

Criminal Appeal – 34/2024

CIS -34/2024

Present : Mr. Nayyar Azam Khan

Additional Sessions Judge, 2nd Court,

Serampore, Hooghly,

J.O. Code No.WB01302.

Order No. 04 dt. 26.9.24

Today is fixed for order regarding stay.

Petitioner/Appellant has filed hazira before this court.

The record is now taken up for passing order upon the stay petition filed by the petitioner and heard on the last date.

Ld Advocate had during the hearing of the stay petition submitted that stay ought to be issued by this court on the impugned order passed by the ld J.M. 4th Court, Serampore dated 26.6.24 granting payment of interim maintenance by the petitioner to the O.P. of a monthly sum of Rs. 50000/- upon the petition filed by the O.P. under sec. 23(2) of The Protection Of Women From Domestic Violence Act, 2005 in Misc Case No. 92/2024 as he had fair chance of succeeding in the present criminal appeal filed by him and that if the stay is not granted he would be prejudiced as the ld court would take coercive steps against him in the execution proceedings already initiated by the O.P. against him in the ld trial court. He also submitted that the present net monthly salary of the petitioner is less than one lac and that he is having to pay a substantial sum of money from his salary for the cancer treatment of his father, besides paying the instalments of his loans and rent of house. He prayed for issuance of stay order upon the impugned order directing him to pay a monthly sum of Rs. 50000/- to the O.P.

Heard.

Perused the impugned order and materials in the record. Considered.

It appears from the certified copy of the impugned order filed in the record that the ld J.M. has earlier in the said Misc Case passed an ex parte interim maintenance order of Rs. 50000/- by the petitioner to the O.P. every month on the prayer of the O.P. It appears from the documents filed with firsti in this case by the petitioner that the petitioner is presently paying a sum of money of Rs. 35000/- per month to the O.P. as maintenance to the O.P. and their dependant daughter. It further appears that execution proceedings have already commenced before the ld trial court and notice has already been served upon the petitioner. Considering the above facts and circumstances and the exigency in this matter, **this court is now pleased to order stay upon the impugned order dated 26.6.24 till the next date fixed in this case, subject to payment of monthly interim maintenance to the tune of Rs. 40000/- to the O.P.** The Petitioner is directed to pay the arrears of the maintenance to the tune of Rs.40000/- per month from the date of the

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impugned order till date by the next date fixed in this case. If the petitioner is found not to have complied with the direction of this court in this matter, the stay would be automatically vacated without any further reference to the Petitioner.

The stay petition of the petitioner is accordingly partly allowed and thus disposed of.

Call for the LCR of Misc Case 92/2024 from the Id Trial Court at once.

Petitioner is directed to file requisites at once.

Let a copy of this order be sent to the court of Id J.M. 4th Court, Serampore for information.

To 12.11.2024 for S.R. and receipt of LCR.

Dictated & Corrected by

Sd/-

Addl. Sessions Judge, 2nd Court
Serampore

Sd/-

Addl. Sessions Judge, 2nd Court
Serampore