

AGK

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

CRIMINAL APPLICATION NO.1245 OF 2022

Bakul Hiralal Shah & Ors. ... Applicants

V/s.

The State of Maharashtra & Anr. ... Respondents

WITH

CRIMINAL APPLICATION NO.833 OF 2022

Mayank Ramjidass Kalra & Anr. ... Applicants

V/s.

The State of Maharashtra & Anr. ... Respondents

Mr. K.H. Parekh with Ms. Shivani Trivedi i/by Mhatre & Associates for the applicants in both the matters.

Mr. A.R. Patil, APP for respondent no.1/State in both the matters.

CORAM : AMIT BORKAR, J.

DATED : MARCH 29, 2023

P.C.:

1. The challenge in both these criminal applications is to the order passed by Additional Chief Metropolitan Magistrate, 2nd Court at Sewree, Mazgaon, Mumbai. The Magistrate has issued process for offence punishable under section 36(1) of the Legal Metrology Act, 2009.

2. The impugned order reads thus:

“The complaint Metrology Inspector submitted this

complaint for the offence punishable u/sec. 36(1) of Legal Metrology Act, 2009. Case be registered as SS Case.

The complainant is a public offence, hence exempted for recording verification. Issue process against the accused for the offence punishable 36(12) of Legal Metrology Act. Returnable on 14.07.2022.”

3. On perusal of the order, it appears that there is complete non-application of mind while issuing process against applicant. No reasons which shows application of mind have been assigned. The reasons need not be detail but the reasons sufficient to show application of mind are necessary before issuing process for an offence.
4. In that view of the matter, the order of issuance of process dated 6th April 2022 cannot be sustained.
5. Both the orders dated 6th April 2022 in C.C. No.0200020/SS/2022 and C.C. No.0200022/SS/2022 passed by the Additional Chief Metropolitan Magistrate, 2nd Court at Sewree, Mazgaon, Mumbai are quashed and set aside.
6. Both the proceedings are remitted back to the Magistrate for deciding as to whether process should be issued, or not.
7. Learned Magistrate shall take decision in accordance with law by assigning reasons.
8. Both the criminal applications are disposed of in above terms. No costs.

(AMIT BORKAR, J.)