

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

CRIMINAL WRIT PETITION NO. 3888 OF 2018

Fuzail Ahmed Farooqui ... Petitioner
Versus
The State of Maharashtra ... Respondent

Ms. Daksha A. Parmar i/by Prajat H. Jaggi for the Petitioner.
Mr. H. J. Dedhia, APP for the Respondent-State.

CORAM: R. N. LADDHA, J.

DATE : 6 OCTOBER 2023

P.C. :-

. Heard Ms Daksha A. Parmar, learned counsel for the petitioner, and Mr H. J. Dedhia, learned APP for the respondent-state/original complainant.

2. Upon perusal of the order dated 8 July 2013 passed in RCC No.219/SW/2013 by the learned Addl. Chief Metropolitan Magistrate, 46th Court, Mazgaon, Mumbai, it is apparent that this order of issuance of process is a cryptic and unreasoned. The order reads thus:

“Against accused person :- Under Section 26(2)(i) r/w Section 27(3)(d), 27(3)(e), r/w Section 3(1) (zz) (v) and Section 30(2)(a), Section 59, Section 31 r/w 2.1.2 Section 63 of Food Safety & Standards Act, 2006 & Food Safety & Standards Food Products Standards and Food Additives), Regulation 2011 &

*Commissioner of FDA, Notification No,
FSSA/ Notification /686-2012/7 Dated
19 th July 2012.*

Returnable on 12.8.13

sd/-

*Addl. Chief Metropolitan Magistrate
46th Mazgaon Court, Mumbai-10.”*

3. Upon perusal of the aforesaid order, it is clear that the order of issuance of a 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.

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 consequence due to Magistrate's failure. As a result, the impugned order of issuance of process in RCC No. 219/SW/2013 pending before the learned Addl. Chief Metropolitan Magistrate, 46th Court, Mazgaon, Mumbai, is quashed and set aside, and the learned Magistrate is directed to pass a reasoned order afresh.

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