

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

CRIMINAL WRIT PETITION NO.3764 OF 2025

Shashikant Babanrao Shinde

.. Petitioner

Vs.

The State of Maharashtra and Anr.

.. Respondents

Mr. Karan Rajput, i/by Mr. Himanshu Pradhan, Advocates, i/by Crawford Bayley & Co., for the Petitioner.

Mr. S.V. Gavand, Additional Public Prosecutor for the Respondent-State of Maharashtra.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 10TH MARCH 2026.

P.C. :

1. Issue notice to the Respondents. In addition, private service is also permitted.

2. The petition seeks to challenge an order dated 29th November 2016 passed by the learned Metropolitan Magistrate, Mumbai taking cognizance of offence under section 233B of the Companies Act, 1956. The impugned order which is a rubber-stamped order, reads as follows:

“Complaint filed today by the Registrar of Companies. Cognizance of the offence under section 233B of the Companies Act 1956 has been taken.”

3. Mr. Rajput, the learned advocate for the Petitioner, submits that the Petitioner was a whole-time Director in the Accused no.1-company (Dr. Datsons Labs Limited). The Petitioner resigned from the company on 25th May 2015. After his resignation, on 9th October 2015, a show cause notice was issued under section 233-B of the Companies Act, 1956 read with section 148 of the Companies Act, 2013 for the failure of the company to file the Cost Audit Report within the stipulated time period. The prosecution was lodged and in the meanwhile the Accused no.1-company has been wound-up by an order dated 12th January 2016. Mr. Rajput submits that the impugned order is merely a rubber-stamp order and provides no reasons for taking cognizance of the offence. The cognizance of an offence in this manner does not satisfy the test of application of judicial mind before issuing the process.

4. The impugned order dated 29th November 2016 taking cognizance is a non-speaking order. The order does not disclose what material was perused or what weighed with the learned Magistrate while proceeding to take cognizance of the offence. At this stage, the Magistrate is required to consider the complaint and the material placed on record and satisfy himself that the complaint *prima facie* discloses the commission of an offence and that there is no ground for rejecting it at the threshold. Only upon such satisfaction can he

proceed further in accordance with the law. Cognizance is taken at the initial stage of the offence and not of the offender. In *Pawan Kumar Sharma v. State of Uttaranchal*¹, the Hon'ble Supreme Court has deprecated the practice of taking cognizance by way of "rubber-stamp" without due application of mind. In the present case, the impugned order is cryptic and does not reflect the minimum satisfaction required to be recorded that the complaint *prima facie* discloses the commission of an offence. In these circumstances, a *prima facie* case is made out for grant of interim relief in terms of prayer clause (b), which reads as under:—

“(b) *Pending the hearing and final disposal of this Criminal Application, all further proceedings in Criminal Complaint No.4004307/SS/2016 pending on the file of the learned Metropolitan Magistrate, 40th Court, Girgaum, Mumbai may kindly be stayed.*”

5. List the matter on 17th April 2026.

[GAUTAM A. ANKHAD, J.]

¹ 2007 SCC OnLine SC 1599