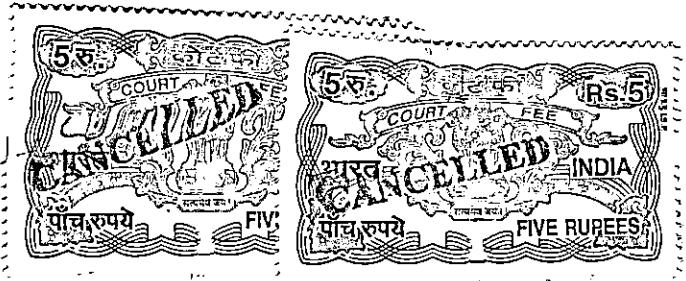


3  
8/10/24  
15



**IN THE COURT OF HON'BLE SESSIONS JUDGE,  
SOUTH GOA AT MARGAO-GOA**

Exbt: 5

Criminal Appeal No. 67 /2024

Deepak Kumar Singh

S/o. Bhindyawasini Singh,

Aged 37 years, Indian National,

Married, Indian Army Officer,

R/o. 140 Kanchan Nagar,

Bala Road Khajuri Kala Bhopal, Nr. Awadhपुरi,

Behind Vidyasagar Management Institute,

Bhopal, Madhya Pradesh, 462022 ... Appellant

V/S

Silky Rai,

W/o. Deepak Kumar Singh,

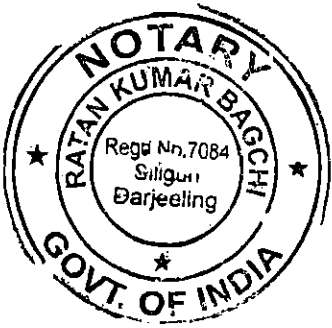
Aged 31 years, Indian National,

Married, R/o. Sagar Manthan,

178/1/(29), Airway Housing Colony,

Vidhyanagar, Sancoale, Goa 403726. ... Respondent

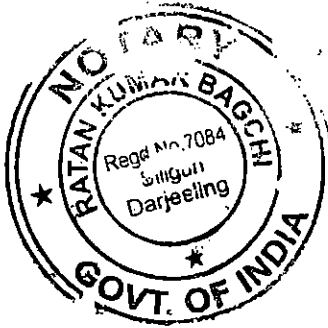
*(All the above are the Registered Addresses of the parties)*



Solemnly Affirmed & Declared  
to be true on Identification  
24/10/24  
Ratan Kr. Bagchi  
NOTARY  
SILIGURI

16

**APPLICATION FOR STAY OF  
ORDER DATED 28/12/2023 WHICH  
WAS SUBSEQUENTLY MODIFIED  
VIDE CORRIGENDUM DATED  
04/03/2024 IN CRIMINAL CASE NO.  
DVA/14/2021/C BEFORE JMFC  
VASCO – 'C' COURT.**



**MAY IT PLEASE YOUR HONOUR:**

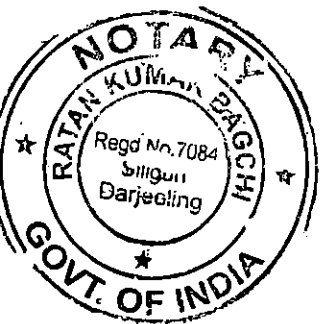
1. The Appellant has preferred an appeal against the judgment and order dated 28/12/2023, which was subsequently modified vide corrigendum dated 04/03/2024, passed by the Learned JMFC, Vasco in Case No. DVA/14/2021/C. The said order directs the Appellant to pay a sum of Rs. 35,000/- per month as interim maintenance to the Respondent.
2. The Appellant is aggrieved by the said order on several grounds, including but not limited to errors in the calculation of maintenance, non-consideration of

Solemnly Affirmed & Declared  
to be true on Identification  
24/09/24  
Ratan K. Bagchi  
NOTARY  
SINGUR

the Appellant's financial capacity, and the misrepresentation of the actual amount being paid by the Appellant to the Respondent. These grounds are elaborated upon in detail in the accompanying appeal memorandum.

3. The Appellant respectfully submits that the execution and implementation of the impugned order during the pendency of the present appeal would cause irreparable financial hardship to the Appellant. The quantum of maintenance fixed at Rs. 35,000/- per month is excessive, arbitrary, and beyond the financial capacity of the Appellant, who has several financial responsibilities and dependents.

4. The Appellant further submits that the impugned order is based on an erroneous understanding of the facts, particularly regarding the amount the Appellant has been paying to the Respondent. As stated in the appeal, the Learned Magistrate mistakenly recorded



Solemnly Affirmed & Declared  
before me on Identification  
24/09/24  
Ratan Kr. Bagchi  
NOTARY  
SILIGURI

(19)

that the Appellant is paying Rs. 31,000/- per month, when in fact the Appellant has been paying only Rs. 15,500/- per month. While a corrigendum was issued to correct this error, the operative part of the order was never amended, resulting in an unfair and excessive financial burden on the Appellant.



5. If the impugned order is executed during the pendency of the appeal, the Appellant will suffer irreparable harm and injury, as the sum ordered is disproportionate to the Appellant's financial capacity, and recovering any excess amount paid would be impossible, even if the appeal is ultimately allowed.

6. The Appellant has a strong prima facie case for the reduction of the maintenance amount, and the balance of convenience lies in favor of granting a stay on the execution of the impugned order, as the failure to do so will lead to significant hardship and injustice.

Solemnly Affirmed & Declared  
before me on Identification  
24/09/24  
Ratan K. Bagchi  
NOTARY  
SILIGURI

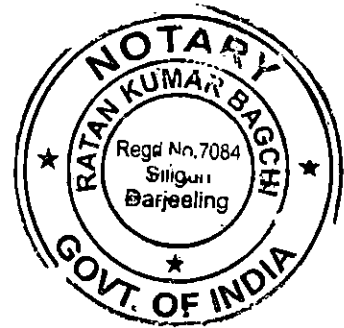
7. The Appellant has already filed an appeal under Section 29 of the Domestic Violence Act, 2005, challenging the impugned order. It is submitted that unless the operation and execution of the impugned order is stayed during the pendency of the appeal, the Appellant will be subjected to an unjust and unmanageable financial burden.

8. The Appellant submits that for the reasons set out and the grounds urged in Appeal, the impugned Order is liable to be quashed and set aside.

9. The Appellant craves leave to refer to and rely upon the statement and averments made and the submissions made in the Appeal for the purposes of this stay application and the same are not repeated for the sake of brevity.

10. The Appellant submits that he has a prima facie case and good chance to succeed in the above Appeal.

Solemnly Affirmed & Declared  
before me on Identification  
21/09/24  
Ratan K. Bagchi  
NOTARY  
Siliguri



20

11. The Appellant submits that the balance of convenience is also in favor of the Appellant as the Appellant is regularly paying maintenance amount to the Respondent as awarded by the Indian Army.



12. The Appellant submits that the Appellant shall suffer irreparable loss, harm and prejudice if the execution, implementation and operation of the Impugned Order is not stayed.

13. The Appellant therefore prays that:

### PRAYERS

A) That this Hon'ble Court be pleased to stay the operation, execution, and implementation of the impugned order dated 28/12/2023, which was subsequently modified vide corrigendum dated 04/03/2024, in Criminal Case No. DVA/14/2021/C pending before the Learned

Solemnly Affirmed & Declared  
to be true on Identification  
28/04/24  
Ratan K. Bagchi  
NOTARY  
SILIGURI

JMFC, Vasco, during the pendency of the present appeal;

B) That this Hon'ble Court be pleased to grant ex-parte ad-interim relief in terms of prayer (A) above;

C) That this Hon'ble Court be pleased to grant ad-interim relief in terms of prayer (A) and (B) above.

D) For such further and other reliefs as this Hon'ble Court deems fit and proper.

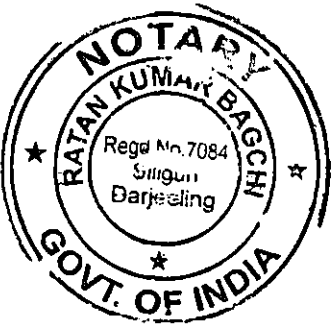
Place: Margao- Goa

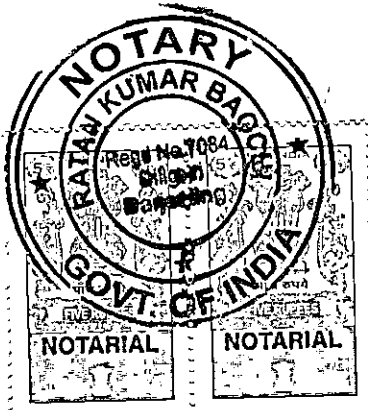
Date: 08 / 10 / 2024

  
Appellant

  
Adv. For Appellant

Solemnly Affirmed & Declared  
to be true on Identification  
24/09/24  
Ratan Kr. Bagchi  
NOTARY  
SILIGURJ

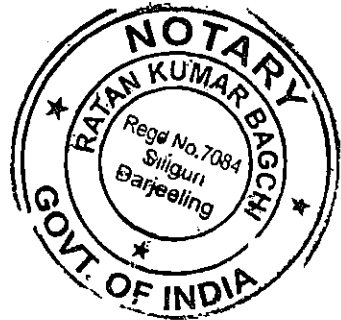




22

### AFFIDAVIT

I, Deepak Kumar Singh, S/o. Bhindyawasini Singh,  
Aged 37 years, Indian National, Married, Indian Army  
Officer, R/o. 140 Kanchan Nagar, Bala Road Khajuri  
Kala Bhopal, Nr. Awadhपुरी, Behind Vidyasagar  
Management Institute, Bhopal, Madhya Pradesh,  
462022 the Appellant abovenamed do hereby on solemn  
affirmation state and submit as under:



1. I say that I am the Appellant in the above appeal.
2. I say that I have read and understood the contents  
of the appeal and the accompanying stay application.
3. I say that contents of the said application in  
paragraph 1, 2(pt) & 3(pt) is true to my own  
knowledge and the contents of paragraphs 2(pt),  
3(pt), 4, 5, 6, 7, 8, 9, 10, 11, 12 & 13 are in the nature  
of submissions made on legal advice.

Solemnly Affirmed & Declared  
in the presence of me on Identification  
24/09/24  
Ratan K. Bagchi  
NOTARY  
Siliguri

4. I say that the documents annexed to the appeal memo are true copies of the original.

5. I say that whatever stated hereinabove is true to my own knowledge.



Solemnly Affirmed at

On this 24<sup>th</sup> day of September 2024

*[Signature]*

Deponent

Identified by me: -

*Nabonita Sen*

**Nabonita Sen**  
Advocate  
E/No.- F-851/790/2004  
Siliguri Court

Solemnly Affirmed & Declared  
before me on Identification  
*[Signature]*  
Ratan Kr. Bagchi  
NOTARY  
Siliguri

### AFFIDAVIT

Solemnly Affirmed before me  
By *Deepak Kr Singh*  
of *Bhopal, Madhya Pradesh*  
Identified by *Nabonita Sen*  
This on *24<sup>th</sup>* Day of *SEP. 2024*  
at *Siliguri, 1.20* a.m/p.m

Undertaking.  
on behalf of the Appellant & under instructions; we undertake to continue paying an amount of Rs. 31,000/- for every 2 months as is already being deducted from our salary by the Army.

*[Signature]*  
15/09/25  
Adv. E. Wapner  
(Adv. for Appellant)

Order

Heard Ld. Adv. Shri K. Wasapkar for the  
appellant. It is evident that the Ld. Magistrate  
has by the impugned Order dated 28/12/2023  
directed the appellant to pay interim maintenance  
of Rs 35,000/- monthly on the mistaken fact that  
the appellant was paying the respondent Rs 31,000/-  
monthly. A reconsideration has been issued to the  
effect that the present respondent has been receiving  
Rs 31,000/- from the present appellant every for  
two months.

However the Ld. Magistrate has not corrected  
the operative part of the impugned Order which  
directs the appellant to pay the present  
respondent Rs 35,000/- monthly.

Hence, the operation of the impugned Order to the  
extent it directs the appellant to pay the respondent  
Rs 35,000/- per month as interim maintenance  
is suspended till further Orders. It is however  
clarified that the appellant has to continue paying  
the respondent Rs 31,000/- every two months  
as undertaken. Issue notice to the respondent

8/0.9/1/2026 at 2.30 p.m.

15/10/2025  
Shri K. Wasapkar