

2026 PHHC.070583



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

207

CRM-M-54612-2025 (O&M)
Date of decision: 06.05.2026

Satish Srinivasan and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Gaurav Chopra, Sr. Advocate with
Ms. Gauri C. Kaushal, Advocate and
Mr. Reshabh Bajaj, Advocate for the petitioners.

Mr. Gautam Kaile, DAG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer made in the present petition filed under Section 528 BNSS is for quashing the complaint titled, 'State through Assistant Director vs. Sh. Satish Srinivasan & Other', SUMM No. 11 of 2025, dated 27.02.2025, Annexure P-1 instituted under Section 92 of the Factories act, 1948 and the summoning order dated 27.02.2025, Annexure P-2 passed by learned Chief Judicial Magistrate, Panipat.

2. Learned Senior counsel has assailed the summoning order, without touching the merits of the case at this stage, inasmuch as he submits that the same is non-speaking and has been passed in a perfunctory manner, as the trial Court has not recorded any finding of having independently considered the material on record and thus prays for it to be set aside.

3. On the other hand, learned State counsel contends that the petitioners have rightly been summoned, being the occupier and Manager of M/s Nestle India

4. Heard.

5. A reference is ought to be made to the impugned summoning order dated 27.02.2025, which reads thus:

“Complaint for commission of offence punishable under Section 92 of Factories act, 1948 presented today. It be checked and registered.

Notice to accused be issued for 24.04.2026”

6. Hon’ble the Supreme Court in **JM Laboratories vs. State of A.P.**, 2025 SCC OnLine SC 208, had observed that the order of issuance of process is not an empty formality and the Court is required to apply its mind as to whether, sufficient ground for issuance of process exist or not, relevant paras whereof read thus:

“3. The facts, in brief, giving rise to the present appeal are as given below.

3.1. On 29th May, 2019 the Drugs Inspector, Kurnool Urban, Kurnool District (Respondent No. 2) filed a complaint being C.C. No. 1051 of 2023 in the Court of First Class Judicial Magistrate, Kurnool under Section 32 of the Drugs and Cosmetics Act, 1940 (hereinafter, “DC Act”) against M/s. J.M. Laboratories (Appellant No. 1), its Managing Partner (Appellant No. 2) and three silent partners (Appellant Nos. 3, 4 & 5).

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6. However, we do not find it necessary to consider the submissions made by the appellants on various grounds inasmuch as the present appeal is liable to be allowed on the short ground that the learned Magistrate has issued the process without assigning any reasons.

7. It will be relevant to refer to the summoning order which reads thus:

“Whereas your attendance is necessary to give evidence in a charge Sec. 18(a)(i) r/w Sec. 16(i)(a) of Drugs & Cosmetics Act, 1940 against the accused M/s J.M. Laboratories, Vill. Bhanat, P.O-Ghetti, Subathu Road, Solan (H.P.). You are hereby requested to appear in person before the Hon'ble Court of Judicial First Class Magistrate, Kurnool at 10 : 30 AM on the 10th day of August 2023.

Given under my hand the seal of the court this _____ day of July 2023.”

8. In the judgment and order of even date in criminal appeal arising out of SLP (Crl.) No. 2345 of 2024 titled “INOX Air Products Limited Now Known as INOX Air Products Private Limited v. The State of Andhra Pradesh”, we have observed thus:

“33. It could be seen from the aforesaid order that except recording the submissions of the complainant, no reasons are recorded for issuing the process against the accused persons.

34. In this respect, it will be relevant to refer to the following observations of this Court in the case of Pepsi Foods Ltd. v. Special Judicial Magistrate (1998) 5 SCC 749 (supra):

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

35. This Court has clearly held that summoning of an accused in a criminal case is a serious matter. It has been held that the order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. This Court held that the Magistrate is required to examine the nature of allegations made in the complaint and the evidence, both oral and documentary in support thereof and as to whether that would be sufficient for proceeding against the accused. It has been held that the Magistrate is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.

36. The said law would be consistently following by this Court in a catena of judgments including in the cases of Sunil Bharti Mittal v. Central Bureau of Investigation (2015) 4 SCC 609, Mehmood Ul Rehman v. Khazir Mohammad Tunda (2015) 12 SCC 420 and Krishna Lal Chawla v. State of Uttar Pradesh (2021) 5 SCC 435.

37. Recently, a Bench of this Court to which one of us (Gavai, J.) was a Member, in the case of Lalankumar Singh v. State of Maharashtra 2022 SCC OnLine SC 1383 (supra), has observed thus:

“38. The order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. 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. No doubt, that the order need not contain detailed reasons. A reference in this respect could be made to the judgment of this Court in the case of Sunil Bharti Mittal v. Central Bureau of Investigation⁹, which reads thus:

“51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.

53. However, the words “sufficient ground for proceeding” appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect.”

39. A similar view has been taken by this Court in the case of Ashoke Mal Bafna (supra).

40. In the present case, leaving aside there being no reasons in support of the order of the issuance of process, as a matter of fact, it is clear from the order of the learned Single Judge of the High Court, that there was no such order passed at all. The learned Single Judge of the High Court, based on the record, has

presumed that there was an order of issuance of process.
We find that such an approach is unsustainable in law.
The appeal therefore deserves to be allowed.”

9. In the present case also, no reasons even for the namesake have been assigned by the learned Magistrate. The summoning order is totally a non-speaking one. We therefore find that in light of the view taken by us in criminal appeal arising out of SLP (Crl.) No. 2345 of 2024 titled “INOX Air Products Limited Now Known as INOX Air Products Private Limited v. The State of Andhra Pradesh”, and the legal position as has been laid down by this Court in a catena of judgments including in the cases of Pepsi Foods Ltd. v. Special Judicial Magistrate¹, Sunil Bharti Mittal v. Central Bureau of Investigation², Mehmood Ul Rehman v. Khazir Mohammad Tunda³ and Krishna Lal Chawla v. State of Uttar Pradesh⁴, the present appeal deserves to be allowed.”

7. In light of the above, the impugned summoning order, ex facie depicts non-application of mind, as it neither reflects any reasons nor satisfaction of a *prima facie* case made out and as such is hereby set aside.

8. Disposed of accordingly.

06.05.2026
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No