

**HIGH COURT OF JAMMU AND KASHMIR AND LADAKH
AT SRINAGAR**
(through virtual mode)

CRM(M) 308/2019

Showkat Hussain

.....Petitioner (s)

Through :- Mr. Showkat Ali Khan Advocate.

V/s

.....Respondent(s)

Nazia Jeelani

Through :- Mr. H.U.Salati Advocate.

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER

1 This is a petition filed under Section 482 IPC by the petitioner seeking to recall the judgment dated 07.11.2019 passed by this Court in CRM(M) 254/2019 to the extent of relying upon and applying the judgment of Hon'ble Supreme Court rendered in the case of **Shayara Bano vs. Union of India and others, (2017) 9 SCC 1** with regard to the 'triple talaq' pronounced in the year 2014.

2 The short grievance projected by the petitioner in this petition is that this Court disposed of CRM(M) 254/2019 vide its judgment dated 07.11.2019 relying primarily on the judgment of Hon'ble Supreme court in the case of Shayara Bano (supra). It is contended that the said Judgment was pronounced in the year 2017, whereas in the instant case, the divorce i.e., triple talaq' was pronounced in the year 2014. It is further contended that the judgment in the case of Shayara Bano (supra) could not have been applied to declare the validity of 'triple talaq' pronounced in the year 2014.

3 The argument raised is not tenable for the reason that the judgment rendered in the case of Shayara Bano (supra), if not made to operate prospectively specifically is to be treated as retrospective and applicable even to the pending cases. The Hon'ble Supreme Court, while declaring the 'triple talaq' as *null and void* in the eye of law in the case of Shayara Bano (supra) did not specifically make the judgment to operate prospectively and that being the position, the law declared by the Hon'ble Supreme Court in Shayara Bano's case (supra) would apply equally to the 'triple talaq' pronounced prior to passing of the said judgment. For this reason, no case is made out to recall the judgment dated 07.11.2019 passed in CRM(M) No. 254/2019.

4 This petition is without merit and is dismissed, accordingly.

Jammu
16.08.2021
Sanjeev



Whether the order is speaking: Yes

Whether the order is reportable: Yes/No