

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

Cri.Writ Petition No.4922 of 2024

1. Vivek Suresh Agarwal

Age: 43 years,
21, Sarathi Part-3, Drive-in Road,
Near Sai Hospital, Thaltej,
Ahmedabad-380052.

2. Suresh Binjraj Agarwal

Age: 72 years,
21, Sarathi Part-3, Drive-in
Road, Near Sai Hospital, Thaltej,
Ahmedabad-380052.

... Petitioners.

(Org.Accd Nos.2 & 3)

Versus

1. State of Maharashtra

2. M/s MM Ceramics & Ferro Alloys

501, Navkar Complex, Court Lane
Opposite Andheri Court,

Andheri (East), Mumbai-400 069 ... Respondents

(Ori.Complainant)

Mr Sunil D'souza, Advocate for the petitioners.

Mr MG Patil, APP for respondent/State.

Coram : R.N.Laddha, J.

Date : 5 February 2025.

P.C. :

Heard the learned Counsel for the petitioners and the

learned Additional Public Prosecutor representing the respondent/State.

2. Mr Sunil D'souza, the learned Counsel for the petitioners, has drawn my attention to the impugned order of process issuance in this petition and contends that the order lacks clarity and reasoning.

3. Upon reviewing the impugned order, it becomes evident that the learned Magistrate has not provided any rational for issuing it. Such an approach does not align with the appropriate exercise of judicial discretion. The Magistrate must demonstrate thoughtful consideration by indicating the reasons behind issuing process against the accused. Therefore, the order for process issuance in this petition should be quashed and set aside. However, it is essential to recognize that if the Magistrate failed in his duties, the complainant should not bear any consequences due to this lapse. Consequently, the impugned order is quashed and set aside, and the learned Magistrate is directed to pass a reasoned order afresh in the case. The petition, as such, stands disposed of.

4. It goes without saying that, if required, the petitioners

have the liberty to pursue legal remedies for their grievances, if the need arise.

5. It is made clear that this Court has not examined the merits of the case and the trial Court shall evaluate the matter independently adhering to the legal principles.

[R. N. Laddha,J.]