

ORDER BELOW EXH.1

Perused the record. Accused is alleged to have committed offence punishable under Sec. 188 of I.P.C.. Heard, Ld. APP at length.

02. I have gone through the complaint. Since the complaint has been filed by police personnel under sec. 188 of IPC, the said section needs to be reproduced here.

“....Sec. 188:- Disobedience to order duly promulgated by public servant:-

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such directions.

Shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both:

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousands rupees, or with both.

Explanation: It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm....”.

03. As per sec. 195 of Cr.P.C. the Court shall not take cognizance of any offence punishable under Sections 172 to 188 of IPC or of any abetment of, or attempt to commit such offence or of any criminal

conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. In view of Sec. 195 of Cr.PC. an order promulgated by a public servant lawfully empowered to promulgate such order has not been filed on record. Hence, it seems that complainant, who is police personnel, has no locus standi to file the said complaint since he is not public servant concerned or of some other public servant to whom he is administratively subordinate. Hence, considering the settled position of law and in view of bar under sec 195 of Cr.PC. the cognizance of above offence cannot be taken.

04. As cognizance of the above offence cannot be taken, no summons has been issued to accused. Therefore, requirement of issuance of summons as contemplated to Sec. 256 of the code becomes impossible. There is no reason to adjourn the hearing to some other day. The complainant is absent. Today, it is special drive as per Circular/letter issued by Hon'ble District and Sessions Court, Pune bearing No.Gen./1296/2022 dated 01st February, 2022. Considering all the facts and circumstances, the accused is acquitted of the offence punishable under Sec. 188 of the Indian Penal Code vide Sec. 256 read with Sec. 195 of the Code. Proceeding stands closed.

(Pronounced in Open Court.)

Pimpri.
Dt.: 10.03.2022.

(R.R.Kale)
J.M.F.C., Pimpri, Pune.

Certificate

I affirms that the contents of this P D. F. file Order are same word for word as per original Order.

Name of the Court	:-	Smt. R.R. Kale, J.M.F.C., Pimpri, Pune
Name of the Steno	:-	Gulagi P S. -Grade 3
Date	:-	10.03.2022
Order signed by presiding officer	:-	10.03.2022
Order uploaded on	:-	10.03.2022.