

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

CRIMINAL WRIT PETITION NO. 2504 OF 2022

GAC Shipping (India) Pct. Ltd. & Anr. ... Petitioners
Versus
Union of India
through Dadi Sunil & Anr. ... Respondents

Mr. P. G. Sabnis i/by Mr. Bimal Rajasekhar for the Petitioners.
Ms. Anusha P. Amin i/by Mr. Sandesh D. Patil for the Respondent
No.1.

Mr. A. R. Kapadnis, APP for the Respondent No.2-State.

CORAM: R. N. LADDHA, J.

DATE : 5 OCTOBER 2023

P.C. :-

. Mr. P. G. Sabnis, learned counsel, brought to my attention
the order of issuance of process. The orders thus:

*“Considering the complaint & documents filed along with it, issue
summons/notice to accused for alleged offences.”*

2. Upon perusal of this impugned order, it is clear that the
order of issuance of process is a cryptic and unreasoned order. The
learned Magistrate needs to demonstrate such application of mind
by giving reasons as to why the process is issued against the
accused.

3. Therefore, the order of issue process is liable to be quashed

and set aside. However, at the same time, it must be considered that if the Magistrate did not fulfil his duty, the respondent/complainant should not be held responsible and should not have to endure any consequences due to Magistrate's failure. As a result, the impugned order of issuance of process in case No.7618/SS of 2021 pending before the learned Metropolitan Magistrate, 16th Court at Ballard Pier, Mumbai, is quashed and set aside, and the learned Magistrate is directed to pass a reasoned order afresh.

4. The petition as such stands disposed of. It goes without saying that if necessary, the petitioners are free to seek legal redress for their grievance if the occasion so arises. It is made clear that this Court has not examined the merits of the case, and the trial Court shall pass an order afresh on its own merits in accordance with the law.

R. N. LADDHA, J.