

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1390 OF 2011

Ashok M. Advani & Ors.

.. Petitioners

Versus

The State of Maharashtra & Anr.

.. Respondents

-
- Mr. Satish Maneshinde, Senior Advocate a/w Mr. Yuvraj Dhole & Shamice Mansukhani, Advocates for Petitioners
 - Ms. Rajeshree V. Newton, APP for State
 - Mr. P.P. Chauhan i/by Ms. Komal Punjabi, Advocate for Respondent No. 2 - Corporation

.....
CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 21, 2026

P. C.:

1. Heard Mr. Maneshinde, learned Senior Advocate for Petitioners; Ms. Newton, learned APP for State and Mr. Chauhan, learned Advocate for Respondent No. 2 - Corporation.

2. Pursuant to the order dated 14.08.2026, Mr. Maneshinde, learned Senior Advocate entered appearance for Petitioners. Petitioner Nos. 1 to 9 are Directors of Respondent No. 10 Company - Blue Star Ltd. Cause of action against the Petitioners is issuance of process by learned Metropolitan Court / Magistrate on the complaint filed by Municipal Corporation of Greater Mumbai (MCGM), copy of which is appended at Exh. "A", page No. 21 of Petition.

3. This Court has had the occasion of dealing with such similar complaints which is a cyclostyled complaint in many such cases. 9 Directors of the Company are arraigned as accused along with the Company indicting them for putting up one Glow Sign Board admeasuring 8 feet x 3 feet by displaying the contents "BLUE STAR METRO AIRCONDITIONER" on the ground that the same is violative of Sections 328 read with Section 471 of the Bombay Municipal Corporation Act.

4. The issue which goes to the root of the matter is with regard to whether the accused persons namely Directors of the Company and the Company had indeed put up the concerned sign board or not. That satisfaction was required to be gone into before issuance of process and setting the criminal law into motion for indicting the Petitioners for the offences punishable under Sections 328 read with 471 of MMC Act. Contention of Petitioners as advanced by learned Senior Advocate is that neither the premises of the shop over which the said Glow Sign Board was put belongs to them nor they have indulged in any such act. The Corporation has not been able to show anything to the contrary rather its case is simplicitor based cyclostyled on the application and the process order that has been issued.

5. Time and again, whenever criminal law is sought to be set into motion, this Court has found that such cyclostyled applications, *prima*

facie, do not disclose any cause of action *qua* the persons against whom such action is sought to be initiated, so as to enable the learned Metropolitan Magistrate to arrive at the requisite satisfaction for issuance of process. Such is the case before the Court. Issuance of process on the basis of rubber stamp for the alleged offences without stating any reason or being satisfied to that effect cannot be countenanced. Application for issuance of summons for any offence regarding infringement of any statutory condition is required to be dealt with strictly in accordance with law and once such Application comes before the learned Magistrate, it is the duty of the Magistrate to ensure that the infringement alleged in the complaint has been indeed committed by the accused persons or otherwise. The same has to be examined in accordance with law and that not having been done, the action of the Corporation cannot be countenanced. Arguable case is made out on behalf of Petitioners for grant of relief and hence there can be no impediment in such a case. Hence, Petition is allowed and disposed in terms of prayer clause (a) which reads thus:-

"(a) This Hon'ble Court be pleased to call for the records and proceedings pertaining to the C. C. No. 4200450/SS/2011 filed by the Respondents before the Learned Metropolitan Magistrate, 42nd Court, Shindewadi, Dadar at Dadar and after examining the legality, validity and propriety thereof, this Hon'ble Court be pleased to quash and set aside the process issued against the Petitioners vide order dated 04/02/2011 passed by Learned Metropolitan Magistrate, 42nd Court, Shindewadi, Dadar at Dadar in C. C. No.4200450/SS/2011. (annexed at Ex. "A" hereto)

6. Petition is allowed and disposed.

Amberkar

[MILIND N. JADHAV, J.]

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