<u>Order Below Exhibit-1</u>

(1) Read the chargesheet & police papers. In this case the investigation officer has filed the charge-sheet under section 271 of IPC on the basis of FIR. According to section 271 of IPC , Whoever knowingly disobeys any ruls made and promulgated by the Government for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, for regulating the intercourse between place where an infectious disease prevails and other places, shall be punishable in this section. Section 271 of IPC is non-cognizable and Bailable. In the case of a non-cognizable offence, a police officer does not have the authority to make an arrest without a warrant and an investigation can not be initiated without a court order and Police can not file charge-sheet in non cognizable offences. The police can file a First Information Report only for cognizable offences.

(2) In Keshav Lal Thakur v. State of Bihar, 1996(11) SCC 557 Honourable Supreme Court of India held as under:-

> We need not go into the question whether in the facts of the instant case the above view of the High Court is proper or not for the impugned proceeding has got to be quashed as neither the police was entitled to investigate into the offence in question nor the Chief Judicial Magistrate to take cognizance upon the report submitted on completion of such investigation. On the own showing of the police, the offence under Section 31 of the Act is non cognizable and therefore the police could not have registered a case for such an offence under Section 154 Cr. P.C. of course, the police is entitled to investigate into a non-cognizable offence pursuant to an order of a competent Magistrate under Section 155 (2) Cr. P.C. but, admittedly, no such order was passed in the instant case. That necessarily means, that neither the police could investigate into the offence in question nor submit a report on which the question of taking cognizance could have arisen. While on this point, it may be mentioned that in view of the proviso to Section 2 (d) Cr. P.C., which defines 'complaint', the police is entitled to submit, after investigation, a report a relating to a non-cognizable offence in which case such a report is to be treated as a 'complaint' of the police officer concerned, but that explanation will not be available to the prosecution here as that related to a case where the police initiates investigation into a cognizable offence - unlike the present one - but ultimately finds that only a non-cognizable offence has been made out. On the conclusions as above we allow this appeal and quash the impugned proceedings.

(3) In the present case also, police has investigated the offence without the permission of this court. It is clear from record that no permission is sought for by the police for the investigation. Therefore, charge-sheet filed by the police against accused is illegal in the eye of law. Considering the above situation, when the charge-sheet is illegal in the eye of law, in that circumstances " principle of nullity" will apply and all the subsequent proceedings are also become illegal. Upon discussion of aforesaid provision of law and Judgment Pronounced by the Hon'ble Supreme Court in KeshavLal (Supra) and various Hon'ble High Courts, it is clear that if police investigated the non cognizable offence without the prior permission of the concerned Magistrate and subsequently filed the charge-sheet then as per law it is not proper for the Court to take cognizance or to conduct the trial on that charge-sheet or to treat that charge sheet as complaint. So, this Court passes the following final order in the interest of Justice.

Final Order

The Proceeding against the accused person u/s 271 of I.P.C. is hereby dropped with liberty to prosecution to take such steps as he deems fit in accordance with law. If any muddamal recovered shall be disposed as per rules.

Pronounce in the open Court today in Special Sitting of the Lok-Adalat.

Rajkot.
Dt. 11/12/2021

(Manish V. Chauhan)
10th ACJM, Rajkot
[GJ01015]