

S. No. 105

Supplementary list

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No. 119/2024

Abdul Hameed Danga

Appellant(s)/Petitioner(s)

Through: Mr. Bilal Ahmad Khan, Adv.

Vs.

Fehmeeda

...Respondent(s)

Through:

CORAM:HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

ORDER

22.04.2024

1. Petitioner being aggrieved of the Order dated 16.02.2024, passed in an Execution Petition titled 'Fahmeeda vs Abdul Hameed Danga', arising out of a Maintenance Petition in terms of Section 125 Cr. P. C., by Family Court, Srinagar, whereby, the petitioner has been sentenced to rigorous imprisonment for one month with a direction to the Superintendent Central Jail, Srinagar, to keep him in the judicial custody for one month and submit compliance report after execution of the sentence with a condition that, in case, he liquidates the said amount, in that eventuality, he shall be released forthwith.
2. Learned counsel for the petitioner has submitted that in view of the compromise in a petition under Section 125 Cr. P. C. for grant of maintenance, the parties had agreed to the following conditions which have been reproduced in para 3 of the Judgment dated 05.10.2023, by Family Court Srinagar. The relevant para is extracted as under:

3. "Today the parties have appeared and after lot of efforts and persuasions made by this Court, the parties have entered into compromise and have filed a joint compromise deed whereby they have entered into mutual divorce agreement whereby party No. 1* has agreed to pay seven lakhs rupees towards the party No. 2* within six months. The mode of payment of seven lakhs rupees through Bank in the name of party No. 20% which shall be provided to her advocate on Whatsapp number by party No. 2" and same will be forwarded to party No. 1". The party No. 1" is bound to pay monthly allowance of Rs. 12000/- (twelve thousand) to three children i.e Rs. 4000/- (four thousand) each till they will complete their graduation from the date of this order. The party No. 1* is also bound to bear all the expenses of the children's marriage. The party No. 2* is bound to leave the bouse of party No. 1" after the full installments is paid by the party No. 1" towards the party No. 2* till then she will reside at the same place ie Shalteng HMT Srinagar. The party No. 1" is bound lo pay one lakh rupees in first five installments and 2 lakh rupees as last installment. After the death of the party No. 1" the said house of the party No. 1* will transfer/devolve in the name of his children under Shariat law and party No. 1* shall not alienate the same during his life time. The party No.1* is bound to pay Rs. 12000/-towards their children i.e Rs. 4000/- per child in their Account Number (A/C No, will be provided to Advocte on Whatsapp. The party No. 2' will withdraw all the cases which she has filed against the party No. 1* after the full installments of seven lakhs is paid to party No. 2*!. The children are free to meet their mother twice a month. The party No. 2"" is at liberty to visit their children's marriage if invited."

3. The learned counsel for the petitioner further submits that as per the condition of the agreement between the parties, the amount payable to respondent-Fehmeeda, was to be liquidated within six months from

the date of the passing of the order and the respondent, without waiting for that period, has preferred the Execution Petition, wherein, impugned order has been passed. He has submitted that the Execution Petition was premature, as such, impugned order passed by the Family Court, is not sustainable.

4. Heard.
5. Issue notice to the respondent returnable within four weeks, subject to filing of requisites within one week.
6. List on **03.06.2024**.
7. Meanwhile, subject to objections from the other side and till next date of hearing before the Bench, proceedings in the Execution Petition before the Family Court are stayed.

(MA CHOWDHARY)
JUDGE

SRINAGAR
22.04.2024
Hilal Ahmad