

08.07.2024
rc/ct.no.34
Item No.58

CRR No. 2429 of 2024

In the matter of : Bibhuti Roy

.....Petitioners

Mr. Shibaji Kumar Das
Ms. Sayani Pan

...for the Petitioner

Mr. P. Mukherjee
Mr. T. Khan

...for the O.P.

Petitioner is aggrieved by the order passed by the learned Additional Sessions Judge, 8th Court, Barasat, North 24 Parganas on June 07, 2024 in Criminal Appeal No. 23 of 2024 refusing the prayer of the petitioner for stay of the judgment and order of conviction and sentence passed by the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24-Parganas on May 07, 2024.

Since the 2nd opposite party is represented today, the petitioner is directed to serve copy of the application along with annexure thereto upon the opposite party in course of this day.

Heard learned counsels for the parties.

By the order impugned, the learned Sessions Judge has recorded that the appellant-husband has moved a petition for stay. This Court fails to understand as to how in an appeal preferred against the judgment and order of conviction under Section 138 of the Negotiable Instrument Act, 1881, a “husband” could move an application for stay before the learned Appellate

Court. The prayer for stay has also been refused by a one liner “Perused the case record. The petition praying for ‘Stay’ stands refused at this stage”.

It is most unfortunate that the appellate court being the learned Additional Sessions Judge, 8th Court, Barasat, North 24 Parganas did not care to look into the application for stay, let alone the judgment and order passed by the learned Additional Chief Judicial Magistrate, Bidhannagar, stay of which was sought by the petitioner. No further word is required to be spent for setting aside such strange and unreasonable order which assigns no reason at all.

The revisional application being CRR No. 2429 of 2024 is allowed.

The order impugned dated June 07, 2024 passed by the learned Additional Sessions Judge, 8th Court, Barasat, North 24 Parganas in Criminal Appeal No. 23 of 2024 is set aside.

Learned Additional Sessions Judge is directed to reconsider the application for stay filed by the petitioner before him and dispose of the same by a reasoned order within a fortnight from the next date of hearing fixed before him, in accordance with law.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)