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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1373 OF 2016

Vinay Somani ... Petitioner
v/s.

State of Maharashtra And Anr. ... Respondents

....

Mr. Haresh Jagtiani, Senior Advocate, a/w. Mr. Yashpal Jain, Mr. Suprabh Jain and Ms. Janhavi Vora, i/b. Haresh Jagtiani & Associates, for the Petitioner.

Mr. Ashok Gawai, APP, for Respondent State.

Mr. Abad Ponda, Senior Advocate, a/w. Mr. C. Keswani, Mr. Akash Manwani and Ms. Shubhangi Khandelwal, i/b. Economic Laws Practice, for Respondent No.2.

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CORAM : R.N. LADDHA, J.

DATE : 11 MARCH 2024

P.C. :

. Heard learned Senior Counsel for the parties.

2. Upon perusal of the order, it is evident that the order of issuance of process in this petition is cryptic and unreasoned and without application of mind.

3. 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 impugned order of issuance of process is liable to be quashed and set aside. However, at the same time, it must be considered that if the Magistrate did not fulfill 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 CC No.2121/SS/2015 is quashed and set aside, and the learned Magistrate is directed to pass an 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 the order afresh on its own merits, in accordance with the law, preferably within three weeks from the receipt of this order.

(R.N. LADDHA, J.)