

S. No. 7
Regular

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No. 598/2026

CrIM No. (1385/2026)

Quosar Ali Azad Dar

...Petitioner/Appellant(s)

Through: Mr. Shariq Reyaz Jan, Advocate

Vs.

Mst Kulsoom Akhter And Ors.

...Respondent(s)

Through: Mr. Ateeb Kanth, Advocate

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

ORDER

30.09.2026

1. Heard both the counsel at length.
2. During the course of hearing, it was pointed out that, vide the order passed by the Trial Magistrate, which came to be assailed before the Revisional Court, the petitioner was directed to pay maintenance at the rate of Rs. 5,000/- per month each in favour of the minor children (respondents Nos. 2 and 3 herein) and Rs. 4,000/- per month in favour of the respondent-wife. According to learned counsel for the petitioner, the said order was assailed by both sides before the Revisional Court; however, the Revisional Court, without properly advertng to the facts of the case and without appreciating the financial capacity of the petitioner, proceeded to enhance the

maintenance payable to each minor child from Rs. 5,000/- to Rs. 15,000/- per month. It is contended that such enhancement is exorbitant and that there was no material before the Revisional Court warranting interference with the finding returned by the Trial Magistrate.

3. The said contention is opposed by the counsel for the respondents, who submits that the Revisional Court was vested with the jurisdiction to examine the legality and propriety of the order passed by the learned Trial Magistrate. It is further submitted that the revisional jurisdiction includes the power to reassess the material on record and, where the findings returned by the Trial Magistrate are found not to be in accordance with law, to correct the error. According to learned counsel for the respondents, therefore, the enhancement of maintenance from Rs. 5,000/- to Rs. 15,000/- per month in favour of each minor child can neither be termed exorbitant nor contrary to law.
4. It is fairly conceded by learned counsel for both sides that, insofar as the respondent-wife is concerned, the learned Trial Magistrate awarded maintenance of Rs. 4,000/- per month in her favour, which finding has also been upheld by the Revisional Court.
5. Learned counsel for the petitioner, however, submits that, in addition to the maintenance awarded in the summary proceedings initiated under the Code of Criminal Procedure (Cr.P.C.), the respondent-wife has also invoked parallel proceedings under the Protection of Women from Domestic Violence Act, 2005. In the said proceedings,

she has been awarded a monthly monetary relief of Rs. 7,000/-. It is submitted that, while passing the said order, the Court concerned did not take into consideration the earlier order passed by the learned Trial Magistrate granting maintenance in favour of the respondent-wife.

6. It is, accordingly, urged that the respondent-wife is presently receiving maintenance under both sets of proceedings, which, according to learned counsel for the petitioner, is contrary to the law laid down by the Hon'ble Supreme Court in ***Rajnish v. Neha and Ors., (2021) 2 SCC 324***. It is submitted that although recourse to parallel proceedings for maintenance is permissible, due adjustment/set-off of the amount awarded in an earlier proceeding is required to be considered while determining maintenance in a subsequent proceeding, so as to avoid duplication of the monetary relief.
7. During the course of hearing, learned counsel for the petitioner fairly conceded that the needs and requirements of the two minor children are bound to increase with the passage of time, particularly having regard to their educational expenses and other contemporary requirements. He submitted that, if the maintenance payable to each minor child is fixed at Rs. 10,000/- per month, the petitioner is ready and willing to bear the same. The said proposal has been fairly accepted by learned counsel appearing for the respondents. Both the counsels further submit that the maintenance so fixed in favour of the

two minor children may be made payable with effect from the date of the order passed by the learned Trial Magistrate.

8. As regards the maintenance payable to the respondent-wife, learned counsel for the petitioner submits that liberty may be reserved to the petitioner to approach the Court before which the proceedings under the Domestic Violence Act are pending and seek appropriate adjustment of the maintenance amount in accordance with the law laid down in ***Rajnesh v. Neha and Ors., (2021) 2 SCC 324***. In view of the aforesaid facts and circumstances, the present petition is disposed of in the following manner:

- i. Insofar as the maintenance awarded in favour of the respondent-wife is concerned, the learned Trial Magistrate has assessed the same at Rs. 4,000/- per month, which has also been upheld by the Revisional Court. This Court finds no ground to interfere with the said amount, as the same cannot be said to be exorbitant or beyond the financial capacity of the petitioner. Accordingly, the maintenance of Rs. 4,000/- per month in favour of the respondent-wife shall remain payable in terms of the order dated 20.12.2025 passed by the learned Trial Magistrate and upheld by the Revisional Court.
- ii. Insofar as respondents Nos. 2 and 3, namely, the minor children, are concerned, they shall be entitled to maintenance at the rate of Rs. 10,000/- each per month with effect from 20.12.2025. Any arrears pertaining to the period prior thereto, payable in terms of the interim order passed by the learned Trial Magistrate, shall also

be paid by the petitioner in accordance with law. In the event of non-payment, the respondents shall be at liberty to seek recovery thereof in accordance with law.

- iii. As regards the prayer made on behalf of the petitioner for adjustment/set-off of the maintenance awarded in favour of the respondent-wife against the monetary relief awarded in the subsequent proceedings under the Domestic Violence Act, liberty is granted to the petitioner to avail the appropriate remedy before the competent Court, in accordance with law, including the principles laid down in ***Rajnish v. Neha and Ors., (2021) 2 SCC 324.***

9. In light of what has been stated above, the order passed by the learned Trial Magistrate and the Revisional Court, which are impugned herein, shall stand modified accordingly.
10. Consequently, this petition is **disposed of** in the aforesaid terms.

(SANJAY PARIHAR)
JUDGE

SRINAGAR:
30.09.2026
Akshil Dev