

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No.383 of 2025

Peerzada Muneer Ahmad

.....Petitioner(s)

Through: Mr.T.A.Lone and Ms.Sabiya Lone, Advocates
V/s

Aaliya Anjum

... ..Respondent(s)

Through : None.

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
09.07.2025

1. The petitioner has challenged application filed by the respondent against them under Section 12 of the Protection of Women from Domestic Violence Act (hereinafter "the D.V.Act") and the proceedings emanating therefrom, which is stated to be pending before the Court of learned Judicial Magistrate (Sub Judge), Baramulla.
2. It appears that the respondent, who happens to be the daughter of petitioner, has filed petition under Section 12 of the D.V.Act against the petitioner before learned trial Magistrate. It has been submitted that the respondent has already attained the age of majority and she has filed application under Section 125 of Cr.P.C for grant of maintenance before the learned Judicial Magistrate (Sub Judge), Baramulla. It has been further submitted that the learned Magistrate granted interim maintenance in favour of the respondent to the tune of Rs.5000/-per month, but the said order was stayed in revision

petition filed by the petitioner before learned 1st Additional Sessions Judge, Baramulla. According to the petitioner this prompted the respondent to file impugned proceedings against the petitioner, which is abuse of process of law. It has been submitted that the respondent is a major person, as such, she cannot claim any maintenance from the petitioner under the provisions of the D.V.Act.

3. I have heard learned counsel for the petitioner and perused the material on record.
4. The main ground urged by learned counsel for the petitioner for cancelling the proceedings are that the respondent having failed to obtain maintenance under Section 125 Cr.P.C has resorted to the impugned proceedings, which is abuse of process of law.
5. So far as the proceedings under Section 12 of the D.V.Act are concerned, the same cannot be equated with lodging of a criminal complaint or initiation of prosecution and, therefore, a Magistrate, after obtaining response from the other side, is well within his jurisdiction to revoke his order of issuing summons to them or he can even drop the proceedings. The Magistrate would be well within his jurisdiction to cancel the interim order passed by him, if upon going through the response of other side, he finds that they have been unnecessarily roped in or no case for grant of interim order is made out. Since the proceedings under Section 12 of the D.V.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. I am supported in taking the aforesaid view by the Supreme Court in the case of *Kamatchi v. Lakshmi Narayanan*, 2022 SCC Online SC 466.

6. In view of the aforesaid discussion and the law on the subject, it is clear that the Magistrate has power to revoke the proceedings initiated against a person in terms of Section 12 of the D.V.Act, if and when the Magistrate finds that there is no ground to proceed against such person. Therefore, in the instant case it will be open to the petitioner to make an application before the learned Magistrate for dropping of the proceedings against him and to revoke the order relating to award of interim monetary compensation in favour of the respondent.
7. In the backdrop of aforesaid discussion and without going into merits of the contentions raised, it is provided that the petitioner may file an application before the learned Magistrate for dropping of the proceedings against him and for revocation of order granting interim monetary compensation to the respondent. In case the same is done, the learned Magistrate shall, after hearing both the parties, pass appropriate orders in accordance with law, within one month from the date such application is filed by the petitioners.
8. This petition shall stand **disposed of** in the above terms. A copy of this order be sent to the learned trial Magistrate.

(SANJAY DHAR)
JUDGE

SRINAGAR

09.07.2025

Sarveeda Nissar

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No