

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.768 OF 2022

Vijay Shankarlal Bankda & Ors.	...Applicants
V/s.	
The State of Maharashtra	...Respondent

Mr. Alankar Kirepekar, a/w. Sagar Kasar and Rajas Panandikar for Applicants.

Mr. A. R. Patil, APP for Respondent (State).

CORAM : AMIT BORKAR, J.

DATE : 15th NOVEMBER, 2022

P.C.:

1. The accused who is seller under the provisions of Drugs and Cosmetics Act, 1940 has challenged the order of issuance of process passed by the learned Chief Judicial Magistrate, Sangli confirmed by the Revisional Court.

2. The limited ground on which the order of issuance of process can be set aside is non-application of mind on the part of the learned Chief Judicial Magistrate, Sangli.

3. On perusal of the order of issuance of process, it appears that the learned Chief Judicial Magistrate, Sangli has affixed a seal. The returnable date is mentioned by hand. The section under which the order of issuance of process need to be issued was also not mentioned. This shows complete non-

application of mind on the part of the learned Chief Judicial Magistrate, Sangli. It is well settled that the order of issuance of process must demonstrate application of mind. Detailed reasons for order of issuance of process are not necessary. The order must be speaking so as to demonstrate application of mind by the learned Magistrate. The affixing of seal and writing the returnable date and the complaint number is not the manner in which the power of issuance of process should be exercised by the learned Magistrate.

4. In that view of the matter, on these limited grounds, the order of issuance of process dated 10th December, 2009 in Criminal Case no.1769 of 2009 passed by Chief Judicial Magistrate, Sangli is quashed and set aside.

5. The learned Magistrate shall pass appropriate order afresh after taking into consideration material produced by the complainant.

6. Application stands disposed of in above terms.

(AMIT BORKAR, J.)