 herein to the grant of maintenance.

Heard counsel for the petitioner and perused the record.

- 4.** Perusal of the impugned orders would manifestly tend to show that the Magistrate as well as the Revisional Court have considered the matter for grant of interim maintenance to the respondents herein having regard to the facts of case, pleadings of the parties, as also the material available before the said Courts.

Further perusal of the impugned orders would reveal that petitioner herein before the Courts below has contested the maintenance proceedings by filing his objections controverting and refuting the contentions raised therein and both the Courts below seemingly have considered the case setup by the parties before them and consequently passed the impugned orders while placing reliance on various judgements passed on the subject, as also having regard to the scheme and mandate of provisions of Section 488 Cr.PC.

The impugned orders would manifestly demonstrate that Courts below have considered the matter rightly for grant of interim maintenance to the respondents herein without any error apparent thereto and seemingly have not faulted in the process.

- 5.** In view of the facts and circumstances of the case inasmuch as the reasons recorded in the impugned orders passed by the Courts below, this Court is not inclined to exercise inherent power which being neither a Revisional nor an appellate power has to be exercised sparingly and with due care and caution.

- 6.** Accordingly the instant petition is **dismissed**.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

27.12.2023

Ishaq

Whether order is speaking? Yes/No
Whether approved for reporting ? Yes/No