

MHCC020180932023



Presented on : 01.12.2023

Registered on : 01.12.2023

Decided on : 04.02.2026

Duration : 2 years, 02 months, 3 days.

IN THE COURT OF SESSIONS FOR GREATER MUMBAI,

BRANCH AT MAZGAON

CRIMINAL REVISION APPLICATION NO. 1190 OF 2023

1. Mr. Kandula Raghava Rao, Director

Amazon Seller Services Private Limited

8th Floor, Brigade Gateway, 26/1,

Dr. Rajkumar Road, Malleshwaram West,

Bangalore 560055, Karnataka

2. Mr. Noorulamin Mohammed Saheb

Patel, Director,

Amazon Seller Services Private Limited,

8th Floor, Brigade Gateway, 26/1,

Dr. Rajkumar Road, Malleshwaram West,

Bangalore 560055, Karnataka

... Applicants/

Org. Accused Nos. 3 & 4

V/s.

1. The State of Maharashtra,

Through office of the Public Prosecutor,

City Civil and Sessions Court, Fort,

Mumbai 400 032.

2. Mr. S. P. Yadav, Drug Inspector

(Intelligence Branch), Office of Commissioner

Food & Drug Administration (M.S.), Bandra (E)

Bandra, Mumbai 400 051.

... Respondents

(Respondent No. 2

Org. Complainant)

Appearance :-

Mr. Mubin Solkar, Ld. Adv. for Applicant.

Ms. B. G. Pande, Ld. Addl. PP for Respondent No.1/State.

Respondent No. 2 present.

**CORAM : H.H. THE ADDL. SESSIONS JUDGE
MUJIBODEEN S. SHAIKH,
COURT ROOM NO.88.**

DATE : 4th February, 2026.

ORDER

1. This revision is preferred by the accused against issue process order passed by Metropolitan Magistrate 15th Court, Mazgaon, Mumbai. It is say and submit that Food and Drugs Administration has filed complaint against M/s. Gurunanak Enterprises as well as the Directors of Amazon Seller Services Pvt. Ltd. (ASSPL, for short).

2. It is alleged that there was illegal online sale of drugs on the site of Amazon. The drugs for abortion were displayed by other alternative names such as “Woman Abortion Pills”, “Safe Abort Tablets”. The complainant placed order for abortion tablets from Amazon. The portal or website did not ask for any doctor’s prescription. The order was confirmed. The mode of payment selected was cash on delivery. The order is delivered. The payment of Rs.476/- was made. After receipt of parcel, the complainant found batch number, manufacturing date, expiry date. The seller deceived by selling a-kare tablets in the name of displayed name Safe Abort Tablets on the said portal. Complainant issued several notices under the Drugs and Cosmetics Act, 1940 to the manufacturing company and to Amazon seller Services Pvt. Ltd. Accused no. 1 accepted the sale of the said product in the reply of the notice. After checking the record of manufacturing company,

number of irregularities are found and selling the drugs without prescription of doctor is illegal and so the accused persons have committed breach of number of rules and thereby committed the offences under the Drugs and Cosmetics Act 1940 and Rules 1945. Therefore, the complaint has been filed by the Food Inspector against the accused persons.

3. The Learned Magistrate after considering the complaint and relevant documents produced on record, issued process against all the accused for the contravention of Section 18(c) r/w. 22(1)(cca) punishable under Section 27(d), 22(3) of the Drugs and Cosmetics Act and Section 79(2), 79(3)(b) of Information Technology Act.

4. Being aggrieved the order of Magistrate, this Revision is filed by the accused mainly on the grounds that the Learned Magistrate has not complied the mandatory provisions under Section 202 of Cr.PC. when the applicants are residing beyond the jurisdiction of the Magistrate. The Magistrate ought to have postpone the issue of process against the accused and either inquire into the case himself or direct an investigation to be made by police officer or by such other person as he thinks fit. The impugned order is also challenged on the ground that the order is cryptic and without having just and cogent reasons.

5. Learned Magistrate has not considered that the applicants have no direct involvement in the offence because they are intermediary.

6. I heard arguments of both parties. Perused the impugned order, written submissions and case laws cited by the applicants. The

following points arise for my consideration and my findings thereon are given with the reasons stated below :-

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the impugned order dated 14/10/2022 passed by the Learned Magistrate is legal and proper ?	In the Negative.
2.	Whether interference at the hands of Revisional Court is necessary ?	In the Affirmative.
3.	What order ?	Criminal Revision Application is allowed.

REASONS

AS TO POINT NOS.1 TO 3 :-

7. It appears from the impugned order that Court has perused the complaint and documents filed on record and came to conclusion that complainant has made out prima facie case against the accused. It is not necessary for the Magistrate to give detail reasons while passing issue process order. However, the Magistrate shall examine the nature of allegations in the complaint and take into account the evidence to find out whether it is sufficient for the complainant to succeed in establishing the charge against the accused and justify the issuance of process against him. All the relevant facts, provisions of laws and circumstances shall be taken into consideration before issuing process.

8. Here in this case, the Magistrate has not taken into consideration the legal provision under Section 202 of Cr.P.C. by postponing the issue process order directing the investigation to the police or inquire into the case himself or by such other person as he thinks fit because the applicants are residents of Bangalore, which is out of jurisdiction of this Court.

9. The Hon'ble High Court of Karnataka dealt with this issue in Criminal Petition No. 4676/2020 in case of Kunal Bahl Chief Executive Officer and Director of Jasper Infotech Pvt. Ltd. and Anr. Vs. State of Karnataka represented by Drugs Inspector and Criminal Petition No. 4712/2020 in case of Snapdeal Pvt. Ltd. represented by its authorized signatory Vijay Kumar Shrivastava Vs. State of Karnataka represented by Drugs Inspector decided on 07.01.2021. The Hon'ble Karnataka High Court held that, *"when the accused has no presence within the jurisdiction of the Magistrate where the offence has been committed then it would be mandatory for an enquiry under Section 202 of the Cr.P.C. to be held"*. In this Judgment the Hon'ble High Court also held the issue *"Whether an intermediary as defined under Section 2(w) of the Information Technology Act would be liable for any action or inaction on party of a vendor/seller making use of the facilities provided by the intermediary in terms of a website or a market place?"* It is held that, *"It cannot be expected that the provider or enabler of the online market place is aware of all the products sold on its Website. It is only required that such provider or enabler put in place a robust system to inform all sellers on its platform of their responsibilities and obligations under applicable laws in order to discharge its role and obligation as an intermediary. If the same is violated by the Seller of goods or service, such seller can be proceeded with but not the intermediary"*. In view of the above question, the Hon'ble High Court answer that, *"an intermediary as defined under Section 2(w) of the Information Technology Act or its directors/officers would not be liable for any action or inaction on part of a vendor/seller making use of the facilities provided by the intermediary in terms of a website or a market place"*.

10. Here in this case, the applicants are the Directors of Amazon Seller Services Pvt. Ltd., it comes within the meaning of and definition of intermediary under Section 2(1)(w) of the Information Technology Act, 2000. Therefore, Amazon would be entitled to exemption from the liability in terms of Section 79 of the Information Technology Act, 2000. As discussed at length in the above Judgment of Karnataka High Court, Amazon is not the seller. M/s. Gurunanak Enterprises registered with the Amazon who are the seller of the tablets on the platform of Amazon. The vendor i.e. M/s. Gurunanak Enterprises are solely responsible for purchaser/customer. Amazon has entered into the Agreement with M/s. Gurunanak Enterprises and in that Agreement it is specifically mentioned regarding prohibited drugs should not be kept for sale.

11. After having been considered the above discussed facts and law, it becomes crystal clear that the impugned order passed by the Learned Magistrate against the applicants is perverse and grossly erroneous and the said order is cryptic in which law is not considered properly. Therefore, same is required to be set quashed and set aside not only for applicants but in entirety. Hence, interference of this Court is necessary. Accordingly I answer the points and proceed to pass the following order :

ORDER

1. Criminal Revision Application No. 1190 of 2023 is allowed.
2. The impugned order of issue process dated 14/10/2022 passed by the Learned Metropolitan Magistrate, 15th Court, Mazgaon, Mumbai, in C.C. No.1500030/SS/2022, is quashed and set aside.
3. Proceeding is closed.

4. Criminal Revision Application No. 1190 of 2023 is disposed of accordingly.



Date : 04/02/2026.

(Mujibodeen S. Shaikh)
Addl. Sessions Judge,
Sessions Court, C.R. No.88,
Mazgaon, Gr. Mumbai.

Directly typed on computer on : 04.02.2026
Signed on : 09.02.2026

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”		
Upload Date	Upload Time	Mrs. Prachi Y. Potdar Name of Stenographer
10/02/2026	10.55 a.m.	
Name of the Judge (With C.R. No.)		HHJ SHRI MUJIBODEEN S. SHAIKH (COURT ROOM NO.88)
Date of Pronouncement of JUDGMENT / ORDER		04/02/2026
JUDGMENT / ORDER signed by P.O. on		09/02/2026
JUDGMENT / ORDER uploaded on		10/02/2026