

Regular List
Serial No. 87

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

Crl R No. 04/2026
CrlM No. 112/2026

Date of pronouncement : 02.02.2026
Uploaded on : 05.02.2026

Akriti Mahajan

....Petitioners

Through:- Mr. Rahul Pant, Sr. Advocate with
Mr. Vishal Kapoor, Advocate.

V/s

Abhimanyu Gupta & ors.

....Respondents

Through:- Mr. Gagan Oswal, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE
(ORDER)

01. Through the medium of the present revision petition, the petitioner has challenged order dated 22.01.2026 passed by the learned Principal Sessions Judge, Jammu (hereinafter to be referred to as **“appellate court”**) whereby appeal filed by the petitioner against order dated 06.06.2025 passed by the learned Chief Judicial Magistrate, Jammu (hereinafter to be referred to as **“trial Magistrate”**) has been partly allowed. While the learned appellate court has allowed the appeal to the extent of grant interim monetary compensation to the appellant, but it has upheld the order of the learned trial Magistrate with regard to grant

of order of residence in the shape of separate accommodation instead of shared accommodation.

02. Issue notice to the respondents. Mr. Gagan Oswal, learned counsel appearing for the respondents accepts notice.

03. I have heard learned counsel for the parties and perused record of the case.

04. It appears that a petition under Section 12 of the Protection of Women from Domestic Violence Act (hereinafter to be referred to as '**D.V Act**') came to be filed by the petitioner against the respondents before the court of learned trial Magistrate seeking *inter alia* the monetary compensation and an order relating to residence. It is pertinent to mention here that respondent No. 1 happens to be the husband, respondents No. 2 and 3 happen to be the parents-in-law and respondent No. 4 happens to be the aunt of the petitioner. Along with the petition under section 12 of the D.V Act, the petitioner also filed an application under Section 23 of the D.V Act seeking interim orders *inter alia* an order of residence in the nature of Section 19 of the DV Act.

05. The learned trial Magistrate vide a detailed order dated 06.06.2025 disposed of the application of the petitioner under Section 23 of the D.V Act and instead of granting order of residence in the shared accommodation, respondent No. 1 was directed to arrange a separate

accommodation of the same level as per the requirement specified by the petitioner which she was enjoying in the shared household preferably near the vicinity of her parental house or in the alternative to pay her rent @ Rs. 20,000/- per month. It was also directed that till such time separate accommodation is arranged by respondent No. 1, her possession should not be disturbed. It is pertinent to mention here that the petitioner was not granted any monetary compensation whereas interim monetary compensation in the amount of Rs. 7,000/- was granted in favour of the minor daughter, who is residing with the petitioner.

06. The aforesaid order came to be assailed by the petitioner by way of an appeal under section 29 of the D.V Act before the learned appellate court. The learned appellate court while passing the impugned order dated 22.01.2026, came to the conclusion that the order passed by the learned trial Magistrate to the extent of refusal to grant interim monetary compensation to the petitioner is not sustainable in law. Accordingly, a sum of Rs. 7,000/- per month has been directed to be paid to the petitioner as interim monetary compensation. However, so far as relief relating to grant of shared accommodation is concerned, the learned appellate court held that order of residence and interim maintenance granted to the child does not require any

interference. Thus, the relief relating to order of residence in shared accommodation in terms of Section 19 of the D.V Act has been refused to the petitioner while granting to her alternative suitable accommodation or a sum of Rs. 20,000/- per month in lieu thereof.

07. Learned Senior counsel appearing for the petitioner has urged numerous grounds for assailing the impugned order passed by the learned appellate court but much emphasis has been laid on the ground that the learned appellate court has not assigned any reason much less a cogent reason for upholding the order relating to residence passed by the learned trial Magistrate.

08. Per contra, learned counsel appearing for the respondents has contended that even though no reasons have been assigned by the learned appellate court for upholding the direction of learned trial Magistrate relating to order of residence, yet the learned Magistrate has elaborately discussed the reasons for not granting order of residence in shared accommodation to the petitioner by referring to the acrimonious relationship between the parties and by observing that keeping the minor child in hostile atmosphere would be harmful to her growth.

09. Without going into the merits of the contentions with regard to entitlement or otherwise of the petitioner to an order of residence in shared accommodation, it has to be

seen whether the learned appellate court has assigned any reasons for upholding the order of the learned trial Magistrate to this extent and if not, what would be its effect on the impugned order.

10. A perusal of the impugned order passed by the learned appellate court would reveal that it is recorded in the said order that the order of residence and interim maintenance to child does not require any interference. No reason much less any cogent reason has been assigned by the learned appellate court while upholding the direction of the learned trial Magistrate to this extent. Although learned appellate court has noticed the contentions of the appellant on this issue in the impugned order itself yet these contentions have not been adverted to at all by the said court. In fact the issue has not even been discussed by the learned appellate court while passing the impugned order.

11. Section 29 of the D.V Act gives a statutory right of appeal against an order passed by a Magistrate, both on facts as well as on law. It is a well settled law that when an appellate court affirms the order of the court below, it has to adjudicate on the issues which arise in the appeal. Reasons laid down in the judgment are essential and without reasons, a judgment or a finding passed by an appellate court becomes arbitrary.

12. The Supreme Court of India in the case of **Assistant Commissioner Vs. M/s Shukla and Brothers**, 2010 (4) SCC 785 has held that recording of reason is an essential feature of dispensation of justice. The court went on to observe that a litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. The Supreme Court further held that a judgment without reasons causes prejudice to the person against whom it is pronounced as the litigant is unable to know the ground which weighed with the court in rejecting his claim which causes impediments in his taking adequate and appropriate grounds before the higher court in the event of challenge to that judgment. The Court also observed that reasons are soul of the orders.

13. In the present case, the learned appellate court while upholding the order of the learned trial Magistrate with regard to order of residence despite noticing the grounds urged by the appellant, has not dealt with the same. No reason has been assigned by the learned appellate court as to why it is agreeing with the view taken by the learned trial Magistrate. In the appeal, the appellant had taken a specific ground that there is no valid reason for uprooting the minor child from matrimonial home, where she is living with the appellant on the first floor. It was also

contended by the appellant that once a protection order was passed by the learned Magistrate, there was no justification for the learned Magistrate to express apprehension that there would be hostile atmosphere in the house. Both these grounds were required to be addressed by the learned Appellate Court before coming to any conclusion regarding legality of the order of residence. Without undertaking such exercise, the impugned order becomes unsustainable in law.

14. An order without reasons takes away the valuable right of a litigant to effectively challenge the said order. In the present case, as already stated, the learned appellate court has not undertaken the exercise of dealing with the grounds of appeal and assigning reasons for upholding the order of the learned trial Magistrate to the aforesaid extent. The impugned order of the learned appellate court on this ground alone is liable to be set aside.

15. Accordingly the revision petition is allowed and the impugned order passed by the learned appellate court to the extent of upholding the order of the learned trial Magistrate with regard to order of residence is set aside and the matter is remanded to the learned Principal Sessions Judge, Jammu with a direction to hear the parties afresh and take a decision on the claim of the petitioner with regard to order of residence in shared accommodation in accordance with law without getting influenced by

observations made in the impugned order dated 22.01.2026.
Till such time, a fresh decision is taken by the learned
Principal Sessions Judge, Jammu, the order of learned trial
Magistrate prohibiting the respondents from disturbing the
possession of the petitioner of the portion of the house in her
matrimonial house, shall continue.

(SANJAY DHAR)
JUDGE

JAMMU
02.02.2026
Naresh/Secy.

Whether the judgment is speaking: **Yes/No**

Whether the judgment is reportable: **Yes/No**

