

Criminal Case No. 416291/2025

:: Order Below Exh.1 (Charge Sheet) filed by Police ::

The case is filed under **Gujarat Police Act, 1951**, alleging violation of orders under **Section 142**. The Act mainly aims to maintain public order and allows police to take preventive measures, sometimes including arrest without warrant in urgent situations.

However, upon reading of Act, the Court observed that:

- Under the Act, only **Section 90A, Section 118, and Section 143B** are specifically declared **cognizable offences**.
- **Section 142** does not state that it is a cognizable offence.
- As per **Code of Criminal Procedure, 1973 Section 155(2) (Now BNSS S.174 (2))**, police cannot investigate a non-cognizable offence without prior permission of the Magistrate.
- The maximum punishment under Section 142 is **two years**, which makes it **non-cognizable and bailable** according to Schedule-1 Part-II of the CrPC.

The Court also relied on judicial precedents, including **Keshav Lal Thakur v. State of Bihar (1996)**, where the **Supreme Court of India** held that investigation of a non-cognizable offence without a Magistrate's order is illegal. Similar views were taken by the **Gujarat High Court, Karnataka High Court, and Kerala High Court** in other cases.

In this case, the police investigated the offence under **Section 142** without obtaining permission from the Magistrate, which violated Section 155(2) CrPC (Now BNSS S.174 (2)). Therefore, the investigation and the charge sheet filed by the police are **illegal and void**. Applying the above principle, the Court held that all subsequent proceedings based on such investigation are also invalid.

Final Order

- The proceedings against the accused under **Section 142 of the Gujarat Police Act** are **dropped**.
- The prosecution is given **liberty to take appropriate steps as per law**.
- Any seized property (muddamal) shall be **disposed of according to rules**.

Date:-14/03/2026
(L.A.-Sp.sitting)

Sd/-
(Sanat Jayantilal Panchal)
Chief Judicial Magistrate
Ahmedabad-City,
Code No.G.J00864.