



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 495 OF 2025

Mr. Ram Bharat,
Age : about 44 years,
Occupation : Managing Director of
Patanjali Food Limited,
Residing at House No. 90,
Vidyavihar Colony, Kankhal,
Haridwar, Uttarakhand – 249 408. .. Petitioner

Versus

The State of Maharashtra,
Through the Deputy Director,
Industrial Safety & Health, Ahmednagar. .. Respondent

Mr. Joydeep Chatterji, Advocate h/f Mr. Akshay Kulkarni, Mr.
Amit Yadkikar, Ms. Aarohee Gursale, Advocates for the
Petitioner.
Smt. M. N. Ghanekar, APP for Respondent/State.

CORAM : KISHORE C. SANT, J.

Date on which reserved for order : 14th July, 2025.

Date on which order pronounced : 01st August, 2025.

FINAL ORDER :-

. Heard both the parties. Taken up for final disposal by
consent of the parties.

2. The petitioner by way of filing this petition has

approached this Court for quashing and setting aside order dated 05.09.2024 passed by the learned J.M.F.C. (3rd Court), Newasa thereby issuing process against the petitioner in S.C.C. No. 450/2024.

3. The facts in short are that, the petitioner is a company engaged in the business of dairy products having one factory at Newasa. In the said factory, the petitioner manufactures Ghee, Butter, Butter milk, Milk powder, Curd etc. The Deputy Director, Industrial Safety and Health, Ahmednagar had been to the factory at Newasa on 29.02.2024 for inspection. He observed that, the factory building, processes and machinery lab are not in conformity with the approved plans. Fresh certificate of stability in form 1-A is not obtained from competent person every five years. The pressure vessels and pressure plants were not examined by the competent person externally once in every six months. The lifting machines and lifting tools not tested and all parts were not thoroughly examined by the competent person once in every twelve months and safety audit of the factory not carried out externally once in two years by recognized safety auditor. It is thus observed that there is

violation of Rule 4 (2), Rule 3A (1), Rule 65 (4) (a), Rule 64 (1) of the Maharashtra Factories Rules, 1948 and Rule 3 (B) of the Maharashtra Factories (Safety Audit) Rules, 2014. The Deputy Director on the basis of his observations filed a complaint S.T.C. No. 450/2024 for violation of above stated provisions on 27.05.2024. The learned Magistrate after registration of the complaint issued process by order dated 05.09.2024. The petitioner is thus before this Court.

4. The learned advocate Mr. Chatterji for the petitioner vehemently submits that, order of issuance of process does not show any application of mind and is issued mechanically. He relies upon few judgments which will be considered in the later part of the judgment.

5. The learned A.P.P. for State vehemently argued that, the complaint is lodged on a complaint by the competent authority. An order may appear to be cryptic, however, it cannot be said that it is without application of mind. She also relies upon few judgments. The complainant is a gazetted officer who is duly empowered by the State and is also a public servant. She relies

upon Sections 7 and 9 of the Act to show the powers of the Inspector under the Act. The complaint is lodged only after inspection was done. In view of Section 105 of the Factories Act, cognizance can be taken. The said complaint is not filed as a private common complaint and therefore, there is no need to record verification. She further submits that, before filing the complaint, a sanction is duly obtained from the authority. Considering all this, she prays for rejection of the petition.

6. This Court has gone through the order which reads as under :

“Issue process against accused for the off puni. u/s 92 of Factories Act. 05.09.2024.”

7. As rightly submitted that the order is cryptic, no reasons are given reflecting application of mind. However, the submission of the petitioner needs to be considered in view of submission by the learned A.P.P. that the present complaint is filed by a person duly authorized to file a complaint having power under the Factories Act. In such circumstances, as to whether it is necessary for the learned Magistrate to record

verification statements of witnesses or to conduct any enquiry before issuance of process.

8. The learned advocate for the petitioner relied upon following judgments :

(i) JM Laboratories and others Vs. State of Andhra Pradesh and Another reported in 2025 SCC Online SC 208.

(ii) Inox Air Products Limited Now Known As Inox Air Products Private Limited and Another Vs. State of Andhra Pradesh reported in 2025 SCC Online SC 209.

(iii) Lalankumar Singh and others Vs. State of Maharashtra reported in 2022 SCC Online SC 1383.

9. In the case of JM Laboratories and others (*supra*), a latest judgment, by the Hon'ble Apex Court, the Drug Inspector filed a complaint in the Court of learned J.M.F.C. under Section 32 of the Drugs and Cosmetics Act. In that case, a sample of drug was analyzed and was found to be not of standard quality and complaint was lodged. The learned Trial Court issued summons to the accused persons. The petition was filed under Section

482 of the Code of Criminal Procedure for quashing of the criminal proceedings. The High Court dismissed the criminal petition and thus, the appeal was preferred in the Hon'ble Apex Court. The Hon'ble Apex Court did not find it necessary to consider all the submissions made by the appellants and examined the order issuing summons. The Hon'ble Apex Court thereafter considered the judgment in the case of Inox Air Products Limited Now Known As Inox Air Products Private Limited and Another Vs. State of Andhra Pradesh in SLP (Crl.) No. 2345/2024. The Hon'ble Apex Court further considered the judgment in the case of Pepsi Foods Ltd. Vs. Special Judicial Magistrate reported in (1998) 5 SCC 749. A case of Lalankumar Singh Vs. State of Maharashtra reported in 2022 SCC Online SC 1383 was also considered. Considering all these, the Hon'ble Apex Court held that, when no reasons are assigned by the learned Magistrate in the order and when order was totally a non-speaking one, the said order need to be quashed and set aside and set aside the judgment of the High Court.

10. In view of the above judgment which is based on the

judgments in the cases of **Inox Air Products Limited** (*supra*) and **Lalankumar Singh and others** (*supra*), this Court need not discuss those judgments.

11. So far as judgments cited by the learned A.P.P. are concerned, she relied upon the judgment in the case of **State of Gujarat Vs. Afroz Mohammed Hasanfatta** reported in **(2019) 20 SCC 539**. In the said case, a cognizance was taken of a police report and summons was issued to the accused. It is held that, strict standard of proof required for satisfaction of the learned Magistrate is not required. Such satisfaction can be based only on prima facie evidence before issuing summons to the accused. In the said case, summons was issued by considering prima facie evidence and it is in that view the Court held that, the learned Magistrate need not explicitly state the reasons for his satisfaction that there are sufficient grounds for proceeding against the accused. In the said case, there was investigation report and statement of one witness recorded under Section 161 were on record. Thus, on facts this Court finds that the said case is not applicable.

12. In the case of Amarnath Baijnath Gupta and another Vs. Mohini Organics Pvt. Ltd. and another reported in 2008 SCC Online Bom 1194, there was a complaint based on eight cheques issued by the accused in favour of complainant towards discharge of alleged liability. The learned J.M.F.C. issued notice on recording verification statement. A revision application was filed. The said came to be dismissed. It was argued by the petitioners therein that, on reading the plain averments in the complaint, the process could not have been issued. There the averments in terms of Section 141 of the Negotiable Instruments Act were not made in the complaint. This Court considered Section 200 of the Cr.P.C. The Court considered that, the complainant should not suffer because of failure of learned Magistrate in performing his duty under Section 200 of the Cr.P.C. In that view, the order of issuance of process was set aside and consequently the judgment of the learned Additional Sessions Judge also came to be quashed and set aside. However, the matter was remanded back to the learned Trial Court for recording the statement of the complainant under Section 200 of the Cr.P.C. and to pass fresh order.

13. In the case of Sulochana Ravindrakumar Bhandari and another Vs. K. Rama Rao and another reported in 1981 Bom. C.R. 242, this Court was considering Sections 145, 146 of the Cr.P.C. and Section 91 of the Maharashtra Co-operative Societies Act. It is held that the powers under Section 482 are to be sparingly exercised in proper cases. The Court is not bound to interfere in discretionary jurisdiction.

14. There is no dispute about the propositions in the judgments relied upon by the learned A.P.P.

15. In the present case, as to whether it is necessary for the learned Magistrate to record verification statements of witnesses or to conduct any enquiry before issuance of process is questioned. Considering the facts of the present case, the averments in the complaint and the order passed by the learned Trial Court, it is clear that the judgments relied upon by the petitioner are squarely applicable. The order passed by the learned Trial Court is already reproduced herein. From the order it is clearly seen that, the order does not reflect any consideration by the Court. Thus, the order is totally lacking in

showing application of mind. It is clear that, the said order cannot be sustained in the eyes of law. This Court has no hesitation in allowing the writ petition.

16. In view of the above, criminal writ petition stands allowed in terms of prayer clause (B). The impugned order dated 05.09.2024 passed by the learned J.M.F.C. (3rd Court), Newasa is quashed and set aside.

17. Criminal writ petition stands disposed of.

(KISHORE C. SANT, J.)

PS.B.