

Criminal Procedure Code, 1973 (II of 1974), Section 195(1)(a) – Section 188 IPC was the main offence – Under Section 195(1)(a) for a court to take cognizance there should be a written complaint and such complaint should be filed either by the officer issuing such promulgation order or the officer above his rank – Prohibitory order under Section 144 of IPC was promulgated by the Commissioner of Police and not the complainant, a Police Inspector – Procedure under Section 195(1)(a) not followed – Therefore the first information report, charge sheet and the order taking cognizance on such charge sheet are without jurisdiction – If the offences form part of same transaction of the offences contemplated under Section 195(1) of Cr.P.C, then it is not possible to split up and hold that prosecution of the accused for the other offences should be upheld – Therefore the entire complaint, first information report, charge sheet and the order taking cognizance are liable to be quashed

CrPC S. 195(1)(a), IPC S. 188, IPC S. 144

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