

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

Criminal Writ Petition No.6262 of 2024

Biindu Jaspal Khuraana

Age: 58 years, Occupation: Numerologist

An adult, Indian Inhabitant, having her address at

Tower 5/4205, Crescent Bay, Parel, Bhoiwada,

Mumbai – 400 012

... Petitioner

versus

1. The State of Maharashtra

through Khar Police Station, 78, S V Road,

Ramkrishna Nagar, Khar (West),

Mumbai – 400 052

2. Abhishek Pramod Pilani,

Age: 39 years Occupation: Doctor

An adult, Indian Inhabitant, residing at 2,

Balasinore Society, S V Road, Opposite Fire

Brigade, Kandivali (West), Mumbai – 400 067

3. Atraente Healthcare Services LLP

A Limited Liability Partnership Firm,

Incorporated under the provisions of the Limited

Liability Partnership Act, 2008, having its office

At 501, Seasons Avenue, CTS No. E/235,

Near Ramkrishna Math, Linking Road,

Khar (West), Mumbai – 400 052

4. Chitkaran Singh Khuraana

Age: 35 Years, Occupation:

An adult, Indian Inhabitant, having her address at

Tower 5/4205, Crescent Bay, Parel, Bhoiwada,

Mumbai – 400 012

... Respondents

Mr Pranav Badheka, Senior Advocate, a/w. Mr Rajat Jain, i/b. MM Legal Associates, for the petitioner.

Mr Arfan Sait, APP, for respondent No.1/ State.

Mr Aman A Kothari, for respondent No.2.

Coram: R.N. Laddha, J.

Date: 24 February 2025.

P.C.:

. Heard Mr Pranav Badheka, the learned Senior Advocate appearing on behalf of the petitioner; Mr Arfan Sait, the learned Additional Public Prosecutor for the State; and Mr Aman Kothari, the learned Counsel appearing on behalf of respondent No.2.

2. By this petition, the petitioner seeks to challenge the order dated 4 July 2024, passed by the Additional Chief Judicial Magistrate, 9th Court, Bandra, Mumbai, in CC No. 199/SS/2022, whereby the learned Magistrate issued the process against the petitioner/accused. The order reads thus:

“ ORDER BELOW EXH. 01

Perused the complaint. Heard Ld. Counsel for the complainant. Pursuant to the orders of this Court, the report under Section 202 of Cr.P.C. has been filed. On perusal of it as well as the corresponding documents placed on record, it prima facie shows that accused No.1 and 2 have committed the

offence of defamation against the complainant. Therefore, I find it to be a fit case to issue process against the accused. Hence, order

ORDER

- 1. Issue process against the accused No.1 and 2 for the offence punishable under Section 500 of the Indian Penal Code.*
- 2. Returnable on 19/09/2024”*

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 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 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*¹.

5. In view of this, the impugned order of issuance of a process dated 4 July 2024, passed in CC No.199/SS/2022 by the Additional Chief Judicial Magistrate, 9th Court, Bandra, Mumbai, 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 endeavour 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.

6. The criminal writ petition stands disposed of accordingly. It goes without saying that, if necessary, the petitioner is free to seek legal recourse for his grievances if the occasion so arises. It is made clear that this Court has not examined the merits of the matter, and all contentions of the parties are left open.

(R.N. Laddha, J.)

¹1. 2022 SCC OnLine SC 1383