

2 22.12.2022

gd/ssd

MAT/1933/2022
IA NO: CAN/1/2022
PRADIP KUMAR HALDER
VS
STATE OF WEST BENGAL AND ORS.

Mr. Jayanta Samanta,
Mr. Karunamoyee Samanta,
Mr. Debajyoti Goswami,
Ms. Priyanka Das
...for the Appellant.

Mr. Suman Dey
...for the State.

Mr. Suman Basu
...for the Respondent No.2.

Ms. Arundhati Banerjee,
Mr. Kaustav Banerjee
...for the Respondent No.11.

By this intra court appeal the respondent in the writ petition (husband) has challenged the order of the learned Single Judge dated 18.11.2022 whereby the learned Single Judge has allowed WPA 18516 of 2022 with a direction to the appellant to make payment of Rs.4,66,000/- in accordance with the chart prepared by the writ petitioner, with a further direction that the amount will be paid in four equal monthly instalments beginning December, 2022 to the writ petitioner within first ten days of each month. Learned Single Judge has further directed that the writ petitioner shall take necessary steps in terms of the pension account of the

appellant only after receiving the amount of Rs.4,66,000/-.

A perusal of the writ petition reveals that the writ petitioner is the wife of the appellant and the relations between the two are restrained. Accordingly, the writ petitioner had claimed the maintenance under Section 125 of the Cr.P.C. and also alimony pendente lite under Section 24 of the Hindu Marriage Act and there are arrears pending.

Learned Single Judge has taken a note of the arrears which were to be paid by the appellant to the writ petitioner to the tune of Rs.4,66,000/- and has accordingly issued the impugned direction.

The submission of learned counsel for the appellant is that the appellant is not in a position to operate the salary account on account of the impugned direction. Hence, he is in great difficulty. On the previous date this Court had recorded the stand of the appellant that he is ready to pay the entire amount mentioned in the order of the learned Single Judge in four equal monthly instalments by way of post dated cheques and on that payment he be allowed to operate the salary account. This submission was also recorded in the previous order dated 21st December, 2022

Learned counsel for the respondent had no objection.

Appellant has today handed over four post dated cheques of Rs.1,16,500/- each amounting to total sum of Rs.4,66,000/- which have been accepted by the learned counsel for the writ petitioner.

It is made clear that the above payment has been made by the appellant to the respondent/writ petitioner without prejudice to the rights of the parties in the pending litigation. Though the appellant has raised the issue about maintainability of the petition but in view of the order passed above, the said issue does not survive.

Hence, in view of the above, the present appeal is disposed of by deleting the last part of the order of the learned Single Judge by which the appellant has been effectively restrained from operating the salary account.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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