

Order No. 05 dt. 14.05.25

Today is fixed for hearing of the stay application.

Both sides have filed hazira before this court.

Written Objection against the stay petition is filed on this day by the respondent along with some other documents. Let it be kept with the record.

The record is now taken up for hearing of the said stay petition filed by the revisionist in this motion on 20.3.25

Ld Advocate while moving the said stay petition submitted that the case of the revisionist in the instant motion is as follows :

The O.P.1 herein namely Payel Ghosh as petitioner had filed a petition u/s 125 Cr.P.C. before the Id ACJM Serampore against her husband Trideep Ghosh which was registered as Misc Case No. 371/2019 and also filed an interim maintenance petition on 18.10.19 which was heard by the Id trial court of J.M. 3rd Court, Serampore on 19.4.22 in which it decreed payment of interim maintenance of Rs. 7000/- per month for the petitioner-wife and Rs. 8000/- per month for her daughter by the husband-O.P. Thereafter the wife filed another maintenance case against the husband u/s 24 of the Act being Misc. Case No. 21/2021 which arose out of Mat Suit No. 464/2020 pending between the same parties in which the Id trial court had by its order dt. 21.12.22 decided to adjudicate the matter after recording evidence in this case. Thereafter the O.P.-husband had filed an application u/s 127 of the Cr.P.C. on 28.8.24 before the aforesaid trial court which was registered as Misc Case No. 135/2023 for cancellation of the aforesaid interim maintenance order but the Id trial court after hearing the said case passed the impugned order on 21.12.24 wherein it rejected the prayer of the O.P. for such cancellation and fixed the matter for recording of evidence. Ld Advocate for the revisionist submitted that the impugned order of 21.12.24 needs to be stayed as otherwise the revisionist would be prejudiced as he would not be able to show by evidence therein that his wife was employed as a teacher. He prayed for allowing the stay prayer of the revisionist.

Ld Advocate for the O.P.1 submitted that the revisionist does not have any case for stay of the impugned order.

Ld Advocate for the State also concurred that the revisionist did not deserve stay in this matter.

Heard all the sides. Perused the stay petition, written objection, filed documents and record. Considered.

It appears from the submissions made by all the sides, that the instant motion has been filed against the impugned order therein dismissing the stopping/suspending prayer of the O.P.-husband made u/s 127 of the Cr.P.C. in connection with the interim maintenance order passed by the said court. It further appears from the impugned order that the interim maintenance order is operative and that the Id trial court has fixed the matter for evidence and filing of affidavit of assets and liabilities by both parties.

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In such a scenario, it is apparent that no case of the revisionist is made out as to how he would be prejudiced if stay is not granted to him in connection with the Misc Case under challenge. The revisionist has failed to show the exigency due to which the proceedings of the Id trial court should be stayed.

Hence, this court is not inclined to grant stay upon the impugned order. The stay petition of the petitioner is accordingly dismissed and thus disposed of.

Call for the TCR of Misc Case No. 35/2023 from the Id Trial Court at once.

To 05.8.2025 for receipt of TCR.

Dictated & Corrected by

Sd/-

Addl. Sessions Judge, 2nd Court
Serampore.

Sd/-

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Serampore.

