

ORDER BELOW EXH-1 IN CRIMINAL CASE NO.20235 OF 2021

- (1) Perused the record of this case. In this case, Investigating Police Officer has filed charge-sheet against accused under section 188 IPC on the basis of FIR lodged against the accused under the same section. On perusing the record Police filed charge-sheet on the ground that accused violated the terms of promulgation issued by the Police Commissioner, Vadodara so he committed the crime under section 188 of IPC. In section 195 Cr.P.C., it is clearly written that no court shall take cognizance of offence punishable under sections 172 to 188 of IPC except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.
- (2) In **Daulat Ram v/s. State of Punjab, 1962 AIR 1206, Hon'ble Supreme Court described the scope of Section 195 Cr.P.C. and held that as per section 195 Cr.P.C.**, complaint must be in writing by the public servant concerned and if there is no compliance of this section then the trial was without jurisdiction and the conviction cannot be maintained.
- (3) As per the above discussion and considering provisions of Section 195(1) (A)(i) of Cr.P.C., the case of prosecution is not maintainable as per law. Hence the following order is passed.

:~: O R D E R :~:

- It is hereby ordered to drop the proceedings against the accused without going into the merits of this case, hence disposed of. However, it is clarified that it shall be open for the prosecution to file fresh proceedings against present accused by following procedure prescribed by law.

Signed and pronounced in Special Sitting today on this 10th day of July, 2021 at Vadodara.

**[Samir Ratilal Sangani]
(GJ-01046)
22nd Addl. Chief Judicial Magistrate,
Vadodara.**