

IN THE HIGH COURT OF JAMMU & KASHMIR ANLADAKH
AT SRINAGAR

CM (M) 225/2024
CM 3843/2024
CM 3844/2024

NASEER AHMAD PIR

...Petitioner(s)/Appellant(s)

Through: Mr. Saleem Gul, Advocate

YASMEENA SHAFI

Vs.

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
04.07.2024

CM 3843/2024

1. This is an application filed by the applicant/petitioner seeking dispensation of placing on record the certified copy of the impugned complaint titled “YasmeenaShafi v/s Naseer Ahmad Pir”

2. Application, for the reasons stated therein, is allowed and the requirement of placing on record impugned complaint is dispensed with for the time being. However, the said deficiency shall be made good by the applicant/petitioner within a period of two weeks from today.

3. Application is ***disposed of***.

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4. The petitioner through the medium of the present petition filed under Article 227 of the Constitution of India is seeking quashment of complaint titled “YasmeenaShafi v/s Naseer Ahmad Pir”, preferred by the respondent projecting domestic violence, before the Court of

Judicial Magistrate 1st Class, Kupwara and the proceedings emanating therefrom against him.

5. Learned counsel for the petitioner submits that the impugned complaint and the proceedings emanating therefrom are not maintainable simply for the reasons that neither any domestic incident has been reported nor the contents of the complaint *prima facie* make out a case for cognizance in terms of the Domestic Violence Act. He further submits, that even the court below was under an obligation to have recorded a satisfaction before issuing the process against the petitioner in the aforesaid complaint which has not been done and in the aforesaid background the complaint and the proceedings emanating therefore deserves to be quashed.

6. Learned counsel further submits that filing of the instant complaint without any justifiable cause or reason or reflecting under what provisions of law the said complaint has been made, is an attempt to drag the family members of the petitioner/husband in uncalled-for litigation with a view to apply pressure tactics and to extract money. He further submits that as on date the petitioner is paying maintenance to the minor child to the tune of Rs. 6000/- in terms of the order passed by the trial court and in so far as the respondent-wife is concerned she is already working.

7. From a bare perusal of the complaint it is not apparent under what provisions of law the same has been filed and no such satisfaction has been recorded by the court below before issuing the process. The learned counsel further submits that in absence of any domestic incident report prepared by the protection officer or by service provider or foundation of domestic violence, the instant complaint is not maintainable and also entire proceedings emanating out of the impugned complaint are required to be quashed.

08. Heard learned counsel for the petitioner at length and perused the record.

09. *Prima facie* a case for indulgence and interim relief is made out at this stage.

10. Issue notice to the respondent, returnable within a period of four weeks. Requisite steps for service within one week.

11. List on 22nd August, 2024.

12. In the meantime, subject to objections from the other side and till next date of hearing before the Bench the proceedings in impugned complaint titled “*YasmeenaShafi v/s Naseer Ahmad Pir*” shall remain stayed.

13. Alteration/modification/vacation on motion.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
04.07.2024
Mubashir