

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Writ Petition No. 6459 OF 2021

Rajvardhan Suresh Bhumkar
Age:58 Occ:Business
r/o 233/38-B, Arihant Apartment
Tarabai Park, Kolhapur.

...Petitioner

Versus

1. Nandkumar Rangrao Ghatage
Age:52, Occu: Business
r/o 1335/4, A, Tulsi House,
Ghatage Mala, Jivhala Colony,
Lakshthirth, Kolhapur-416 010.

2. The State of Maharashtra

...Respondents

Mr Ramesh R Badi, for the petitioner.

Mr Abhijit Adagule for respondent No.1.

Mr Yogesh Y Dabke, APP, for the respondent No.2/ State.

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Coram: R.N. Laddha, J.

Date: 03 February 2025.

P.C.:

. Heard learned counsel for the parties.

2. By this petition, the petitioner seeks to challenge the

Order dated 12 October 2020, passed by the learned JMFC, 8th Court, Kolhapur, in Summary Criminal Case No.3603 of 2020, thereby the learned Magistrate issued process against the petitioner.

3. A bare perusal of the impugned Order shows that it is unreasoned and does not demonstrate any application of mind.

4. It is settled position in law that a Magistrate is not required to record detailed reasons while passing an Order of issuing 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 trial. Before issuing the process, the Magistrate must carefully exercise his judicial description 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 order of issuing of process dated 12 October 2020, passed in Summary Criminal Case No.3603 of 2020 by the Judicial Magistrate First Class, 8th Court, Kolhapur is 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 Magistrate. The learned Magistrate, is therefore, directed to pass an order afresh on its own merits and in accordance with the law.

6. The Criminal Writ Petition stands disposed of accordingly.

7. It goes without saying that, if necessary, the petitioner is free to seek legal recourse, if the occasion, so arises. It is made clear that this Court has not examined the merits of the matter and all the contentions of all the parties are left open.

(R.N. Laddha, J.)