

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5847 OF 2025**

Shri Abraham George Stephansos]
Age: 62 years, Occupation: ex Service]
Residing at Flat 123, Tower-1, Pebble Bay]
Apartments, 1A Cross Road, RMV]
Extension Stage 2, Bangalore-560094] ...Petitioner.

V/s

1) State of Maharashtra]
through the Public Prosecutor,]
High Court, Bombay.]
]
2) Shri Sanjay Jagannath Giri,]
Deputy Director,]
Industrial Safety & Health, Pune,]
Maharashtra Kamgar Kalyan Mandal,]
3rd Floor, Plot No. G P 163, G-Block,]
in front of Sambhaji Nagar Bahinabai]
Prani Sangrahalay, MIDC (Thermax]
Chowk), Chinchwad, Pune – 411038]Respondents.

Mr. Abad Ponda, Senior Advocate with Mr. Samsheer Garud with Mr. Santosh Arhad i/b Jayakar & Partners, Advocates for the Petitioner.

Mr. A.I. Satpute, Addl. P.P. for Respondent no.1-State.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 10th MARCH 2026

P.C. :

1. The Petitioner challenges the order dated 15th July 2021 passed by the learned Additional Judicial Magistrate, First Class,

Shivajinagar, Pune, whereby process was issued in the following terms:-

“Perused complaint. Heard the complaint. Issue process against accused under sec. 36(2)(a) & 36(2)(b) of the Factories Act, 1948 punishable under sec. 92 of the Factories Act, 1948.”

The Petitioner has also challenged the order dated 14th August 2025 whereby his Criminal Revision Application No.343 of 2021 has been rejected by the learned District Judge and Additional Sessions Judge, Pune.

2. Mr. Abad Ponda, the learned senior counsel for the Petitioner limits his arguments to the order of issuance of process and submits that the said order is cryptic, without reasons and cannot be sustained. He relies upon the judgment of this Court in *Ram Bharat v. The State of Maharashtra* passed on 1st August 2025 in Writ Petition No.495 of 2025 and *Rajeev Singhal v. The State of Maharashtra and Anr.* passed on 20th March 2025 in Criminal Writ Petition No.988 of 2025 and submits that this Court ought to remand the matter back to the learned Magistrate for reconsideration in terms of the aforesaid judgments.

3. The learned Additional Public Prosecutor appearing for the State, does not dispute the legal position that an order issuing process

must reflect application of judicial mind, though he seeks to justify the complaint on merits.

4. I have heard the parties and perused the record. The Petitioner was the Managing Director and nominated as the “Occupier” of the factory of the Tata Steel Downstream Products Limited located at Ranjangaon MIDC, Shirur, Pune. The Petitioner operated from the Kolkata office of the company and had engaged M/s Soham Enterprises as a contractor for certain sewage cleaning operations at the Pune factory. The complaint arises out of an incident dated 23rd February 2021, in which one Kunal Kamble, an employee of the contractor M/s Soham Enterprises, lost his life while he was engaged in cleaning domestic chambers. On this basis, offences under Sections 36(2)(a) and 36(2)(b) read with Section 92 of the Factories Act have been alleged against the Petitioner.

5. Though additional arguments were raised before the Revisional Court regarding applicability of the provisions of the Factories Act, vicarious liability and the role of the Petitioner as occupier, Mr. Ponda has restricted the challenge only to the legality of the order issuing process. Upon perusal of the impugned order dated 15th July 2021, it is

apparent that the learned Magistrate has merely recorded that the complaint was perused and process be issued. The impugned order does not indicate what material was considered nor adverts to the role attributed to the Petitioner. The issuance of process is not an empty formality. At that stage, the learned Magistrate is required to apply judicial mind to the complaint and the accompanying material to determine whether sufficient grounds exist to proceed against the accused. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a prima facie case against the accused. In the present case, the impugned order is cryptic and does not meet the minimum requirement of recording prima facie satisfaction prior to the issuance of process. The Revisional Court has affirmed the impugned order without addressing this foundational defect. In view of the settled legal position as held in *Ram Bharat* (supra) and in *Rajeev Singhal* (supra) and on this limited ground, the impugned orders are set aside and writ petition is allowed in terms of prayer clauses (a) and (b) which reads as under:-

“a) Quash and set aside the Complaint being Criminal Case (STC) No. 14273/2021 pending before the Ld. Addl. Chief Judicial Magistrate, Shivajinagar, Pune and the order taking cognisance and issuing process dated 15 July, 2021 (Exhibit B hereto) passed by the Ld. Addl. Chief Judicial Magistrate, Shivajinagar, Pune, below Exhibit 1 in Regular Criminal Case STC No. 14273 of 2021 against the Petitioner.

b) Quash and set aside the order dated 14 August, 2025 (Exhibit C hereto), inter alia, against the Petitioner, passed by the Ld. District Judge

- 5 and Additional Session Judge, Pune, at Pune, in Criminal Revision Application bearing No. 343 of 2021.”

6. At the same time, the complainant cannot be made to suffer the consequences due to the error on the part of the learned Magistrate. Hence, the matter stands remanded to the learned Magistrate for fresh consideration. It is clarified that this Court has not considered the merits of the case. The learned Magistrate shall consider the complaint and pass an appropriate order in accordance with law.

[GAUTAM A. ANKHAD, J.]

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