

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

CRIMINAL WRIT PETITION NO. 4186 OF 2022

Mr. T. V. Narendran ... Petitioner
Versus
State of Maharashtra & Ors. ... Respondents

Mr. Aabad H. Ponda, Senior Advocate a/w Samsher Garud and
Juhi Valia i/by M/s. Jayakar & Partners for the Petitioner.
Mr. H. J. Dedhia, APP for the Respondent No.1-State.

CORAM: R. N. LADDHA, J.

DATE : 15 SEPTEMBER 2023

P.C. :-

1. Mr Abad Ponda, the learned Senior Counsel, brought to my attention the order of issuance of process and submitted that the learned Magistrate while passing the impugned order, has not taken into account that the cognizance of the alleged offence is barred by limitation, it is without necessary sanction under Section 105 of the Factories Act, 1948 and barred under Section 97 read with Section 111 of the Factories Act, 1948. He also submitted that the order of issuance of the process is a cryptic and unreasoned order in a printed form.

2. Upon perusal of the order, it is evident that the learned Magistrate has affixed a rubber stamp engraved with the following

words:

*“Order. Issue process against
the accused as per offences
PU./Sec.....
Summons R/on.....
Dt.....*

CJM, Thane”

3. After affixing the aforesaid stamp, the Magistrate filled the blank spaces with the sections of alleged offences by hand. This is not the appropriate manner in which judicial discretion should be exercised by the Magistrate. The learned Magistrate needs to demonstrate such application of mind by giving reasons as to why the process is issued against the accused.

4. 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 the Magistrate’s failure. As a result, the impugned order of issuance of process, in S.C.C. No. 7437 of 2020, pending before the learned Chief Judicial Magistrate, Thane, is quashed and set aside, and the learned Magistrate is directed to pass an order afresh by examining the issue of limitation and the relevant provisions of the Factories Act, 1948.

5. The petition as such stands disposed of. It goes without saying that if necessary, the petitioner is free to seek legal redress

for their grievances 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.

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