

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

WRIT PETITION NO. 6469 OF 2025

Vijay Devkinandan Gupta ..Petitioner

Versus

State of Maharashtra & Ors. ...Respondents

Mr. A. K. Upadhyay a/w Mr. Rohan Kharat a/w Mr. Mithilesh
Tiwari, for the Petitioner.

Mr. P. P. Chavan i/b. Komal Punjabi, for Respondent No. 2 & 3
– BMC.

Mr. A. R. Metkari, APP for Respondent – State.

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CORAM: N. J. JAMADAR, J.

DATE : 8th JANUARY 2026

P.C.:

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 25th October, 2024 passed by the learned Judicial Magistrate, First Class, 42nd Court, Shindewadi, Dadar, Mumbai thereby issuing process against the petitioner for the offence under Section 353-B r/w Section 471 of the Mumbai Municipal Corporation Act, 1888 ('the MMC Act').
3. One of the grounds of challenge is that, the learned Magistrate has not complied with the requirements of Section 223 of Bhartiya Nagarik Suraksha Sanhita, 2023 ("BNSS,2023"). No notice was issued to the accused before taking cognizance of the offence.

4. The impugned order indicates that, the learned Magistrate has perused the complaint and the documents annexed thereto and proceeded to issue the process against the accused.

5. The learned Counsel for the Respondent No. 2, fairly submits that, the learned Magistrate has not complied with the mandate of the provisions contained in Section 223 of BNSS, 2023, and the complaint be remitted back to the learned Magistrate.

6. In the aforesaid view of the matter, the impugned order cannot be sustained.

7. Thus, the impugned order dated 25th October, 2024, issuing process against the petitioner for the offences punishable under Section 353-B r/w Section 471 of MMC Act, stands quashed and set aside.

8. The consequent warrant issued against the petitioner also stands quashed and set aside.

9. The learned Magistrate is directed to pass an appropriate order after considering the provisions contained in Section 223 of BNSS, 2023.

10. The petition thus stands disposed.

[N. J. JAMADAR, J.]