

**In the Court of Chief Judge, City Sessions Court, Calcutta.**

**Criminal Appeal No.230 of 2023**

**CNR – WBCS01-001224-2023**

**Present: Sri Soumendra Nath Das,  
Chief Judge,  
City Sessions Court, Calcutta,  
JO Code No.WB01132.**

**Order No.08 dated 19.07.2024.**

Today is fixed hearing of the petition on the point of admission.

Ld. Advocate for the appellants is present by filing hazira.

Hazira is filed on behalf of the respondent.

The record is taken up for hearing on the point of admission of the appeal.

Ld. Advocate for the appellants submits that the respondent/wife filed an application u/s. 12 of the Protection of Women from Domestic Violence Act, 2005 seeking reliefs under section 17, 18, 19, 20, 22 and 23 the Protection of Women from Domestic Violence Act, 2005 against the appellants and the said application was registered as MISCN Case No. 04 of 2022.

Ld. Advocate for the appellants further submits that after taking cognizance of the said case Ld. Additional Chief Metropolitan Magistrate-I, Calcutta transferred the case to the Court of Ld. Metropolitan Magistrate, 03rd Court, Calcutta for disposal.

Ld. Advocate for the appellants further submits that the appellant and three others appeared before the Ld. Court below and filed written objection in respect of the application u/s. 12 of the Protection of Women from Domestic Violence Act, 2005 and in respect of the application u/s. 23 of the Protection of Women from Domestic Violence Act, 2005 and the appellant no.1 being the husband of the respondent had filed the affidavit of assets and liabilities on his behalf in the said Misc. Case no. 04 of 2022.

Ld. Advocate for the appellants further submits that after hearing both the parties Ld. Court below in connection with the said MISCN case no. 04 of 2022 passed the impugned order dated 18.10.2023 directing the appellant/husband to pay Rs.15,200/- per month as the school fees of the minor son and Rs.8000/- per month to the respondent/wife as an alternative accommodation.

Ld. Advocate for the appellants further submits that the appellant no.1 is the sole bread earner of the family and the appellant no.2 who is the father of the appellant no.1 is suffering from various geriatric ailments caused by his old age and he is also suffering from physical disability of 50 percent incapacity and the appellant no.3, who is the mother of the appellant no.1, as a housewife is totally dependent upon the appellant no.1.

Ld. Advocate for the appellants further submits that the income of the appellant/husband is 26,000/- per month and out of which he has to manage all sorts of expenses including educational expenses of the minor child and also the huge amount of medical expenses of the appellants nos. 2 and 3 are also borne by the appellant.

Ld. Advocate for the appellant further submits that the quantum of maintenance of Rs.23,200/- per month, (Rs.15,200/- per month as the school fees of the minor son and Rs.8000/- per month to the respondent/wife as alternative accommodation), as awarded by the Ld. Court below is excessive, exorbitant and beyond the financial capacity of the appellant.

Ld. Advocate for the appellant further submits that the Ld. Court below has failed to appreciate that being an earning Lady, the respondent/wife is capable to maintain herself and also can afford to bear the expense in respect of her residential accommodation.

Ld. Advocate for the appellant further submits that the Ld. Court below has failed to apply its judicial mind while passing the impugned order dated 18.10.2023 in respect of the interim monetary relief as prayed by the respondent/wife u/s. 12 of the Protection of Women from Domestic Violence Act, 2005.

Ld. Advocate for the appellant further submits that there are sufficient ground to proceed with the instant appeal and so, he prays that the impugned order requires to be set aside and for which this appeal is to be admitted.

In reply Ld. Advocate for the respondent/wife submits that the appellant/husband has not come before this Court with clean hands as the appellant/husband did not file any salary slip in respect of his monthly earnings.

Heard the Ld. Advocates for the appellant and respondent at length. Perused the record and the impugned interim order.

Considering the submissions of both sides this Court finds that the grounds raised by the Ld. Advocate for the appellants are required to be adjudicated upon in the instant appeal.

Hence, the appeal is admitted.

Call for LCR.

As the case is otherwise ready, the matter be transferred to the Court of Ld. Additional District & Sessions Judge, Bench-II, Calcutta for hearing and disposal of the appeal.

Stay petition, if any, shall be considered by the Ld. Transferee Court in accordance with law.

To **21.08.2024** for appearance before the Transferee Court i.e. **Ld. Additional District & Sessions Judge, Bench-II, Calcutta.**

Let a copy of this order be sent to the Ld. Court below for sending the LCR before the Transferee court.

Dictated & corrected by me

Sd/-  
Chief Judge  
City Sessions Court, Calcutta

Sd/-  
Chief Judge  
City Sessions Court, Calcutta