

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

Cri.Writ Petition No.1976 of 2025

Sunil Govind Dande
Age: 68 yrs, Occ: Business,
R/at Punam bungalow, Jatpat
Mala, Near Kulkarni Mangal
Karyalaya, Nashik Road, Nashik. Petitioner.

Vs.

1. The State of Maharashtra
At the instance of Ulhasnagar Police
Station, Dist-Thane.
(vide NCR No.0413 of 2023)

2. Shivanand Shankar Sheth Raikar
Age: 57 yrs, Occ : business,
R/at Shiv Om Residency,
1st floor, Flat No.101, Near Julelal
School, Ulhasnagar-2, Thane. Respondents.

Mr Nikhil Pujari for the petitioner.
Dr Ashwini A Takalkar, APP for respondent/State.

**Coram : R.N.Laddha, J.
Date : 17 April 2025.**

P.C. :

Heard Mr Nikhil Pujari, the learned Counsel
appearing on behalf of the petitioner and Dr Ashwini

Takalkar, the learned Additional Public Prosecutor representing respondent No.1/ State.

2. By this petition, the petitioner seeks to challenge the order dated 11 March 2024 passed by the Judicial Magistrate First Class, Ulhasnagar in Summary Case No.3020 of 2023, whereby the learned Magistrate issued process against the petitioner.

3. A bare perusal of the impugned order shows that it is cryptic, unreasoned and does not demonstrate any application of mind.

4. It is a settled principle in law that the Magistrate is not required to record detailed reasons while passing the 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 statutory provisions, may result in putting the criminal law in motion and summoning the innocent individual to stand trial. 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. When 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 decision of the Hon'ble Supreme Court in *Lalankumar Singh v. State of Maharashtra*¹.

5. In view of the above, the impugned order of issuance of process dated 11 March 2024, passed by the Judicial Magistrate First Class, Ulhasnagar in Summary Case No.3020 of 2023, is quashed and set aside. However, at the same time, it must be considered that the complainant should not be held responsible or has to endeavour any consequence 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 petition stands disposed of accordingly.

[R. N. Laddha,J.]

¹ 2022 SCC OnLine SC 1383