THE HON'BLE SRI JUSTICE N. TUKARAMJI

CRIMINAL PETITION No.7048 OF 2024

Between:

………Petitioners

And

The State of Telangana,
represented by Public Prosecutor, High Court at
Hyderabad and another.

…….Respondents

Date of Judgment pronounced on : 14-08-2026

HONOURABLE SRI JUSTICE N. TUKARAMJI

1. Whether Reporters of Local newspapers : Yes
   May be allowed to see the judgments?

2. Whether the copies of judgment may be marked : Yes
   to Law Reporters/Journals:

3. Whether His Lordships wishes to see the fair copy: Yes
   Of the Judgment?

N. TUKARAMJI, J

THE HON'BLE SRI JUSTICE N. TUKARAMJI

CRIMINAL PETITION No.7048 OF 2024

% 14-08-2026

……… Petitioners

Versus

$ The State of Telangana,
represented by Public Prosecutor, High Court at Hyderabad and another.

……. Respondents

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> HEAD NOTE:

! Counsel for the Petitioner	:	Mr. Ratan Singh, learned counsel appearing for the petitioner
^ Counsel for the respondents	:	Mr. M. Vivekananda Reddy, learned Assistant Public Prosecutor appearing for respondent No. 1, and Ms. O. Anitha, learned counsel appearing for respondent No. 2.

? Cases referred

1. 2025 AHC 115579
2. 2024:BHC-AS:8917
3. (2016) 11 SCC 774
4. (2021) 2 SCC 324
5. (1989) 1 SCC 405
6. (2005) 4 SCC 468
7. (2013) 10 SCC 618
8. (1976) 1 SCC 128
9. 2021 SCC OnLine All 640

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No.7048 OF 2024

DATE: 14.08.2026

Between:

… Petitioners

The State of Telangana,
represented by Public Prosecutor, High Court at
Hyderabad and another.

…Respondents

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, "CrPC"), seeking quashing of the proceedings in Crl.M.P. No. 930 of 2023 in DVC No.13 of 2012 pending on the file of the learned Additional Junior Civil Judge-cum-VII Additional Metropolitan Magistrate, Hayathnagar. Petitioners herein are arrayed as respondent Nos.1 to 7 in the Domestic Violence Case and in this criminal petition no relief sought against petitioner Nos. 2 to 7/respondent Nos.2 to 7.

2. Heard Mr. M. Ratan Singh, learned counsel for the petitioners; Mr. M. Vivekananda Reddy, learned Assistant Public Prosecutor, appearing for respondent No.1-State and Ms.O.Anitha, learned counsel for respondent No.2.

3.1 Briefly stated, the relevant facts are that petitioner No.1, who is the husband of respondent No.2 and is presently under suspension from the Police Department, has filed the present petition questioning the order directing attachment of his salary. Respondent No.2 initiated proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short, “DV Act”) by filing D.V.C. No.13 of 2012 before the learned Additional Junior Civil Judge-cum-VII Additional Metropolitan Magistrate, Hayathnagar. By order dated 25.04.2016, the learned Magistrate directed petitioner No.1 to provide accommodation or to pay Rs.5,000/- per month towards rent for respondent No.2 and her daughters and Rs.5,000/- per month each to their two children. The learned Magistrate also awarded compensation of Rs.5,00,000/-. Aggrieved by the said order, petitioners preferred an appeal vide Crl.A. No.544 of 2016. The appellate Court by order dated 23.04.2018 reduced the compensation from Rs.5,00,000/- to Rs.3,00,000/-, while confirming the rest of the order/directions passed by the lower Court.

3.2. Alleging non-compliance with the aforesaid orders and contending that maintenance arrears had accumulated to Rs.8,55,000/, respondent No.2 filed Crl.M.P. No.930 of 2023 seeking attachment of the salary of petitioner No.1 for realization of the said arrears. By order dated 04.06.2024, the learned Magistrate allowed the said petition and directed attachment of the salary of petitioner No.1. Questioning the legality and correctness of the said order, petitioner No.1 has filed the present petition seeking its quashing.

4.1. Learned counsel for the petitioners submits that the impugned order directing attachment of the salary of petitioner No.1 is unsustainable in law and is, therefore, liable to be set aside. It is contended that, in view of the proviso to Section 125(3) of CrPC, recovery of maintenance arrears beyond the statutory period prescribed therein is impermissible. According to the learned counsel, the application filed by respondent No.2 seeking recovery of such arrears was, therefore, barred by limitation, and the learned Magistrate lacked jurisdiction to entertain the same or to direct attachment of the salary of petitioner No.1 in pursuance thereof.

4.2. It is further contended that, upon expiry of the limitation period contemplated under proviso of Section 125(3) of the CrPC, the learned Magistrate became *functus officio* insofar as enforcement of such arrears was concerned and, consequently, could not have initiated coercive recovery proceedings in respect of amounts allegedly due beyond the prescribed period. Learned counsel also submits that respondent No.2 is employed as a Head Constable and is drawing a monthly salary of approximately Rs.1,07,903/-, but deliberately suppressed this fact while prosecuting the recovery proceedings, thereby misleading the Court and obtaining the impugned order. It is further submitted that petitioner No.1 is presently under suspension from service and is receiving only a subsistence allowance of approximately Rs.57,000/- per month. Consequently, the attachment of his salary has caused him grave financial hardship and prejudice.

4.3. Learned counsel further submits that, despite directions issued to the employer of respondent No.2 to furnish her salary particulars, the same were not produced before the learned trial Court. Nevertheless, the learned Magistrate proceeded to pass the impugned order without considering this relevant aspect or the material sought to be placed before the Court. According to the petitioners, the impugned order has, thus, been passed in disregard of the settled legal position and without proper consideration of material circumstances relevant to the enforcement proceedings. It is, therefore, contended that the order amounts to an abuse of the process of the Court and warrants interference by this Court in exercise of its inherent jurisdiction. Accordingly, petitioner No.1 seeks quashing of the impugned order passed by the learned Magistrate directing attachment of the salary of petitioner No.1, together with all consequential reliefs.

5. Learned counsel for the petitioners, placing reliance upon *Sagar v. State of U.P. and another*, 2025 AHC 115579, and *J v. State of Maharashtra,* 2024:BHC-AS:8917 submits that the High Court of Allahabad and Bombay while considering the mode of enforcement of orders passed under the DV Act observed that Rule 6 of the Protection of Women from Domestic Violence Rules provides that orders passed under Section 12 of the DV Act shall be enforced in the same manner as provided under Section 125 of the Cr.P.C. It is further submitted that Section 125(3) of the CrPC empowers the Magistrate, in the event of breach of an order of maintenance, to issue a warrant for levying the amount due in the manner provided for levying fines and to sentence the person against whom such order has been made, for the whole or any part of each month’s allowance remaining unpaid. Consequently,

according to the petitioners, where the application for recovery is made beyond the prescribed period of limitation, the Magistrate cannot resort to coercive measures for recovery of such time-barred arrears. It is, therefore, submitted that, the impugned order directing attachment of the salary of petitioner No.1 for recovery of the alleged arrears is legally unsustainable and is liable to be set aside.

6. Per contra, learned Assistant Public Prosecutor and learned counsel appearing for respondent No.2 submit that respondent No.2 had instituted proceedings under the Protection of Women from Domestic Violence Act, 2005, against petitioner No.1, and by order dated 25.04.2016, the learned Magistrate awarded maintenance and compensation. Aggrieved thereby, petitioner No.1 preferred an appeal, wherein the appellate Court reduced the compensation amount to Rs.3,00,000/- while affirming the rest of the order and other directions, thereby rendering the order final and binding. It is further submitted that, despite the said orders having attained finality, petitioner No.1 deliberately failed to comply with them for several years. Consequently, respondent No.2 was constrained to initiate proceedings seeking attachment of the salary of petitioner No.1 for realization of the accumulated arrears. Upon due consideration of the material placed before it, the learned Magistrate

rightly allowed the application and passed the impugned order directing attachment of the salary of petitioner No.1 for enforcement of the maintenance order.

7. Learned counsel for respondent No.2 further submits that petitioner No.1, being a member of the Police Department, is under a greater obligation to obey and comply with judicial orders and cannot be permitted to evade payment of the maintenance and compensation lawfully awarded in favour of respondent No.2 and their children. It is also pointed out that, while entertaining the present Criminal Petition, this Court granted an interim stay subject to the condition that petitioner No.1 to deposit a sum of Rs.3,00,000/- within the stipulated period. However, petitioner No.1 failed to comply with the said condition, resulting in the automatic vacation of the interim order. Further, pleaded that the petition was filed under Section 20(6) of the DV Act, which does not prescribe any limitation. In the aforesaid circumstances, it is contended that the present Criminal Petition is devoid of merit and is liable to be dismissed.

8. I have carefully considered the submissions of learned Counsel and perused the material available on record.

9. The principal contention advanced by petitioner No.1 is founded upon the proviso to Section 125(3) of the CrPC, which provides that no warrant shall be issued for the recovery of any amount due under Section 125 unless an application for recovery is made within one year from the date on which such amount became due. The petitioner, therefore, seeks to contend that, since the arrears sought to be recovered relate to a period exceeding one year, the proceedings for recovery, including the direction for attachment of salary, are rendered legally unsustainable.

10. Pertinently, the impugned proceedings do not arise from an application seeking enforcement of an order passed under Section 125 of the CrPC simpliciter. The monetary liability in question emanates from an order passed under the DV Act, whereby the petitioner was directed, *inter alia*, to pay monthly rental assistance, maintenance to the children and compensation to respondent No. 2. Save and except to the extent to which the compensation was reduced in appeal, the said order has attained finality and has consequently become binding upon the petitioner.

11. This distinction assumes considerable significance. Section 20(1) of the DV Act expressly empowers the Magistrate, while disposing of an application under Section 12, to grant monetary

relief to meet the expenses incurred and losses suffered by the aggrieved person and her children as a consequence of domestic violence. Significantly, Section 20(1)(d) specifically includes maintenance for the aggrieved person and her children, including an order under, or in addition to an order of maintenance under, Section 125 of the Cr.P.C. or any other law for the time being in force. Section 20(3) further empowers the Magistrate to direct payment of such monetary relief either by way of a lump-sum payment or by way of monthly payments, depending upon the nature and circumstances of the case. More importantly for the present controversy, Section 20(6) of the DV Act creates a specific statutory mechanism for enforcement of a monetary-relief order. It provides that, upon failure of the respondent to make payment in terms of the order under Section 20(1), the Magistrate may direct the employer or debtor of the respondent to pay directly to the aggrieved person, or to deposit with the Court, a portion of the wages, salary or debt due to, or accrued to the credit of, the respondent, which amount may be adjusted towards the monetary relief payable under the Act.

12. Thus, Section 20(6) is not merely incidental to the adjudication of the monetary claim; it constitutes an express

statutory mechanism designed to secure compliance with a monetary relief order already passed under the DV Act. The legislature has thereby vested the Magistrate with a specific enforcement power enabling the Court to reach the source from which the defaulting respondent derives his income and to secure payment of the adjudicated monetary relief. Where an order granting monetary relief has attained finality and remains unsatisfied, recourse to Section 20(6) is, therefore, referable to the statutory jurisdiction conferred by the DV Act itself.

13. The distinction between an order under Section 125 of the CrPC and a monetary relief order under Section 20 of the DV Act is also consistent with the character and scheme of the DV Act recognised by the Supreme Court. In *Kunapareddy @ Nookala Shanka Balaji v. Kunapareddy Swarna Kumari*, (2016) 11 SCC 774, the Supreme Court observed that proceedings under Sections 18 to 20 of the DV Act, though governed by the procedure prescribed by Section 28 of the Act, are "predominantly of civil nature." The Court explained that the very purpose of the DV Act is to provide a remedy which amalgamates civil rights of the aggrieved person and that the orders passed in the first instance are essentially civil in character, although their violation may attract penal consequences.

14. The nature and object of maintenance legislation were further explained by the Supreme Court in *Rajnesh v. Neha*, (2021) 2 SCC 324. The Court reiterated that maintenance laws constitute a measure of social justice intended to provide financial support to dependent wives and children and to prevent destitution and vagrancy. The Court further emphasised the need for effective implementation of maintenance orders and recognised that maintenance may be available under different statutory regimes, subject to appropriate adjustment, so as to prevent overlapping or double recovery.

15. The limitation contained in the first proviso to Section 125(3) CrPC is a restriction upon the particular mode of recovery prescribed under Section 125(3) and does not extinguish the underlying right to maintenance or the corresponding liability arising from a maintenance order. Section 125(3) enables the Magistrate, upon an application for recovery of unpaid maintenance, to issue a warrant for recovery in the manner provided for levying fines and, subject to the statutory conditions, to sentence the defaulter to imprisonment. The first proviso merely stipulates that no such warrant shall be issued unless an application to levy the amount due is made within one year from the date on which it became due.

16. The Supreme Court has consistently distinguished the mode of enforcement from the underlying maintenance liability. In *Kuldip Kaur v. Surinder Singh*, (1989) 1 SCC 405, the Court held that imprisonment under Section 125(3) is a mode of enforcement and not satisfaction of the maintenance liability, which is discharged only upon payment of the arrears. This principle was reaffirmed in *Shantha @ Ushadevi v. B.G. Shivananjappa*, (2005) 4 SCC 468. More specifically, in *Poongodi v. Thangavel*, (2013) 10 SCC 618, the Supreme Court held that the first proviso to Section 125(3) does not create a bar to the claimant's entitlement to arrears of maintenance; it only restricts the coercive recovery mechanism under that sub-section, where the application is not made within the prescribed one-year period.

17. This distinction is material when Section 125(3) is read with Section 128 CrPC. Section 128 provides a distinct mechanism for enforcement of a maintenance order and does not itself prescribe the one-year limitation contained in the first proviso to Section 125(3). Accordingly, that limitation cannot, merely by implication, be extended to Section 128, so as to extinguish the maintenance order or the underlying liability. The principle that a proviso ordinarily operates within the field of the provision to which it is attached was

recognised by the Supreme Court in *Dwarka Prasad v. Dwarka Das Saraf*, (1976) 1 SCC 128. Applying that principle, the Allahabad High Court in *Mohammad Usman v. State of U.P.*, 2021 SCC OnLine All 640, held that the one-year limitation governs the issuance of a warrant under Section 125(3) and does not, by its terms, extend to enforcement proceedings under Section 128.

18. Thus, the first proviso to Section 125(3) limits recourse to the coercive recovery machinery under that provision, but does not, by itself, amount to satisfaction, waiver, extinguishment, or discharge of the maintenance liability. The expiry of the one-year period may bar issuance of a warrant under Section 125(3) in respect of the relevant arrears, but it does not silently import the same limitation into the distinct enforcement mechanism under Section 128. The statutory scheme, therefore, preserves the essential distinction between the mode of enforcement and the substantive liability sought to be enforced.

19. The same interpretative principle reinforces the conclusion in the present case. A proviso must ordinarily be construed with reference to the subject matter of the substantive provision to which it is appended. The proviso to Section 125(3) consequently regulates the availability of the warrant-based recovery mechanism

under that provision; it cannot automatically be transposed, so as to curtail an independent enforcement power expressly conferred by another statute. In the present case, the source of the monetary liability is not Section 125 of the CrPC but Section 20 of the DV Act, and the specific power invoked for securing payment is Section 20(6) of the DV Act.

20. It is, therefore, not legally appropriate to treat the proceedings as though they were an application under Section 125(3) of the Cr.P.C. for issuance of a warrant in respect of arrears arising exclusively from a Section 125 order. The fact that the monetary relief awarded under Section 20 of the DV Act may partake of the character of maintenance does not alter the statutory source of the liability or the statutory mechanism available for its enforcement. Indeed, Section 20(1)(d) itself contemplates that maintenance under the DV Act may exist independently of, or in addition to, an order under Section 125 of the CrPC.

21. Viewed from this perspective, the embargo contained in the proviso to Section 125(3) of the Cr.P.C. cannot, *ipso facto*, invalidate an order directing attachment or deduction from salary where such order is passed in exercise of the power traceable to Section 20(6) of the DV Act for enforcing monetary relief granted under that

enactment. Once the order granting monetary relief has attained finality and the liability remains unsatisfied, the Magistrate is competent to invoke the statutory machinery under Section 20(6), including issuing an appropriate direction to the employer for deduction and remittance of a portion of the respondent's salary, subject to the terms and limits of the judicial order and the statutory provision.

22. In the instant case, although respondent No. 2 initially approached the Magistrate by filing an application under Section 12 of the DV Act, the monetary relief of maintenance was ultimately granted in exercise of the jurisdiction conferred by Section 20 of the DV Act. The resulting liability must, therefore, be regarded as a liability crystallised under the DV Act and not as a liability arising under Section 125 of the CrPC. The fact that the application under Section 12 is the procedural vehicle through which relief under Section 20 was sought does not alter the statutory character of the relief ultimately granted.

23. Accordingly, the challenge founded solely upon the proviso to Section 125(3) of the CrPC cannot be sustained. The said proviso governs the warrant-based recovery mechanism under Section 125(3) and cannot be mechanically imported into proceedings

instituted for enforcement of monetary relief granted under Section 20 of the DV Act through the specific statutory mechanism provided by Section 20(6). The existence of arrears extending beyond one year does not, by itself, render the impugned order illegal where the Court is acting within the jurisdiction conferred by Section 20(6) to secure compliance with a subsisting and enforceable monetary-relief order under the DV Act.

24. The impugned order, therefore, cannot be faulted merely on the ground that the arrears sought to be realised relate to a period exceeding one year. The decisive consideration is the statutory source of the monetary liability and the statutory provision under which its enforcement is undertaken. Since the liability in question arises from a final monetary relief order under Section 20 of the DV Act and the enforcement measure is traceable to Section 20(6), the limitation contained in the proviso to Section 125(3) of the Cr.P.C. has no application so as to invalidate the impugned direction for attachment or deduction of salary.

25. Thus, this Court finds no merit in the contest raised by petitioner No.1 and in effect the petition is liable to be and is accordingly dismissed.

Pending miscellaneous applications, if any, shall stand closed.

Date:14.08.2026 **N.TUKARAMJI, J**

MRKR

THE HON'BLE SRI JUSTICE N. TUKARAMJI

<u>CRIMINAL PETITION No.7048 OF 2024</u>

<u>14.08.2026</u>

MRKR