

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

CRIMINAL WRIT PETITION NO.1258 OF 2015

1. Cadila Pharmaceuticals Limited,
(A Company duly registered under
the provisions of the Companies Act,
1956) having address at : Cadila
Corporate Campus, Sarkhej Dholka
road, Bhat, Ahmedabad, District
Ahmedabad, Gujarat 382 210.
Through : Its authorised signatory
Mr Dushyant Pandya, Aged 38 years,
Residing at Ahmedabad (Gujarat)
 2. Dr. Rajiv s/o Indravandan Modi,
Age 54 years, Occu. Business,
R/o as above
 3. Dr. Geetaben Patel,
Age 56 years, Occu. Service,
R/o as above
- .. Petitioners

Versus

1. Vilas Jain s/o Nemichand Jain,
Age 49 years, Occu. Agri.,
R/o Sakli, Taluka Yawal,
District Jalgaon
 - (2) Ghanshyam Patel,
Age about 46 years, Occu. Service,
R/o B-2/212, Madhuvan Apartment,
Behind Prestige Bungalows,
Ghodasar, Ahmedabad 380 050
 - (3) Bharat Patel,
Age major, Occu. Service
R/o Anand (Gujarat)
 - (4) Gunvant More,
Age major, Occu. Service,
R/o C/o P.G. Chaudhari,
Ashthavinayak colony,
Savda road, Raver,
Taluka Raver, Dist. Jalgaon
 5. The State of Maharashtra
- .. Respondents

Mr K.C. Sant, Advocate for petitioners
Mr N.B. Suryawanshi, Advocate for respondent No.1
Respondents No.2 to 4 deleted as per Court's order dated 1.12.2015
Mr A.R. Kale, A.P.P. for respondent No.5

CORAM : N.W. SAMBRE, J.

DATE : 22nd March 2016

PER COURT

1. After having heard learned Counsel for the respective parties, it is noted that the order dated 11th October 2010, of issuance of process passed by learned Judicial Magistrate, First Class, Yawal for an offence punishable under Section 420 of Indian Penal Code and confirmed in a Revision bearing Criminal Revision Application No.3 of 2015, passed by the learned Additional Sessions Judge, Bhusawal dated 9th July 2015 are impugned herein.

2. In the background of the allegations made in the complaint, it is required to be noted that the least that was expected of the learned Magistrate was to satisfy himself after considering the contents of the application and the verification of the other documentary evidence that is brought on record about satisfaction of the ingredients of said section. It is expected of the Magistrate to deal with the same expressly so as to demonstrate the application of mind in view of the law laid down by the Division Bench of this Court in the matter of **State of Maharashtra Vs. Shashikant s/o Eknath Shinde, reported in 2013 ALL MR (Cri.) 3060**, particularly observations made in paragraphs 30, 32 and 35 of the said judgment.

3. As such, the order order dated 11th October 2010 of issuance of process passed by learned Judicial Magistrate, First Class, Yawal for an offence punishable under Section 420 of Indian Penal Code and confirmed in a Revision bearing Criminal Revision Application No.3 of 2015, passed by the learned Additional Sessions Judge, Bhusawal dated 9th July 2015 are hereby quashed and set aside. The learned Magistrate is directed to consider the aspect of issuance of process afresh in the light of the observations made herein above.

4. In the light of admitted position that as the accused are not residing within the jurisdiction of the Court of learned Judicial Magistrate, First Class, Yawal, it will be expected of the learned Magistrate to take recourse to Section 202 of Cr.P.C. if not already taken, while proceeding ahead with the matter.

5. It is made clear that all the issues are kept open and this Court has not dealt with the merits of the matter.

6. Criminal Writ Petition stands allowed in above terms.

(N.W. SAMBRE, J.)

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