

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

WP(C) 77/2026 CM 154/2026

Kousar & Anr. ...Petitioner(s)

Through: Mr. Parviz Ahmad Lone, adv.

VS.

Union Territory of J&K and Others. ...Respondent(s)

Through: Nemo

CORAM:

Hon'ble Mr. Justice Mohd. Yousuf Wani, Judge.

ORDER
28.01.26

01. Petitioners are present in person.

02. Through the medium of the instant petition, filed under Article 226 of the Constitution of India, the petitioners seek issuance of writs/directions in the nature of:

- (i) *“Mandamus for commanding upon the official respondents 1 to 3 to provide them the necessary protection as they are apprehending threat to their lives at the hands of private respondents 4 & 5 for contracting marriage out of their own free will and choice;*
- (ii) *Prohibition for restraining official respondents 1 to 3 to make unnecessary arrest of the petitioner No.2 being the husband of the petitioner No.1 and for restraining all the respondents from interfering into their matrimonial life.”*

03. It is the case of the petitioners that they are major adults who have solemnized their marriage out of their own free will and consent. That they solemnized their marriage lawfully in accordance with their personal law by executing a *Nikahnama* on 24.11.2025, which is valid and subsisting. That after their marriage they started living together as husband and wife. That the private respondents, being aggrieved on account of pre-existing matrimonial disputes with petitioner No. 2, have

started interfering in their peaceful matrimonial life. That petitioner No. 2 was already living separately from private respondent No.4 for a long period. That petitioner No. 2 had earlier issued a legal notice calling upon private respondent No. 4 to resume her matrimonial company, which she refused while acknowledging his right to contract another marriage. That instead of availing lawful remedies, the private respondents have misused the police machinery to harass, intimidate, and threaten them. That the petitioners have been living under constant fear and threat in an insecure atmosphere. That they have been constrained, to approach this Court through the medium of instant petition seeking protection from unlawful interference and harassment.

04. The petitioners who are present in person and whose identification was checked, supported and corroborated the contents of their petition. They stated that they are major adults and have contracted marriage with each other out of their own free will and choice. They further stated that they solemnized their marriage as per their personal law by executing a *Nikahnama*. It was further submitted that petitioner No. 2, Abdul Hameed Khuru is already married to private respondent No. 4, Ms. Rafiq, daughter of Ghulam Mohammad Pinchoo, resident of Nundreshi Colony B Srinagar. However, a matrimonial dispute has been subsisting between them for the last six years.

Petitioner No. 2 further stated in open Court that private respondent No. 4, despite being served with a legal notice, refused to resume his matrimonial company and instead conveyed that he is within his rights to contract a second marriage, and she would agitate her right to seek maintenance for herself and the children.

05. Petitioner No. 2 has also placed a separate affidavit on record acknowledging the fact of his existing marriage with private respondent No. 4. The statements of the petitioners in support of their case were recorded by the learned Registrar Judicial.

06. The petitioners have placed on record the scanned copies of their Adhaar Cards, alleged “Nikah Nama” and age certificates. Perusal of the copies of the age certificates reveals that the Date of Birth of the petitioner No.1 Kousar is 35 years, while as that of petitioner No.2 is 55 years.

07. Heard learned counsel for the petitioners, perused the material on record, and considered the submissions made.

08. It is submitted by the learned counsel for the petitioners that since the petitioners being major have contracted marriage out of their own free will and choice, as such the instant writ petition be disposed of at this thresh-hold stage in view of the law laid down by the Hon’ble Supreme Court of India in case “***Lata Singh vs. State of UP and ors (2006) 5 SCC 475***”;and “***Arumugam Servia v. State of Tamil Nadu (2011) 6 SCC 405***” decided on **19th April 2011**, by passing the appropriate directions upon the respondents to safe guard the life and liberty of the petitioners, to prevent any sort of undue harassment to them, as also any interference with their matrimonial life.

09. In the facts and circumstances of the case, this court is of the opinion that the instant matter can be disposed of at this threshold stage by passing of appropriate orders in accordance with the law.

10. Accordingly, the instant petition is allowed and disposed of at this thresh hold stage with the following directions:

- i) The official respondents 1 to 3 shall ensure that no unjustified harassment is being caused to the petitioners and they shall be provided protection as and when asked for the same;
- ii) The respondents 4 & 5 shall also desist from causing any illegal and unjustified harassment to the petitioners, so that their right to life and personal liberty is not interfered with.

11. However, in view of the ratio decidendi of the law laid down by the Hon'ble Supreme Court of India in ***Doly Rani vs. Manish Kumar Chanchal*** [2024 Live Law (SC) 334 =2024 SCC Online SC 754] **decided on 19.04.2024**, this order shall not be construed as any opinion of this Court regarding the validity of marriage as per Personal Law guaranteeing the parties.

12. **Disposed of** along with connected CM.

(Mohd. Yousuf Wani)
Judge

SRINAGAR:

28.01.26

"Ayaz/tf Mubasir"