



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO.28 OF 2025

(M/s. Psychotropics India Ltd. and ors. Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.V. Manohar, Sr. Advocate a/b Mr. S. Khedkar, Advocate for the applicants.
Ms S.S. Dhote, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JANUARY 13, 2025.

By this application, the applicant has challenged the order of issuance of summons passed by the Additional Chief Judicial Magistrate, Nagpur.

2. Learned Senior Counsel for the applicants pointed out that in view of Section 32(2) of the Drugs and Cosmetic Act, 1940. The Judicial Magistrate has no power to take cognizance of the complaint which is registered under Sections 18(a)(i), 18(a)(vi) read with Section 16 and 34 of the Drugs and Cosmetic Act, 1940 (hereinafter referred as 'the said Act' for short). He invited my attention towards sub-section 2 of Section 32 of the said Act which reads as under:

32. Cognizance of offences. —

(2) Save as otherwise provided in this Act, no court inferior to that of a Court of Session shall try an offence punishable under this Chapter.

3. He submitted that the order of issuance of summons itself is beyond jurisdiction. Further he submitted that accused Nos.1 and 2 are also carrying their

business out of jurisdiction. Accused Nos.2, 3 and 4 are merely Directors and accused Nos.5 and 6 are Technical Directors. While issuing the summons, there is no application of mind by the Magistrate, and therefore, the order passed by the Magistrate is erroneous.

4. He further submitted that before issuance of the summons, the inquiry under Section 202 of Cr.P.C. is also not initiated by the Magistrate. In view of that, the proceeding before the Magistrate requires to be stayed.

5. Learned APP strongly opposed the application and submitted that Section 32(2) of the said Act states about the trial by the Sessions Court and not the cognizance, and therefore, prays for rejection of the prayer.

6. After hearing both the sides, perused the Section 32 which title of the section itself states about the cognizance of the offences. Thus, at this stage, it is apparent that the cognizance is taken by the Magistrate without taking into consideration the provisions under Section 32(2) of the said Act. In view of that, there would be a stay to the proceeding before the Magistrate in Criminal Case no.1477/2015.

7. Issue notice to the respondent, returnable after four weeks.

8. Learned APP waives notice for the State and seeks time to file reply.

(URMILA JOSHI-PHALKE, J.)