

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

Cri.Writ Petition No.548 of 2025

M/s Spotify India LLP

Having its address at :

1st Floor, Unit 1 and 2, Jet Airways

Godrej BKC, Plot C-68, G Block,

Bandra Kurla Complex, Bandra East,

Mumbai 400 051.

(Through its authorised representative

Mr Amarjit Singh Batra, Age :52 yrs)

... Petitioners.

Vs.

1. Municipal Corporation of Gr.

Mumbai (H-East Ward)

2. The State of Maharashtra

... Respondents.

Mr Kushal Mor a/w Mr Rohan Chauhan a/w Mr Tanmay
Karmarkar for the petitioner.

Mr MG Patil, APP for respondent/State.

Mr PP Chavhan for respondent No.1/MMC.

Coram : R.N.Laddha, J.

Date : 22 January 2025.

P.C. :

By this petition, the petitioner seeks to challenge the
order dated 23 September 2024 (the impugned order)
passed by the Judicial Magistrate First Class, 39 Court, Vile

Parle, Mumbai, in CC No.4899/SS/2024 whereby the learned Magistrate issued process against the petitioner.

The order reads thus :

“ Perused the record of the case. Heard learned Assistant Law Officer for the complainant through whom complaint is filed by Municipal Corporation of Greater Mumbai. I have gone through documents submitted alongwith complaint. Prima facie case is made out against the accused for offence under Section 394 punishable under Section 471 of the Mumbai Municipal Corporation Act. Process be issued against the accused accordingly. Issue summons to accused returnable on 08/11/2024.”

2. The learned Counsel for the applicant submits that the impugned order is cryptic and without application of mind. Furthermore, as mandated by Section 223 of the Bharatiya Nyaya Suraksha Sanhita, (BNSS) 2023, no cognizance of the offence can be taken by the Magistrate without issuing notice to the accused and giving him an opportunity of being heard.

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 exists 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 profitable reference in this regard may be made to the decision of the Supreme Court in *Lalan Kumar Singh Vs. State of Maharashtra*,¹.

4. In view of this, the impugned order of issuance of process dated 23 September 2024, passed in CC No.4899/SS/2024, the learned Metropolitan Magistrate, 39 Court, Vile Parle, Mumbai, is quashed and set aside.

1 2022 SCC OnLine SC 1383.

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 in fulfilling his duty. The learned Magistrate is, therefore, directed to pass the order afresh on its own merits in accordance with the law.

5. The petition stands disposed of accordingly.

6. It goes without saying that if the occasion so arises, the petitioner is not precluded to file application under Section 482 of CrPC before this Court.

7. It is made clear that this Court has not examined the merits of the matter and all contentions of parties are left open.

[R. N.Laddha, J.]