

Supplementary List-I
Serial No. 129

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

CM(M) No. 311/2025
CM No. 7563/2025

Date of pronouncement : 25.11.2025
Uploaded on : 28.11.2025

Juhi Majeed
.....Petitioner

Through:- Mr. Ajay Bakshi, Advocate.

V/s

Mohd. Yasir
.....Respondent

Through:-

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT (ORAL)

01. The petitioner – Juhi Majeed is wife of the respondent – Mohammad Yasir. Marriage between the two is said to have taken place on 09.05.2022 as per Muslim rites and customs leading to birth of a child (son).

02. The petitioner feeling aggrieved of neglect at the hands of respondent and being dependent upon him resorted to proceedings under section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 providing for “Order for maintenance of wives, children and parents” with a petition submitted before the learned Principal Judge, Family Court, Jammu on file No. 68/2025.

03. Jurisdiction of a Family Court to entertain the proceedings under section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is purportedly drawn by reference to sub-section 2 of section 7 of the Family Courts Act, 1984 which actually envisaged jurisdiction for the Family Court otherwise exercisable by a Magistrate of 1st Class under Chapter-IX of the Code of Criminal Procedure (Cr.P.C.), 1973 and such other jurisdiction as may be conferred or it by any other enactment.

04. Code of Criminal Procedure (Cr.P.C.), 1973 has been repealed by Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

05. Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is now meaning the proceedings to be maintained before the Magistrate of 1st Class.

06. Whether section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 proceedings per force would go to a Family Court in terms of section 7(2) of the Family Courts Act, 1984 is an aspect to be looked into but be that as it may in a proceeding before Family Court, section 10 provides for the "Procedure".

07. Section 10(2) of the Family Courts Act, 1984 provides for the scope for application of Code of Criminal Procedure (Cr.P.C.), 1973 and the rules made thereunder by

reference to proceedings under Chapter-IX meaning thereby even with respect to service of a respondent in a case under section 125 of the Code of Criminal Procedure (Cr.P.C.), 1973 akin to section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, same is to be carried out not by reference to Order-V of the Code of Civil Procedure, 1908 but by issuance of summons under Code of Criminal Procedure (Cr.P.C.), 1973 and service of summons under Code of Criminal Procedure (Cr.P.C.), 1973 is always through Police until and unless otherwise directed by the Magistrate issuing the summons.

08. Provisions for issuance of process under Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is provided under Chapter-VI of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

09. Sections 63 & 64 reads summons issued under Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to be served by a Police Officer for which purpose the Police Station is meant to maintain a register to enter the address, email address, phone number and such other details as State Government may, by rules, provide for the purpose of carrying out statutory duty of service of summons.

10. Service of summons is meant to take place personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons, upon

service of which, the person served is to sign a receipt therefor on the back of the other duplicate.

11. The contingencies in which the service of summons cannot take place are also provided for.

12. Section 67 provides that in the failure of the service of summons despite due diligence by the serving officer 'Doparta' summons is to be resorted to for enabling a fixation of one of the duplicates to the house of the person being summoned and return of the process.

13. Accordingly, this Court directs the learned Principal Judge, Family Court, Jammu to resort to the provisions of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 in the matter of issuance of summons by reference to proceedings under section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and, accordingly, the service of the respondent in the present case to take place to be served by the Police Station concerned through its deputed Police official.

14. The present petition is, accordingly, disposed of along with connected application.

(RAHUL BHARTI)
JUDGE

JAMMU
25.11.2025

Bunty

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No