

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

Cr. MMO No.218 of 2012-G.
Date of decision: 31.12.2012

Sh. Teju Ram S/o Sh. Bar Chand, resident of Daru Dhar, Phati
Dashar Kothi Banogi, Sub Tehsil Sainj, District Kullu, H.P.

..Petitioner.

Versus

Sh. Narender Kumar (minor), S/o Sh. Teju Ram, resident of
Village Daru Dhar, Phati Dashar, Kothi Banogi, Sub Tehsil Sainj,
District Kullu, H.P., minor under the care and custody of his
mother Smt. Begi Devi, at Village Chichu Ropa, Kothi Banogi,
Sub Tehsil Sainj, District Kullu, H.P.

..Respondent.

Petition under Section 482 of the
Code of Criminal Procedure.

Coram

The Hon'ble Mr. Justice V.K. Sharma, J.

¹ Whether approved for reporting?No.

For the petitioner:

Mr. Sanjeev Kuthiala, Advocate.

V.K. Sharma, J. (Oral).

The challenge herein, in this petition under Section
482 of the Code of Criminal procedure read with Article 227 of
the Constitution, is against order dated 23.11.2012, passed by
the learned Sessions Judge, Kullu, whereby the prayer of the
petitioner for grant of *ad interim* stay pending revision petition
against implementation of an order of maintenance, passed by
the learned Chief Judicial Magistrate, Kullu, H.P., vide order

¹ *Whether reporters of Local Papers may be allowed to see the judgment?No .*

dated 16.05.2012, granting maintenance @ ₹1000/- per month, in favour of the respondent being illegitimate minor child of the petitioner, was rejected.

2. According to the petitioner, the respondent is not his legitimate child, as at no point of time, the mother of the child Smt. Begi Devi had any physical access to him. In this regard, it is also submitted that the petitioner has filed a suit for declaration to this effect and the same is pending in the Court of the learned Civil Judge (Sr. Division), Kullu, H.P. However, the fact remains that maintenance has been granted in favour of the respondent after due contest in an application under Section 125 of the Code of Criminal procedure and the said order is under challenge by way of a revision petition before the learned Sessions Judge, who though has permitted the petitioner to move an application for DNA test to establish his plea that the respondent was not born out of his lions, yet has declined the prayer of the petitioner for staying operation of the order of maintenance passed by the learned Chief Judicial Magistrate.

3. I have heard the learned counsel for the petitioner and gone through the available records.

4. In the facts and circumstances of the case, as noticed in detail hereinabove, I do not see any lawful cause or basis for granting the prayer of the petitioner for staying the order of maintenance in favour of the minor respondent, as the same has been passed by the learned Trial Magistrate after due contest and furthermore, the same is under challenge before the

learned Sessions Judge, who has declined to stay operation thereof after hearing learned counsel for the parties.

5. The prayer of the petitioner for an embargo, restraining the respondent from withdrawing the amount of maintenance as and when deposited by the petitioner in the learned trial Court, can also not to be favourably considered at this stage for the reason that the amount of maintenance has been granted in favour of the minor child, who has to sustain himself.

6. In view of the above, petition as also pending application(s), if any, are dismissed.

(V.K. Sharma)
Judge

December 31, 2012
(rkv)