

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

Cri.Writ Petition No.1190 of 2025

Basavraj Sharnappa Malasure
Age: 57 yrs. Occ: Service
C/o.M/s.Greenstar Fertilizers
Pvt Ltd.,
Pot No.103, Grandview 7,
Ambegaon, Katraj, Tal Haveli
Pune-411046

... Petitioner.

Vs.

1. The State of Maharashtra
At the instance of RS Shelke,
Dist.Quality Control Inspector,
Having his office at :
Office of the District
Superintendent Agricultural Officer, ...
Kolhapur.

Respondent/
Org Complainant.

2. Shrenik P Chowgule
Annappa Fertilizers,
Shahu Market Yard, Kolhapur

... Org.Accused No.2.

Mr Rahul Nerlekar for the petitioner.
Mr Yogesh Dabke, APP for respondent/State.

**Coram : R.N.Laddha, J.
Date : 17 March 2025.**

P.C. :

Heard the learned Counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor representing respondent/State.

2. The challenge in this petition is to the order passed on 16 December 2022 of issuance of process by the Chief Judicial Magistrate, Kolhapur, in Regular Criminal Case No.1560 of 2020.

3. The learned Counsel for the applicant highlighted the order of issuance of process and submitted that the said order lacks reasoning.

4. Upon perusal of the impugned order, it becomes apparent that the learned Magistrate affixed a rubber stamp bearing following words ;

Order

"Issue process under Section"

5. After affixing the aforesaid stamp, the learned Magistrate has filled the blank space with the sections of alleged offences. This approach does not align with the

appropriate exercise of judicial discretion by the Magistrate. The learned Magistrate should indicate reasons for issuing the process against the accused to demonstrate thoughtful consideration.

6. For the reasons stated above, the order of issuing process is susceptible to being invalidated and set aside. However, it is necessary to recognize that if the Magistrate fails in their duty, the respondent/ complainant should not suffer consequences due to the Magistrate's lapse. As a result, the impugned order of issuance of process dated 16 December 2022, in Regular Criminal Case No.1560 of 2020 pending before the Chief Judicial Magistrate, Kolhapur, is quashed and set aside, and the learned Magistrate is directed to pass an order afresh on its own merits and in accordance with the law.

[R. N. Laddha,J.]