

C.C.No. 3440/PS/24

Kasturba May Police Station.

C.R.No. 515/23

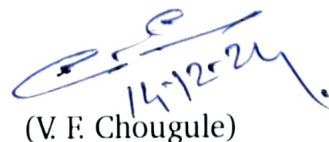
ORDER BELOW EXH. - 1

I have gone through the police papers. It appears that this case is registered for the offences punishable under Sections 188, 341, 131 of the Indian Penal Code, 1860.

It is pertinent to note that in view of Section 195 (1)(a)(i) of the Code of Criminal Procedure, 1973, it is mandatory to file a complaint by the concerned public servant or some other public servant to whom he is administratively subordinate in order to prosecute the accused for the offences punishable under Section 188 of the Indian Penal Code. In the case in hand, Officer in charge of police station has filed the final report and same cannot be termed as the complaint as defined in Section 2(d) of the Code of Criminal Procedure, 1973. As such, cognizance of the offences punishable under Section 188 of the Indian Penal Code is barred by Section 195(1) of the Code of Criminal Procedure, 1973. Offence punishable under Section 188 of IPC is the main offence in this case. Since cognizance thereof is barred, another offences punishable under Sections 188, 341, 131 of IPC does not survive. Thus, I am inclined to stop the present proceeding. Hence, I proceed to pass the following order.

ORDER

1. This proceeding is stopped under Section 258 of Criminal Procedure Code.
2. The accused is/are released.
3. Bail bonds of the accused, if any, stands cancelled.
4. Muddemal property, if already returned, be retained with the concerned person. His/their indemnity bond stands cancelled. If not returned, it be returned to the concerned person after the appeal period, after proper verification.


(V. F. Chougule)

Judicial Magistrate (First Class),
68th Court, Borivali, Mumbai.

Mumbai.
Date : 14/12/24