

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

CM(M) 39/2026 CM(496/2026)

Sheikh Mushtaq

...Petitioner(s)

Through: Mr. Manzoor Ul Haq Wani, Advocate

Mst. Aurath

...Respondent(s)

Through:



CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

10.02.2026

1. Heard Mr. Manzoor Ul Haq Wani, learned counsel for the petitioner.

2. The respondent-Mst. Aurath Jan joined by her two and a half year old daughter-Hareem Jan, has petitioned the Court of Chief Judicial Magistrate, Srinagar by taking recourse to the provisions of the Protection of Women from Domestic Violence Act, 2005.

3. In the said complaint, there are two respondents with respondent No. 1 being Sheikh Mushtaq Ahmad, the petitioner herein, who has been referred to as the

husband of the respondent No. 1-Mst. Aurath Jan and father of Hareem Jan (minor daughter).

4. The Court of Chief Judicial Magistrate, Srinagar by virtue of an order dated 04.03.2025 came to admit the two complainants to interim relief with a direction to the petitioner to pay Rs. 3,000/- to complainant No. 1- Mst. Aurath Jan (wife) and Rs. 3,000/- to complainant No. 2-Hareem Jan (minor daughter), thus aggregating to Rs. 6,000/- per month till ordered otherwise or till pendency of the petition, whichever is earlier.

5. In addition, the petitioner along with his father Ghulam Mohammad Sheikh, who figured as respondent No. 2, came to be directed to provide habitable residential accommodation comprising two rooms with the facility of bathroom and a separate entrance in favour of the two complainants at Kakapora, District Pulwama.

6. This interim relief was admitted to the two complainants whiling putting the petitioner and his father, respondent Nos. 1 and 2 to notice, meaning thereby that the direction was ex parte ad interim in nature.

7. Aggrieved of the said indulgence of the Court of Chief Judicial Magistrate, Srinagar, the petitioner preferred an appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005, before the Court of learned 3rd Additional Sessions Judge, Srinagar, who by virtue of his order dated 29.12.2025 came to hold the appeal not maintainable, by holding that the directions in order dated 04.03.2025 has been ad-interim ex-parte maintenance subject to objections from the other side and, therefore, not appealable.

8. Thus, the petitioner was non-suited by the Appellate Court of the 3rd Additional Sessions Judge, Srinagar, against which the petitioner has come forward with the present petition under Article 227 of the Constitution of India, thereby seeking supervisory jurisdiction for examination of the legality and validity of the orders passed by the Courts below.

9. This Court does not want to compound the financial distress of the respondent herein by putting her to notice for appearance and contesting the present petition and, therefore, disposes of this petition with a direction to the learned Chief Judicial Magistrate, Srinagar, to undertake the adjudication of application for interim relief so made by the

respondent by soliciting reply/objections thereto from the petitioner's end and then pass a final order with respect to grant or non-grant of interim relief as prayed for in the case.

10. Needful exercise be done by or before 31st March, 2026, and till that time the petitioner shall remain bound by the direction for monetary maintenance as awarded in favour of the two respondents/complainants.

11. However, this Court makes it clear that the dismissal of the appeal of the appellant by the Court of 3rd Additional Sessions Judge, Srinagar, shall not in any manner be reflective of any observations on the merits or demerits of the case of either of the parties.

12. Copy of this order be forwarded to the Court of Chief Judicial Magistrate, Srinagar for the sake of notice and being taken on record.

13. **Disposed of.**

(RAHUL BHARTI)
JUDGE

SRINAGAR:

10.02.2026

"Mir Arif"