

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

**Cri.Writ Petition No.2580 of 2024
With
Cri.Writ Petition No.2591 of 2024**

Ayush Chaturvedi
Age : 39 yrs, Indian Inhabitant
r/a H-53 A Garhwali Mohalla
Block-h, Laxmi Nagar,
New Delhi 110092

... Petitioner.
(Org.Accused No.3)

Vs.

1. State of Maharashtra
2. M/s The Phoneix Mills Ltd
Reg. Office at C/o Market City,
Resources Pvt Ltd,
RR Hosiery bldg, Shree Laxmi
Wollen Mills Estate,
Opp Shakti Mills, off Dr E Moses
Road, Mahalaxmi Mumbai-400 011
Navi Mumbai-400614 ... Org.Complainant.
Also at
Phoenix Mills Compound, 462,
Senapati Bapat Marg, Lower Parel,
Mumbai-400 013.
3. M/s Horeshoe Entertainment
and Hospitality Pvt Ltd
Office at :21st Floor, DLF Square,
Jacaranda Marg, DLF Phase-II,
Gurgaon-122002 ... Org. Accused No.1.

4. Mr Amar Agarwal,
aged : 41 yrs Adult,
r/at J2/14, DLF Phase-2,
Gurgaon-122002

... Org.Accused No.2/
Respondents.

Mr Ankit Dhindale a/w Adv Ishrat Shaikh i/by Chambers of Jangra
& Associates for petitioners.

Mr MG Patil, APP for State.

Ms Lakshita Patyal i/by Nidhi Chheda for respondent No.2.

Coram : R.N.Laddha, J.

Date : 7 January 2025.

P.C. :

Heard learned Counsel for the parties.

2. By these petitions, the petitioners seek to challenge orders dated 9.11.2017, passed by the Metropolitan Magistrate, 7th Court, Dadar, Mumbai, in CC Nos.863/SS/2017 and CC No. 862/SS/2017.

3. A close examination of these impugned orders reveals that they lack reasoning and fail to show any thoughtful consideration. According to the established legal principles, the Magistrate is required to record detailed reasons while issuing an order for initiation of legal proceedings. Such orders are not empty formalities; issuing them routinely without cautiously examining the available material on record and appreciating relevant legal

provisions may result in putting the criminal law in motion and summoning innocent individuals to stand trial. Before issuing a process, the Magistrate must exercise careful discretion and scrutinise the material available on record. The Magistrate must be satisfied that there are sufficient grounds to summon the accused for trial. Once this determination is made, it must be recorded in the order. If an order to issue process does not reflect this careful consideration and application of mind, it is subject to being overturned. In this context, a profitable reference can be made to the decision of *Lalan Kumar Singh Vs. State of Maharashtra*¹.

4. In light of the above, the impugned orders of issuance of process passed in CC No.863/SS/2017 and CC No.862/SS/2017 by the Metropolitan Magistrate, 7th Court Dadar, Mumbai, dated 9 November 2017, are quashed and set aside. However, at the same time, it must be considered that the complainant should not be held responsible for the failure of the Magistrate in fulfilling his duty. Learned Magistrate is, therefore, directed to pass the orders afresh on its own merits and in accordance with law.

5. The petitions stand disposed of in the above terms.

[R. N. Laddha,J.]

1 2022 SCC OnLine SC 1383.