BLOGS

Section 300 CrPC Cannot Shield a Defaulter in DV Act Maintenance Cases for CLAT PG Exam

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In matrimonial litigation, defaulting respondents frequently attempt to evade financial obligations by invoking criminal procedural bars during execution proceedings. A critical legal principle reinforced by the judiciary is that **Section 300 CrPC(Section 337 BNSS) Cannot Shield a Defaulter in DV Act Maintenance Cases . CLAT PG** aspirants must master this intersection of criminal procedure and social welfare legislation.

- *Hasina Khatoon v. State of U.P.*, 2026 SCC OnLine All 1153
- Decided 24 March 2026 by Praveen Kumar Giri J. of the Allahabad High Court

Why This Ruling Is Worth Your Time

A spouse is imprisoned for 30 days in a civil prison for defaulting on his alimony obligation. Does this mean the outstanding payment has been settled? **Is it possible for him to argue that since he has undergone "punishment," he cannot be forced to repay the remaining dues?**

The Allahabad High Court answered both questions in the negative, and in doing so has clearly laid out the rationale behind how civil remedies under the Domestic Violence Act differ from criminal remedies.

The Story Behind the Case

The couple got married on May 23rd, 1990, according to Muslim customs. They had a son in 1992, who is said to be disabled. The wife claimed that she was thrown out of her marital home back in 1995 due to dowry harassment.

And, she filed cases against her husband under Section 498-A of IPC. The couple settled their differences and returned to living together in 2011, until she was allegedly thrown out again in May 2017.

After that, she sought protection under the Protection of Women from Domestic Violence Act, 2005.. On 19 July, 2019, the trial court offered interim maintenance of ₹4,000 per month both for her and for her son. This was upheld by the Sessions Court on 1 April 2022 and by the High Court on 2 November 2022.

But when the husband did not make the payments due to her, she took steps to execute the judgment. He was jailed for 30 days but still the dues were not paid. On 23 January, 2023, the trial court restricted the recovery to ₹32,000 but did not order the recovery of earlier dues invoking Section 300 CrPC.

Initially this order by the High Court was set aside but the Supreme Court on 20 September 2024, reversed the order and sent the matter back for fresh consideration which led to the judgment.

What the High Court Held

1. **The maintenance order could not be revisited:** The order of 2019 had already become final after the earlier proceedings under Section 482 CrPC, and the husband did not take it to the Supreme Court. Its validity was not challengeable in the execution stage.

2. **Section 300 of CrPC is inapplicable:** That section **prevents a person from being prosecuted two times for the same offense after conviction or acquittal.** But proceedings under the *DV Act are civil in nature and do not conclude with conviction or acquittal but with relief for the affected woman.* The Court held that referring to ***Section 300 for refusing execution was against the law and a sign of non-application of the mind.***

3**. Imprisonment is a method of enforcement, not payment:** Civil imprisonment exerts pressure on the defaulter to make payment. However, the liability remains unpaid, because the amounts due do not get discharged.

4. **Enforcement under the DV Act:** The Court followed ***Tarun Kumar Mittal v. State of U.P.*** to state that orders passed under **Section 12 of the Act including maintenance orders, can be enforced under Section 31 of the Act.** It also cited ***Rajnesh v. Neha*** for the proposition that the maintenance debt is recoverable like a money decree.

Directions

It is mandatory for the trial court to retrieve the entire amount of arrears along with simple interest at the specified rate of 6% and to lien the property of the husband if he defaults in making the payments, which amount should be kept in the court's trust account and applied for the payment of the arrears. The husband is obliged to pay maintenance on a monthly basis. The exercise is to be completed in the span of 60 days and the court defined that if there is any delay in completing the exercise, it may lead to disciplinary action against the presiding judge.