

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.709 OF 2016

Balasaheb s/o Savlaram Arane ... PETITIONER

VERSUS

The State of Maharashtra & another ... RESPONDENTS

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Shri S.G. Magre, Advocate for petitioner
Shri K.S. Patil, A.P.P. for State
Shri B.G. Londhe, Advocate holding for
Shri K.K.Chaudhari, Advocate for respondent No.2
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CORAM: A.I.S. CHEEMA, J.

DATED: 22nd July, 2016.

ORAL ORDER :

1. Heard counsel for the petitioner, learned A.P.P. for respondent No.1/ State and learned counsel for respondent No.2. The present Criminal Writ Petition has been filed challenging the Criminal M.A. No.113/2016 which has been filed by the respondent No.2 under the provisions of the Protection of Women from Domestic Violence Act. The learned counsel for the petitioner is submitting that, the respondent No.2 had herself

executed document, copy of which has been filed as Exhibit A, on 10.2.2015 that she on her own is leaving the house of her husband and she is free from the marital bonds and that regarding the same she will not take any action anywhere. The counsel submits that, one of the witness of the said document has even filed affidavit in support of the execution of such document. The counsel submitted that, in the proceedings under the Protection of Women from Domestic Violence Act filed by the respondent No.2 it is claimed that, on 9.2.2015, she was abused and beaten and she had made phone call to her father to take her away and that she was taken by her father on that day. The counsel submits that, the criminal proceedings filed contains false allegations and the same deserves to be quashed.

2. I find that, moment the proceedings under the Protection of Women from Domestic Violence Act has been filed, the petitioner has moved this writ petition seeking quashing of the proceedings. The allegations raised in the petition, the documents being relied on and the submissions being made, are in the nature of defence to the criminal proceedings. I do not think that at this stage I need to go into the defence. I have gone through the application under the Protection of Women

from Domestic Violence Act filed by the respondent No.2. The counsel for petitioner is unable to show or say that the contents of the complaint filed by the respondent No.2 do not spell out contentions and allegations which would not attract the provisions of the Protection of Women from Domestic Violence Act. When the application contains material which shows that there are grounds to proceed further under the provisions of the Protection of Women from Domestic Violence Act, it would not be appropriate to quash the proceedings on the basis of what is stated to be the defence.

3. There is no reason to interfere in the Criminal Misc. Application No.113/2016 pending before the Judicial Magistrate, First Class. The Writ Petition has no substance. The same is rejected.

(A.I.S. CHEEMA, J.)