

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3021 OF 2022

Prashant Kishor Mehta ... Petitioner
v/s.
State of Maharashtra And Anr. ... Respondents

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Mr. Kushal Mor, for the Petitioner.

Mr. Sujeet Kurup, for the Respondent No.2.

Mr. Arfan Sait, APP, for Respondent State.

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CORAM : R.N. LADDHA, J.

DATE : 1 MARCH 2024

P.C. :

. Mr. Kushal Mor, learned Counsel for the petitioner, brought to my attention the order of issuance of process. The order reads thus:

“Complainant present. Complaint filed today. Cognizance of the offence u/s. 85(a) r/w. Sec. 85(ii) of ESI Act is taken. Issue summons against all accused.”

2. Upon perusal of this impugned order, it is clear that the order of issuance of 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.

3. 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 fulfill 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 C.C. No.54/SW/2008, dated 11 April 2008, is quashed and set aside, and the learned Magistrate is directed to pass a reasoned order afresh.

4. The petition as such stands dismissed. 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.

5. Petition disposed of.

(R.N. LADDHA, J.)