

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.62/2019

Sarang s/o Subhash Yemde & ors. .vs. Sau. Swati wd/o Sarang Yemde

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. V. S. Mishra, Advocate for petitioners.

CORAM : V.M. DESHPANDE, J.

DATED : FEBRUARY 6, 2019

Heard Mr. Mishra, learned counsel for the petitioners. By present petition, petitioners are seeking to quash the order passed by learned Judicial Magistrate First class, Court No.3, Akola on 10.04.2018 below Exh.-18 in Miscellaneous Criminal Case No.817/2017, whereby learned Magistrate rejected the application filed on behalf of petitioner no.1 for summary dismissal of the proceedings filed by the respondent.

The respondent is wife of petitioner no.1 and petitioner nos.2 and 3 are father in law and mother in law of respondent. The respondent filed an application under Section 12 read with Sections 18, 19, 20, 22 and 23 of the Protection of Women From Domestic Violence Act. The said is duly registered on the file of learned Magistrate. Compilation of the petition shows that the learned Magistrate passed an order on 26.09.2017, directing respondent no.1 therein to pay an amount of Rs.7,000/- per month towards maintenance. Subsequent to this, petitioner no.1 filed an application for summary

dismissal of proceedings on 25.10.2017, which is at Exh.-18.

Learned Magistrate, in my view, has correctly found that contents of application filed by respondent disclose domestic violence. According to learned counsel for petitioners, there is no cause of action in favour of the respondent and also the application is filed beyond the period of limitation. The question of limitation is always a mixed question of fact and law.

In that view of the matter, learned Magistrate has rightly rejected the application warranting no interference in the limited writ jurisdiction of this Court. The writ petition is therefore rejected.

JUDGE