

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

CRIMINAL APPLICATION NO.718 OF 2023

Gurpreet Singh ..Applicant
Versus
Placido Silver & Anr ..Respondents

Mr. Amritpal Singh Khalsa, Advocate, for Applicant.
Mr. P .R. Moses, for Respondent No.1.
Mr. Arfan Sait, APP, for State/Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 25th JULY 2023**

PC :

1. In this Application, the Applicant has challenged the order dated 16th May 2019, passed by the Metropolitan Magistrate 17th Court, Borivali, Mumbai in C.C. No.77/SW/2019. By the impugned order, process was issued against the Petitioner under Section 420 of the Indian Penal Code.

2. Learned Counsel for the Applicant invited my attention to the complaint which mentions the Applicant's address of Ludhiana. Learned Counsel submitted that since the Applicant was residing outside the jurisdiction of the learned Magistrate, before issuing process, the inquiry under Section 202 of the

Criminal Procedure Code (for short “Cr.P.C.”) was mandatory.

3. Learned Counsel appearing for the Respondent No.1 (the original Complainant) could not controvert the fact that the inquiry under Section 202 of Cr.P.C. was not conducted. Therefore, on this short premise, the order is required to be set aside and the matter is required to be remanded back before the learned Magistrate from the stage of recording the statement on oath under Section 200 of Cr.P.C.

4. Hence, the following order:

ORDER

i) The order dated 16th May 2019, passed by the Metropolitan Magistrate 17th Court, Borivali, Mumbai in C.C. No.77/SW/2019, issuing process against the Applicant, is set aside.

ii) The non-bailable warrant issued in this proceeding, is set aside.

iii) The statement of the Complainant on oath is

already recorded under Section 200 of Cr.P.C. The matter is remanded back before the learned Magistrate to be considered from that stage onwards by following all the provisions of law under the Cr.P.C.

- iv) It is made clear that all the contentions of the parties are specifically left open as far as the merits are concerned.
- v) With these directions, the Application is disposed of.

(SARANG V. KOTWAL, J.)