

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.1545 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Ms. Rajni Supyal, learned counsel for the applicant. Mr. V.S. Rawat, learned Brief Holder for the State. The applicant in the present C482 Application has prayed for quashing of the order of 24.01.2018, which was passed by the Court of learned Second Additional Civil Judge(J.D.) in Misc. Case No.914 of 2015, Smt. Rajnish and Another Vs. Krishna Kumar and Others” and has further prayed for staying the effect and operation of the order dated 04.05.2023 which was passed by the Court of learned Second Additional Civil Judge, Dehradun, thereby issuing recovery warrants against the applicant for a recovery of Rs.1,65,000/- and the balance maintenance amount of Rs.50,000/- as a compensation, which was directed to be paid during the pendency of the proceedings before the Court. Facts are that the applicant and respondent no.2 got married on 22.11.2019, consequent to which, they were blessed with a girl child Suhani, who was born on 03.03.2021. There had been certain matrimonial dispute, owing to which, initially, the direction was issued

		to the applicant for payment of a maintenance amount as Rs.4,000/- per month for respondent no.2 and Rs.3,000/- per month for respondent no.3. Besides the above amount, the applicant was also directed to pay a sum of Rs.5,000/- per month to respondent no.2. As the said amount was not being remitted and respondent no.2 since was deprived of her right of maintenance, she preferred a proceeding under Section 12 of the Domestic Violence Act praying for grant of relief under Section 18, 19, 20, 21, 22 and 23 of the Act. The application, thus filed by respondent no.2, was objected to by the present applicant contending therein that the proceeding drawn under Section 12 of the Domestic Violence Act, is malicious. But, however, the application preferred by respondent no.2 under Section 12 of the Domestic Violence Act was decided by the Court of Second Additional Civil Judge (J.D.) by the judgment of 24.01.2018, whereby the aforesaid Court has granted the relief under Section 18 and 19 of the Domestic Violence Act. Consequent to which, the applicant was restrained to not to commit domestic violence upon respondent no.2 and 3 and further under Section 19 of the Domestic Violence Act, it was directed that the present applicant would ensure to return the goods mentioned by respondent no.2 in the list, filed with the proceeding under Section 12 of the
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		Domestic Violence Act. Even the relief under Section 20 of the Act was also granted in favour of respondent no.2 thereby directing the applicant to pay a sum of Rs.50,000/- per month as maintenance for respondent no.2 and 3. The applicant being aggrieved against the order of 24.01.2018 as passed in Misc. Case No.914 of 2015 has preferred Criminal Appeal No.17 of 2018 “Krishna Kumar Vs. Rajnish and Others” before the District and Sessions Judge, Dehradun. On the other hand, respondent no.2 had also preferred an appeal being Criminal Appeal No.19 of 2018, “Smt. Rajnish and Anther Vs. Krishna Kumar” as against the judgment of 24.01.2018 praying for an enhancement of maintenance as it has been granted by the trial Court. The two appeals were decided by the Court of 5th Additional Sessions Judge, Dehradun by the judgment of 18.12.2021. Consequent to which, Criminal Appeal No.17 of 2018 filed by the present applicant against the judgment of 24.01.2018 was dismissed; whereas on the other hand the Criminal Appeal No.19 of 2018 filed by respondent no.2 was partly allowed. Respondent no.2 has filed a Criminal Revision against the judgment of the Appellate
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		Court, being Criminal Revision No.101 of 2022, which is pending before the High Court. The respondent thereafter filed an execution, being Execution Case No.312 of 2022 seeking an execution of the order dated 24.01.2018 to be read with the judgment of 18.12.2021, which was objected by the present applicant by filing an objection on 08.10.2022, in which, the Execution Court passed the impugned order of 04.05.2023 issuing recovery warrants against the present applicant. To summarize the controversy, the issuance of the recovery warrant by an order of 04.05.2023 in Execution Case No.312 of 2022, was nothing but a recourse which has been adopted by respondent no.2 for enforcing the order of allowing the application under Section 12, 18 and 19 of the Domestic Violence Act by an order of 24.01.2018 and its subsequent affirmation by the Appellate Court's judgment of 18.12.2021. Its against the order of recovery warrant of 04.05.2023, the instant C482 Application has been preferred. This Court is of the view, that since respondent no.2, being aggrieved against the order dated 24.01.2018 and 18.12.2021, had already filed a revision, being Criminal Revision No.101 of 2022 and the same is pending, it will be apt that since the issuance of warrant on 04.05.2023 in Execution Case No.312 of 2022, is
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			as a consequence of the principal order passed under Section 12, 18 and 19, which is now a subject matter in a Criminal Revision, the applicant should prefer a stay application in the pending revision for redressal of his grievances as against the recovery warrant issued on 04.05.2023. It is hereby directed that, if the applicant prefers an application in the pending revision within a period of two weeks from today, the recovery warrant of 04.05.2023, as issued in Execution Case No.312 of 2022, would not be given effect to. Subject to the aforesaid, the C482 Application stands disposed of. (Sharad Kumar Sharma, J.) 25.08.2023 Sukhbant
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