

ORDER BELOW EXH.1

- 1) Police have been filed charge-sheet u/s. 188, 269, 270 IPC, Sec. 51(B) of National Disaster Management Act, 2005, Sec. 3 of Epidemic disease Act, 65(e), 83 of Bombay Prohibition Act.
- 2) However, as per Section 195 of the Cr.P.C., no court shall take cognizance of the offence punishable u/s. 188 of IPC except on the complaint in writing of the public servant concerned or some of the other servant to whom, he is administratively sub-ordinate. In this case, The District Collector, Nagpur or sub-ordinate has not filed the complaint but charge-sheet has been filed. Moreover, the offence under Sec. 3 of Epidemic disease act is also punishable under under 188 of IPC.
- 3) Moreover, as per section 60 of the Disaster Management Act, 2005, 'no court shall take cognizance of an offence under said Act except on a complaint made by (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorized in this behalf by that Authority or Government, as the case may be, or (b) any person who has given notice of not less than thirty days in the manner prescribe, of the alleged offence and his intention to make a complaint to the National Authority, the State Government, the District Authority or any other authority or officer authorized as aforesaid'.
- 4) Therefore, this court cannot take cognizance of the offence u/s. 188 of IPC, Sec. 3 of Epidemic disease Act and Sec.51(B) of National Disaster

Management Act, 2005. However, the charge-sheet for the offence is u/s. 269, 270 of IPC, 65(e) and 83 of Bombay Prohibition Act is maintainable. Hence, I pass following order :

ORDER

- 1) Proceeding under Sec. 188 of IPC, Sec. 3 of Epidemic disease Act and 51 (B) National Disaster Management Act stands dropped with liberty to prosecution to initiate appropriate proceeding as per law.
- 2) Particulars be framed against accused under u/s. 269, 270 of IPC, 65(e) and 83 of Bombay Prohibition Act.

Date : 02.05.2023.

(Padmakar S. Jondhale)
Judicial Magistrate First Class,
Katol.