

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

Criminal Writ Petition No.6247 of 2024

Reghu Vishwanathan
Aged 54 years, Occupation: Business
A permanent resident of
United Arab Emirates
Having address at Tower 2, 3501,
Cornich Residences, Ajman,
United Arab Emirates
And also having address at
Office No.7, 2nd Floor,
Golden Willows Tower,
Vasant Garden, Mulund (W),
Mumbai 400 080

... Petitioner
(Original Accused)

versus

1. CD Seshadri
Age: 74 years,
Occupation: Advocate
Residing at Anugraha, 13,
Kala Nagar, 1st Floor, Bandra (E),
Mumbai 400 051

... Respondent No.1
(Original

Complainant)

2. The State of Maharashtra

Through Public Prosecutor,

... Respondent No.2

Mr Niranjan Mundargi, a/w. Mr Keral Mehta, Mr Munir Merchant and Mr Shadab Peerzade, i/b. Munir Merchant, for the petitioner.

Mr CD Seshadri, Respondent No.1-in-person, present.

Mr MG Patil, APP, for respondent No.2/ State.

Coram: R.N. Laddha, J.

Date: 13 January 2025.

P.C.:

. Heard Mr Niranjana Mundargi, the learned Counsel for the petitioner, Mr CD Seshadri, respondent No.1-in-person, and Mr MG Patil, Additional Public Prosecutor representing respondent No.2/ State.

2. By this petition, the petitioner seeks to challenge the order dated 11 January 2021 (the impugned order) passed by the learned Metropolitan Magistrate, 32nd Court, Bandra, Mumbai, in CC No.207/SS/2020), whereby the learned Magistrate issued the process against the petitioner. The order reads thus:

“ORDER BELOW EXHIBIT-1

Perused the complaint supported by documents. Considering the complaint, verification of complainant and witnesses and documents filed on record, there are sufficient grounds to proceed against the accused for the offence punishable under section 500 of Indian Penal Code. Hence, the following order.

ORDER

1 Issue process against accused for the

offence punishable under section 500 of the Indian Penal Code. Returnable on 01/03/2024.”

3. A bare perusal of the impugned order shows that it is unreasoned and does not demonstrate any application of mind. 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 trial. Before issuing a process, the Magistrate must carefully exercise his judicial discretion and scrutinise the material on record. The learned Magistrate must satisfy himself 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 SC 1383*.

4. In view of this, the impugned order of issuance of the

process dated 11 January 2021 and the order dated 9 May 2024 passed in Criminal Revision Application No.228 of 2021 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 Magistrate's lapse. The learned Magistrate is, therefore, directed to pass an order afresh on its own merits in accordance with the law.

5. The criminal writ petition stands disposed of accordingly.

(R.N. Laddha, J.)