

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

Criminal Writ Petition (Stamp) No.17117 of 2024

John Vijay Martis and Ors. ... Petitioners
versus

Jagruti Harmendra Shah and Anr. ... Respondents

With

Criminal Application No.516 of 2024

John Vijay Martis and Ors. ... Applicants
versus

The State of Maharashtra and Anr. ... Respondents

Mr Rahul Kamerkar, a/w. Ms Aparajita Jha, for the petitioner in
WP and applicant in Appln.

Dr Ashwini A Takalkar, APP, for respondent No.1/ State in wp.

Mr VN Sagare, APP, for respondent No.2/ State in Appln.

Ms Dimple Shah, a/w. Mr Siddhant Vakil, for respondent No.1
in WP and respondent No.2 in Appln.

Coram: R.N. Laddha, J.

Date: 18 February 2025.

P.C.:

. The learned Counsel for the petitioners/accused submits that the learned Metropolitan Magistrate has conducted the trial as a warrant case but directly recorded the plea of accused without first recording evidence before framing the charge.

Neither was evidence recorded before the charge, nor was a formal charge framed. The learned Counsel for respondent (the original complainant), acknowledged this fact. Since Chapter XIX of the Code of Criminal Procedure, 1973 (Cr.P.C.) governs the trial of warrant cases by a Magistrate and mandates that evidence must be recorded before framing the charge, the plea of the accused, recorded by the learned Magistrate of the 10th Court Andheri, Mumbai, on 1st December 2015, in CC No.390/SS/2005 at Exhibit 6, is hereby quashed and set aside. The learned Magistrate is directed to proceed with the trial in accordance with the law.

2. As the trial has been pending since 2005, the learned Magistrate is requested to expedite the hearing. The evidence already recorded may be treated as evidence before the charge, and the learned Magistrate shall provide an opportunity for the witnesses to be cross-examined.

3. The writ petition stands disposed of accordingly. As a sequel, the pending application also stands disposed of.

(R.N. Laddha, J.)