§ 239. Stay in divorce or separation action on default of payment. In an action for divorce or separation the court or the judge thereof may refuse to grant an order to stay proceedings, where the only default is the failure of a spouse to pay alimony, maintenance or counsel fees due to his or her inability to make such payments. In no event shall a spouse who has been imprisoned for contempt of court for failure to pay alimony, maintenance or counsel fees or by virtue of an order of arrest as a provisional remedy under the civil practice law and rules be stayed from proceeding with the prosecution or defense of an action where the only default is the failure of such spouse to pay alimony, maintenance or counsel fees.