Order Below Exhibit - 1

1. This Court has taken a judicial notice of the fact that many chargesheets, as per Section 173(2) of The Code of Criminal Procedure (Cr.P.C), have been filed in this Court, in some combinations or Separate of the following penal provisions:
   i. Section 279 or 283 of Indian Penal Code (IPC)
   ii. Section 12 of The Gujarat Prevention of Gambling Act, 1887.
   iii. Section 119, 177 of Motor Vehicles Act, 1988.

2. Heard, The Ld.APP on the issue of taking Cognizance & perused the record. Insofar as the present case is concerned, the offence in question are summons triable offences, whereby the maximum punishment prescribed is of fine only or up to 3 months or up to six months or both and therefore, the chargesheet ought to have been filed by the Investigating officer within a period of maximum one year as per the provision of Section 468 & 469 of the Code of Criminal Procedure, 1973 in which it is envisaged that except as otherwise provided elesewhere in the said code, no court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

3. It would also be apposite to refer to and rely upon the decision of the Hon'ble Apex Court in the case of ***State of Punjab Vs. Sarwan Singh, AIR 1981 SC 1054,*** whereby the Hon'ble Apex Court has observed and held as under :

   "In the instant case as the charge-sheet clearly mention that the offence was committed on the 22nd August, 1972, the bar of limitation contained in S.468 (2) (C) clearly applies and the prosecution therefore, is clearly barred by limitation. Even assuming that so far as, the offender is concerned, the commission of the offence came to knowledge of the officer concerned, it would be so according to charge-sheet on January 5, 1973, the date when the audit report was made.Even if this extreme position be accepted, the prosecution would still be barred by limitation under S.469(b) of the Code of Criminal Procedure, 1973.

   In th eabovecited decision of the Hon'ble Apex Court, The conviction of a person was set aside by the Hon'ble High Court on the ground of limitation, which was confirmed by the Hon'ble Supreme Court. The Hon'ble Supreme Court observed that the object of theCode in putting a bar of limitation on prosecution was clearly to prevent the parties from filling cases after a long time, as a result of which material evidence may disappear and also to prevent abuse of the process of the Court by filling vexatious and belated prosecution long after the date the date of the offence. It is, of course, true that the case before the Hon'ble Supreme Court was also pertaining to police charge-sheet. The allegation against the accused was that he has committed embezzlement on 22.8.1792, the audit report through which the offence was detected was dated 5.1.1973, and the challan/ chargesheet was presented on 18.10.1976, Considering these dates, the HIgh Court and the Supreme Court Considered that the Challan presented against the accused was beyond the period of limitaion.

4. Thus, in view of aforesaid decision of the Hon'ble Apex Court as well as the discussion made hereinabove, this court cannot take cognizance of the offence in question as the chargesheet has been presented before this Court in the year 2023 i.e. after more than one year form the date of the offence in question. Moreover, this case is summons triable. Hence, Provisions of summons triable case are applicable.Thus, this Court passes the following final order.

-: O R D E R :-

The proceeding against the accused arising from the chargesheet in question is hereby dropped without taking cognizance and the criminal case emanating from the very chargesheet is hereby disposed of in view of provisions of Section 468 of the Cr.P.C.

Pronounced in the open Court today on this 09th Day of sep , 2023 at Surat

09/09/2023. **(R.RAGHAV)**
Surat. **2ND Add. JMFC, Surat.**