

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

Criminal Writ Petition No.2548 of 2023

Rahul Dushyantrao Jagdale
Age-38 years, Occupation- Service,
r/o. Dhas Colony, Mangalwar Peth,
Satara Taluka & District, Satara.

... Petitioner

versus

1. The State of Maharashtra
Represented through
Satara Taluka Police Station
2. Madan Shivajirao Jagtap
Age-54 years, Occupation: Service
R/o. Rana Pratap Nagar, Saidapur
Tal. & District, Satara
3. Shivajirao Sarjerao Jagtap
Age-87 years, Occupation: Agriculturist
R/o. Budh, Taluka Khatav,
District, Satara
4. Sunita Milind Jagtap
Age-42 years, Occupation: Housewife
R/o. Radhika Road, Satara
5. Milind Shivajirao Jagtap
Age-45 years, Occupation: Business
R/o. Radhika Road, Satara
Tal & District. Satara
6. Rohini Dhananjay Deshmukh
Age-51 years, Occupation: Housewife
R/o. Vikhale, Tal-Khatav, District- Satara
7. Chetana Madan Jagtap
Age-28 years, Occupation: Education
R/o. 48 Rana Pratap Nagar, Saidapur

- Tal. & District, Satara
8. Aniruddha Madan Jagtap
Age-28 years, Occupation: Medical Profession
R/o. 48, Rana Pratap Nagar, Saidapur
Tal. & District, Satara
9. Jaywant Vishnu Salunkhe
Age-46 years, Occupation-Service
R/o. Chore, Tal. Karad,
District- Satara
10. Principal Manali Manish Shah
Age-40 years, Occupation: Service
R/o. Ajinkya Colony,
Near Kuber Ganpati Temple,
Powai Naka, Satara
- ... Respondents

Mr Nikhil Wadikar, a/w. Mr Pradip Zende, i/b. Nandu Pawar,
for the petitioner.

Mr Pankaj Deokar, APP, for respondent No.1/ State.

Mr DJ Bhanage, i/b. Jaydeep Shringare, a/w. Bakul Vyas, for
respondents No.2 to 10.

Coram: R.N. Laddha, J.
Date: 17 January 2025.

P.C.:

. Mr Nikhil Wadikar, the learned Counsel for the
petitioner; Mr Pankaj Deokar, the learned Additional Public
Prosecutor representing respondent No.1/State; and Mr DJ
Bhanage, appearing for respondents No.2 to 10.

2. The learned Counsel for the parties jointly submit that the

impugned order passed by the learned Chief Judicial Magistrate, Satara, in Regular Criminal Case No.467 of 2015 dated 9 February 2017, and order passed by the Additional Sessions Judge, Satara, in Criminal Revision Application No. 11 of 2017 dated 13 February 2023, in which the impugned order was challenged, are cryptic and unreasoned. They both seek to remit the matter to the learned Chief Judicial Magistrate for passing appropriate order in this matter.

3. A bare perusal of the impugned orders show that both the orders are unreasoned and do not demonstrate any application of mind.

4. It is a settled position in law that the Magistrate is not required to record detailed reasons while passing an order of issuing the process. However, such orders are not an empty formality, and doing so as a matter of routine without cautiously examining the material available on record, and appreciating the statutory provisions, may result in putting the criminal law in motion and summoning an innocent individual to stand a trial. Before issuing a process, the Magistrate must carefully exercise his judicial discretion and scrutinise the material on record. He must satisfy and determine whether sufficient grounds exist to summon the accused to stand trial.

Once he forms such an opinion, he must record it in his order. When an issue process order fails to reflect such application of mind, it is liable to be set aside. A reference in this regard may be made to the decision of the Hon'ble Supreme Court in *Lalankumar Singh Vs State of Maharashtra, 2022 SCC OnLine 1383*.

5. In view of this, the impugned orders passed by the learned Chief Judicial Magistrate and learned Additional Sessions Judge, Satara, are quashed and set aside. However, at the same time, it must be considered that the complainant should not be held responsible or have to endure any consequences due to the lapse on the part of the Court's below. The matter is remitted to the learned Chief Judicial Magistrate with a direction to pass an order afresh on its own merits and in accordance with the law.

6. The criminal writ petition stands disposed of accordingly. It is made clear that this Court has not examined the merits of the matter and all contentions of the parties are left open.

(R.N. Laddha, J.)