

Order below exhibit 1

1. The investigating officer has filed the present charge-sheet under Section 188 and 269 of the Indian Penal Code and Section 3 of the Epidemic Disease Act.
2. According to Section 3 of the Epidemic Disease Act any person disobeying any regulation or order made under this act shall be deemed to have committed an offence punishable under Section 188 of the Indian Penal Code.
3. According to Section 195(1)(a)(i) of The Criminal Procedure Code, no court shall take cognizance of an offence under section 188 of the Indian Penal Code except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.
4. Hon'ble Gujarat High Court in case of Govardhan Thakorbbhai Asrani v/s State of Gujarat 2018 (1) GLH 63 has held the following :
 39. , However if the perusal of the first information report and other papers of the charge sheet makes it clear that the offence - under sections or of the IPC as the case 186, 188 may be is closely interconnected with the other , distinct offences and cannot be split up then in such circumstances the bar of section of the 195 CrPC will apply to such other distinct offences also.
 - 4.1 From the ratio of the above judgment it becomes clear that when the offences cannot be split up than the bar under section 195 CrPC would also apply to the other offence. In this case also the alleged offence is committed in one transaction and the offences under section 188 and 269 of IPC cannot be split up. Thus the bar of section 195 CrPC would also be applicable to the offence under section 269 of IPC.
5. Further in the present case the chargesheet is filed under section 188 and 269 of the Indian Penal Code but a written complaint is not filed by the public servant concerned or of some other public servant to whom he is administrative subordinate. In view of Section 195(1)(a) (i) of the Criminal Procedure Code the court cannot take cognizance of an offence under Section 188 and 269 of the Indian Penal Code and Section 3 of the Epidemic Disease Act. In view of the above since the court cannot take cognizance for the offences under Section 188 and 269 of the Indian Penal Code and Section 3 of the Epidemic Disease Act the chargesheet filed by the investigating officer is hereby not accepted and the case is disposed of accordingly. Muddamal article if any seized shall be returned to the person from whom it is seized after the appeal period.

Pronounce in Special Sitting held in National Lok Adalat.

Date:11.12.2021
Place:Mahesana

Niravkumar Bihariibhai Patel
6th Additional Chief Judicial Magistrate
Mahesana(GJ01126)