

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.219 of 2026

Date of decision:17.09.2026

Prem Sagar

...Petitioner

Versus

Sangita & another

...Respondents

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Virbahadur Verma, Advocate.

For the respondents : Mr. Sudhir Bhatnagar, Advocate.

Romesh Verma, Judge (oral):

The instant petition has been filed assailing the orders passed by the learned Principal Judge, Family Court, Kullu, dated 19.01.2026 and 04.04.2026.

2. Briefly, the facts as emerge in the present case are that the respondents, Smt. Sangita and Kumari Arshia, instituted a petition under Section 125 of the Code of Criminal Procedure in the Court of the learned Principal Judge, Family Court, Kullu, on 27.12.2013. Admittedly, the said petition came to be allowed by the learned Principal Judge, Family Court, Kullu, on 28.06.2023, whereby the present petitioner was directed to pay a sum of Rs.2,000/- per month

Whether reporters of Local Papers may be allowed to see the judgment?

to respondent No.1, Smt. Sangita, being his wife and Rs.4,000/- to daughter Kumari Arshia

3. Thereafter, the present respondents filed an application for execution of said order passed by the learned Court below. It has been fairly conceded by learned counsel for the parties that against the order of maintenance, none of the parties had approached the superior court. During the pendency of the execution petition, the present respondents filed an application for issuance of a warrant of arrest against the petitioner for recovery of arrears of maintenance and for sending him to civil imprisonment for non-compliance of the order of maintenance.

4. It was contended in the application that the present petitioner is intentionally and deliberately not paying the amount of maintenance awarded in the order and that he is also in arrears of maintenance payable to the present respondents in an execution petition pending before the learned Chief Judicial Magistrate, Lahaul & Spiti at Kullu and is further not paying the maintenance amount under the Protection of Women from Domestic Violence Act.

5. It was further contended, inter alia, in the application that the petitioner is not possessed of any movable or immovable property that could be attached and auctioned in order to realise the arrears of maintenance. It was averred that till the respondent is arrested and send to civil imprisonment, he will not pay the outstanding

maintenance arrears to the tune of Rs.7,32,000/- to the present respondents.

6. The said application came to be resisted by the present petitioner by denying all the averments made therein and it was stated that the present petitioner is having sufficient movable property in his possession and if the same is attached and sold, the arrears of maintenance can be realised. As per him, no steps in that regard had been taken by the present respondents, who directly moved the application for his arrest in order to curtail his personal liberty.

7. The learned Principal Judge, Family Court, Kullu, vide order dated 19.01.2026, after hearing the respective parties, allowed the application and directed the issuance of conditional warrant of arrest against the present petitioner, returnable for 25.02.2026. Thereafter, on 25.02.2026, the matter was referred to mediation in order to explore the possibility of an amicable settlement *inter se* the parties.

8. On 04.04.2026, the learned Principal Judge recorded that the mediation had failed and remained unsuccessful. Thereafter, the learned Principal Judge again directed the issuance of conditional warrant of arrest against the respondent, returnable for 19.05.2026.

9. Feeling aggrieved and dissatisfied with the aforesaid orders, the present petitioner has approached this Court by invoking

the supervisory jurisdiction under Article 227 of the Constitution of India.

10. On 14.05.2026, this Court issued notice for the service of respondent No.1 and in the interim application, it was ordered that the execution, implementation and operation of the impugned orders shall remain stayed, subject to the petitioner depositing 25% of the entire arrears of maintenance with the Registry of this Court within a period of ten days from 14.05.2026.

11. In compliance to the said order, the present petitioner deposited a sum of Rs.1,80,500/- with the Registry of this Court and on 02.07.2026, this Court ordered the release of the said amount in favour of the respondents by remitting the same directly into the bank account of respondent No.1, Smt. Sangita.

12. Thereafter, on 14.07.2026, this Court passed the following order:

“The present case arises out of the proceedings under Section 125 of the Cr.P.C., and since there is a matrimonial dispute inter se the parties, the parties are directed to remain present before this Court on 23.07.2026.

It is made clear that the traveling expenses of respondent No. 1 shall be borne by the present petitioner, and the petitioner shall pay a sum of Rs. 20,000/- to the respondent on the next date of hearing.”

13. On 23.07.2026, in sequel to order dated 14.07.2026, the present petitioner was not present, whereas both the respondents

were present before the Court. On that date, the petitioner was directed to pay traveling expenses amounting to Rs.20,000/- to the respondents, which amount stands duly paid.

14. On 03.08.2026, on instructions from the present petitioner, learned counsel appearing on his behalf submitted that the petitioner would make every endeavour to liquidate the entire outstanding maintenance amount and for the said purpose, he prayed for reasonable time.

15. Today, it is contended by Mr.Virbahadur Verma, learned counsel, that he has instructions to submit that the petitioner does not possess the means to liquidate the entire amount in lump sum and can pay the same only in instalments.

16. On the other hand, it is contended by Mr. Sudhir Bhatnagar, learned counsel for the respondents, that the proceedings under Section 125 of the Code of Criminal Procedure were instituted way back in the year 2013 and despite elapse of more than thirteen years, the respondents/decreed-holders are being forced to run from pillar to post for recovery of the maintenance amount.

17. When the present petition was instituted before this Court, the total outstanding amount which was liable to be paid to the respondents was Rs.7,32,000/-. Since the petitioner deposited a sum of Rs.1,80,500/- in the Registry of this Court, which came to be remitted into the bank account of respondent No.1, Smt. Sangita,

therefore, after deducting the same, the balance outstanding amount comes to Rs.5,51,500/-.

18. It is contended by learned counsel for the respondents that the judgment, which has attained finality, was passed by the learned Principal Judge, Family Court, way back on 28.06.2023 and despite passing of considerable time, the petitioner has failed to pay the entire amount on one pretext or the other.

19. This Court finds considerable force in the contention raised on behalf of the respondents that once the order passed by the learned Principal Judge, Family Court, Kullu, has attained finality as the same has not been challenged before the superior court, the order, at all costs, must be executed in its letter and spirit.

20. Though this Court tried to resolve the issue amicably inter se the parties, but the matter could not be resolved. However, the petitioner has placed reliance upon a copy of the jamabandi, but perusal of the same demonstrates that the value of the said property is only Rs.1,62,500/-. As the outstanding amount of maintenance comes to Rs.5,51,500/-, therefore, the jamabandi which is placed on record, to establish his bona fide for the payment of the maintenance, does not hold good.

21. The learned Family Court had issued conditional warrant of arrest, so that the petitioner could have paid the amount of

maintenance to the present respondents. However, it seems that he is not interested to pay the said amount to the respondents.

22. Therefore, the orders passed by the learned Principal Judge, Family Court, do not suffer from any infirmity, illegality or jurisdictional error. Once an order has been lawfully passed and has attained finality, it has to be enforced and implemented in its letter and spirit.

23. Consequently, in the considered opinion of this Court, there is no infirmity or illegality in the impugned orders passed by the learned Court below. The present petition, being devoid of any merit, deserves to be dismissed and the same is accordingly dismissed.

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

(Romesh Verma)
Judge

17thSeptember, 2026
(vt)