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

CRIMINAL APPLICATION NO.1370 OF 2023

ASLAM ALAMGIR ALI MALKANI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ORS.

..RESPONDENTS

Adv. Murtuza Nazmi a/w Adv. Moin Chowdhari a/w Adv. A. A. Siddiquie i/b. A. A. Siddiquie Associates for the applicant. Smt. S. D. Shinde, APP for the State.

Adv. Anand Mishra i/b. Adv. Ashok M. Saraogi for respondent No.3.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 13, 2024.

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for respondent No.3. Learned APP and learned counsel for respondent No.3 opposed the application.

2. It is submitted by learned counsel for the applicant that the manner in which the cognizance of the offence is taken and process issued indicates complete non-application of mind as it is done by way of a printed proforma. Learned counsel relied upon the decision in **Krishna Kumar (As**

Per Fir and the Charge Sheet Krishna Kumar Naayi) and Others versus State of U.P. thru. Prin. Secy. Home and Others¹ in support of his submission.

3. Though learned APP and learned counsel for respondent No.3 made an attempt to justify the impugned order, in my view, the Criminal Application must succeed. The order taking cognizance and issuance of process is set aside. The trial Court may re-examine the question of taking cognizance and issuance of process in the light of the well settled principles of law.

4. All contentions are kept open. It is made clear that I have not made any observations on the merits of the respective contentions.

5. The Criminal Application is disposed of.

(M. S. KARNIK, J.)

¹ 2023 SCC OnLine All 38