

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2864 OF 2021

Pramod s/o. Durgadas Patil and anr. ..Applicants

Vs.

The State of Maharashtra and anr. ..Respondents

Mr.G.K.Naik-Thigle, Advocate for applicants
Mr.R.V.Dasalkar, APP for respondent - State

**CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : OCTOBER 16, 2023**

ORDER :-

Heard.

2. The applicants are sought to be prosecuted for the offence punishable under Section 188 of Indian Penal Code. Cognizance of the said offence has been taken on the basis of the police report under Section 173 of the Code of Criminal Procedure (Cr.P.C.) There is interdict of Section 195(1) of the Cr.P.C. Cognizance of the said offence has only to be taken based on the complaint lodged by the concerned public servant or his sub-ordinate duly authorised in this behalf. Since cognizance has not been taken on complaint but police report, interdict of Section 195(1) of Cr.P.C. comes with full force.

3. We, therefore, allow this application and set aside action of taking cognizance of the police report.

4. Liberty to comply with the mandate of the Code of Criminal Procedure and file complaint, if so advised.

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP