

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRM(M) No. 21/2026
CrIM No. 37/2026

Date of Pronouncement: 15.01.2026

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Sakshi Khajuria

.... Petitioner/Appellant(s)

Through:- Mr. Mayank Gupta, Advocate

V/s

Narinder Parsad Sharma & ors.

.....Respondent(s)

Through:-

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
15.01.2026

1. After hearing learned counsel for the petitioner, it appears that the petitioner is embroiled in a matrimonial dispute with her husband, namely Sunil Sharma, whereas the respondents are close relatives of the husband.
2. The petitioner had earlier initiated proceedings under the Protection of Women from Domestic Violence Act and, simultaneously, had also lodged a complaint against the respondents and her husband before the Police Station Women Cell, Jammu on 01.04.2024, which came to be diarized as Complaint No. 21624. It is alleged that during the pendency of the said complaint, the husband fled to New Zealand and never appeared before the Women Cell, whereas the respondents continued to participate in the proceedings. During the course of those proceedings, the articles exchanged at the time of marriage were returned. However,

when the issue of alimony arose, the respondents allegedly backtracked from their assurance, compelling the petitioner to insist upon the physical appearance of her husband, Sunil Kumar. It is an admitted position that divorce proceedings between the husband and wife are pending before a competent court at Jammu. During the pendency of the said divorce proceedings, the petitioner moved an application before the learned Chief Judicial Magistrate, Jammu on 17.04.2025 seeking a status report in respect of the criminal complaint lodged before the Women Cell. The said application came to be registered as Application No. 181/2025 titled *Sakshi Khajuria v. Women Cell*, bearing CNR No. JKJM030039042025.

3. Aggrieved by the filing of the aforesaid application, the respondents approached this Court by way of CRM(M) No. 847/2025, which was disposed of with a direction to the learned Chief Judicial Magistrate, Jammu (hereinafter referred to as “CJM”), to call for a detailed status report and record from the concerned Police Station and thereafter dispose of the matter in accordance with law after affording reasonable opportunity of hearing to both sides. It is submitted that during the course of proceedings, the report submitted by the Police Station Women Cell, Jammu revealed serious irregularities and a deliberate attempt on the part of the police authorities to drag the matter. This constrained the petitioner to move another application before the learned CJM seeking monitoring of the enquiry being conducted by the Women Cell in the earlier complaint. The said application came to be transferred to the Court of the Excise Magistrate, Jammu, where proceedings under the Domestic Violence Act were already pending

inter se the parties, and was numbered as Application No. 500/2025. It is specifically stated in the said application that no express or written prayer for transfer of the proceedings was ever made by the petitioner. The respondents, misconstruing the directions passed by a Coordinate Bench of this Court, filed an application before the learned Trial Court raising a preliminary objection regarding the maintainability of the petitioner's application.

4. The learned Trial Court, by way of the impugned order, not only recalled the application pending before the Court of the learned Excise Magistrate, Jammu, but also recorded reasoning which, according to the petitioner, was unknown to law. It is contended that both the applications filed by the petitioner were for distinct reliefs and based on different causes of action, one being confined to calling for a status/progress report and the other seeking monitoring and supervision of the enquiry being conducted by the Women Cell, Jammu. It is further contended that while allowing the application filed by the respondents, the learned Trial Court assumed a power of judicial recall not sanctioned by law. The learned Trial Court, after hearing both sides, allowed the respondents' application and observed as under:

“11. The application pending sub judice before the Court of Ld. Excise Magistrate, Jammu has also been filed by the non-applicant Sakshi Khajuria seeking monitoring of the preliminary enquiry being conducted by Women Police Station, Jammu. Thus, in both these applications filed by non-applicant Sakshi Khajuria, i.e., before this Court and before the Court of Ld. Excise Magistrate, Jammu, both the Courts have to pass orders after considering the grievances of the applicant and the progress and legality of the

preliminary enquiry, which may result in contradictory orders.

12. Thus, to prevent any such situation, in my considered opinion, the application of the applicants deserves to be allowed to the extent of recalling the application pending before the Court of Ld. Excise Magistrate, Jammu, so that both the applications may be heard by one Court and the possibility of contradictory orders is avoided.

13. For the foregoing reasons and keeping in view the mandate of Section 450 BNSS, the application is allowed and the application seeking monitoring of the preliminary enquiry is recalled from the Court of Ld. Excise Magistrate, Jammu. A copy of this order be furnished to the learned Excise Magistrate, Jammu for information and compliance. List on 29.01.2026 along with the main application pending in this Court.”

5. Given the context of the order reproduced above, once the respondents had obtained an order from the Coordinate Bench in CRM(M) No. 847/2024 granting them a right of hearing before the learned CJM, Jammu, the learned CJM was required to obtain a detailed status report and record from the concerned Police Station and thereafter dispose of the matter in accordance with law after affording an opportunity of hearing to both parties. The complaint being before the Women Cell, the first application filed by the petitioner was confined only to seeking a status/progress report, whereas the second application dated 14.11.2025 sought monitoring of the enquiry in respect of the same complaint. In essence, the second application ought not to have been transferred to the learned Excise Magistrate once the learned CJM was seized of the matter pursuant to the directions issued by this Court on 02.09.2025. It appears that due to administrative exigencies, the matter escaped the attention of the learned CJM. Nonetheless, the petitioner

was essentially seeking the status of the enquiry being conducted by the Women Cell, Jammu.

6. Learned counsel for the petitioner vehemently argued that although the learned CJM had the power to recall the application pending before the learned Excise Magistrate and assign it to himself, one of the applications ought to have been consigned to records, as the respondents had no authority or locus standi to seek recall of the petitioner's application for monitoring the preliminary enquiry.
7. Be that as it may, the impugned order does not cause any prejudice to the petitioner. It is true that the respondents have only a limited right at the pre-cognizance stage, and the enquiry being conducted by the Women Cell does not suffer from any apparent legal infirmity. The learned CJM, perhaps owing to the rush of court work, should have retained both applications instead of sending one to the Court of the learned Excise Magistrate. The respondents rightly brought this aspect to the notice of the learned Trial Court, resulting in the recall of the application so that both applications could be decided together.
8. The argument that the power of recall is unknown to law is untenable. The learned CJM was not recalling any judicial order but merely exercising powers vested under Section 450 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), which empowers the Chief Judicial Magistrate to withdraw or recall any case made over to a subordinate Magistrate. Thus, the use of the word "recall" is in conformity with the statutory mandate.
9. This Court agrees with the contention of learned counsel for the petitioner that the respondents lacked locus standi to seek recall of the

monitoring application from the Court of the learned Excise Magistrate. However, the learned CJM, in his judicial wisdom, rightly deemed it appropriate to hear and decide both applications by a single order. Although the reliefs sought in the two applications were distinct, one relating to calling of a status report and the other to monitoring of the enquiry, no prejudice has been caused to the petitioner. Ultimately, it is for the learned CJM to obtain the status of the enquiry, direct expeditious completion thereof, and examine whether the complaint discloses cognizable offences warranting further proceedings in accordance with law.

10. It needs no reiteration that the right of hearing granted to the respondents at this stage is limited and cannot be expanded to derail or obstruct the police enquiry initiated on the basis of the petitioner's complaint.
11. For the foregoing reasons, no interference is warranted with the impugned order. The learned CJM, Jammu is directed to proceed further in the matter and decide both applications strictly in accordance with law.
12. The petition is, accordingly, *disposed* of.

(SANJAY PARIHAR)
Judge

JAMMU
RAM MURTI
15.01.2026

Whether the order is speaking? : Yes

Whether the order is reportable? : Yes