

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4271 OF 2013
WITH
CRIMINAL WRIT PETITION NO. 4272 OF 2013

Mr. Subhash Gulabrao Gaikwad. ... Petitioner.
Versus
State of Maharashtra & anr. ... Respondents.

Mr. Vishal Patil, advocate for petitioner.

Mr. V.V. Salunke, advocate for respondent No. 2.

Ms. A.T. Javeri, APP for State.

CORAM : RAVINDRA V.GHUGE, J
DATE : JULY 12, 2016

P.C.:

1 Rule. Rule made returnable forthwith and both the petitions are heard finally with the consent of the parties.

2 In both these petitions, between the same litigating sides, the Petitioner has assailed the order of issuance of process dated 14/11/2011 in C.C. No. 2635/SS/2011 and C.C. No. 2587/SS/2011.

3 The petitioner has narrated a host of factors. The learned advocate for the original complainant has also strenuously supported the impugned orders. Considering the order, that I intend to pass, I am not required to advert to their entire submissions.

4 It is undisputed that both the impugned orders are identical. The learned Magistrate states in the impugned orders that he has perused the complaint, verification, statement of the complainant, documents placed on record and heard the learned advocate for the complainant. It is further noted that sufficient ground to proceed against the accused, is made out. In both these matters, process has been issued against the Petitioner-accused under Section 499 and 500 of the Indian Penal Code.

5 It is trite law that an order of issuance of process is neither a formality to be completed, nor is to be made mechanically. The backbone of every judicial order is the reasons and conclusions set out therein, since they would reflect the consideration of material available, prima facie conclusions drawn by the court and the reasons assigned by the court for issuance of process. Though in the impugned orders, the learned Magistrate has mentioned that he has referred to the documents, it appears that cryptic orders have been passed which neither reflect application of mind, nor the conclusions, much less, any reason.

6 In the light of the above, both the petitions are partly allowed. The impugned orders of issuance of process dated 14/11/2011 in C.C. No. 2635/SS/2011 and C.C. No. 2587/SS/2011 are quashed and set aside. The learned Magistrate is therefore, expected to consider the

material available and after hearing the complainant, pass appropriate orders which would appear to be reasoned orders.

7 Rule is made partly absolute in the above terms.

8 Needless to state that this Court has not dealt with the merits of the matter, considering the fact that the impugned orders have been set aside only on account of paucity of reasons and conclusions.

(RAVINDRA V.GHUGE, J)