

Supplementary List-I
Serial No. 131

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

CM(M) No. 346/2025
CM No. 8380/2025

Date of pronouncement : 26.12.2025
Uploaded on : 29.12.2025

Sardari Lal
.....Petitioner

Through:- Mr. Maneesh Rampal, Advocate.

V/s

Kirna Devi
.....Respondent

Through:-

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

01. The petitioner comes up with present petition related to an offshoot of main proceedings going on under section 488 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.) initiated on **28.01.2014** against the petitioner by the respondent claiming herself to be the wife of the petitioner joined by three children, namely, Preeti Devi (daughter), Om Prakash (son) and Tarsem Lal (son) claimed to be born out of her wedlock with the petitioner.

02. The maintenance proceedings came to be laid before the court of learned Judicial Magistrate 1st Class (Munsiff), Samba.

03. Said proceedings under section 488 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.) are said to be still ongoing, although in that proceedings, the petitioner has been held liable to pay interim monthly maintenance only in favour of three children @ **Rs. 2000/- per month each** and simultaneously holding the respondent not entitled to any maintenance whatsoever from the petitioner's end on account of the fact that the respondent does not count to be the wife of the petitioner in the face of her subsisting marriage with one Darshan Lal against whom the respondent is said to have preferred a divorce petition on **10.10.2001** before the court of learned Sub-Judge, Samba vested with powers of District Judge under J&K Hindu Marriage Act, 1980 which petition is said to have suffered *dismissal* for non-prosecution on **06.03.2007**.

04. The petitioner is said to be pursuing his defence in said petition filed under section 488 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.) against him from the end of said three children, two of them

during the course of proceedings are said to have attained majority, whereas son Tarsem Lal is reported to be few months short of attaining age of majority.

05. The petitioner seems to have run in arrears in the matter of recurring payment of interim monthly maintenance.

06. Be that as it may, the petitioner resorted to proceedings under section 476 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.) akin to section 340 of the Code of Criminal Procedure, 1973 with an application made to the Judicial Magistrate 1st Class (Munsiff), Samba for booking the respondent for false claims of being wife of the petitioner.

07. Said application of the petitioner came to suffer refusal from the Judicial Magistrate 1st Class (Munsiff), Samba, by virtue of an order dated **03.05.2025**, by holding that the plea raised by the petitioner can only be dealt with on the basis of the evidence being still led by the parties in the ongoing proceedings under section 488 Cr.P.C and, therefore, the application deserves to be deferred till conclusion of the proceedings in the petition under section 488 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.).

08. Mr. Maneesh Rampal, learned counsel for the petitioner comes forth with reference to the judgment of the Hon'ble Supreme Court of India in the case of **"Iqbal Singh Marwah & Anr. vs Meenakshi Marwah & Anr."** 2005 AIR SC 2119 and submits that the Judicial Magistrate 1st Class (Munsiff), Samba fell in error of law by reading that jurisdiction to deal with a plea under section 476 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.) akin to section 340 of the Code of Criminal Procedure, 1973 can only be ignited once the principal proceedings in the case comes to evidence based conclusion whereupon only can it be gathered as to whether false evidence has been led in a judicial proceedings so as to warrant criminal prosecution under section 195 Code of Criminal Procedure, 1973.

09. This Court thought of entertaining the present matter but when came to realize the fact that 2014 instituted maintenance proceedings, that too, under section 488 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.) are still going on by reference to the applicant Nos. 2, 3 and 4 only, with two of them during the course of time having attained majority and one is going to attain majority, this Court deems it fit to *dispose of* this

petition, without engaging itself on adjudication on merits, with a direction to Judicial Magistrate 1st Class (Munsiff), Samba to conclude ongoing proceedings under section 488 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.) within a period of next six months reckoning from **01.01.2026** onwards without fail and submit a report to this effect to the Administrative Judge about concluding of the pending proceedings under section 488 of the Jammu & Kashmir Code of Criminal Procedure, Svt., 1989 (1933 A.D.) within the time hereby granted by this Court.

10. The present petition is accordingly, ***disposed of*** along with connected application(s).

11. Copy of this order be forwarded to the Judicial Magistrate 1st Class (Munsiff), Samba by the Registrar Judicial, Jammu for notice and compliance.

(RAHUL BHARTI)
JUDGE

JAMMU
26.12.2025

Bunty

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No