
(1997) 04 J&K CK 0002
In the Jammu And Kashmir High Court
Case No : Criminal Revision Petition No. 73/96

Charanjit Lal

APPELLANT

Vs

Rubeena

RESPONDENT

Date of Decision : 03-04-1997

Acts Referred:

Jammu and Kashmir Consumer Protection Act, 1987 — Section 145, 435(4)(a)

Citation : (1998) KashLJ 377 : (1997) KashLJ 219 : (1998) SriLJ 224

Hon'ble Judges : G.D.Sharma, J

Bench : Single Bench

Advocate : Parmod Kohli, Advocates appearing for the Parties

Judgement

1. Through the medium of this revision petition (order dated 12.8.96 passed in file No. 99/96 titled Mst. Rubeena Vs. Bimal Kumar and Others

u/s 145 Cr.PC.) is sought to be quashed. It is pleaded that respondents herein had filed a civil suit for the ejectment of the petitioners from the

disputed shop wherein exparte decree was obtained. The execution proceedings of the said decree were stayed by the learned 4th Additional

District Judge, Srinagar vide his order dated 21.11.1995. Thereafter, respondents herein initiated proceedings u/s 145 Cr.P.C. The trial Magistrate

without applying his mind in judicial manner passed the impugned order for the attachment of the shop. Even he had not passed any preliminary

order. It is pleaded , that impugned order is palpably illegal and cannot be sustained in the eye of law.

2. Heard the arguments.

3. Mr. Kohli in his arguments has reiterated the grounds of revision. From the perusal of the record, it is found that there is not preliminary order

The learned Magistrate could take cognizance of the proceedings only after his subjective satisfaction with regard to the dispute regarding the possession of the shop in question and appreciation of the breach of peace on spot. Without the basis of any such order, the attachment order in question cannot be said as an interlocutory order. Following the ratio of the case of Brij Lal Chakoo (1979 KLJ 377) the order in question is reviseable. As it suffers from inherent legal defect so it requires to be set aside. Hence revision petition is accepted and the order impugned is set aside. The accompanying Cr. M.Ps are also accordingly disposed of.