

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

12 CRIMINAL WRIT PETITION NO.947 OF 2017

SHAILENDRA RAMDAS SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Petitioner : Mr. Z H Farooqui h/f N V Gaware
APP for Respondents: Mrs V N Patil Jadhav
Advocate for Respondent 2 : Mr. Amar V Lavte

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CORAM : SMT. ANUJA PRABHUDESSAI & R. M. JOSHI, JJ.
Dated: February 20, 2023

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PER COURT :-

1. This is a petition under Article 226 of the Constitution of India to quash and set aside SCC No.452 of 2014 pending on the file of learned Chief Judicial Magistrate, Osmanabad arising from FIR No.1 of 2014 for offence punishable under section 31 (1) of the Protection of Women From Domestic Violence Act, 2005 (for short hereinafter referred to as 'DV Act').

2. The main contention of the petitioner was that non payment of maintenance allowance or refusal to pay monetary relief granted under section 20 of the DV Act does not amount to breach of protection order and hence the proceedings filed under section 31 of the DV Act is not maintainable.

aaa/-

3. Learned counsel for the petitioner and learned counsel for respondent no.2 submit that during pendency of this petition, both parties have settled the matter. They drew our attention to the purshis dated 3.11.2014 (exhibit F) filed before the learned JMFC, Osmanabad, wherein respondent no.2 has acknowledged having received Rs.4,50,000/- (Rs. Four Lakh Fifty Thousand) out of the Court as one time settlement. They have also drawn our attention to the cross examination of the respondent no.2 in the same proceeding wherein, respondent no.2 has acknowledged having settled the matter and has given consent to quash the proceedings.

4. Since the record reveals that parties have settled the matter amicably, in our considered view, this is a fit case to exercise the powers under section 482 of the Criminal Procedure Code to quash the proceeding SCC No.452 of 2014. Hence, the petition is allowed in terms of pryaer clause 'B'. As a consequence, SCC No.452 of 2014 pending on the file of learned Chief Judicial Magistrate, Osmanabad in pursuance of FIR bearing Crime No.1 of 2014 stands quashed. Writ Petition accordingly disposed off.

aaa/-

5. Fees of Advocate Mr. Lavte appointed to represent respondent no.2 is quantified to Rs.6,000/- (Rs. Six Thousand) to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

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