

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

**CRIMINAL WRIT PETITION NO. 1172 OF 2013**

1. Rambhau S/o Eknath Kalwane  
Age : 40 Yrs., Occ. : Business  
& Agril., R/o : Samadhan Auto  
Garage, Pandharpur to  
Ranjangaon Shenpunji Road,  
Tq.Gangapur,Dist. Aurangabad.
2. Sau.Rekha W/o Rambhau Kalwane  
Age : 25 Yrs.,Occ.: Household,  
R/o : Samadhan Auto Garage,  
Pandharpur to Ranjangaon  
Shenpunji Road,Taluka:  
Gangapur, Dist. : Aurangabad.
3. Karbhari S/o Eknath Kalwane  
Age : 45 Yrs., Occ. : Business  
& Agril., R/o : Samadhan Auto  
Garage, Pandharpur to  
Ranjangaon Shenpunji Road,  
Tq.Gangapur,Dist. Aurangabad.
4. Baburao S/o Eknath Kalwane  
Age : 42 Yrs., Occ. : Business  
& Agril., R/o : Aurangabad -  
Baijapur Road, Samadhan  
Dhaba, At post Deogaon Rangari,  
Tq.Kannad, Dist. Aurangabad.

**..... PETITIONERS/  
[ORIGINAL RESPONDENTS]**

**V E R S U S**

1. The State of Maharashtra **..... RESPONDENT**
2. Mangalbai W/o Rambhau Kalwane  
Age : 36 Yrs., Occ. : Household,  
R/o : Ranjangaon Shenpunji,  
Taluka : Gangapur, Dist. : **..... RESPONDENT/**  
Aurangabad. **[ORIGINAL COMPLAINANT]**

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Mr. P.F.Patni, Advocate for the Petitioners.

Mr. V.D.Godbharle, A.P.P. for R – 1 State.

Mr. G.J.Pahilwan h/f Mr. S.K.Shaikh,

Advocate for R – 2.

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**CORAM : V.M.DESHPANDE, J.**

**DATE OF JUDGMENT : 20<sup>th</sup> JANUARY, 2015**

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**ORAL JUDGMENT :**

1. Rule. Rule is made returnable forthwith. By consent of the learned counsel for the Petitioners, the learned A.P.P. for respondent No. 1 - State and the learned counsel for respondent No. 2, the present Writ Petition is taken up for final hearing.

2. Exception is taken by the petitioners against the Order dated 08/10/2013 passed by the learned Judicial Magistrate First Class, Court No. 2, Gangapur in Crim. Misc. Application No. 356/2012, whereby the learned Magistrate was pleased to reject the application filed by the husband raising the point of limitation and the jurisdiction.

3. Heard Mr. P.F.Patni, the learned counsel for the Petitioners, Mr. V.D.Godbharle, the learned A.P.P. for respondent No. 1 - State and Mr. G.J.Pahilwan holding for Mr. S.K.Shaikh, the learned counsel for respondent No. 2.

4. Though much arguments were advanced by the learned counsel for the petitioners in respect of the domestic violence, however, the same are not incorporated in the application [Exh. 17] and, therefore, the petitioners can not raise such points which were not raised before the learned trial Court.

5. Further, the question of limitation is always a mixed question of fact and law. It has to be decided by the Court finally. In the application [Exh. 17] itself, it has been

mentioned by the husband that the wife has shown that she is residing at Ranjangaon Shenpunji, Taluka Gangapur, District Aurangabad since last one year. That fact itself confers the territorial jurisdiction upon the learned Magistrate in view of the fact that village Ranjangaon Shenpunji is situated within the territorial jurisdiction of Gangapur Taluka.

6. I see no reason to upset well reasoned order passed by the learned Magistrate. However, it is made clear that the question of limitation being a mixed question of fact and law, it is always open for the petitioner to demonstrate the same on the basis of the necessary evidence before the learned trial Court during trial.

7. With the above observations, the present Writ Petition is dismissed. Rule discharged.

**[V.M.DESHPANDE, J.]**











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