

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL REVISION CASE No.2086 of 2017**

**ORDER:**

This revision is filed under Sections 397 and 401 of Code of Criminal Procedure (for short "Cr.P.C.") questioning the propriety and legality of the warrant issued in Form No.19 in CrI.M.P.No.636 of 2015 in D.V.C.No.213 of 2012 by the III Metropolitan Magistrate, Hyderabad, whereby the Magistrate directed the Divisional Engineer, BSNL, Rajamandry, East Godavari District, Andhra Pradesh to attach the salary of the petitioner herein and deposit into the savings account of respondent No.2 herein.

The respondent No.2 herein obtained an order of maintenance in D.V.C.No.213 of 2012, but the petitioner did not comply with the direction issued by the Court in D.V.C.No.213 of 2012. As the petitioner herein failed to comply with the direction for payment of maintenance, a petition was filed for enforcing the order. Therefore, the Court issued warrant for deduction of amount from the salary of the petitioner and the same is now under challenge before this Court.

When the matter reached, learned counsel for the petitioner did not appear and advance arguments, but this Court cannot dismiss the revision for default, however this Court can decide the revision on merits in view of the law declared in "**Nisha Sharma and others v. Vinod Kumar**

**Sharma**<sup>1</sup>” wherein it is made clear that the revision cannot be dismissed for default and even the petitioner or his/her advocate did not appear before the Court, the Court shall examine the record and decide the revision on merits.

Persuaded by the law declared by the Delhi High Court, I would like to decide this revision, perusing the record.

As seen from the material on record, the Magistrate issued warrant for recovery of arrears of maintenance amount by attaching the salary of the petitioner herein, since, the petitioner herein did not comply with the direction for payment of maintenance. The order/warrant issued for recovery of arrears of maintenance is appealable under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (for short “D.V.Act”). Therefore, the revision is not maintainable against such an order under Section 397 and 401 of Cr.P.C and the same is liable to be dismissed.

In the result, the criminal revision case is dismissed. No costs. However, the petitioner is at liberty to file appropriate appeal under Section 29 of D.V.Act.

The miscellaneous petitions pending, if any, shall also stand closed.

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**JUSTICE M. SATYANARAYANA MURTHY**

21.09.2017  
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<sup>1</sup> 1990 Cri.L.J. NOC 57 (Delhi)