

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

CRM(M) 632/2024

Muzaffar Ahmad Baba

...Petitioner/Appellant(s)

Through: Mr. Parvaiz Ahmad Lone, Advocate.

Vs.

Kulsuma Bano & Ors.

...Respondent(s)

Through: Mr. Ahmad Javaid, Advocate.
Respondent No. 1 is present in person.

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE.

ORDER

14.08.2025

1. Respondent No. 1 is present in person too.
2. Through the medium of the instant petition, filed under Section 528 of Bhartiya Nagarik Suraksha Sanhita (BNSS for short), the petitioner has sought quashment of the non-bailable warrant of arrest dated 14th August 2024 issued against him by the Court of Chief Judicial Magistrate, Budgam, during the proceedings conducted on a petition filed by the respondents in terms of Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code" for short), on the main grounds that the proceedings on the maintenance petition are not being conducted in accordance with law, which is evidenced from the fact that the learned Magistrate, even during the pendency of a

revision petition, continued to proceed on the maintenance petition, when, as a matter of propriety, he ought to have awaited the outcome of the said revision petition.

3. Heard the learned counsel for both the parties. It is submitted by the learned counsel for the petitioner that the learned Magistrate, after setting aside the ex parte proceedings against the petitioner vide order dated 24th June 2024, subject to payment of costs of Rs. 600, again initiated the ex parte proceedings subsequently vide order dated 14th August 2024, despite the payment of the costs, and has also proceeded to issue a non-bailable warrant of arrest against the petitioner. The learned counsel also submitted that the impugned order dated 14th August 2024 does not speak of issuance of any warrant of arrest.
4. *Per contra*, the learned counsel for the respondents submitted that the petitioner has been adopting delaying tactics to avoid the payment of maintenance already granted by the learned Magistrate. He submitted that the respondents have been badly suffering for want of sustenance as the petitioner has been continuously making default in payment of the interim maintenance already granted.

5. I have perused the instant petition and the copies of the documents enclosed with the same. The scanned trial court record has also been perused. Consideration has also been accorded to the arguments advanced on both sides.
6. In the backdrop, this Court is of the opinion that it may be in the ends of justice, in case the non-bailable warrant of arrest issued against the petitioner is set aside and the learned Chief Judicial Magistrate, Budgam, is directed to proceed on the maintenance petition in accordance with the procedure established under law. "Ordered accordingly". He shall revisit his order dated 14th August 2024 by having recourse to the provisions of Section 362 CrPC, corresponding to Section 403 BNSS. The petitioner shall, however, ensure his representation before the learned trial Magistrate and his personal appearance as and when required.

7. *Disposed of.*

**(MOHD YOUSUF WANI)
JUDGE**

SRINAGAR:

14.08.2025

"Hilal"