
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2110 OF 2025

VAISHALI
ANIL
TIKAM

Devinder Devraj Ghai

.. Petitioner

Versus

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by VAISHALI
ANIL TIKAM
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State of Maharashtra and Anr.

.. Respondents

Mr. Amit Desai, Senior Advocate a/w. **Mr. Gopal Krishna Shenoy**
i/b. **Ms. Dimple Shah Advocates** for the Petitioner.

Mr. Avinash A. Naik, APP for Respondent No.1- State.

Mr. Juzer Udaipuri a/w **Mr. Firdaus Udaipuri** i/b. **Udaipuri & Co.**
Advocates for Respondent No.2

CORAM: RAVINDRA V. GHUGE &
GAUTAM A. ANKHAD, JJ.

DATE: JULY 31, 2025

P. C.

1. We have heard the learned Counsel for the respective sides as well as the learned APP, for quite some time.

2. There is no dispute on the factual matrix. The Senior Inspector of the Khar Police Station, Mumbai referred his report dated 4th August, 2023 to the Additional Chief Metropolitan Magistrate, 9th Court, Bandra East, Mumbai

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(presently the Judicial Magistrate, First Class), invoking Section 145 of the Cr.P.C. The learned APP submits that the police officer expected the learned Court to exercise its powers under sub-section (1) of Section 145 of the Cr.P.C. and while recording reasons in support of its satisfaction, pass an order thereby requiring the parties concerned to the dispute to appear in the Court. Instead of following the mandate of sub-section (1), the learned Court simply passed an order on 28th November, 2023 as under:

“Issue summons to the Party No.1 & Party No.2.”

3. The litigating parties before us are united in submitting that the above mentioned order could not have been passed by the learned Magistrate. The learned Magistrate should have exercised its powers under sub-section (1) and should have recorded reasons in support of its satisfaction and only then could have summoned the parties and proceeded with the matter.

4. In this peculiar circumstance, both submit that instead of exploring the possibility of relegating the parties to Section 397 of the Cr.P.C. by treating the above reproduced order to be an order/finding/sentence, let the said order be quashed by consent.

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5. In view of the above, the impugned order of issuance of summons to the parties, which is *de-hors* Section 145(1) and by consent, is set aside. Needless to state that, the learned Magistrate will now have to apply its mind and exercise powers strictly as is prescribed under Section 145(1) of the Cr.P.C.

6. In view of the above, **this Writ Petition is disposed off.**

[GAUTAM A. ANKHAD, J.]

[RAVINDRA V. GHUGE, J.]