

VRJ

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

WRIT PETITION NO.1498 OF 2023

Gopalkrishna Murkundi Naik ... Petitioner

V/s.

The State of Maharashtra Through Food
Safety Officer Supriya Nanasaheb Jagtap
& Anr.

... Respondents

Mr. Aabad Ponda, Senior Advocate, with Mr. Gaurav Parkar with Mr. Vikrant Singh Negi with Ms. Ekta Tyagi with Mr. Pratik Thakkar with Ms. Sneha B. with Ms. Priyanka Pandey i/by DSK Legal for the petitioner.

Mr. A.R. Patil, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 28, 2023

P.C.:

1. The petition arises out of order of issuance of process dated 19th August 2020 passed by the learned Chief Judicial Magistrate, Raigad, Alibaug for offences under sections 26(1), 26(2)(i), 3(1)(ZZ)(ix) of the Food Safety and Standards Act, 2006 read with Regulation 2.4.4.1 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulation, 2011 punishable under section 59(i) of the Food Safety & Standards Act, 2006.

2. On perusal of the cause title of complaint, it appears that the

petitioner resides outside territorial jurisdiction of the Magistrate. On perusal of the impugned order shows that inquiry under section 202 of the Code of Criminal Procedure, 1973 is not held and there is no judicial application of mind.

3. Since, the order of issuance of process does not show application of judicial mind and inquiry under section 202 of the Code of Criminal Procedure is not held, the order of issuance of process dated 19th August 2020 cannot be sustained. Hence, following order:

- i. Order dated 19th August 2020 passed by the Chief Judicial Magistrate, Raigad, Alibag and Summary Criminal Case No.363 of 2020 is quashed and set aside.
 - ii. The proceeding is remitted back to the Magistrate. The Magistrate shall consider the complaint in accordance with law and on merits and pass appropriate order.
4. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)