

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

LPA No. 98/2024

Nazir Ahmad & Anr.

...Petitioner(s)/Appellant(s)

Through: Mr. Ankur Sharma, Adv. (Through VC)

Vs.

Nazir Ahmad & Ors.

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE

HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

ORDER
15.05.2024

1. This appeal is directed against the order dated 21.07.2023 passed in WP (C) No. 1864/2023 whereby the learned Single Judge after hearing the petitioners has disposed of the petition by observing that in case the life and liberty of the petitioners is at threat, they shall be at liberty to approach the respondent No. 3 SHO Police Station Chassana, District Reasi, who shall take appropriate steps to protect the life and liberty of the petitioners.
2. Learned counsel for the appellants submits that the learned Writ Court passed the impugned order is based on half baked truth and truncated facts. Learned counsel further submits that the respondents obtained the impugned order by deceiving this Court by intentionally concealing the vital information regarding the subsistence of the earlier lawful marriage of respondent No. 2 with appellant No. 1 to mislead the Court and get favourable orders from this Court. Learned counsel further submits that the order impugned causes significant prejudice to the appellant No. 1 who happens to be the first and the lawful husband of the respondent No. 2 Khatoon Akhtar and, as such, the said order restricts the appellant No. 1 to enjoy his right to conjugal relations with his wife i.e., respondent No. 2 along-with all

the other ancillary rights which a lawful husband shares with his wife in a marital relationship as per the law.

3. Learned counsel for the appellants submits that the appellant No. 1 and his parents invited the respondent No. 2 and her family member for discussion and settlement, however, the respondent No. 2 and her family members in a well hatched conspiracy and planning, attached the appellant No. 1 with stones, sticks, kicks and fists. In this regard, appellant No. 1 moved a complaint before the Court of learned Judicial Magistrate 1st Class Kalakore against the respondent No. 2 and her family members/aides. Learned counsel further submits that in retaliation to the aforesaid complaint made before the Court of learned Judicial Magistrate 1st Class Kalakote, respondent No. 2 filed a written complaint against appellant No. 1 under Section 109, 294, 354 and 498-A IPC in Police Station Women Cell, Rajouri.
4. After having heard learned counsel for the appellant and after considering all the above stated facts, this Court is not inclined to interfere with the order passed by the learned Writ Court.
5. The appeal is accordingly **dismissed**. However, the appellants are given liberty to approach before the concerned court for taking cognizance on the complaint, if any, filed by the appellants against the writ petitioners-respondents herein strictly under rules governing the field and without being influenced by the orders passed by the learned Writ Court.

(M. A. CHOWDHARY)
JUDGE

(TASHI RABSTAN)
JUDGE

SRINAGAR:

15.05.2024

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