

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

945 CRIMINAL WRIT PETITION NO.1650 OF 2022

SHAIKH AJAZ IBRAHIM
VERSUS
SHAIKH HUMERA SHAIKH AJAZ

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Advocate for Petitioner : Mr. Shaikh Ashraf Patel

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: September 26, 2023

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PER COURT :-

1. By this petition, the petitioner seeks to quash the proceeding in PWDVA No.326 of 2020 filed before the learned J.M.F.C., Aurangabad.

2. Learned advocate appearing for the petitioner submit that the respondent has made false statements in her application filed under section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short DV Act) and seek maintenance against him. He would submit that respondent has also initiated proceeding under section 125 of the Cr.P.C. on same date before the learned JMFC, Aurangabad. He would further submit that both the parties have filed details regarding their assets. In view of the judgment of the Supreme Court of India in case of Rajnesh Vs. Neha he would submit that the present proceeding be quashed and it is based on false pleadings.

aaa/-

3. Pertinently, the learned counsel appearing for the petitioner do not dispute that the proceedings under DV Act as well as Section 125 of the Cr.P.C. can be filed and simultaneously proceed. Only ground he raises in this petition is that the application filed by the respondent invoking provisions of DV Act is based on false statements. It would be difficult to accept such contentions. Parties to the proceedings have filed respective pleadings. It would be for the learned Magistrate to record evidence of the parties and then decide the case on its own merits. Allegations of falsity of contents of the application under DV Act itself cannot be the ground to grant relief as prayed in this writ petition. In that view of the matter, there is no merit in the petition. Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR, J.)

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