

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

**CRM (M) No. 65/2022  
Along with connected CrIMs**

Reserved On: 5<sup>th</sup> of April, 2023  
Pronounced On: 11<sup>th</sup> of May, 2023

**Bilal Ahmad Ganaie**

**... Petitioner(s)**

**Through: -**

Mr M. A. Qayoom, Advocate with  
Mr Mian Muzaffar, Advocate.

**V/s**

**Sweety Rashid & Ors.**

**... Respondent(s)**

**Through: -**

Mr Shafqat Nazir, Advocate with  
Mr Shabir Ahmad Bhat, Advocate.

**CORAM:**

**HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.**

**(JUDGMENT)**

01. The Petitioner, through the medium of the instant Petition filed under Section 482 of the Code of Criminal Procedure (for short 'the Code'), has challenged the Order dated 4<sup>th</sup> of December, 2021 passed by the learned Judicial Magistrate (Sub Judge/ Special Mobile Magistrate), Pulwama in an application filed by the Respondents under Section 125 of the Code for grant of maintenance as well as Order dated 27<sup>th</sup> of December, 2021 passed by the learned Principal Sessions Judge, Pulwama; whereby the Revision Petition filed against the aforesaid Order dated 4<sup>th</sup> of December, 2021 was dismissed.

02. The Petitioner claims that the Respondent No.1 filed an application under Section 125 of the Code for grant of maintenance before the Court of learned Chief Judicial Magistrate, Pulwama, who transferred the same to the Court of learned Judicial Magistrate (Special Mobile

Magistrate), Pulwama for its disposal under law. After causing his appearance before the trial Court, the Petitioner is stated to have filed his Objections in opposition to the said application. Thereafter, it is stated that the learned trial Court, in terms of Order dated 4<sup>th</sup> of December, 2021, granted interim maintenance of Rs.8,500/- per month in favour of the Respondents from the date of presentation of the Petition in disregard of the fact that the Respondent No.1 has already been divorced by the Petitioner and that in domestic violence proceedings an amount of Rs. 10,500/- has already been granted by the Court of learned Judicial Magistrate, Chadoora in her favour, which Order was in force.

03. Feeling aggrieved by the Order dated 4<sup>th</sup> of December, 2021, the Petitioner filed a Revision Petition before the Court of learned Sessions Judge, Pulwama, stating therein that the impugned Order, on the face of it, is bad in law, inasmuch as the learned trial Court, while passing the said Order, has ignored the relevant and material facts of the case. The learned Sessions Judge, however, after hearing the parties, dismissed the Revision Petition vide Order dated 27<sup>th</sup> of December, 2021 on the ground that the learned Magistrate, while passing the Order impugned, appears to have been well aware of the fact that in previous proceedings filed under the Protection of Women from Domestic Violence Act (for short 'the D. V. Act'), the competent Court has passed an interim maintenance of Rs. 10,500/- in favour of the Respondents and, as the said maintenance amount is not sufficient for the Respondents to maintain themselves, therefore, the learned trial Court has correctly passed the impugned Order. It is, in these circumstances, that the Petitioner has filed this Petition stating therein that the Order dated 4<sup>th</sup> of December, 2021 passed by the learned trial Court, as well as the one passed by the Revisional Court dated 27<sup>th</sup> of December, 2021, are not only illegal, improper and without jurisdiction, but same have caused miscarriage of justice as well.

04. Counter stands filed on behalf of the Respondents, stating therein that since the Petitioner has already availed the remedy of revision

before the learned Principal Sessions Judge against the Order dated 4<sup>th</sup> of December, 2021 passed by the learned Magistrate, the Petitioner is not legally entitled to approach this Court challenging the Revisional Court's order in view of express bar to that effect provided under Section 397 (3) of the Code, which provides that, if an application under this Section has been made by any person, either to the High Court or to the Sessions Court, no further application by the same person shall be entertained. It is also pleaded that, although, the Petitioner has preferred the instant Petition under Section 482 of the Code, but the same has been done merely to dodge the aforesaid bar imposed under Section 397 (3) of the Code, when, as a matter of fact, the Petitioner could not be permitted to invoke the extraordinary jurisdiction of this Court merely for impugning the Order of granting interim maintenance to his hapless wife and minor children, whose maintenance is the sole and foremost responsibility of the Petitioner herein. In the end, it has been urged that the Petition of the Petitioner, being devoid of any substance or merit, be dismissed.

05. Mr M. A. Qayoom, the learned Counsel appearing on behalf of the Petitioner, submitted that the impugned Order passed by the learned trial Court as well as the one passed by the Revisional Court are cryptic, unfair and unjust, inasmuch as, upon plain reading of both the orders, it is clearly evident that both the Courts below, while passing the said orders, have fallen in error, as none of them has tried to find out as to what was the reasonable need of the Respondent No.1 and the children and as to whether the Respondent No.1 had any independent source of income, which was sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home. It is contended that the learned Revisional Court has misdirected itself by observing that in the proceedings filed under the D. V. Act, the Respondent No.1 has been granted Rs. 10,500/- which is not sufficient for the survival of the Respondents as they need much for their survival and, therefore, the application is allowed and the amount of Rs. 8,500/- is granted to the Respondents as interim maintenance.

06. Mr Qayoom further argued that the learned Revisional Court has, no doubt, referred to the Judgment passed by the Hon'ble Supreme Court in case titled '**Rajnesh v. Neha**', reported as '**(2021) 2 SCC 334**', and has also reproduced the directions passed in the said case, but it has not seen as to whether the criteria fixed by the Hon'ble Apex Court for determining the quantum of maintenance payable to the Respondents has been followed by the learned trial Court or not. It is also submitted by the learned Counsel that the Petitioner had also stated in his Objections that the Respondent No.1 has been divorced by him and she has admitted the said fact in the civil proceedings filed by her in different Courts at Srinagar by saying that she is a divorcee and that she has enough money to maintain herself and the children, however, this fact has not been taken into consideration by any of the Courts below. It is further averred that the Petitioner had placed all relevant documents before the Courts below, but none of those documents have been considered by either the trial Court or the Revisional Court while passing the impugned Orders, therefore, both the Courts below have committed an error of jurisdiction in passing the impugned Orders, as such, the impugned Orders are liable to be set aside. The learned Counsel has supported his arguments by the law laid down by the Hon'ble Supreme Court in case titled '**Rajnesh v. Neha**', reported as '**(2021) 2 SCC 334**'.

07. Mr Shafqat Nazir, the learned Counsel appearing for the Respondents, submitted that the learned Revisional Court was not considering the grant or decline of maintenance to the Respondents, but was, as is the mandate of revisional jurisdiction, merely concerned with the legality and propriety of the impugned Order dated 4<sup>th</sup> of December, 2021 passed by the learned Magistrate. It is further submitted that the learned Magistrate, in passing the Order dated 4<sup>th</sup> of December, 2021, has expressly taken into consideration all the relevant factors as enunciated in the case of **Rajnesh v. Neha (supra)**, as such, the Order dated 4<sup>th</sup> of December, 2021 was rightly upheld by the Revisional Court. It is pleaded that it is fallacious and untrue on the part of the Petitioner to assert that the guidelines laid

down in the case of *Rajnish v. Neha* (**supra**) have not been considered by the learned Magistrate and the learned Revisional Court.

08. It is further argued that the definition of 'wife' under Section 125 of the Code is a broad one and includes even a divorcee and, thus, even a divorced wife is entitled to maintenance under Section 125 of the Code as long as she does not marry. The learned Counsel vociferously argued that this fact is made clear by explanation added to Section 125(1) of the Code which says that, for the purpose of Chapter IX, 'wife' includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried. It is, therefore, pleaded that, even in the case of a divorced Muslim wife, the Hon'ble Supreme Court has held that the above explanation would be fully applicable and that a Muslim divorced wife is entitled to claim maintenance even after the period of *Iddat*.

09. Heard learned Counsel for the parties, perused the pleadings on record and considered the matter.

10. The first contention raised by the learned Counsel for the Respondents with regard to maintainability of this Petition under Section 482 of the Code is required to be addressed at the first instance. The Hon'ble Apex Court while deciding a question of maintainability of 482 Cr PC petition, when revisional jurisdiction is already availed, in a case titled '**Rajan Kumar Machananda v. State of Karnataka**', reported as '**1990 Supp. (1) SCC 132**', at Paragraph No. 2, has held as under:

"2. Heard learned counsel for the parties. The respondent State had challenged the order before the Court of Sessions when the learned Magistrate before whom the matter was proceeding directed release of the truck in favour of the appellant. The Revisional Court dismissed the petition of the State. A second Revision did not lie at the instance of the State to the High Court in view of the provisions of Section 397 (3) of Cr. P. C. Obviously, to avoid this bar, the application moved by the State before the High Court was stated to be under Section 482 Cr. P. C. asking for exercise of inherent powers. In exercise of that power, the High Court has reversed the order of the Magistrate as affirmed by the Sessions Judge. The question for consideration is as to whether the bar under Section 397(3) Cr. P. C. should have been taken note of to reject the revision at the instance of the State Government or action taken by the High



Court in exercise of its inherent power has to be sustained. It is not disputed by counsel appearing for the State that the move before the High Court was really on application for revision of the order of the Magistrate releasing the truck. That is exactly what is prohibited under Section 397 (3) Cr. P. C. Merely by saying that the jurisdiction of the High Court for exercise of its inherent power was being invoked the statutory bar could not have been overcome. If that was to be permitted every revision application facing the bar of Section 397 (3) of the Code could be labelled as one under Section 482. We are satisfied that this is a case where the High Court had no jurisdiction to entertain the revision. The appeal is allowed and we set aside the order of the High Court. The Order of the Magistrate as affirmed by the Sessions Judge is upheld.”

11. A Coordinate Bench of this Court in case titled ‘**Mushtaq Ahmad Mir & Ors. v. Mst. Khatija**’, passed in CRMC No. 197/2013, decided on 27<sup>th</sup> of June, 2022, at Paragraph Nos. 18 to 23, has observed as under:

“18) As already noted, it has been contended by learned counsel for the respondents that the instant petition under Section 561-A of the J&K Cr. P. C is not maintainable as the same is in effect a second revision petition in the guise of a petition invoking inherent jurisdiction of this Court, which is impermissible in law. In this regard, learned counsel for the respondents has relied upon the judgments of the Supreme Court in the cases of Amar Nath and Ors. Vs. State of Haryana and anr. AIR 1977 SC 2185 and Central Bureau of Investigation vs. Ravi Shankar Srivastava, AIR 2006 SC 2872.

19) There can be no dispute as regards the legal position that inherent powers of the High Court under Section 482 of the Cr. P. C cannot be invoked so as to circumvent the legal bar to the filing of a second revision petition as engrafted in Section 397(3) of the Cr. P. C. It is also a settled proposition of law that inherent powers under Section 482 of the Cr. P. C should be exercised sparingly with great circumspection in order to prevent the abuse of process of the court and to secure the ends of justice.

20) The Supreme Court in the case of Dhariwal Tobacco Products Ltd. v. State of Maharashtra, (2009) 2 SCC 370, has, while considering the question whether an application under Section 482 of the Cr. P. C can be dismissed only because the revision petition has been dismissed by Sessions Court, observed as under:

*‘Only because a revision petition is maintainable, the same by itself, in our considered opinion, would not constitute a bar for entertaining an application under Section 482 of the Code. Even where a revision application is barred, as for example the remedy by way of Section 115 of the Code of Civil*

*Procedure, 1908, this Court has held that the remedies under Articles 226/227 of the Constitution of India would be available. (See Surya Dev Rai v. Ram Chander Rai [(2003) 6 SCC 675]. Even in cases where a second revision before the High Court after dismissal of the first one by the Court of Session is barred under Section 397(2) of the Code, the inherent power of the Court has been held to be available. The inherent power of the High Court is not conferred by statute but has merely been saved thereunder. It is, thus, difficult to conceive that the jurisdiction of the High Court would be held to be barred only because the revisional jurisdiction could also be availed of.'*

21) Similarly, the Supreme Court in the case of Shakuntala Devi & Ors v. Chamru Mahto & Anr., (2009) 3 SCC 310, declined to accept the contention that there was a complete bar under Section 397(3) of the Code debarring the High Court from entertaining an application under Section 482 of the Cr. P. C.

22) This Court in Jamia Auqaf Committee Kangan vs. SHO, P/S Kangan & anr., 2008(2) JK [HC] 258, while considering a similar question, relied upon the ratio laid down by the Supreme Court in the case of Krishnan and Anr vs. Krishnaveni and Anr, (1997) 4 SCC 241, and observed as under:

*'Plain language of Section 561-A Cr.P.C ordain that bar created by Section 435(3) will not divest the court of its inherent power. The opening words "Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court" suggest that applicability of Section 435(3) Cr.P.C is excluded. Therefore, inherent power of the court is saved, same is available, whether it can be exercised, is a different issue, dependent upon the facts and circumstances of each case, presenting question of abuse of process of law or question of securing interests of justice.'*

23) From the foregoing enunciation of law on the subject, it is clear that jurisdiction of the High Court under Section 482 of the Cr. P. C is of wide amplitude and it cannot be excluded by the provisions contained in Section 435(3) of the J&K Cr. P. C which corresponds to Section 397(3) of the Central Cr. P. C. Thus merely because the revision petition in the instant case has been rejected by the learned Revisional Court, this Court is not debarred from entertaining a petition under Section 482 of the Cr. P. C against the impugned order passed by the learned Magistrate if it finds that there has been miscarriage of justice or that ends of Justice would be secured by interfering in the order passed by the learned trial Magistrate. It would all depend upon the facts and circumstances of the case."

12. Though, Hon'ble Supreme Court in the case of Rajan Kumar Machananda v. State of Karnataka (**supra**) relied upon by the learned

counsel for the respondents has held that a subsequent Revision Petition cannot be filed under the garb of Section 482 of the Code, however, in view of the law laid down by the Hon'ble Apex Court in a later case titled '**Dhariwal Tobacco Products Ltd. v. State of Maharashtra**', reported as '**(2009) 2 SCC 370**', while considering the question as to whether an application filed under Section 482 of the Code can be dismissed only because the Revision Petition has been dismissed by the Sessions Court, observed that even in cases where a second revision before the High Court after dismissal of the first one by the Court of Sessions is barred under Section 397(2) of the Code, the inherent power of the Court has been held to be available. While relying upon an earlier decision rendered in case titled '**Surya Dev Rai v. Ram Chander Rai**', reported as '**(2003) 6 SCC 675**', the Hon'ble Apex Court further observed that the inherent power of the High Court is not barred by the Statute, but has merely been saved thereunder and it was difficult to concede that the jurisdiction of the High Court would be held to be barred only because the revisional jurisdiction could also be availed of. The same view was taken by the Hon'ble Supreme Court in the case of '**Shakuntala Devi & Ors. v. Chamru Mahto & Anr.**', reported as '**(2009) 3 SCC 310**'.

13. This Court had also taken a view in a case titled '**Mushtaq Ahmad Mir & Ors. v. Mst. Khatija**', rendered in CRMC No. 197/2013, decided on 27<sup>th</sup> of June, 2022, that the jurisdiction of the High Court under Section 482 of the Code, is of wide amplitude and it cannot be excluded by the provisions of revision contained under Section 397 (3) of the Code and that merely because the Revision Petition, in the instant case, has been rejected by the learned Revisional Court, the High Court is not debarred from entertaining a Petition under Section 482 of the Code against the impugned Order passed by the learned Magistrate, if it finds that there has been miscarriage of justice or that the ends of justice would be secured by interfering in the Order passed by the learned trial Magistrate and that it would all depend upon the facts and circumstances of the case.



14. In view of above, though, the impugned Order passed by the learned Judicial Magistrate had been assailed in a Revision Petition filed before the Sessions Court at Pulwama, however, this Court is not debarred from entertaining an application under Section 482 of the Code invoking the inherent jurisdiction for the limited purpose of looking at it as to whether there has been miscarriage of justice or that the ends of justice would be secured by interfering in the Order passed by the learned Magistrate. The objection raised by learned counsel for the respondents is thus turned down. It is, thus, held, for the aforesaid reasons, that the Petition filed under Section 482 of the Code is maintainable and cannot be said to be a subsequent Revision Petition.

15. Coming to the merits of the case, the impugned Orders have been challenged by the Petitioner, mainly, on the reasons that the learned Magistrate has not followed the law laid down by the Hon'ble Apex Court in case titled *Rajnesh v. Neha* (**supra**), whereby certain mandatory guidelines have been laid for the guidance of the Courts while exercising the overlapping jurisdiction for grant of maintenance and to avoid conflicting orders being passed in different proceedings. On the issue of overlapping jurisdiction, the Hon'ble Apex Court has held that successive claims for maintenance under different statutes are maintainable and the Court, while determining whether any further amount is to be awarded in the subsequent proceedings, has made it obligatory on the part of the applicant to disclose the previous proceedings and the order passed therein, in the subsequent proceedings and, if the order passed in such previous proceedings requires any variation or modification, it would be required to be done in the same proceedings

16. A Single Bench of the Bombay High Court at Aurangabad, in a case titled '**Bhagyashree v. Purshottam @ Pritesh**', bearing Criminal Revision Application No. 70 of 2020, on the point whether simultaneous proceedings are barred under Section 125 of the Code and maintenance under the D. V. Act, held that the mandate of law is that the wife could

simultaneously claim the maintenance under different enactments. Section 36 of the D. V. Act provides that the provisions of the said Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

17. A Single Bench of the Delhi High Court in a case titled **‘Urvashi Aggarwal & Ors. v. Inderpaul Aggarwal’**; Crl Rev. P. No. 549/2018 & CRL M. A. No. 11791/2018, in Paragraph Nos. 8 and 9, has held as under:

“8. The purpose of Section 125 Cr. P. C. has been laid down by the Supreme Court in several judgments. The object of Section 125 Cr. P. C. is to prevent vagrancy and destitution of a deserted wife by providing her for the food, clothing and shelter by a speedy remedy. The object of Section 125 Cr. P. C. is to bring down the agony and financial suffering of a women who left her matrimonial home so that some arrangements could be made to enable her to sustain herself and her child (refer: Chaturbhuj v. Sita Bai, (2008) 2 SCC 316, and Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353.

9. Since the purpose of granting maintenance is to ensure that the wife and the children are not put to starvation, the Court while fixing interim maintenance are not expected to dwell into minute and excruciating details and facts which have not be proved by the parties.”

18. In a latest decision, the Hon’ble Supreme Court in case titled **‘Rajnish v. Neha & Anr.’**, reported as **‘2021 (2) SCC 324’**, at Paragraph No. 128, has observed as under:

“128. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/ District Courts/ Magistrate Courts throughout the country. We direct that:

128.1. (i) Where successive claims for maintenance are made by a party under different statutes, the court would consider an adjustment or set-off, of the amount awarded in the previous proceeding(s), while determining whether any further amount is to be awarded in the subsequent proceeding.

128.2. (ii) It is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceedings.

128.3. (iii) If the order passed in the previous proceeding(s) requires any modification or variation, it would be required to be done in the same proceeding.”

19. It is worthwhile to mention here that, at the time of granting of the interim maintenance, evidence is not available before the Court and the Court has to apply mind keeping in view the facts and circumstances of the case in order to fix the quantum of maintenance.

20. The contention of the learned Counsel for the Petitioner that the Respondents had not disclosed in their subsequent application filed under Section 125 of the Code that they had been granted maintenance under the provisions of the D. V. Act by another Court and the order passed thereon by the Magistrate at Chadoora granting maintenance, as such, the Petition, in view of the mandatory directions of the Hon'ble Supreme Court in *Rajnish v. Neha* case(**supra**), have not been complied with and the Magistrate, while passing the impugned Order, had also not taken note of the fact that the applicants/ Respondents in their application had neither pleaded about filing of the Petition under the D. V. Act earlier in point of time and grant of maintenance in their favour by that Court nor have they sworn the Affidavit, as was required with regard to such particulars determined in terms of the directions of the Hon'ble Supreme Court.

21. On a closer look on the Petition filed by the Respondents before the Court of learned Magistrate at Pulwama in terms of Section 125 of the Code, the contention raised by the learned Counsel for the Petitioner herein seems to be misplaced, as in Paragraph No. 5 of their application, it has been pleaded by the applicants/ Respondents that a domestic complaint was filed before the Court of learned Magistrate at Chadoora which was pleased to pass an Order dated 26<sup>th</sup> of June, 2020 granting interim maintenance of Rs. 3500/- to each of the applicant, i.e., the amount of Rs.10,500/- in total.

22. In view of the above pleading, it cannot be said that the Respondents had not disclosed with regard to filing of the Petition for grant of maintenance earlier in point of time and the interim maintenance granted therein. The learned trial Magistrate, while passing the Order impugned, had also recorded that in a Petition under D. V. Act, the Court at Chadoorra

had granted interim maintenance to the tune of Rs. 10,500/- per month and, having taken note of this development, vide the impugned Order, the learned Magistrate directed payment of maintenance of Rs. 4,000/- to the Respondent No.1; Rs.2,500/- to Respondent No.2; and Rs.2,000/- to Respondent No.3 per month as interim maintenance. The Order was subject to alteration or modification from time to time by either of the parties.

23. It appears that, without contesting the case before the Court of learned Magistrate, the Petitioner herein moved a Criminal Revision Petition against the Order dated 4<sup>th</sup> of December, 2021 passed by the learned Magistrate before the learned Principal Sessions Judge, Pulwama, who, by an elaborate Order and addressing all the points raised therein, dismissed the Revision Petition, thereby upholding the Order passed by the learned Magistrate. The Revisional Court has also taken into consideration the income and the Affidavit of the parties holding that the aggregate interim maintenance to the tune of Rs. 19,000/- passed by both the Courts, in terms of Section 125 of the Code by the learned Magistrate at Pulwama and in terms of the D. V. Act by the Court of learned Magistrate at Chadoora was not excessive, in view of the fact that the Petitioner in his own Affidavit had stated that he requires an amount of Rs. 30,000/- for his personal expenses and Rs. 9,000/- for his mother and it has been rightly said that, if the Petitioner requires Rs. 30,000/- for his maintenance alone, what about the destitute wife struggling to maintain two minor children over the monthly maintenance of Rs. 19,000/-, for which the Petitioner has been raising such a hue and cry. The Petitioner has been stated to be a person of having means, being the owner of a Joinery Mill, besides being a contractor. It appears that the Courts below have considered the Affidavit of assets, income and expenditure filed by both the parties while passing the Orders impugned. Therefore, the contention raised on behalf of the Petitioner that in an overlapping jurisdiction, the learned Magistrate and the Revisional Court have failed to take notice of the earlier Petition filed by the Respondents and Orders passed therein, being factually incorrect, is misplaced and is liable to be rejected.

24. The contention of the learned Counsel for the Petitioner that the Affidavit filed by the Respondent-Sweetey Rashid was not sworn before any Magistrate is of no significance, as the Affidavit was filed before the Magistrate only, who had accepted the same. Otherwise also, the Governments have, in many cases, made the self-attestation of the Affidavits sufficient to file the same.

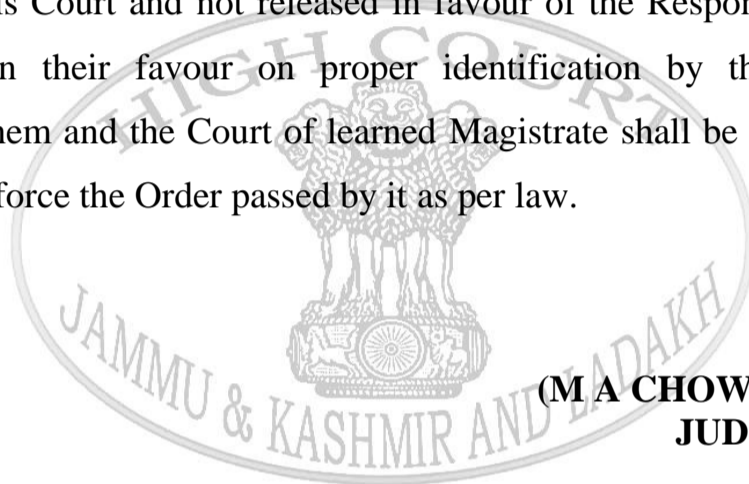
25. In so far as the directions passed by the Hon'ble Apex Court in Rajnesh v. Neha case (**supra**), it appears that both the Courts below have considered the case in the light of the directions passed by the Apex Court when successive claims for maintenance were made under overlapping jurisdiction of Section 125 of the Code and the D. V. Act. As regards the contention raised by the learned Counsel for the Petitioner that the directions contained in Paragraph No. 128 (3) that, if the order passed in previous proceeding(s) requires any modification or variation, it would be required to be done in the same proceedings. It appears that this direction has been misunderstood as the order impugned passed by the Magistrate under any of the jurisdictions can be modified or varied by the same Court and not by any other Court. The only aspect of the case required to be addressed by the subsequent Court is that the maintenance granted earlier has to be kept in view to assess for further payment of maintenance, if any required for the sustenance of the destitute woman or children.

26. The Petitioner seems to be not contended with the litigation in one Court and is stated to have been challenging every order passed by the Magistrate and the Sessions Judge under both of the jurisdictions, without contesting the matter before the lower Courts. The learned Magistrate at Pulwama had passed an interim order of maintenance, subject to Objections from the other side, however, the Petitioner, instead of filing Objections and contesting the matter there, preferred a Revision Petition before the Sessions Court at Pulwama and not even being contended with the Order of the Sessions Court, preferred this Petition under Section 482 of the Code, thereby invoking the inherent jurisdiction of this Court, which is to be



sparingly used. On a consideration of the matter as a whole, it is found that neither there is any miscarriage of justice nor the ends of justice are required to be secured in view of the facts and circumstances of the case and, therefore, the Petition filed by the Petitioner is liable to be rejected.

27. For the foregoing reasons and the observations made hereinabove, both the impugned Orders are upheld. The present Petition is, accordingly, **dismissed**. Interim direction(s), if any subsisting, as on date, shall stand vacated. The amount of maintenance, if any, deposited in the Registry of this Court and not released in favour of the Respondents shall be released in their favour on proper identification by the Counsel representing them and the Court of learned Magistrate shall be well within its rights to enforce the Order passed by it as per law.



(M A CHOWDHARY)  
JUDGE

**SRINAGAR**

11<sup>th</sup> May, 2023

"TAHIR"

- |     |                                     |     |
|-----|-------------------------------------|-----|
| i.  | Whether the Judgment is speaking?   | Yes |
| ii. | Whether the Judgment is reportable? | Yes |