

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

CRMC 206/2014

RABINDER SINGH

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

Through: Mr. I. Sofi, Advocate

Vs.

GURJEET KOUR AND ANOTHER

...Respondent(s)

Through: None

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
22.07.2025

1. This petition challenges the order dated 19.08.2014 passed by the court of Principal Sessions Judge, Baramulla (for short Revisional Court), whereby the revision petition filed by the petitioner herein has been rejected. He also prays to set-aside order dated 20.10.2012 passed by the court of Sub Judge/ Judicial Magistrate, Baramulla, whereby petitioner has been directed to pay maintenance to respondents.
2. Revisional Court while rejecting the revision petition has in terms of impugned order dated 19.08.2012 observed as under:

“...On careful analysis of the evidence lead by both sides, I am of the considered view that if the relations of the parties were cordial as stated by the revisionist, then there was no occasion for the respondent to abandon her matrimonial home or not to return even if she went to her parental house on her own. Since no lady of ordinary prudence would adopt such a course of conduct. On the other hand, the conduct of the revisionist in denying any maintenance to the respondents for eight long yeas nor resorting to legal recourse for takin back the respondent to the matrimonial house lend support to the respondents version that revisionist had neglected to maintain them despite having sufficient means. So far as the contention of the revisionist that he made a bonafide offer and was still ready to take respondent no. 01 to the marital fold is concerned, the offer, far from being a bonafide, seem to be an excuse to escape liability, since it was required to be proved as a fact by leading cogent evidence even if it is accepted for the moment that revisionist made such an offer

when respondent no. 01 has expressed her willingness to join the revisionist in case he hired accommodation at Baramulla as respondent no. 02 is studying in a school and the better education facilities for the child should be the prime concern of the parents and thus, under no circumstances it can be accepted to be an unreasonable condition. Moreover, it is also in the interest of the child to continue his studies in the same school where he has already been studying from the beginning. Therefore, there is no merit in the revision petition. it is accordingly, dismissed. Let the record of the trial court be returned along with copy of this order. Revision file be consigned to records after its due completion.”

3. The fact that respondent no.1 married petitioner herein is not in dispute and the marriage still exists. Respondent no.2 is his son. Respondent no.1 before the Trial court sought maintenance for herself and for her child on the plea that the petitioner neglected to maintain them. Petitioner herein husband of respondent no.1, while appearing before the Trial court submitted that he was ready to take her back and to provide maintenance to her. So far as the offer to join him was concerned, respondent-wife accepted the offer, however, on the condition that they would reside in a hired accommodation at Baramulla and not the native village of the petitioner-husband.
4. It is submitted by Mr. Sofi, learned counsel for the petitioner, that there had been a *bona fide* offer and petitioner is ready to maintain her and provide maintenance to her and child provided she joins his company at his native village. He submits that the refusal of respondent no.1 to join the company of the petitioner at the native village of petitioner is sufficient to reject the claim of the wife and child for claiming maintenance. Therefore, it is submitted by him that the order passed by the Trial court as well as the Revisional court is bad and has caused miscarriage of justice because the offer has not been considered and the

Trial court as well as the Revisional Court, while rejecting his claim, have wrongly taken the offer of the wife as a genuine condition. Thus, it is submitted by learned counsel for the petitioner, Mr. Sofi, that it is not the petitioner who has neglected but it is the wife who has refused to join his company. Learned counsel for the petitioner also submits that both the orders passed by the Trial court as well as Revisional court reflect that both the Courts have failed to appreciate the evidence properly and, therefore, it is submitted that this Court has a power to interfere with both the orders passed by the Trial court as well as Revisional court. Learned counsel's argument is that the Trial court has failed to consider and appreciate the evidence in its right perspective.

5. The purpose and object of the enactment of the provisions as contained in Section 488 CrPC (Section 125 CrPC) is to provide maintenance to the discarded wife, neglected children and parents. The purpose of which is that the neglected wife and children are prevented from vagrancy and are in a position to maintain themselves. The husband has to make proper arrangement for maintenance of his wife as well as children, provided the wife is not at fault. So far as the fact of her being in the company of her husband is concerned, she could refuse to remain in the company of her husband and live separately and claim maintenance, if there is reasonable and sufficient cause for her to do so.
6. The respondent, as per her own showing, has admittedly left the matrimonial house in the year 2009. Thereafter, she went to the house of her parents and is staying there with them in Baramulla. After having not been provided the expenses for maintenance by her husband,

respondent no.1 approached the Judicial Magistrate concerned and filed a petition seeking maintenance against him while residing separately from her husband. There is nothing on record that petitioner has taken recourse to any legal proceedings so far as respondent is concerned, who according to petitioner has left him without a cause. She filed a petition in the year 2009. The offer of the petitioner that he is ready to maintain respondent provided she resides with him appears to be a plea taken without any basis. Had it been so and had he been interested to have his wife with him, then he certainly would have taken recourse to legal remedy, which he has failed. It appears to be an excuse only with a purpose to deny maintenance to petitioner as well as his child. There is evidence on record to show that the wife has no source of income. She is dependent upon the husband and it is duty of the husband to maintain his wife. To the offer of the petitioner that if she resides with him and joins his company, he would maintain her. Respondent no.1 is ready to accompany her husband/petitioner and to be in his company provided petitioner takes an accommodation in Baramulla on rent and such offer has been made on the plea that her son is studying in Baramulla from the day she started residing separately at Baramulla and she would be in a position to provide better educational facilities to her son at Baramulla than in the village where the petitioner is residing. This reason given by respondent no.1 not to stay at her matrimonial home with her husband appears to be genuine and reasonable. The Trial court as well as Revisional court have considered it and found the reasons given by her wife to be sufficient reasons.

7. Perusal of the orders passed by the Trial court as well as Revisional court would unambiguously reveal that both the orders are well within the provisions of law. Both courts have properly appreciated and taken into count the reasons as well as have passed the orders to advance the object for which Section 488 CrPC/125 CrPC have been incorporated or enacted in the Statue.
8. Learned counsel for the petitioner submits that there are change in circumstances from the day when the order was passed and if there is any change in circumstances, he is at liberty to approach the Trial Magistrate by invoking the provisions as contained in the said Chapter.
9. I do not find any ground to interfere with the orders passed by the Trial court as well as by Revisional court. Accordingly, the petition is **dismissed** along with the connected CrIM(s).

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
22.07.2025
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