IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No. /2026

(Arising out of SLP (Crl) No.19298/2026)

Shahjahan & Ors. **Appellants**

VERSUS

Yasmeen & Ors. **Respondents**

O R D E R

1. Heard.

2. Leave granted.

3. The order dated 07.07.2026 passed by the High Court of Uttarakhand at Nainital is under challenge in this appeal. Facts in brief are as under:-

The respondent no. 1 herein (wife of Mr. Sonu) filed a petition under Section 12 of Protection Of Women From Domestic Violence Act, 2005 before the jurisdictional Magistrate in Miscellaneous Case No. 85/2022 wherein she sought protection and award of maintenance of Rs.25,000/- per month for herself and her minor daughter; restraint against alienation of the shared household and other reliefs as morefully prayed for in the petition which is annexed as Annexure-P1. On account of the said proceedings not progressing or in other words, on account of there being delay, she filed a Criminal Miscellaneous Application No. 684/2025 before the High Court of Uttarakhand seeking directions for expeditious disposal of Miscellaneous Case No. 85/2022, contending that proceedings had remained pending for more than two years six

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months.

4. The High Court by Order dated 19.06.2025 admitted the said application and issued notice to the respondents after observing that their presence was required. Subsequently, on the next date i.e., on 29.07.2025 the High Court recorded the absence of Sonu (husband of Yasmeen) and has directed the applicants to take steps for service of notice through concerned counsulate. The applicants were also permitted to amend the pleadings regarding the Sonu's current address and effect service through electronic means including WhatsApp and e-mail. Subsequently, on 02.07.2026 the High Court observed that the said Sonu was avoiding the proceedings while residing in Saudi Arabia and the learned counsel appearing for the respondents therein namely the mother and sisters of Sonu were directed to obtain instructions regarding the date on which the Sonu would appear, failing which the Court indicated that it would proceed against respondent Nos. 2 to 4.

5. Subsequently, on 06.07.2026 affidavit came to be filed by Yasmeen and, as such, non-bailable warrants and proceedings under Section 82 were directed to be initiated by the competent Court against the concerned respondents in Criminal Case No. 154/2023. The High Court has also ordered for attachment of the property wherein the appellants herein namely the mother-in-law and sisters-in-law of the Yasmeen were residing and directed the jurisdictional S.H.O. to file a compliance report. Accordingly, the residential property where appellants are residing is said to have been attached by virtue of which it is under lock and key and appellants herein have been ousted from the said property.

6. Learned counsel appearing for the respondents vehemently contends that the present appeal itself has become infructuous on the ground that High Court

has disposed of Criminal Miscellaneous Application No. 684/2025 *vide* order dated 06.10.2026 and as such nothing further remains and it is also observed by the High Court that the pending proceedings is to be expedited.

7. Had the High Court said or commented upon the impugned order while passing the final order, this Court would have definitely desisted from expressing any opinion. However, the impugned order though, which was interim in nature is operating and continuing or by virtue of the said order the jurisdictional police seems to have attached the property, taken possession of the property and ousted the appellants from their house, where they were residing. This is highly impermissible, we say so for the simple reason that under the Protection of Women from Domestic Violence Act, 2005, namely, Section 19(1)(b), the jurisdictional Magistrate is empowered to remove the person from the shared household, the proviso to Section 19(1)(b) is a complete answer to the present dispute and it reads as under:-

> ***"Provided no order under clause (b) shall be passed against any person who is a woman."***

8. In the Instant case the appellants herein being the mother-in-law and sisters-in-law of the complainant-Yasmeen, could not have been ousted from the residential premises where they are residing for non-appearance of respondent no.3 (husband of respondent no.1). Even otherwise, the attachment even if any, would only mean and include the attachment of the property to prevent any encumbrance being created on the said property or in other words, the said property becoming custodia legis namely it would come to the custody of the Court, at the most, this could have been the situation. However, learned

counsel appearing for the appellants has contended and submitted that by virtue of the attachment the jurisdictional police have locked the premises and ousted them from the use and occupation of the premises, which is not only erroneously but also impermissible as it is contrary to the law noticed hereinabove. Hence, we have no hesitation in setting aside the said order and directing the raising of the attachment forthwith. If, at all the husband of the complainant namely Mr. Sonu is not attending the Court it is definitely open to the wife-Yasmeen to take all such steps to secure his presence by filing appropriate applications before the jurisdictional Magistrate and it is needless to state that wife who has been now left without any remedy is craving for justice being meted out to her and as such the jurisdictional Magistrate shall make all endeavors to expedite the hearing and secure the presence of the husband, if necessary, through look out notice or such other procedure as established by law and as permissible.

9. With these observations, we request the trial Court to expedite the hearing.

10. In view of the above, the appeal stands disposed of.

11. Pending application(s), if any, shall stand disposed of.

…….J.
(ARAVIND KUMAR)

…….…….J.
(VIPUL M. PANCHOLI)

New Delhi;
October 16, 2026.

ITEM NO.40 COURT NO.10 SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).19298/2026

[Arising out of impugned final judgment and order dated 07-07-2026 in CRLMA No. 684/2025 passed by the High Court of Uttarakhand at Nainital]

SHAHJAHAN & ORS. Petitioner(s)

VERSUS

YASMEEN & ORS. Respondent(s)

FOR ADMISSION
IA No. 310327/2026 - EXEMPTION FROM FILING O.T.
IA No. 317739/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES
IA No. 310326/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 16-10-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Petitioner(s) :Mr. K.K. Tyagi, Adv.
Mr. Mohd. Ahtashan, Adv.
Mr. Iftekhar Ahamd, Adv.
Ms. Garima Tyagi, Adv.
Mr. Sarvam Ritam Khare- 2110, AOR

For Respondent(s) :Mr. Arvind Kumar Shukla, Adv
Mr. Nihal Ahmad, AOR
Ms. Neena Shukla, Adv
Ms. Surbhi Khanna, Adv
Mr. Piyush Kumar Singh, Adv
Ms. Rekha Giri, Adv

UPON hearing the counsel the Court made the following
O R D E R

1. Heard.

2. Leave granted.

3. The criminal appeal stands disposed of in terms of the signed order which is placed on the file.

4. Pending application(s), if any, shall stand disposed of.

(DEEPANSHU)
SENIOR PERSONAL ASSISTANT

(AVGV RAMU)
COURT MASTER (NSH)