



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.756/2025

(Mr. Sandeep S/o Sukhdev Sharma & ors. Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. S. S. Jadhav (Rathod), Advocate for petitioner.
Mr. A. M. Joshi, APP for respondent/State.

CORAM: M. M. NERLIKAR, J.

DATED : 21/11/2025.

On oral request of the learned counsel for the petitioner, leave is sought to correct the prayer clause of the petition.

2. Leave granted.

3. Correction be carried out forthwith.

4. Heard the learned counsel for the petitioner and learned APP for respondent/State.

5. The petitioner challenges the order dated 20.02.2024 passed by the learned Judicial Magistrate First Class, Amravati in complaint case RCC No. 2173/2023, wherein the order of issue process was passed against the accused persons. The learned counsel for the petitioner submits that the order of issue process was passed without application of mind and it's a, "Printed Stamp Order". She further submits that the passing of "Printed Stamp Order" has been deprecated by the Hon'ble Supreme Court in catena of judgments. To buttress her submissions, she has relied on the judgment of *M/s. JM Laboratories and others Vs. State of Andhra Pradesh and another arising out of SLP*

(Crl.) No.5067/2024, wherein the Supreme Court has held that the learned Magistrate has issued the process without assigning any reason and in such circumstances, that order cannot sustain. The learned counsel for the petitioner submits that in view of Section 32(2) of the Drugs and Cosmetics Act, 1940, the learned Magistrate does not get the jurisdiction to entertain the complaint.

6. On other hand, the learned APP submits by filing reply that the respondent is not having any objection to quash the impugned order as apparently it is a “Printed Stamp Order” and without application of mind. However, he submits that the matter be remanded back as there is no fault on the part of the complainant and he cannot be held responsible for passing unreasoned. He relied on the judgment of this Court in ***Criminal Application No.839/2013 (Alcon Laboratories (India) Pvt. Ltd. & ors. Vs. State of Maharashtra, decided on 07.02.2025)***, wherein this Court observed in para 5 which reads as under:-

“5 In the light of the above, the impugned order of issuance of process dated 23 August 2012 passed by the learned Metropolitan Magistrate, 15th Court, Mazgaon Mumbai, in CC No.230/SW/2012, is quashed and set aside. 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. The learned

Magistrate is therefore directed to pass an order afresh on its own merits and in accordance with law.”

7. Upon hearing the learned counsel for the petitioner and the learned APP for the State, it is admitted fact that the order is passed by the Judicial Magistrate First Class without applying his mind and apparently, it is a Printed Stamp in which fill in the blanks, those blanks are filled in by the learned Magistrate. It could be gathered from the said order that the Magistrate failed to apply his mind and failed to examine the relevant facts of the case. The Supreme Court in catena of judgments has already held that while issuing the process, the Magistrate shall apply mind to the facts and material placed before the Magistrate and thereafter shall issue the process by giving brief reasons.

8. The learned Chief Judicial Magistrate First Class has conveniently ignored the mandate of law and passed a cryptic order of the

9. Considering the above facts and circumstances, I am inclined to quash the said order. This Court is hereby quashed and set aside the order dated 20.02.2024 passed by the Chief Judicial Magistrate First Class, Amravati in complaint case RCC No.2173/2023. However, similarly as there is no fault on the part of the complainant, I am also inclined to remand back the matter for fresh consideration and after applying the mind, the Magistrate shall pass the order. In this view of the matter, writ petition is allowed. The matter is remanded back for passing fresh order.

So far as the jurisdiction part is concerned, I refrain to make any comment on the issue as there is no finding to that effect of the Court below.

10. Writ petition stands disposed of in above terms.

(M. M. NERLIKAR, J.)

Gohane