

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

**WRIT PETITION NO. 5494 OF 2025
AND
WRIT PETITION NO. 5495 OF 2025
AND
WRIT PETITION NO. 5496 OF 2025
AND
WRIT PETITION NO. 5497 OF 2025**

**SANTOSH
SUBHASH
KULKARNI**

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Saneep S. Runwal

...Petitioner

Versus

State of Maharashtra and anr.

...Respondents

**Mr. Darshan Juikar, a/w Himanshu and Vijay Rode, for
Petitioner in all WP.**

Smt. Rashmi Tendulkar, for the State.

**Mr. P. P. Chavan, i/b Komal Punjabi, for Respondent No.2 –
BMC.**

CORAM: N. J. JAMADAR, J.

DATED: 6th NOVEMBER, 2025

Oral Order:-

- 1. Heard the learned Counsel for the parties.**
- 2. The challenge in this petition is to an order dated 21st May, 2025 passed by the learned Magistrate, 41st Court, Shindewadi, Dadar, Mumbai. The impugned order reads as under:**

“Perused complaint and documents on record. Heard complainant side at considerable length. Prima facie case is made out against the accused, therefore, issue process against the accused as prayed, returnable on 17.06.25.”

3. The learned Counsel for the petitioner submitted that a bare perusal of the impugned order reveals that the learned Magistrate has not at all applied his mind to the facts of the case. The offence which the petitioner has allegedly committed for which the process has been issued, has not been even referred to in the impugned order. The learned Counsel for the petitioner further submitted that the complaint also does not indicate that the offences allegedly committed by the petitioner and for which they were sought to be prosecuted. In paragraph 13 of the complaint it has been prayed that the process be issued against the accused and they be dealt with according to law.

4. The submission on behalf of the petitioner appears to carry substance. The learned Magistrate is not expected to record elaborate reasons while passing an order of issue of process. Yet, the reasons recorded by the learned Magistrate, howsoever brief, must reflect the application of mind. In the instant case, the learned Magistrate has even not referred to the offences which the petitioners allegedly committed and for which the process has been issued. The confusion is further confounded by the fact that in the complaints also the

complainant has not prayed for the issue of process for the commission of particular offences.

5. The impugned orders thus suffer from clear lack of application of mind. In these circumstances, the impugned orders deserve to be quashed and set aside and the complaints restored to the file of the learned Magistrate for passing appropriate orders by recording brief reasons and in accordance with law.

6. Hence, the following order:

: O R D E R:

- (i) The petitions stand allowed.
- (ii) The impugned orders, in each of the petitions, stand quashed and set aside.
- (iii) Complaint Nos.3429/SS/2025, 3427/SS/2025, 3426/SS/2025 and 3428/SS/2025 stand restored to the file of the learned Magistrate for passing orders afresh.
- (iv) The learned Magistrate is requested to pass an appropriate order after recording brief reasons and in accordance with law.
- (v) It is clarified that this Court has not entered into the merits of the matter.

[N. J. JAMADAR, J.]