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Item No.143
Suppl List-1

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

Pronounced on:07.11.2025
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CRM(M) No.677/2025
CrlM No.1702/2025

REYAZ AHMAD LONE & ORS. ...PETITIONER(S)

Through: - Mr. Salih Pirzada, Advocate

Vs.

NAZIYA HASSAN & ANR. ...RESPONDENT(S)

Through:- None.

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

ORDER(ORAL)

1) The petitioners, through the medium of present petition, have challenged the proceedings emanating from the petition filed by the respondents against them under Section 12 of the Protection of Women from Domestic Violence Act, 2005 [for short " the DV Act'"], which is stated to be pending before the Court of Judicial Magistrate, 1st Class (2nd Additional Munsiff), Srinagar (hereinafter referred to as "the trial Magistrate"). Challenge has also been thrown to order dated 11.07.2025 passed by the learned trial Magistrate, whereby petitioner No.1 has been directed to pay monetary compensation of Rs.8000/ per month to respondent No.1 and Rs.4000/ per month to respondent No.2. Besides this, petitioner No.1 has also been directed to pay Rs.3000/ as monthly rentals towards the respondents.

2) Heard and considered.

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3) It appears that the respondent No.1 happens to be the wife and respondent No.2 happens to be the daughter of petitioner No.1, whereas the other petitioners happen to be the relatives of petitioner No.1. It appears that the respondents have filed a petition under Section 12 of the DV Act before the learned trial Magistrate against the petitioners alleging therein that respondent No.1 is a victim of domestic violence, continuous harassment, torture etc. at the hands of the petitioners. It has been pleaded by the respondents that respondent No.1 had entered into wedlock with petitioner No.1 on 30.08.2021, and out of this wedlock, one female child (respondent No.2) was born. According to the respondents, after solemnization of marriage, the conduct of the petitioner No.1 and his relatives, (the other petitioners herein), has been cruel towards respondent No.1.

4) The petitioners have challenged the impugned petition on the grounds that there are no specific allegations made in the impugned petition relating to the roles of the petitioners in their individual capacity. It has been contended that the allegations made in the impugned petition are vague. It is being contended that the impugned proceedings are vexatious in nature and the learned trial Magistrate, while entertaining the said petition and issuing process against the petitioners, has failed to apply its mind. It has been further contended that the relatives of petitioner No.1 have been un-necessarily impleaded as respondents in the impugned petition with a view to coerce petitioner No.1 to enter into a compromise favourable to respondent No.1. It has been contended that the learned trial Magistrate has passed the impugned order in absence of recording any

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satisfaction to satisfy the requirements of Section 18 of the DV Act. It has also been contended that the impugned petition has been entertained by the learned Magistrate in a mechanical manner, as such, the proceedings initiated against the petitioners are *void ab initio* and liable to be set aside.

5) It appears that the petitioners, in effect, are aggrieved of the petition/proceedings filed by the respondents against them, primarily, on the grounds that there are no specific allegations made in the said petition against them and that whole family of the petitioner No.1 including his relatives have been roped with a view to wreak vengeance upon them.

6) So far as the proceedings under Section 12 of the DV Act are concerned, the same cannot be equated with lodging of a criminal complaint or initiation of prosecution. So, the trial Magistrate, after obtaining the response from the husband and his relatives etc. is well within his jurisdiction to revoke his order of issuing summons to them or he can even drop the proceedings. The Magistrate is also competent to drop the proceedings against all or any of the relatives of the husband if he, upon going through their response, finds that they have been unnecessarily roped in. Since the proceedings under Section 12 of the DV Act are not, in strict sense, criminal in nature, as such, bar to alter/revoke an order by a Magistrate is not attracted to these proceedings.

7) In my aforesaid view, I am supported by the judgment of the Supreme Court in the case of **Kamatchi vs. Lakshmi Narayanan,** 2022 SCC OnLine SC 446. The Supreme Court in the said case has observed that scope of notice under Section 12 of the DV Act is to call for a

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response from the respondent in terms of the Statute so that after considering rival submissions, appropriate order can be issued. The Court further held that the matter stands on a different footing and the dictum in **Adalat Prasad's** case ((2004) 7 SCC 338) would not get attracted at a stage when a notice is issued under Section 12 of the Act.

8) From the above discussion, it is clear that a Magistrate if, after receiving the version of the husband and his relatives in a proceeding under Section 12 of the DV Act, comes to a conclusion that no case for proceeding against either all of them or some of them is made out, he can drop the proceedings and he can even re-call his order of interim monetary compensation granted in favour of the aggrieved person. In view of this legal position, it would be open to the petitioners to file an application before the learned trial Magistrate seeking an order for dropping of proceedings against them on the grounds which have been urged by them in the present petition.

9) Accordingly, without going into merits of the contentions raised by learned counsel for the petitioners, it is provided that the petitioners may file an application before the learned trial Magistrate for dropping of the proceedings against them. In case the same is done by the petitioners, the learned Magistrate shall, after hearing the parties, pass appropriate orders in accordance with law expeditiously, preferably within a period of one month from the date such application is made by the petitioners before the learned Magistrate.

10) Having regard to the fact that in the impugned petition not only the husband (petitioner No.1 herein) but even his as many as two relatives

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(petitioners No.2 & 3 herein), have been impleaded as party/respondents by the respondents herein, it is provided that in case the petitioners make an application for dropping of proceedings before the trial Magistrate within ten days from today, till such time the said application is decided by the learned trial Magistrate, further proceedings in the impugned complaint as against the petitioners No.2 and 3 shall remained stayed.

11) The petition is disposed of in the above terms along with connected CrlM(s).

12) A copy of this order be sent to the learned trial Magistrate for information and compliance.

(SANJAY DHAR)
JUDGE

Srinagar,
07.11.2025
"Bhat Altaf-Seey"

Whether the ORDER is reportable: Yes/No