

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

**Criminal Application No. 1735 of 2024**

1. Manish Harishankar Dubey  
Age: 40 years, Occupation : Business  
Having address at Amber 604,  
Gaurav Sikhar, Thakur Village,  
Kandivali (East), Mumbai - 400 101. ....Applicant

Versus

1. State of Maharashtra
2. Mr. Ravi Sumra  
Age: 48 yrs. Indian Inhabitant,  
Occupation: Business, having address  
at 603, Evershine Homes,  
Opp. Agarwal Lifestyle, Global City,  
Virar West- 401303 ... Respondents

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Ms Neeta Solanki i/by Unison Legal, for the applicant.

Ms Sangita E Phad, APP, for the respondent No.1/ State.

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**Coram: R.N. Laddha, J.**

**Date: 06 February 2025.**

**P.C.:**

- . Not on board. Taken on board.
2. Heard learned Counsel for the parties.

3. By this application the applicant seeks to challenge the order dated 19 April 2022 (the impugned order) passed by the learned Metropolitan Magistrate First Class, 5th Court, Vasai, in CC No.2464/SS/2021, whereby the learned Magistrate issued the process against the applicant.

3. A plain reading of the impugned order reveals that it lacks reasoning and does not demonstrate any application of mind.

4. In a catena of decisions, the Hon'ble Supreme Court has repeatedly held that the Magistrate is not a silent spectator at the stage of summoning the accused. Before issuing process, the Magistrate must carefully exercise his judicial discretion and scrutinise the material on record. He 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. Although the Magistrate is not required to record reasons for issuing process, such orders are not an empty formality. When an issue process order fails to reflect such application of mind, it is liable to be set aside. A profitable reference in this regard can be made to the decisions in **Inox Air Products (P) Ltd. v. State of Andhra Pradesh, 2025 SCC OnLine SC 209**, **Lalankumar Singh v. State of Maharashtra, 2022 SCC OnLine SC 1383**, and **Pepsi Foods Ltd. v. Special**

**Judicial Magistrate, 1998) 5 SCC 749.**

5. In view of this, the impugned order of issuance of a process dated 19 April 2022 (the impugned order) passed by the learned Metropolitan Magistrate First Class, 5th Court, Vasai, in CC No.2464/SS/2021, is quashed and set aside. However, at the same time it must be considered that the complainant should not be held responsible or suffer any consequences due to the Magistrate's lapse. The learned Magistrate is therefore directed to pass an order afresh on its own merits and in accordance with the law.

6. The criminal application stands disposed of accordingly.

**(R.N. Laddha, J.)**