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| MHJN040017042020<br> | SCC. No.565 /2020<br>State Vs Shaikh Imran |
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**ORDER PASSED BELOW EXH.1**

1. The present charge-sheet is filed under Section 188 of the Indian Penal Code and Section 51-b of the Disaster Management Act during pandemic of Covid-19, thereby violating orders of District Collector, Jalna.
2. Offence under Section 188 of Indian Penal Code is non-cognizable. The court of Magistrate can take cognizance of such offences on written complaint by public servant concerned or of some other public servant to whom he is administratively subordinate.
3. Likewise, as per Section 60 of Disaster Management Act, no Court shall take cognizance of an offence under this Act, except on complaint made by National Authority, State authority, Central or State Government, District Authority or any Authority or office authorized in that behalf by Government as the case may be. Similarly, in the Judgment of Hon'ble Madras High Court in ***Shamsul Huda Bakavi Vs State represented by its Inspector of Police and another, decided on 26.06.2020***, held that for taking cognizance for the offences under Section 188 of IPC, the public servant should lodge a complaint in writing and other than that no Court has power to take cognizance. It is further held that the Police Officer can not register F.I.R. for any offence falling under Section 172 to 188 of the IPC. The Police Officer is not competent to register FIR for the said offences.

4. On perusal of charge-sheet, it is seen that Investigating Officer is a Police personnel, who has directly registered F.I.R. under Section 188 of IPC and Section 60 of Disaster Management Act, 2005 which is in violation of Section 195 of Cr.P.C. In such circumstances, the proceedings for the offence under Section 188 and 51-B or liable to be dropped. Hence, following order.

**ORDER**

- i) The proceeding in respect of offence punishable under Section 188 of the IPC and Section 51-B of the Disaster Management Act, 2005 are dropped.
- ii) The concerned competent authority is at a liberty to launch separate prosecution against the accused for the said offences by adopting proper procedure.

Date :16.03.2026

Judicial Magistrate First Class,  
Court No.1, Ambad.