

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Writ Petition No.1913 of 2014

Manpreet Kaur Dadyal & Ors. ... Petitioners.

Vs.

M/s Indusind Media and

Communications Ltd & Anr. ... Respondents.

Mr Abhishek Kunchikar i/by Maitreya G.Shukla for petitioners.

Mr Kuldeep Patil a/w Sanjay Kadam, Mr Ranjit Patil, Sanjeel Kadam and Sayalee Rajpurkar i/by Kadam & Company for respondent No.1.

Coram: R. N. Laddha, J.

Date : 13 February 2024.

P.C. :-

Heard learned Counsel for the parties.

2. Mr Abhishek Kunchikar, the learned Counsel for the petitioner brought to my attention the order of issuance of process and submitted that the order is cryptic and unreasoned.

3. Upon perusal of the order, it is evident that the learned Magistrate has not assigned any reason for passing the order.

This is not the appropriate manner in which the judicial discretion should be exercised. The learned Magistrate needs to demonstrate such application of mind by giving reasons as to why the process is issued against the accused. Therefore, the 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 fulfil his duty the complainant should not be held responsible and should not have to endure any consequences due to the Magistrate's failure.

4. As a result, the order of issuance of process in CC No.271/SW/2013, pending before the learned ACMM, 22nd Court, Andheri, is quashed and set aside and the learned Magistrate is directed to pass the order afresh on its own merits. The petition as such stands disposed of.

5. 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 preferably within eight weeks from the receipt of this order.

[R. N. Laddha, J.]