

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO.462 OF 2019**

Gillette India Limited & anr.

... Petitioners

Vs.

The State of Maharashtra & anr.

... Respondents

Mr.Aabad Ponda with Abhijit Mittal and Lakshmi Raman for the  
Petitioner

Mr.A.R. Patil, APP, for the Respondent – State

Mr.Sudhir Jorwekar, Inspector of Legal Metrology – present

**CORAM: Mrs.MRIDULA BHATKAR, J.**

**DATED: FEBRUARY 12, 2019**

**P.C.:**

1. In this Writ Petition filed under Articles 226 and 227 of the Constitution of India invoking the writ jurisdiction of this Court and also invoking the inherent powers of this Court under section 482 of Criminal Procedure Code, the petitioners challenge the order dated 24.10.2018 passed by the learned Metropolitan Magistrate, 27<sup>th</sup> Court at Mulund (West), Mumbai in Criminal Case No.398/SS/2018 whereby the summons was issued to the petitioners/accused, returnable on 13.2.2019.

2. At the outset, on a perusal of the said order dated 24.10.2018, it is noticed that there is no mention of a section under which cognisance of the offence is taken and the summons is issued. Under section 204 of the Criminal Procedure Code, the learned Magistrate is required to issue summons for attendance of the accused if he forms an opinion after taking cognisance that there is sufficient ground to proceed. Therefore, the application of mind of the learned Magistrate should be manifest in the order of summons.

3. The learned Counsel for the petitioners has submitted that the learned Magistrate has put a stamp on the complaint in respect of only issuance of summons directing the petitioners to attend his Court on 13.2.2019. He submits that he has a good case on merits also.

4. Mr.Patil, the learned Prosecutor appearing for the State, after going through the impugned order, fairly conceded that the section under which the cognisance is taken under section 204 of the Criminal Procedure Code is not mentioned.

5. The order of issuance of summons is to be passed in view of section 204 of the Criminal Procedure Code, wherein the application of mind of taking cognisance under a particular section(s) and the Act should be mentioned. The formation of opinion of taking cognisance can be gathered from that order. There is no specific or straitjacket formula for what should be the length of the order. It can be very brief and terse. However, it should manifest the application of mind under which section and the act, the cognisance is taken against the respondent/accused in the complaint. It won't be out of place to mention that in many Courts of Magistrates, stamped orders of issuance of summons are passed because many complaints are filed between the same parties and under the same Act. Sometimes, the number reaches upto 100 to 200 and then, it is not physically possible for the Magistrates to pass orders separately in each case. But after going through the complaint, if the parties and allegations are the same, then, the learned Magistrate may use the stamp but it is necessary for him to fill up the blanks in the stamped order as to under which Act and sections he thinks the accused has committed offence.

6. Hence, without going into the merits of the matter, the stamped order of issuance of summons is set aside and remanded to the learned Magistrate with a direction to consider the application afresh. Petition is allowed accordingly.

7. All concerned to act on an authenticated copy of this order.

**(MRIDULA BHATKAR, J.)**