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**(2019) 05 SHI CK 0052**  
**In the High Court Of Himachal Pradesh**  
**Case No : Cr.MMO No. 88 Of 2014**

Sanjay Kumar

APPELLANT

Vs

Trishla Devi And Another

RESPONDENT

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**Date of Decision :** 14-05-2019

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 125

**Citation :** (2019) 05 SHI CK 0052

**Hon'ble Judges :** Ajay Mohan Goel, J

**Bench :** Single Bench

**Advocate :** Rajnish K. Lall, Arun Rana, R.S. Gautam

**Final Decision :** Partly Allowed

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## Judgement

Ajay Mohan Goel, J

1. By way of this petition, petitioner has prayed for the following relief:-

"It is, therefore, prayed that this Hon'ble Court may be pleased to send for the records of the case and after examining the legality and propriety of the proceedings may be pleased to quash and set aside the order Annexure P-1 and P-2 granting maintenance at the rate of Rs. 3000/- per month to respondent No.1 and Rs. 2000/- per month to respondent No.2 and in any case allow the adjustment of Rs. 2000/- per month maintenance awarded to respondents vide interim order Annexure P-3 dated 21.02.2008 by the Judicial Magistrate 1st Class, Court No.1, Ghumarwin which maintenance has been granted from the date of petition which is 26.02.2007."

2. Brief facts, necessary for adjudication of this petition, are that in an application filed under Section 125 of Cr.P.C., by the present respondents, vide order dated 06.03.2010, the Court of learned Judicial Magistrate, 1st Class, Ghumarwin, District Bilaspur, H.P., has ordered the petitioner herein to pay an amount of `3000/- per month as maintenance to present respondent No.1 and `2000/- per month to the present respondent No.2, who were applicants No.1

and 2 respectively before the trial Court.

3. Record demonstrates that in Revision, the aforesaid order stands upheld by the the Court of learned Sessions Judge, Bilaspur, in Criminal Revision No.4 of 2010, titled as Sanjay Kumar vs. Smt.Trishla Devi & another.

4. During the course of his arguments today, learned counsel for the petitioner argued that he is not assailing on merit the quantum of maintenance as it stands awarded by the learned Courts below in favour of the respondents. His limited grievance is that while passing final orders both the Courts below erred in not appreciating that the amount of interim maintenance, which stood paid by the petitioner during the pendency of the proceedings before the trial Court, in compliance to order dated 21.02.2008, should have been deducted from the amount which the petitioner has been finally held to pay as maintenance to the respondents. Learned counsel for the respondents has not seriously disputed the said contention of the petitioner.

5. Having heard learned counsel for the parties, I am of the considered view that there is merit in the said contention of the learned counsel for the petitioner, because but obvious when learned trial Court assessed the amount of `3000/- and `2000/- respectively, to be paid as maintenance in favour of present respondents No.1 and 2, then, it ought to have had deducted the amount which already stood paid by the present petitioner, in compliance to interim order dated 21.02.2008.

6. At this stage, learned counsel for the petitioner has informed the Court that amount of `1000/- each was paid to the present respondents from the date of passing of the order i.e. 21.02.2008 till final adjudication of the application filed under Section 125 Cr.P.C.

7. Accordingly, this petition is partly allowed. The amount which stood paid by the petitioner as interim maintenance in favour of the respondents, shall be adjusted towards the final maintenance which the petitioner now has been held liable to pay to the respondents by the learned Courts below. This adjustment shall be made by the petitioner by paying an amount of `1000/- less to each of the respondents for the length of period, for which, interim amount of maintenance was paid. Meaning thereby that for example, in case `12000/- each stood paid by him to respondents No.1 and 2, then for the next 12 months, petitioner shall pay `1000/- less to each respondent than the amount, which he has been ordered to pay as maintenance to them. It is clarified that the above example is just illustrative.

8. The petition stands disposed of in the aforesaid terms, so also pending application(s), if any.