

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE
1ST COURT, SERAMPORE**

**Present: Sri Manoj Kumar Rai
Additional Sessions Judge,
1st Court, Serampore, Hooghly.**

Criminal Appeal No. 21 of 2022

Shri Rajib Saha

.....Appellant

Versus

Smt. Sushmita Roy (Saha) and Another

.....Respondents

Order No. 01 dated 28.10.2022

This is an appeal under section 29 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'P.W.D.V. Act') filed by the appellant being aggrieved by and dissatisfied with the order dated 17.09.2022, passed by the Ld. Judicial Magistrate, 3rd Court, Serampore in Misc. Case No. 81 of 2018. The appeal has been filed within the period of limitation. Register the same as Criminal Appeal.

The instant appeal is taken up for hearing on the point of admission. I have heard the Ld. Advocate for the appellant, perused the impugned order and considered. Let the appeal be admitted. Issue notice upon the respondent No. 1 in both ways and upon the State through court only, fixing **29.11.2022** for S.R., A/D and appearance. Call for L.C.R.

Requisites be filed at once.

Ld. Lawyer for the appellant moves application for stay.

Heard the Ld. Lawyer. Perused the memorandum of appeal under section 29 of P.W.D.V. Act and application for stay as well as impugned order. Considered.

Ld. Lawyer for the appellant submits that it would be hardship upon the appellant to pay arrears of interim monetary relief at the rate of Rs. 5000/- from the date of application. He submits that the appellant has cogent ground in the instant appeal and the impugned order has been passed ex parte in absence of respondent.

On careful perusal of impugned order, it transpires that the Ld. Magistrate has been pleased to make an order of interim monetary relief at the rate of Rs. 5000/- per month from the date of filing of application, i.e. 14.06.2018.

I am inclined to make an order of stay of the impugned order subject to payment of interim monetary relief at the rate of Rs. 5000/- per month from the date of order. Hence, the instant application for stay is hereby allowed.

Let all further proceedings of Misc. Case No. 81/2018 be hereby stayed, subject to payment of Rs. 5000/- per month as interim monetary relief from the date of the order, i.e. 17.09.2022, in view of the order of Ld. Magistrate, till 29.11.2022.

The application for stay is, thus, disposed of.

To date.

Dictated & corrected by me.

Sd/- (Sri M.K. Rai)
A.S.J.

Sd/- (Sri M.K. Rai)
Additional Sessions Judge
1st Court, Serampore