

In the court of the 3rd Addl. Sr. Civil Judge & Addl.CJM, Dahod.

C.C. No. 619 of 2026

—ORDER—

1. The accused stands charged with an offence under Section 185 of the Motor Vehicles Act, 1988 for allegedly driving a motor vehicle under the influence of alcohol. In present case police has taken cognizance of the offence & later chargesheet is filed
2. The question arised in present case is regarding matainability & legalityl of the charge sheet on the ground that the offence under Section 185 of the MV Act is non-cognizable, and therefore, the police had no authority to investigate the matter without an order from the Magistrate under Section 155(2) of the Code of Criminal Procedure, 1973
3. It is further contended that the investigation was conducted without following the mandatory procedure for non-cognizable offences.
4. This court has perused the judgment of the Hon'ble Bombay High Court in Ms. Rani Shashank Doshi vs State of Maharashtra (Criminal Application No. 467 of 2012, decided on 28.11.2013), which has authoritatively held that:-
 - The offence under Section 185 of the MV Act is non-cognizable.
 - The police cannot investigate a non-cognizable offence without the order of a Magistrate under Section 155(2) CrPC
 - The filing of a charge sheet without such order and without registering an FIR is illegal and without jurisdiction.
5. In the present case, the prosecution has not shown that any order under Section 155(2) CrPC was obtained from a Magistrate prior to investigation. The charge sheet has been filed directly without following the due process of law.
6. In view of the binding precedent and the procedural illegality committed by the investigating agency, the charge sheet cannot be sustained.
7. Accordingly, the charge sheet is hereby dismissed. The accused is discharged. Bail bond, if any, stands cancelled.

Date-14/03/2026

Place-Dahod

(G.C.VAGHELA)

3rd Addl. CJM Dahod

code-GJ01373