

**IN THE SUPREME COURT OF INDIA**

**[Order XXI Rule 3(1)(a)]**

**CRIMINAL APPELLATE JURISDICTION**

**SPECIAL LEAVE PETITION**

**(Under Article 136 of the Constitution of India)**

**SPECIAL LEAVE PETITION (CRIMINAL) NO. \_\_ OF 2021**

**IN THE MATTER OF:**

**Priyanka Singh**

**... Petitioner**

**Versus**

**State of Maharashtra and Ors**

**... Respondents**

**Along With**

**CRL.M.P.**

**of 2021**

**(Application for Exemption from filing certified copy of Impugned order)**

**PAPER – BOOK**

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**ADVOCATE ON RECORD FOR THE PETITIONER: NITIN SALUJA**

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**IN THE MATTER OF:**

**Priyanka Singh**

**... Petitioner**

**Versus**

**State of Maharashtra and Ors**

**... Respondents**

**OFFICE REPORT ON LIMITATION**

1. The Petition(s) is / are within time.
2. The Petition is not barred by time and there is delay of Nil days in filing the same against Order dated 15.02.2021 and petition for condonation of Nil days delay has been filed.
3. There is delay of \_\_\_\_\_ days in refiling the petition and Petitioner for condonation of Nil days delay in refiling has been filed.

**BRANCH OFFICER**

**NEW DELHI:**

**DATED:25.02.2021**

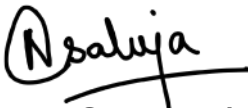
**LISTING PROFORMA  
IN THE SUPREME COURT OF INDIA**

The case pertains to (Please tick/check the correct box):	
Central Act:( Title)	Criminal procedure code 1973, Constitution of India
Section:	Article 226 of the Constituion read with Section 482 of CrPC
Central Rule:(Title)	NA
Rule No. (S):	NA
State Act: (Title)	NA
Section:	II - A
State Rule: (Title)	NA
Rule No. (S):	NA
Impugned Interim Order: (Date)	15.02.2021
High Court : (Name)	IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Names of Judges:	HMJ S.S Shinde ,HMJ M.S Karnik JJ
Tribunal/Authority: (Name)	NA
1. Nature of Matter:	Criminal
2. (a) Petitioner/appellant No. 1	Priyanka Singh
(b) e-mail ID:	varun.singh@skvlawoffices.com
(c) Mobile Phone Number:	+91 9999422728
3. (a) Respondents:	State of Maharashtra & Ors
(b) E-Mail ID:	NA
(c) Mobile phone Number:	NA
4. (a) Main category classification:	1418
(b) Sub classification:	N/A
5. Not to be listed before:	NA
6. (a) Similar disposed of matter with citation, if any, & Case details:-	No similar matter is disposed.
(b) Similar pending matter with case details:	No similar matter is pending.
7. Criminal Matters:	Yes
(a)Whether accused/convict has surrendered:	NA

(b) FIR No.	576/2020
(c) Police Station:	Bandra Police Station, Mumbai
(d) Sentence Awarded:	N.A.
(e) Sentence Undergone:	N.A.
8. Land Acquisition Matter:	N.A.
(a) Date of Section 4 notification:	NA
(b) Date of section 6 notification:	NA
(c) Date of section 17 notification:	NA
9. Tax Matters: State the tax effect:	N.A.
10.Special Category(fors petitioner/ appellant only):	N.A.
Senior citizen > 65	N.A.
SC/ST	N.A.
Women/child	N.A.
Disabled	N.A.
Legal Aid case	N.A.
In custody	N.A.
11. Vehicle Number (In case of Motor Accident Claim Matters):	N.A.

Dated: 25.02.2021

New Delhi

  
(NITIN SALUJA)

ADVOCATE FOR THE PETITIONER

## **SYNOPSIS**

The Petitioner is aggrieved by the Judgment and Final Order dated 15.02.2021 passed by the Hon'ble High Court of Bombay at Mumbai in Writ Petition Criminal stamp. No. 2712 of 2020 dismissing the quashing petition qua Petitioner under Article 226 read with Section 482 of Criminal Procedure Code, 1973. It is submitted that the Hon'ble High Court has overreached its power by examining allegations which were placed before Police through media reports.

The present petition is one of the rarest of rare cases wherein the Complainant herself withdrawn her main case on 14.09.2020 and same has been stated by her on affidavit in reply filed by her before Hon'ble High Court. While, the Investigating agency, i.e. C.B.I., Respondent No. 3 herein, had also specifically held that registration of F.I.R. was manifestly illegal and without any jurisdiction. The affidavit of Respondent No.3 before the Hon'ble High Court also records that as per observation of this Hon'ble Court no second FIR could have been registered after the inquest proceedings by Maharashtra police was closed. Despite complainant as well as the prosecuting agency clearly stating that no case is made

out, the Hon'ble High Court has not quashed the second FIR which is without authority of law.

The Hon'ble High Court also failed to observe that registration of FIR was also teeth in order passed by this Hon'ble Court in matter of Rhea Chakraborty Vs State of Bihar (Transfer Petition Crl. 225 of 2020) on 19.08.2020, wherein para 34 this Hon'ble Court had directed that Respondent No. 1 can only register the case arising out of inquest proceedings of late actor Sh. Sushant Singh Rajput.

The present Special Leave Petition has been preferred for quashing of the F.I.R. 576 of 2020 dated 07.09.2020 registered against the Petitioner, on the basis of material discovered by the Respondent No. 2 through media networks etc. It is pertinent to note that entire case of Respondent No. 2 is based on Media Report which do not have any credibility as to the source or authenticity of such reports. Further, this Hon'ble Court in Dr. B. Singh Versus Union of India [(2004) 3 SCC 363] has specifically held that media report are not admissible in evidence, thus by no stretch of imagination it can be held that there is any case against Petitioner.

The Hon'ble High Court failed to observe that delay in present FIR is of 91 days and same has been registered

without any preliminary inquiry as mandated by this Hon'ble Court in Lalita Kumari Vs. Government of U.P. &ors. [(2014) 2 SCC 1]. This conduct of Respondent No. 1 shows that present FIR was registered hurriedly on same day without any inquiry and smacks of malice and vengeance as Respondent is herself accused in case of death of late actor Sh. Sushant Singh Rajput filed by father of Petitioner in FIR No. 241 of 2020 at P.S. Rajiv Nagar at Patna.

These facts are extremely relevant as Maharashtra Police was extremely swift to register a FIR on the very same date i.e. 07.09.2020, the day on which the complaint was given by Respondent No.2 regarding an incident that occurred on 08.06.2020, whereas no such FIR was registered when the matter was being looked into by the Maharashtra Police during their inquest proceedings.

Without prejudice, it is case of Respondent No. 2 that she has procured the alleged prescription from media, which was allegedly given to late actor by Petitioner on 08.06.2020. However, Respondent No. 2 has also stated that she had knowledge about the chats qua prescription on 08.06.2020, but she has never told about the same in different statements to police, CBI or interviews in News channel. It is also pertinent to mention that Respondent

No.2 after the death of late actor had specifically written to the Hon'ble Home Minister on 16/07/2020 stating that she was not aware of the cause of death and requested the CBI inquiry for the same.

It is also shocking that the Impugned Order has recorded observations against the Doctor Tarun Kumar, who is a senior cardiologist working in RML Hospital Delhi and was not before the Hon'ble High Court of Bombay in the said proceedings.

From our understanding, Dr. Kumar had the requisite qualification and the authority to prescribe the alleged drugs. It is pertinent to mention that the prescription was provided in accordance with the MCI Regulations and Telemedicine Practice Guidelines and Telepsychiatry Operational Guidelines, where it is permitted to medical practitioner to prescribe medicine through teleconsultation and also through caregiver.

The Impugned Order has also sought to carve out exception from the judgment passed by this Hon'ble Court in Jacob Matthew Vs. State of Punjab & Anr. [2005 (6) SCC 1], which protects medical officers from criminal proceedings. The Hon'ble High Court has given a restrictive meaning to the judgment of this Hon'ble Court by looking at the alleged role of the Doctor in prescribing

the alleged medicine and failed to appreciate that the alleged prescription was prescribed by doctor in discharge of his professional duty and in ordinary course of business. Thus, without ascertaining whether medicine prescribed contained any such substance as alleged to be banned under NDPS Act, without any inquiry from petitioner if any teleconsultation was done, and without any opinion of expert the FIR was registered in gross violation of Jacob Matthew Vs. State of Punjab & anr . It is submitted that in case the proposition laid down by the Hon'ble High Court is upheld, it would have grave impact upon the professional doctors across the country. By limiting the meaning of medical negligence and carving out an exception which involves the skill set essential for performing a doctor's job could cause fear across the country. And the doctors in future would not be free to prescribe medicine knowing fully well that such activity is not free from criminal prosecution.

It is also to be noted that father of Petitioner had filed FIR No. 241 of 2020 at P.S. Rajiv Nagar at Patna wherein, Respondent No. 2 is accused in FIR for death of late actor Sh. Sushant Singh Rajput. It is to be noted that present FIR has also been made by Respondent No. 2 as an afterthought related to death of late actor. It is submitted that registration of present FIR is also in violation of TT

Anthony Vs. State of Kerala [(2001) 6 SCC 181] as registration of second F.I.R. would amount to two simultaneously proceedings resulting in multiplicity of proceedings, when it has been mandated that subsequent statement shall be treated as statement under Section 162 Cr.P.C.

The Hon'ble High Court has failed to examine any of the issues raised and therefore, is causing prejudice to the Petitioner.

Hence, the present Special Leave Petition.

**List of dates and Events**

<b>Date</b>	<b>Events</b>
February 2020	<p>The relative of the Petitioner herein, fearing the safety and well-being of Late Actor, Sh. Sushant Singh Rajput, <i>via WhatsApp</i> messages conveyed the worries of the family in relation to the Actor to the DCP, Mumbai Police requesting him to look into the same.</p> <p>A true copy of the WhatsApp messages sent by the relatives of Petitioner dated February 2020 along with a true typed copy of the same is annexed herewith and marked as <b>Annexure P-1</b> Pages (76 to 78 )</p>
08.06.2020	<p>It is the allegation of Respondent No.2 that Petitioner messaged her brother regarding some medicines which were banned under the NDPS Act. It has also been alleged by Respondent No.2 that she directed the late actor to not take such medicines and when the late actor refused, the Respondent No.2 decided to leave the residence.</p> <p>The entire story regarding the alleged</p>

incident was manufactured for the first time when Respondent No.2 was about to be arrested by the NCB. None of these facts were ever disclosed in any of the statements of Respondent No.2 prior to complaint.

14.06.2020 Tragically and in the most unfortunate manner Bollywood actor Sh. Sushant Singh Rajput, aged about thirty-four (34) years was found dead at his residence. The same was declared to be a 'suicide' by the Respondent No. 1 investigating agency.

18.06.2020 The Respondent No. 2 was summoned by the police station to record her statement in the case related to death of Late Sh. Rajput.

18.06.2020 Mumbai Police recorded the statement of to more than fifty-six (56) people during

28.07.2020 this time in inquiry related to death of Sh. Sushant Singh Rajput. No F.I.R. was however registered despite previous intimation of by the family about there apprehension.

16.07.2020 Respondent No.2 after the death of late actor had specifically written to the

Hon'ble Home Minister stating that she was not aware of the cause of death and requested the CBI inquiry for the same.

25.07.2020 Grossly dissatisfied with the investigation done by Mumbai Police, the father of Petitioner preferred a complaint to the Rajiv Nagar Police Station, Patna, Bihar, against the Respondent No. 2 and others which got registered as F.I.R. 211 of 2020.

A true typed copy of the FIR No.241 of 2020, P.S. Rajiv Nagar is annexed herewith and marked as **Annexure P-2** Pages (79 to 89 )

29.07.2020 The Respondent No. 2 filed Transfer Petition (Crl.) 225 of 2020 before the Hon'ble Supreme Court of India for transfer of the abovementioned F.I.R. to Mumbai. It is pertinent to note that Respondent No. 2 did not raise a single averment against the Petitioner in the said transfer petition. Or mention anything about any foul play being committed by Petitioner.

A true copy of the Transfer Petition (Crl.) 225 of 2020 filed before the Hon'ble

Supreme Court by the Respondent No. 2 is annexed herewith and marked as **Annexure P-3** Pages ( 90 to 150 )

30.07.2020 A case was filed against the Respondent No. 2 and others by the Enforcement Directorate (ED).

18.08.2020 A day before the Hon'ble Apex Court was due to pronounce its judgment on the Transfer Petition, the Respondent No. 1 released a 'statement/clarification' to the press and media, making several claims.

19.08.2020 The Hon'ble Supreme Court upheld the F.I.R. filed by father of Petitioner before the Patna Police and ordered the CBI to investigate the matter. It is important to note that Hon'ble Supreme also ordered that Mumbai Police can only register the case arising the out of inquest proceedings and no new case can be registered by Respondent No. 1.

A copy of the judgment dated 19.08.2020 in Transfer Petition (Cr1.) 225 of 2020 is annexed hereto marked as **Annexure P-4** Pages (151 to 185)

21.08.2020 As per the News reports, the Respondent No.1 transferred all documents and

materials pertaining to the inquest proceedings to the Respondent no.3 without registering any FIR. Therefore, present registration of FIR by Respondent No.1 on 07.09.2020 is void ab initio and without any jurisdiction.

27.08.2020 The Narcotics Control Bureau (NCB) filed a case against the Respondent No. 2 and other for their alleged involvement in the dealing with banned substances and drugs.

On the same date the Respondent No. 2 made a public appearance by way of an interview telecasted by India Today wherein she clearly stated that she left the residence of Late Sh. Sushant Singh Rajput on 08.06.2020 since the Late Actor had been persistent that she move to her own place since 01.06.2020. There was no mention of any conflict on medication etc. as is now being claimed by the Respondent No. 2. Thus, present FIR is clearly an afterthought to rope in family members of Late Actor after the delay of 83 days.

The transcript of the relevant extract of

the interview from 09:26 minutes to 14:55 minutes is annexed hereto marked as **Annexure P-5** Pages (186 to 188 )

28.08.2020 The Respondent No. 2 was summoned by the CBI for questioning. She was reportedly questioned for three (3) consecutive days.

01.09.2020 News Channels reported that the Respondent No. 2's parents were summoned for questioning by CBI. Simultaneously, on the same date news reports regarding the alleged fabricated medical prescription mentioned in the FIR went viral on the social media. The sources were unknown and it was neither confirmed by any news channel as to where these medical prescription and the whatsapp chats were discovered.

05.09.2020 Respondent No. 2's brother and some other were arrested in relation to the investigation of the NCB. It was claimed that the Respondent No. 2's brother along with others had been involved in procurement of drugs.

--- With the high probability of an imminent arrest, the Respondent No. 2, through

various news channels tried to overturn the situation. The legal team of the Respondent No. 2 was widely quoted as the investigation being a 'witch hunt' and also claimed that the Respondent No. 2 was innocent and ready for arrest and would not prefer anticipatory bail.

07.09.2020 Despite the above-stated claims, the Respondent No. 2 proceeded to prefer the present Complaint before the Bandra Police Station, which was promptly registered as F.I.R. 576 of 2020 on the very same day without any verification of authenticity or preliminary inquiry violating the numerous guidelines issued by this Hon'ble Court. The Respondent No.2 was arrested by the NCB by the very next date.

A copy of the F.I.R. dated 07.09.2020 along with a typed copy of the same is annexed hereto and marked **Annexure P-6** Pages ( 189 to 193 )

A copy of the Complaint dated 07.09.2020 signed by Inspector of the Respondent No. 1 is along with a typed copy of the same is annexed hereto and

marked as **Annexure P-7** Pages ( 194 to 209 )

08.09.2020 On the date of arrest, the lawyer of the Respondent No.2 released a completely new statement about the deceased acted claiming him to be drug addict and mentally unstable and making further allegations against the illegal drugs referred in the FIR. Thus, it is evident that during the course of proceedings statements on behalf of Respondent No.2 have conveniently changed over the period of time to suit her position.

14.09.2020 Respondent No. 2 withdrew her case of abetment of suicide same is also mentioned in reply filed by Respondent No. 2 before Bombay High Court.

The true copy of Reply filed by Respondent No. 2 is annexed herewith as **Annexure P-8** (Pages 210 to 262 )

03.10.2020 Petitioner along with her sister, who was also accused in subject FIR filed Writ Petition for quashing of F.I.R. 576 of 2020 dated 07.09.2020, P.S. Bandra, Mumbai.

15.02.2021 Hon'ble Bombay High Court, vide

Impugned Order, quashed the F.I.R. qua the Meetu Singh (Sister of Petitioner, herein). However, Hon'ble High Court had overlooked several aspects such as withdrawal of case by Respondent No. 2 herself. The reply filed by Respondent No. 3, which is investigating agency in present case, also stated that Mumbai Police could not have registered the subject F.I.R..

The True copy of reply filed by Respondent No. 3 in before Hon'ble Bombay High Court is annexed herewith as **Annexure P-9** Pages ( 263 to 284 )

Hon'ble High Court has also overlooked guidelines mandated by this Hon'ble Court in case of Jacob Matthew Vs. State of Punjab &anr. **[2005 (6) SCC 1]** and Lalita Kumari Vs. Governement of U.P. &ors**[(2014) 2 SCC 1]**. The Hon'ble High Court has also overlooked Medical Council of India (Professional Conduct, Etiquette and Ethics), Regulations 2002 issued in March 2002 and Amended on 08.10.2016, Telemedicine Practice Guidelines and Telepsychiatry

Operational Guidelines, 2020.

The Hon'ble High court has also overlooked Public Notice No. MCI-211(2)/2019(Ethics)/201874 dated 11.04.2020 vide which, the MCI has specifically notified that the drug, Clonazepam, can be prescribed to a patient even at the first consultation through telemedicine.

A true copy of the Medical Council of India (Professional Conduct, Etiquette and Ethics), Regulations 2002 is annexed herewith and marked as **Annexure P-10** Pages ( 285 to 304 ).

A copy of the Telemedicine Practice Guidelines are annexed hereto marked as **Annexure P-11** Pages ( 305 to 348 )

A true copy of relevant excerpt of Telepsychiatry Operational Guidelines, 2020 is annexed hereto marked as **Annexure P-12** Pages ( 349 to 350 ).

A true copy of the Public Notice dated 11.04.2020 is annexed hereto marked as **Annexure P-13** Pages ( 351 ).

25.02.2021 Hence, this Special Leave Petition.

Ingale/DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION STAMP NO. 2712 OF 2020**

1. Priyanka Singh  
Age 39,  
Resident : C-10, Second Floor,  
Naraina Vihar,  
New Delhi 110 028.

2. Meetu Singh  
Age -45,  
Resident B -21,  
Rajnighandha Apartment  
Goregaon West,  
Mumbai - 400 104.

....Petitioners

Vs.

1. State of Maharashtra  
Through Inspector of Police  
Bandra Police Station,  
Mumbai, Maharashtra

2. Miss. Reha Indrajit Chakraborty  
Age : 28 years  
101, Primrose Apartment,  
Near SNTD College,  
Juhu Road, Santa Cruz,  
West Mumbai 400 054.

3. Central Bureau of Investigation  
Through Directors,  
Plot Not. 5 - B, 6<sup>th</sup> Floor,  
CGO Complex, Lodhi Road,  
New Delhi 110 003.

..... Respondents

Mr.Vikas Singh, Sr. Advocate a/w Mr.M.V. Thorat i/b Mr.M.V.Thorat,

for the Petitioners.

Mr.Satish Maneshinde a/w Ms.Namita Maneshinde, for Respondent No.2.

Mr.Devdatta Kamat, Sr.Advocate a/w Mr.Deepak Thakre, PP, Mr.S.R.Shinde, APP a/w Mr.J.P. Yagnik, APP, Mr.Rajesh Inamdar and Mr.Hemant Shah, for Respondent No.1 - State.

Mr.Anil C.Singh, ASG a/w Mr.Sandesh Patil a/w Mr.D.P. Singh, for Respondent No.3 - CBI.

**CORAM : S. S. SHINDE &  
M. S. KARNIK, JJ**

**RESERVED ON : 07<sup>th</sup> JANUARY, 2021  
PRONOUNCED ON : 15<sup>th</sup> FEBRUARY, 2021**

**JUDGMENT : (PER M.S. KARNIK, J.)**

Rule. Rule is made returnable forthwith. Heard finally with consent.

2. This Petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure ( for short 'CrPC) takes an exception to the FIR no. 576 of 2020 registered at Bandra police station, Mumbai for offences punishable under Section 420, 464, 465, 466, 474, 468, 306, 120B, read with 34 of Indian Penal Code and Sections 8(C) , 21, 22A, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ' NDPS Act').

3. The Petitioners pray for quashing of the FIR on the following set of facts.

4. It is the case of the Petitioners that they suffered untimely and unfortunate demise of their brother Shri Sushant Singh Rajput on 14/6/2020. Petitioner No.1 is a lawyer. Petitioner No.2 is an ex-cricketer had represented the State of Bihar. It is the case of Petitioners that, they find themselves in midst of controversy as a result of registration of an impugned FIR based on unfounded allegations, unsubstantiated facts and a misleading complaint which is clearly a counterblast to the FIR filed by Petitioner's father against Respondent No.2 being FIR No.241/2020 dated 25/7/2020. It is their case that FIR is registered by Respondent No.1 on 07/09/2020 on complaint of Ms. Rhea Indrajit Chakraborty (Respondent No.2) in most illegal and arbitrary manner without following the due process of law. Respondent No.2 is the prime accused in FIR No. 241 of 2020 filed by father of Petitioners.

5. Learned Senior Advocate Shri Vikas Singh appearing on behalf of Petitioners invited our attention to the complaint made by Respondent No.2 on the basis of which the impugned

FIR came to be registered. Learned Senior Advocate pointed out that FIR seeks to narrate the sequence of events pertaining to alleged events that had taken place on 08/06/2020. The FIR is filed by Respondent No.2 inter alia contending that the accused persons conspired with each other and illegally procured false prescription on the letter head of the government hospital which contained psychotropic substances 'clonazepam' and 'chlorodiazepoxide' which are listed at Item 36 & 38 of NDPS Act and administered the same to late actor Sushant Singh Rajput.

6. Respondent No.1 registered FIR at around 11.55 p.m. on 07/09/2020 and on the very next date i.e. on 08/09/2020 transferred the case to Respondent No.3. It is pointed out by learned Senior Advocate that the complainant i.e., Respondent No.2, in the said FIR has made various allegations that the Petitioners along with Dr. Tarun Kumar had 'hatched a conspiracy' and obtained a 'false prescription' and administered banned medicines to late Shri Sushant Singh Rajput, which 'may result in a chronic anxiety attack and resulted into commission of suicide and abetted the same.'

7. Learned Senior Advocate urged that the contents of

the FIR, even taken at face value, do not constitute allegations of any cognizable offences. He submitted that Respondent No.2 after the death of late actor had specifically written to the Hon'ble Home Minister on 16/07/2020 stating that she was not aware of the cause of death and requested the CBI inquiry for the same. It is his contention that present complaint is a glaring material departure from Respondent No.2's own statement and such material conflict cannot be overlooked from consideration before registration of an FIR.

8. Learned Senior Advocate then submitted that the complainant has relied upon alleged whats-app messages and medical prescription given to late actor which were circulated in social media. According to him the said messages were purportedly being circulated in news channels and also reported by newspapers which did not disclose its source. He therefore urged that the Respondent No.1 without conducting a preliminary enquiry regarding the source of the information have registered an FIR in haste due to ulterior motives. Learned Senior Advocate relied upon the decision of the Hon'ble Supreme Court in the case of <sup>1</sup>**Dr.B.Singh Versus Union of India** to urge that Their Lordship have held that newspaper reports cannot be treated as

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<sup>1</sup> (2004) 3 SCC 363

evidence. Learned Senior Advocate was at pains to submit that the registration of FIR without enquiry smacks of vengeance, a counterblast and also reflects grave impropriety and abuse of process.

9. Learned Senior Advocate then pointed out that the case of Respondent No.2 primarily relates to abetment of suicide by the Petitioners which stands withdrawn by the letter dated 14/09/2020 wherein it is clearly stated by Respondent No.2 that she withdrew her case of abetment of suicide. It is then contended that in the complaint there are no allegations of forgery nor consumption of illegal drugs and the entire case of the Respondent No.2 against the Petitioners is false and flimsy. He submitted that in the complaint it is nowhere alleged that the alleged prescription of drugs was used by any person for purchase of drugs nor there is allegation that late actor consumed drugs allegedly prescribed. According to him, complainant only made out the case of abetment of suicide as the offence and the Respondent No.2 has been extra indulgent in adding sections on its own both under IPC and under the NDPS without the ingredients of said sections being made out in the allegations. Learned Senior Advocate further submitted that there is inordinate delay of 83 days in lodging the FIR in as much

as the alleged incident and the averments in the FIR were known to the complainant on the date of the incident itself and the delay has been not at all explained by the complainant. Learned Senior Advocate emphasized that the complainant has claimed to have knowledge of the alleged medical prescriptions since 08/06/2020 having seen the alleged chats herself, but has failed to explain as to why she remained silent for 83 days and then makes an allegation only after she has been made prime accused in the FIR filed by father of the Petitioners. In his submission the Hon'ble Supreme Court in the case of <sup>2</sup>**Lalita Kumari Vs. Governement of U.P. & ors.** has held that a preliminary enquiry is mandatory in such cases which was not done in present case.

10. Learned Senior Advocate further submitted that the FIR is in violation of the guidelines laid down by the Hon'ble Supreme Court in <sup>3</sup>**Jacob Matthew Vs. State of Punjab & anr.** wherein it has been held that obtaining a medical opinion from experts is sine qua non for direction and investigation of offences against a registered medical practitioner. Learned Senior Advocate submitted that the private complainant and the police cannot have the requisite knowledge of medical science as

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2 (2014) 2 SCC 1

3 2005 (6) SCC 1

to determine whether Tele Medicine Guidelines or Tele Psychiatry Guidelines have been adhered or not and only an expert is required to determine whether alleged prescribed medication is actually a salt of 'clonazepam' or 'chlorodiazepoxide. He thus submitted that FIR has been registered without taking into account expert's opinion and the same is in violation of the guidelines issued by Their Lordships in the case of **Jacob Mathew** (*supra*). Learned Senior Advocate contends that Dr.Tarun Kumar is an authorized medical practitioner in accordance with the MCI Regulations and Telemedicine Practice Guidelines and Telepsychiatry Operational Guidelines, therefore he is authorised to prescribe the alleged drugs. He pointed out that Dr.Tarun Kumar is a senior interventional cardiologist working in RML Hospital Delhi who had the requisite qualification and the authority to prescribe the alleged drugs. Our attention is invited to the relevant portion 4.2.1 of the guidelines which reads thus :

"4.2.1 For the purpose of these guidelines "Caregiver" could be a family member, or any person authorised by the patient to represent the patient."

11. Our attention is drawn to these guidelines in support of his submission that the Petitioners are the sisters of late Shri

Sushant Singh Rajput and are related by blood to him. Thus, according to him, telemedicine guidelines clearly grant status of caregiver to the Petitioners. He therefore urged that the allegation of Respondent No.2 – complainant that Petitioner could not get the said prescription issued is completely baseless. He further submitted that telemedicine and telepsychiatry guidelines allowed consultation through telemedicine for issuance of drugs as per the requirement of the patient. In support of his submissions, learned Senior Advocate relied upon the decision of the Apex Court in the case of <sup>4</sup>**Mir Nagvi Askari Vs. C.B.I.** and <sup>5</sup>**Mohammad Ibrahim and ors. Vs. State of Bihar and anr.**

**12.** It is further submitted that the provisions of NDPS Act under which the accusations against the Petitioners are preferred pertains to production, manufacturing, possession, sale, purchase, transport, warehouse, usage, consumption, import/export etc., except for medical or scientific purposes. It is his submission that the NDPS Act does not criminalize the mere writing of a prescription as alleged by complainant. Learned Senior Advocate vehemently urged that though it is the allegation of the complainant that alleged medicine was

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4 92009) 15 SCC 643

5 (2009) 8 SCC 751

41. wpst 2712.20- final.doc

prescribed by Dr.Tarun Kumar at instance of the Petitioner No.1, however bare reading of complaint shows that there is not even a single allegation nor any information as to whether any such medicine was actually procured or administered to anyone. It is therefore his contention that FIR is registered on vague complaint based on alleged conjectures and surmises with ulterior motive to frame the Petitioners.

13. It is then contended by learned Senior Advocate that the FIR has been registered in direct contravention of the order passed by the Hon'ble Supreme Court in the case of Rhea Chakraborty Vs. State of Bihar [Transfer Petition (Cri.) 225 of 2020] vide order dated 19/08/2020. He invited our attention to paragraphs 34, 36 & 41 of the order passed by Hon'ble Supreme Court in support of his submissions. It is thus urged that Respondent No.1 - complainant did not have any independent right to register any new case but were permitted to register a case only on the condition that some cognizable offence came out during the inquest proceedings under section 174 and section 175 of the CrPC after concluding the inquest proceedings.

14. The next contention of learned Senior Advocate is that no

second FIR can be registered on the basis of the same cause of action, as already FIR No. 241 of 2020 registered at Rajiv Nagar Police Station, Patna, subsequently transferred to CBI, is pending on same cause of action. It is the submission of learned Senior Advocate that any information received on same cause of action should be part of the ongoing investigation even if it discloses different offence. Learned Senior Advocate relied upon the decision of the Honble Supreme Court in the case of <sup>6</sup>**TT Anthony Vs. State of Kerala** to contend that the complaint given by Respondent No.2 can only be treated as statement under section 162 CrPC and cannot form basis of present FIR.

15. Lastly, Senior Advocate submits that the FIR is a counterblast to the earlier FIR filed by Petitioners's father in which the Respondent No.2 is the prime accused. Learned Senior Advocate submits that the present FIR is nothing but an instance of malicious prosecution where the unsubstantiated and baseless allegations do not disclose the commission of any offence and the proceeding is manifestly attended with mala fide and the same deserves to be quashed at the threshold as held by the Hon'ble Supreme Court in the case of State of <sup>7</sup>**State of Haryana and ors. Vs. Bhajan Lal and Ors.**

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6 (2001) 6 SCC 181

7 AIR 1992 SC 604

16. Learned Senior Advocate Mr.Devdas Kamat appearing on behalf of Respondent No.1 invited our attention to the allegations made in the complaint and submits that the police was duty bound to register FIR in respect of the information received on commission of cognizable offences. According to him, as complaint discloses the commission of cognizable offence, hence, the Respondent No.1 was statutorily obliged under section 154 of CRPC and the law laid down by the Hon'ble Supreme Court in the case of State of Haryana **and ors. Vs. Bhajan Lal and Ors.** (*supra*) to register the FIR. He points out that the Respondent No.1 registered the FIR at around 11.55 p.m. on 07/09/2020 and on the very next day i.e. on 08/09/2020 transferred the case to Respondent No.3. According to him, the Hon'ble Supreme Court while transferring the investigation to CBI categorically observed that any further case relating to the death of Shri Sushant Singh Rajput if registered in Mumbai, will be investigated by CBI. Hence, it is the submission of learned Senior Advocate that the contention of the Petitioners that by virtue of order dated 19/08/2020 of the Hon'ble Supreme Court transferring the case to CBI, Respondent No.1 has no jurisdiction to register the impugned FIR is completely misconceived and baseless. He invited our attention to paragraphs 36 & 41 of the Hon'ble Supreme Court's order in Rhea Chakraborty Vs. State of

Bihar (supra) in support his contentions.

17. Learned Senior Advocate then submits that the impugned FIR prima facie discloses commission of cognizable offences under the relevant provisions of IPC and NDPS Act. It is submitted that purported OPD prescription dated 08/06/2020 , whats-app chat conversation between the Petitioners and late actor Shri Sushant Singh Rajput categorically pointed out that the medicines were being prescribed without online consultation. He then invited our attention to the OPD registration card and it is his submission that the contents therein would clearly reveal that the same is fabricated and is purportedly issued without examination of the late actor, as Shri Sushant Singh Rajput was actually in Mumbai. According to him, the whatsapp conversation and time of the conversation between the Petitioner No.1 and late actor prima facie demonstrates that no teleconsultation actually took place between late actor and Dr.Tarun Kumar. He submits that the whats-app conversation and the materials on record requires investigation as the same clearly indicates that there was not even an online consultation with the Doctor and the prescription is fabricated. Inviting our attention to the alleged prescription read with Rule 65A of NDPS Act and Rule 65 of the Drugs and Cosmetics Rules, he submits

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that the provisions mandates that substances specified in schedule H & H1 shall not be sold without prescription. Our attention is also invited to Rule 97 to contend that the drugs prescribed cannot be purchased over the counter without the prescription of a qualified doctor. It is submitted that schedule H1 covers highly sensitive drugs. He submits that both the drugs are included in the schedule of the NDPS Act and also forms the part of Schedule H and H1 of the Drugs and Cosmetic Rules and are clearly psychotropic drugs falling within the prohibition of section 8 of the NDPS Act which requires thorough investigation to ascertain whether consumption of high dosage or otherwise of such drugs which are clearly not over the counter drugs caused unfortunate death of the late actor.

18. He further urged that owing to the risk to human beings, drug "Chlorodiazepoxide" is also prohibited under section 26-A of Drugs and Cosmetics Act, 1940 to be sold, manufactured or distributed as fixed dose combinations. It is then submitted by learned Senior Advocate that Telemedicine guidelines published in March 2020 has laid down the manner in which prescription can be given during tele consultation session with the patient. Learned Senior Advocate submitted that there has to be effective consultation which was not even prima facie carried out in the

case. He invited our attention to clauses 3, 3.2, 3.3, 3.4, 3.5, 3.6, 4.2, 4.4, 4.5 to contend that the guidelines have been clearly violated in the present case. According to him, in the instant case, no video consultation has been done whatsoever which is evident from the OPD prescription and whats-app conversation between the Petitioners and late actor Sushant Singh Rajput. Learned Senior Advocate then submitted that the Hon'ble Supreme Court in the case of <sup>8</sup>**Upkar Singh Vs. Ved Prakash** has explained and clarified the judgment in 'TT Antony' and observed that said case does not exclude the registration of a complaint in the nature of a counterclaim from the purview of the court. According to him what had been laid down in the aforesaid case is that any further complaint by the same complainant against the same accused, subsequent to the registration of a case, is prohibited under the CrP.C. because an investigation in this regard would have already started and further the complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint. He therefore submits that this rule will not apply to a counter claim by the accused in the first complaint or on his behalf alleging a different version of the said incident. He submits that as there are rival versions in respect of the same

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8 (2004) 13 SCC 292.

episode, the Investigating Agency would take the same on two different FIRs and investigation can be carried under both of them by the same investigating agency and thus, filing an FIR pertaining to a counter claim in respect of the same incident having a different version of events is permissible.

19. Learned Senior Advocate then submitted that law laid down by the Hon'ble Supreme Court in the case of Jacob Matthew (supra) is not applicable to the present facts. According to him, Jacob Matthew was the case of medical negligence whereas the instant case is not a medical negligence case. He then relied upon the decision of the Apex Court in the case of <sup>9</sup>**State of Karnataka Vs. Pastor P. Raju** to contend that the power under section 482 read with 226 of the Constitution of India ought not to be used to stifle legitimate prosecution or investigation and such power has to be exercised sparingly. In his submission, the legal position is well settled that the High Court ought not to interfere with and quash the entire proceedings in exercise of power conferred by Section 482 CrPC when the matter is still at the investigation stage. He also relied upon the decision of the Apex Court in the case of <sup>10</sup>**State of Telangana Vs. Habib Abdullah Jeelani** ( paragraph 13) and the decision in the case of

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9 (2006) 6 SCC 728

10 (2017) 2 SCC 779

**<sup>11</sup>XYZ Vs. State of Gujarat.**

20. Learned Counsel for Respondent No.2 adopted the arguments of learned Senior Advocate appearing on behalf of the Respondent No.1. He argued on lines similar as canvased by learned Senior Advocate for Respondent No.1. Inviting our attention to the complaint filed, learned Advocate invited our attention to the relevant paragraphs in the complaint pertaining to the role of petitioner No.2. He submitted that the medication was prescribed by petitioner No.1 who had no medical degree. Further he pointed out that the late actor Sushant Singh Rajput had asked respondent No.2 to move out of the house as his other sister viz. Petitioner No.2 ( Meetu Singh) was coming to live with him and take care of him. Respondent No.2 left the house of late actor on 08/06/2020 whereafter it is alleged that petitioner No.2 was residing with him. It is then submitted by learned Counsel that FIR alleges that petitioner No.1 Priyanka Singh, Dr.Tarun Kumar and other known and unknown persons conspired to prescribe such controlled substance to the deceased and therefore a through investigation is necessitated. It is therefore his contention that the action of petitioner No.1, Dr.Tarun Kumar and other known and unknown person be investigated and it be

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11 (2019) 10 SCC 337

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determined as to how they came to provide the deceased with such a bogus and unlawful prescription. He therefore submits that investigation is required as to whether the deceased then proceeded to take the medicines thus prescribed which may have contributed to his death and further deteriorated his health. According to learned Counsel, petitioner No.2 Meetu Singh was the only person staying with the late actor Sushant Singh Rajput from 08/06/2020 till 12/06/2020 who was taking his care and she had administered the medicines mentioned by Dr.Tarun Kumar in the prescription without supervising the doses and the quantity of medicine. It is submitted that due to this, the health of late actor worsened and deteriorated. He then invited our attention to the allegation in the complaint where it is stated that complainant suspected that due to such banned medicines prescribed by Dr.Tarun Kumar at the behest of petitioner No.1 (Priyanka Singh) having knowledge that such banned medicines and heavy doses of medicines may result into chronic anxiety attack which may damage health of Sushant Singh further and the medicine might have been procured by the sister Meetu Singh and further consumption by Sushant Singh which resulted into suicide. It is therefore his submission that the allegation that petitioner and Dr.Tarun Kumar abetted suicide of late actor Sushant Singh needs to be investigated.

21. Learned Senior Advocate Shri Anil Singh appearing on behalf of Respondent No.3 submits that in the light of the order passed by the Apex Court on 19/08/2020 in Rhea Chakroborty's case, any matter pertaining to and surrounding circumstances of unnatural death of actor Sushant Singh Rajput ought to be investigated by the CBI only. According to him, the judgment of the Hon'ble Supreme Court does not allow registration of any such FIR and hence, registration of FIR by Bandra police station at the behest of the Respondent No.2 is complete departure from the judgment passed by the Hon'ble Supreme Court. He submitted that CBI is conducting the investigation meticulously and professionally without being hindered by any external factor and would thoroughly look into each and every aspect relating to the death of late Sushant Singh Rajput in a fair and impartial manner. He urged that if Respondent No.1 or Respondent No.2 had to provide any information regarding the death of Sushant Singh Rajput, the same should have been directly shared with the CBI for necessary action at its end and the registration of the FIR by Bandra police station on the said information is not required, however, they chose to register the separate FIR in the matter which is impermissible and contrary not only to the law laid down by Apex Court but also the order passed by the Hon'ble Supreme

Court in the case of Rhea Chakroborty.

**CONSIDERATION**

22. Heard learned Advocates appearing for the respective parties at length. We have perused the copy of the Petition, the complaint made by the respondent No.2 pertaining to counter claim in respect of same incident having different version of events on the basis of the FIR which came to be registered and the documents annexed to the Petition.

23. The present matter pertains to the tragic incident in which the Bollywood actor Shri Sushant Singh Rajput, aged 34 years was found dead at his residence.

24. The complaint is filed by the respondent No.2 contending that the accused persons conspired with each other and illegally procured false prescription on the letter head of a Government hospital which contained psychotropic substances "Clonazepam" and "Chlorodiazepoxide" which are listed as item 36 and 38 of the Schedule of NDPS Act and administered the same to late actor Sushant Singh Rajput.

25. We firstly deal with the submission of learned Senior Advocate for the petitioners that the respondent No.1 has no

jurisdiction to register second FIR in view of the fact that the earlier FIR No. 241 of 2020 was being investigated by the CBI under the direction of the Hon'ble Supreme Court.

It appears that second respondent registered the FIR pertaining to the counter complaint in respect of same incident having a different version of events, which according to us is permissible. We have gone through the order dated 19/8/2020 passed by the Hon'ble Supreme Court. A reference to paragraphs 36 and 41 is necessary where Their Lordships observed thus :-

**“36. The ongoing investigation by the CBI is held to be lawful. In the event a new case is registered at Mumbai on the same issue, **in the fitness of things, it would be appropriate if the latter case too gets investigated by the same agency, on the strength of this Court's order. Such enabling order will make it possible for the CBI to investigate the new case, avoiding the rigors of Section 6 of the DSPE Act, requiring consent from the State of Maharashtra.****

**41... Therefore while according approval for the ongoing CBI investigation, if any other case is registered on the death of the actor Sushant Singh Rajput and the surrounding circumstances of his unnatural death, the CBI is directed to investigate the new case as well. It is ordered accordingly.”**

26. It is not in dispute that pursuant to the registration of the FIR on 7/9/2020 by the respondent No.1, the case was transferred to CBI on the very next date i.e. 8/9/2020. The respondent No.1 being satisfied with the information in the complaint disclosed the commission of the cognizable offences registered the FIR as mandated by the provisions of Section 154 of the Cr.P.C, and in view of exposition of law in the case of Bhajanlal.

27. It is then the contention of learned Senior Advocate for the petitioner that registration of a second FIR is impermissible in view of the decision of the Hon'ble Supreme Court in the case of **T.T. Antony vs. State of Kerala**<sup>12</sup>. So far as said contention is concerned, we find from the subsequent decision by larger bench of the Hon'ble Supreme Court in **Upkar Singh vs. Ved Prakash**<sup>13</sup> that filing of counter complainant is permissible. Paragraph 23 of the said judgment reads as under :

“23. Be that as it may, if the law laid down by this Court in T.T. Antony's case is to be accepted as holding a second complaint in regard to the same incident filed as a counter complaint is prohibited under the Code then, in our opinion, such conclusion would lead to serious consequences. This will be clear from the hypothetical example given herein below i.e. if in regard to a crime committed by the real accused he takes the first opportunity to lodge a false complaint and the same is registered by the jurisdictional police then the aggrieved victim of such crime will be precluded from lodging a complaint giving

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12 (2001) 6 SCC 181

13 (2004) 13 SCC 292

his version of the incident in question, consequently he will be deprived of his legitimated right to bring the real accused to book. This cannot be the purport of the Code.

24. We have already noticed that in the T.T. Antony's case this Court did not consider the legal right of an aggrieved person to file counterclaim, on the contrary from the observations found in the said judgment it clearly indicates that filing a counter complaint is permissible.”

In the FIR filed by the father of the petitioners, the respondent No.2 is the main accused. The complaint made by the respondent No.2 on the basis of which the present FIR came to be filed alleges a different version of the said incident thus there are rival versions in respect of the same incident. In our opinion, in view of the law laid down by the Supreme Court in the case of **Upkar Singh**, the registration of the FIR i.e. counter complaint, at the instance of the respondent No.2 is not prohibited. The Hon'ble Supreme Court has laid down that any further complaint by the same complainant against the same accused, subsequent to the registration of a case, is prohibited under the Cr.P.C. because an investigation in this regard would have already started and further the complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence, will be prohibited under Section 162 Cr.P.C. Present Petitioners are not accused in the first FIR.

2<sup>nd</sup> respondent has filed the 2<sup>d</sup> FIR in the nature of counter complaint in respect of the same incident having a different

version of events which is legally permissible. We therefore do not find substance in the contention of the learned Senior Advocate for the petitioners that a second FIR is impermissible.

28. Let us examine the contention of learned Senior Advocate for petitioners that the FIR against the doctor is not maintainable in view of the law laid down by the Hon'ble Supreme Court in the case of **Jacob Matthew vs. State of Punjab & anr.**<sup>14</sup>. In that case Their Lordships were considering a case of medical negligence. In the present case, the allegations in the FIR reveals that there was not even an online consultation with doctor and the prescription is fabricated. It is alleged that OPD registration card dated 8/6/2020 issued in Delhi is a fabricated one, and is purportedly issued without examination of the late actor who was actually in Mumbai. It is further alleged that the OPD registration card dated 8/6/2020 is timed at 11:16:37 AM from Dr. Ram Manohar Lohia Hospital, New Delhi in the name of patient Sushant Singh Rajput, aged 34 years, shown in Room : 6/Queue : 81. The said OPD card reveals that Dr. Tarun Kumar the Associate Professor (Cardiology) has purportedly examined actor Sushant Singh Rajput in Room No.6 at the said Hospital in Delhi and diagnosed him with anxiety and prescribed him the following

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14 2005 (6) SCC 1

drugs (1) Nexitor, 2) Librium and 3) Lonazep. Considering the allegations that there was not even an online consultation with doctor and the prescription is fabricated, it is not possible to hold the complaint as not maintainable applying the ratio of 'Jacob Matthew'. We therefore do not find favour with the submissions made by learned Senior Advocate for the petitioner on this aspect when an investigation is at a preliminary stage.

29. We now deal with the submission of learned Senior Advocate for the petitioner that where, the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. Before we deal with this aspect it would be pertinent to examine the principles of law enunciated by this Court relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Cr.P.C. in the matter of quashing of FIR or complaint. The Hon'ble Supreme Court in the case of **State of Haryana and others v. Bhajan Lal and others**<sup>15</sup> in the backdrop of the interpretation of the various relevant

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15 1992 Supp (1) SCC 335

provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. Their Lordships observed that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guideline or rigid formulate and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised. The categories spelt out by Their Lordships in paragraph 102 reads thus :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F. I. R. do not disclose a cognizable offence, justifying an investigation by

police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/ or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

30. We may also refer to paragraph 103 in Bhajan Lal’s case where Their Lordships gave a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases ; that the court will not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or complaint and that the

extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.

31. Reverting to the present case, the question is whether the allegations made in the complaint do clearly constitute a cognizable offence justifying the registration of a case and an investigation thereon and thus this case does not fall under any one of the categories of cases formulated by Their Lordships in Bhajanlal's case (supra) for the exercise of extraordinary or inherent powers of the High Court to quash the FIR itself.

32. The allegations made in the complaint reveals exchange of messages between the petitioner No.1 and late actor regarding the list of medicines. The allegations made in the FIR pertain to a prescription dated 8/6/2020 which contained various medications controlled under the NDPS Act. It is alleged that the drugs prescribed by Dr. Tarun Kumar were prohibited from being prescribed electronically under the Telemedicine Practice Guidelines issued on 25<sup>th</sup> March, 2020, which constitutes Appendix 5 of the Indian Medical Council (Profession Conduct, Etiquette and Ethics) Regulations, 2002. The complaint reveals that in the prescription dated 8/6/2020, Dr. Tarun Kumar has

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prescribed Nexito 5 mg, Librium 10 mg and Lonazep MD 0.5 mg to late actor for anxiety. It is alleged that tablet Librium is with the content 'Chlorodiazepoxide' which appears at Item No.36 in the list of psychotropic substances under the NDPS Act, while Nexito and Lonazep MD both contain Clonazepam which appears at Item No.38 in the list of psychotropic substances under the NDPS Act. It is further alleged that Clause 3.7.4. of the Telemedicine Practice Guidelines provides as "..... Prohibited List : An RMP providing consultation via telemedicine cannot prescribe medicines in this list. These medicines have a high potential of abuse and could harm the patient or the society at large if used improperly. Medicines listed in Schedule X of Drugs and Cosmetic Act and Rules or any Narcotic and psychotropic substance listed in the NDPS Act. The allegation is that the accused prescribed psychotropic substances without any consultation or examination in violation of various provisions of the NDPS Act and the Telemedicine Practice Guidelines, 2020. It is further alleged that the prescription prepared by them in connivance with each other is a fabricated and false document. The prescription reflects the deceased as an OPD patient when on the date and time at which the said prescription was sent, the deceased was very much in Mumbai, Maharashtra and not in New Delhi. It is further alleged that Dr. Tarun Kumar being a

Cardiologist thought it fit to prescribe psychotropic substances to a person i.e. late Sushant Singh Rajput, he did not know and had never met. The allegation is that unlawful prescription of psychotropic substance was obtained at the behest of late actor's sister - petitioner No.1 and the said Dr. Tarun Kumar. It is thus alleged that even the death of the deceased and the investigation surrounding the circumstances of his death, it is imperative that the actions of petitioner No.1, Dr. Tarun Kumar and other known and unknown persons who conspired to prescribe such controlled substances ought to be investigated as well.

33. It is further alleged that the complainant suspects that due to such banned medicine prescribed by Dr. Tarun Kumar at the behest of the petitioner No.1 having knowledge that such banned medicine and heavy dose of medicine may result into chronic anxiety attack which may damage health of late actor further and the medicine might have been procured by the Petitioner No. 2 - Meetu Singh and further consumption by late actor which resulted into suicide. It is therefore alleged that the accused abetted the suicide of the late actor. Along with the complaint are enclosed, the printouts of whats-app chats on 8/6/2020 between

late actor and petitioner No.1 and the printout of the prescription on the letterhead of the Government Hospital Dr. Ram Manohar Lohia Hospital, New Delhi, on 8/6/2020 having stamp and signature of Dr. Tarun Kumar.

34. It is alleged that the purported OPD prescription dated 8/6/2020 and transcripts of the Whats-app chats conversation between the petitioner No.1 and late actor categorically point out that the medicines were being prescribed without online consultation. Further it is alleged that the OPD registration card dated 8/6/2020 is timed at 11:16:37 am from Dr. Rm Manohar Lohia Hospital, New Delhi in name of patient Sushant Singh Rajput, aged 34 years. shown in Room : 6/Queue : 81. In the said OPD card, Dr. Tarun Kumar, Associate Professor (Cardiology) has purportedly examined actor Sushant Singh Rajput in Room No.6 at the said Hospital in Delhi and diagnosed him with anxiety and prescribed him the following drugs (1) Nexitor, 2) Librium and 3) Lonazep.

35. The allegation is that the purported OPD registration card dated 8/6/2020 issued in Delhi is a fabricated one, and is purportedly issued without examination of late actor who was

actually in Mumbai. It is further alleged that Whats-app conversation and the time of conversation between petitioner No.1 and late actor prima facie demonstrates that no tele consultation actually took place between late actor and Dr. Tarun Kumar. It is thus submitted that in view of the materials on record an investigation is necessitated as the material show that there was not even an online consultation with the Doctor and the prescription is fabricated.

36. At this juncture, it is necessary to make reference to the provisions of NDPS Act and rules thereunder. In the facts of the present case, it is seen that "MEDICINES PRESCRIBED ARE IN THE LIST OF PSYCHOTROPIC SUBSTANCES UNDER THE NARCOTICS DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985 ["NDPS ACT"]. We have carefully read the written submissions of learned Senior Advocate appearing for respondent No.1 and found it worth to accept the said legal submissions qua petitioner No.1 which would attract the provisions of NDPS Act. Relevant provisions are discussed herein below.

The alleged prescription of Dr. Tarun Kumar of following drugs. 1) Nexito, 2) Librium & 3) Lonazep contains Chlorodiasepoxide and Clonazepam which appears at (Item No.36 and 38) of the Schedule in the list of Psychotropic Substances under the NDPS Act.

Rule 65-A of the Narcotic Drugs and Psychotropic

Substances Rules, 1985 framed under the NDPs Act categorically enumerates that no person shall sale, purchase, consume or use any psychotropic substances substance except in accordance with the Drugs and Cosmetics Rules, 1945 Rules.

[65-A. Sale, purchase, consumption or use of psychotropic substances. - No person shall sell, purchase, consume or use any psychotropic substance except in accordance with the Drugs and Cosmetics Rules, 1945 Rules : ]

Further Rule 65 of the Drugs and Cosmetic Rules mandates that substances specified in Schedule H and H1 shall not be sold without prescription. It is pertinent to note that drug Chlordiazepoxide is at S1 18 of Schedule H1 and Clonazepam at S1. 125 of (Prescription Drugs) Schedule H of Drugs and Cosmetics Rules, 1945. Rule 65 reads as under :

“65. Condition of licences. Licences in [Forms 20, 20-A, 20-B, 20-F, 0-G, 21 and 21-B] shall be subject to the conditions stated therein and to the following general conditions. -

...

...

[(9)(a) Substances specified in [Schedule H and Schedule H1] or Schedule X shall not be sold by retail except on and in accordance with the prescription of a Registered Medical Practitioner and in the case of substances specified in Schedule X, the prescriptions shall be in duplicate, one copy of which shall be retained by the licensee for a period of two years

(b) The supply of drugs specified in [Schedule H and Schedule H1] or Schedule X to Registered Medical Practitioners, Hospitals, Dispensaries and Nursing Homes shall be made only against the signed order in writing which shall be preserved by the licensee for a period of two years.]

(10) For the purposes of clause (9) a prescription shall -

(a) be in writing and be signed by the person giving it with his usual signature and be dated by him ;

(b) specify the name and address of the person for whose treatment it is given, or the name and address of the owner of the animal if the drug is meant for veterinary us ;]

(c) indicate the total amount of the medicine to be supplied and the does to be taken.

(11) The person dispensing a prescription containing a drug specified in [Schedule H and Schedule H1] [and Schedule X] shall comply with the following requirements in addition to other

requirements of these Rules --”

Further Rule 97 provides for printing caution / warning in respect of drugs covered under Schedule H, Schedule G and substance covered under the purview of Narcotic & Psychotropic Drugs Act, 1985 for the information of patients, doctors, pharmacists and others so that there is no misuse of these drugs. Rule 97 reads as under :

“97. Labelling of medicines. - [(1) The container of a medicine for internal use shall -

(a) ...

(b) if it contains a drug substance specified in Schedule H, be labeled with symbol Rx and conspicuously displayed on the left top corner of the label and shall also be labeled with the following words in legible black coloured font size in completely red rectangular box :

SCHEDULE H PRESCRIPTION DRUG - CAUTION  
Not to be sold by retail without the prescription of a Registered  
Medical Practitioner

(c) if it contains a drug substance specified in Schedule H and comes within the purview of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) be labeled with symbol Nrx, which shall be in red and conspicuously displayed on the left top corner of the label and shall also be labeled with the following words in legible black coloured font size in completely red rectangular box.”

SCHEDULE H PRESCRIPTION DRUG - WARNING  
To be sold by retail on the prescription of a Registered Medical  
Practitioner only.

(d) ..

(e) if it contains a drug substance specified in Schedule H1, be labeled with symbol Rx, which shall be in red and conspicuously displayed on the left top corner of the label and shall also be labeled with the following words in legible black coloured font size in completely red rectangular box :

SCHEDULE H1 PRESCRIPTION DRUG - CAUTION  
- It is dangerous to take this preparation except in accordance  
with the medical advice.  
- Not to be sold by retail without the prescription of a  
Registered Medical Practitioner.

(f) If it contains a drug substance specified in Schedule H1 and comes within the purview of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) be labeled with symbol Nrx, which shall be in red and conspicuously displayed on the left top corner of the label and shall also be labeled with the following words in legible black coloured font size in completely red rectangular box :

**SCHEDULE H1 PRESCRIPTION DRUG - CAUTION**

- It is dangerous to take this preparation except in accordance with the medical advice.
- Not to be sold by retail without the prescription of a Registered Medical Practitioner.

Schedule H and H1 are a class of prescription drugs in India appearing as an appendix to the Drugs and Cosmetics Rules, 1945 introduced in 1945. These drugs cannot be purchased over the counter without the prescription of a qualified doctor. Schedule H1 covers highly sensitive drugs.

Aforesaid both the drugs are included in the schedule of the NDPS Act and also forms part of Schedule H and H1 of the Drugs and Cosmetic Rules and are clearly Psychotropic drugs falling within the prohibition of Section 8 of NDPS Act which requires thorough investigation to ascertain whether consumption of high dosage or otherwise of such drugs which are clearly not over the counter drugs caused unfortunate death of the late actor.

Further owing to risk to human beings drug "Chlordiazepoxide" is also prohibited under Section 26-A of Drugs and Cosmetics Act, 1940 to be sold, manufactured or distributed as fixed dose combinations.

(see Sl. 12 of the selected notifications under the Drugs and Cosmetics Act, 1940)

The guidelines published in March 2020 have laid down the manner in which prescription can be given during tele consultation session with the patient. The guidelines clearly state that the prerequisite of tele medicine is that there has to be effective consultation which was not prima facie carried out in the case.

Clause 3 of the Guidelines mandates the RMP to exercise proper discretion and not compromise on the quality of care. Clause 3.1.1 directs the RMPs to exercise professional judgment to decide whether telemedicine consultation is appropriate in a

given situation or an in-person consultation is needed in the interest of the patient.

Clause 3.2 of the Guidelines requires proper identification of the RMP and the patient and prescription be issued only after proper verification and identification of the patient. In instant case no such identification exercise was carried out.

Clause 3.3 gives discretion to the RMP to choose mode of telemedicine and suggest a real time consultation with the patient to ascertain the diagnosis and hear and visually examine the patient in relevant situations.

Clause 3.4 requires the RMP to seek patients consent for telemedicine consultation and mandates to acquire explicit consent which requires to be recorded in any form if the caregiver initiates a telemedicine consultation. No such consent implied or explicit has been taken by the RMP in the instant case.

Under Clause 3.5 the RMP is required to not proceed with consultation if a physical examination is necessary for patient evaluation. And wherever necessary, depending on professional judgment of the RMP, he / she shall commend : - Video consultation - Examination by another RMP / Health Worker ; - In - person consultation.

Clause 3.6 envisages different types of consultation and 3.7 contemplates patient management. Clause 3.7.4 sets the protocol for prescribing medicines. If a medical condition requires a particular protocol to diagnose and prescribe as in a case of in-person consult then same prevailing principle will be applicable to a telemedicine consult. RMP may prescribe medicines via telemedicine ONLY when RMP is satisfied that he / she has gathered adequate and relevant information about the patient's medical condition and prescribed medicines are in the best interest of the patient. Prescribing Medicines without an appropriate diagnosis/ provisional diagnosis will amount to a professional misconduct.

Further, Clause 3.6 sets specific restrictions on prescribing medicines from the prohibited list since these medicines have a high potential of abuse and could harm the patient or the society at large if used improperly. The aforesaid clause categorically prohibits prescribing medicines listed in Schedule of Narcotic and Psychotropic substance listed in the Narcotic Drugs and Psychotropic Substances Act, 1985.

Both the drugs prescribed by the RMP are psychotropic substance forming part of the Schedule if NDPS Act and also Drugs and Cosmetic Act.

Clause 4.2 deals with the procedure to be followed if the consultation between patient and RMP is through caregiver who is family member. Clause 4.2.2 (2b) contemplates that caregiver should have a formal authorization or a verified document establishing his relationship with the patient and/or has been verified by the patient in a previous in-person consult (explicit consult).

In all cases of emergency situation Clause 4.5 mandates, the patient MUST be advised for an in-person interaction with a Registered Medical Practitioner at the earliest.

Although drug only Clonazepam has been included in the list A medicines of medicine list of Telemedicine practice Guidelines on 11.04.2020 by the Medical Council of India, however the Telepsychiatry Operational Guidelines 2020 published in May 2020 categorically mandate that these medications can be presented during the first / new consult via "video consultation only". In the instant case, it appears that no video consultation has been done whatsoever."

37. Considering the rival contentions, allegations made in the complaint, the materials enclosed along with the complaint prima facie disclose alleged offences as against petitioner No.1, therefore, there is no force in the contention raised by the Counsel for the petitioner that the allegations made in the counter complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the petitioner No.1 - accused. It is well settled principle of law that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases ; that the court will not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in

the FIR or complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.

38. The Hon'ble Supreme Court in the case of **State of Karnataka and another vs. Pastor P. Raju**<sup>16</sup> has settled the legal position stating that the High Court ought not to interfere with and quash the entire proceedings in exercise of power conferred by Section 482 of Cr.P.C. when the matter was still at the investigation stage. We may also make a profitable reference to the decision in the case of **State of Telangana vs. Habib Abdullah Jeelani**<sup>17</sup> where Their Lordships have held that there is no denial of the fact that the power under Section 482 Cr.P.C. is of very wide amplitude but it needs no special emphasis to state that conferment of wide power requires the Court to be more cautious. It casts an onerous and more diligent duty on the Court.

39. Reverting to the present case, in our considered view, the allegations made in the complaint, do clearly constitute a cognizable offence as against only petitioner No.1 - Priyanka Singh justifying the registration of a case and an investigation

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16 (2006) 6 SCC 728

17 (2017) 2 SCC 779

thereon and thus this case does not fall under any one of the categories of cases formulated in 'Bhajan Lal' calling for the exercise of extraordinary or inherent powers to quash the FIR itself. So far as petitioner No.2 is concerned, we find from the complaint and the materials on record that the allegation is made against her is only on the basis of suspicion that the medicine might have been procured by petitioner No.2. It is on the basis of suspicion and vague allegation that the FIR is registered against the petitioner No.2. Respondent No.2 in the complaint says that she came to know that petitioner No.2 who lives in Mumbai came to stay with late actor in the evening of 08/06/2020 after the respondent No.2 left. It is the allegation that till 12/06/2020, petitioner No.2 was the only person taking care of Sushant Singh Rajput and she had administered the medicine mentioned in the Dr.Tarun Kumar's prescription without supervising the doses and quantity of medicines. There are no specific allegations and overt acts attributable to petitioner No.2 in the FIR. However, the complaint primarily proceeds on the allegation that the banned medicines prescribed by Dr.Tarun Kumar was at the behest of petitioner No.1 who was having knowledge that the said banned medicine and heavy doses of medicine may result into chronic anxiety attack which may damage the health of Sushant Singh Rajput.

40. So far as the contention of learned Senior Advocate that the complaint is malicious and more in the nature of counter blast as the same is filed at the instance of respondent No.2 who is an accused in the FIR registered at the instance of the late actor's father, having gone through the complaint and the materials enclosed scrupulously, we are not persuaded to hold that these allegations can be substantiated at this stage and hence we are unable to persuade ourselves to agree with the submission of learned Senior Advocate for the petitioner. It may be that the relations between the petitioner and the respondent No.2 are strained, but we cannot overlook the serious allegations made in the complaint and materials on record and the fact that the investigation is in progress and same is not yet concluded. We may note that the FIR has already been transferred to the CBI for investigation in the light of the directions of the Hon'ble Supreme Court, and even learned Senior Advocate for the respondent No.3 submitted that so far as FIR lodged by late actor's father is concerned, the CBI is conducting investigation meticulously and professionally without being hindered by any external factor and would thoroughly look into each and every aspect relating to the death of late actor in a fair and impartial manner. Moreover, it is submitted by learned Senior Advocate for the respondent No.3 that if the respondent Nos.1 or 2 had to

41. wpst 2712.20- final.doc

provide any information regarding the death of late actor, the same should have been directly shared with the CBI for necessary action at its end and the registration of the FIR by Bandra Police Station on the said information was not required. In any case, now that the respondent No.3 is investigating into the matter and has submitted that the same will be done meticulously and professionally without being hindered by any external factor and Investigating Officer would thoroughly look into each and every aspect relating to the death of late actor in a fair and impartial manner, there is no reason why the respondent No.3 should not carry out a meticulous investigation also based on counter complaint lodged by the respondent No.2.

41. From the reading of the complaint and materials on record, it is seen that the allegations are primarily against petitioner No.1 and Dr. Tarun Kumar. The FIR appears to have been registered against the petitioner No.2 only on suspicion without attributing specific overt acts qua petitioner No.2 that she aided or abetted the alleged act of suicide by the late actor Sushant Singh Rajput. Even the allegation in the FIR records that the medicines might have been procured by petitioner No.2, the consumption thereof which resulted in into his suicide. Based

41. wpst 2712.20- final.doc

only on the suspicion against petitioner No.2, it is alleged that petitioner No.2 abetted the late actor's suicide. On overall consideration we find that, there are vague and general allegation against the petitioner No.2. There is no conversation or whats-app chats at the relevant time within the proximate date and time of alleged suicide by late actor Sushant Singh Rajput between petitioner No.2 - Meetu Singh and him. In short, there are no certain positive acts attributable to petitioner No.2 - Meetu Singh showing involvement in the commission of offences within the proximity of alleged commission of suicide by the late actor Sushant Singh Rajput.

42. In that view of the matter, we are of the considered opinion that FIR No. 576 of 2020 i.e. counter complaint made by respondent No.2 qua second petitioner deserves to be quashed and set aside and is accordingly quashed and set aside qua petitioner No.2 - Meetu Singh.

So far petitioner No.1 - Priyanka Singh is concerned, we do not find any merit in the present Petition and the same is accordingly dismissed. Rule is disposed of in the above terms.

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43. The observations made hereinabove are prima facie in nature and confined to adjudication of the present case only. Rejection of this Petition qua petitioner No.1 - Priyanka Singh shall not be construed as an impediment to petitioner No.1 to avail of an appropriate remedy in case Investigating Officer decides to file the chargesheet.

**(M.S.KARNIK, J.)**

**(S.S.SHINDE, J.)**

**IN THE SUPREME COURT OF INDIA**

**ORDER XXII RULE 2(1)**

**CRIMINAL APPELLATE JURISDICTION**

**SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2021**

(Against the final Judgement and Order dated 15.02.2021 passed in Criminal Writ Petition Stamp No. 2712 of 2020 passed by Hon'ble High Court of Judicature at Bombay Maharashtra)

**POSITION OF THE PARTIES**

<b>BETWEEN:</b>	<b>In High Court</b>	<b>In the Supreme Court</b>
<b>PRIYANKA SINGH</b> Aged about 39 years Resident of C-10, Second Floor NarainaVihar, New Delhi – 110028	Petitioner No.1	Petitioner No. 1

Versus

1. STATE OF  
MAHARASHTRA  
Through Inspector of Police,  
Bandra Police Station  
Mumbai  
Maharashtra

	Respondent No. 1	Contesting Respondent No. 1
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2. MISS RHEA INDRAJIT  
CHAKRABORTY  
Aged about 28 years  
101, Primrose Apartment,  
Near SNTD College,  
Juhu Road, Santa Cruz, West  
Mumbai  
Maharashtra

	Respondent No. 2	Contesting Respondent No. 2
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3. CENTRAL BUREAU OF  
INVESTIGATION  
Through Directors  
Plot No. 5-B, 6<sup>th</sup> Floor,  
CGO Complex, Lodhi Road,  
New Delhi – 110 003

	Respondent No. 3	Contesting Respondent No. 3
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4. Meetu Singh  
Age -45 Resident -  
B,21 Rajnigandha  
Apartment Goregaon  
West, Mumbai -400104

	Petitioner No 2	Proforma Respondent No. 4
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**SPECIAL LEAVE PETITION UNDER ARTICLE 136 OF THE  
CONSTITUTION OF INDIA AGAINST THE FINAL IMPUGNED  
JUDGMENT AND ORDER DATED 15.02.2021 PASSED IN CRIMINAL  
WRIT PETITION STAMP NO. 2712 OF 2020 PASSED BY HON'BLE  
HIGH COURT OF JUDICATURE AT BOMBAY**

Special Leave Petition under Article 136 of the Constitution of India.

To,

The Hon'ble Chief Justice of India and  
His Companion Justices of the Supreme Court of India.

The Humble Petition of the Petitioner above-named

**MOST RESPECTFULLY SHOWETH:-**

1. That the present Special Leave Petition is being preferred against Final Impugned Judgment and Order dated 15.02.2021 passed by the Hon'ble High Court of Judicature at Bombay Maharashtra in Criminal Writ Petition Stamp No. 2712 of 2020. Vide the Impugned Judgment dated 15.02.2021, the Hon'ble High Court dismissed the Criminal Writ Petition, preferred by the Petitioner No. 1 without looking material facts available on record which are relevant for the quashing of FIR No. 576 of 2020 registered against the Petitioner at Bandra Police station Mumbai.

1A It is submitted that name of Respondent No. 2 has been incorrectly spelled in impugned order. The same is correct in memo of parties and at other places. It is prayed that correct name of Respondent No. 2 may be taken as "RHEA".

**2. QUESTIONS OF LAW: -**

The following questions of law arise for the consideration of this Hon'ble Court:

A. Whether the High Court of Judicature at Bombay correctly exercised the extraordinary power vested under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for not quashing the FIR no. 576 of 2020 registered against the Petitioner at Bandra Police Station Mumbai for offences punishable under Section 420, 464, 464, 465, 466, 474, 468, 306, 120B, read with Section 34 of the

- Indian Penal Code and Section 8(C), 21, 22A, 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985?
- B.** Whether the Respondent No. 1 has any jurisdiction to register the second FIR, i.e. 576 of 2020, after transferring records of the case on 21.08.2020 to Respondent No.3 and not registering any case during the pendency of inquest proceedings?
- C.** Whether Respondent No.1 debarred from the registering second FIR after conclusion of inquest proceedings in terms of para 34 of the earlier judgment passed in *Rhea Chakarborty vs State of Bihar*?
- D.** Whether the continuance of the present FIR is abuse of process of law after withdrawal of allegations regarding abetment of suicide by the Respondent No.2?
- E.** Whether the continuance of FIR would cause abuse of process of Court, when Investigating Agency (Respondent No. 3, herein) has itself held that registration of FIR was manifestly illegal and cannot be done in terms of the directions of the Hon'ble Supreme Court in earlier decision?
- F.** Whether the Hon'ble High Court by permitting the present FIR to continue against Petitioner No.1 and Doctor Tarun Kumar has diluted the protection granted to Doctor through *Jacob Matthew Vs. State of Punjab &Anr. (2005) 6 SCC 1* . which had specifically protected from registration of FIR against any work conducted during normal course of business?
- G.** Whether registration of subsequent F.I.R. in violation of *TT Anthony Vs. State of Kerala [(2001) 6 SCC 181]* as registration of second F.I.R. would amount to two simultaneously proceedings resulting in

multiplicity of proceedings, when it has been mandated that subsequent statement shall be treated as statement under Section 162 Cr.P.C.?

- H.** Whether a FIR could be registered based on complaint by an accused person regarding the details of a date which have not been consistent from all previous statements?
- I.** Whether the F.I.R. could be registered after inordinate delay of 83 days and without preliminary inquiry in violation of *Lalita Kumari Vs Govt. of U.P &Ors. (2014) 2 SCC 1* based on media reports only?
- J.** Whether registration of F.I.R. which is based on reports and the articles relied by the News Channels and journalists would term as a material evidence against the Petitioner in light of *Dr.B. Singh Versus Union of India [(2004) 3 SCC 363]*, further without knowing original source of document can it be terms as evidence without any inquiry?

### **3. DECLARATION IN TERMS OF RULE 3(2):-**

That no other petition seeking leave to appeal has been filed earlier by the Petitioner final judgment and order dated 15.02.2021 passed by the Hon'ble High Court of Judicature at Bombay in Criminal Writ Petition Stamp No. 2712 of 2020 and Judgement and Final Order dated 15.02.2021 before any other forum or any other court of law.

### **4. DECLARATION IN TERMS OF RULE 5:-**

That the annexures being Annexure P-1 to P- 13 filed along with the Special Leave Petition as copies/translation/pleadings/documents which formed part of the records of the case and against whose order leave to appeal is sought for in this petition.

### **5. GROUNDS:-**

That the Petitioner is being aggrieved by the impugned Judgment and Final order prefers the present Special Leave Petition, inter – alia on the following grounds which are taken without prejudice to one another:

**A.** Because the High Court has wrongly taken a view that a registration of a subsequent F.I.R. in same cause of action is permissible against the Petitioner as held in the case of *T.T.Antonyvs.StateofKerala (2001) 6 SCC181*, however the Hon’ble High Court failed to consider the fact that the subsequent F.I.R. is based upon same cause of action in violation of TT Anthony judgement, as registration of second F.I.R. would amount to two simultaneously proceedings resulting in multiplicity of proceedings, when it has been mandated that subsequent statement shall be treated as statement under Section 162 Cr.P.C and through proceedings under Section 173 (8) of CrPC. This has been also explained by Hon’ble Supreme Court with an example as given in TT Anthony judgement, same is reproduced below for ease of reference:

*“...Let us consider a different situation in which H having killed W, his wife, informs the police that she is killed by an unknown person or knowing that W is killed by his mother or sister, H owns up the responsibility and during investigation the truth is detected; it does not require filing of fresh FIR against H — the real offender — who can be arraigned in the report under Section 173(2) or 173(8) CrPC, as the case may be.”*

**B.** Because the Hon’ble High Court failed to appreciate that the present case is rarest of rare as the Complainant has withdrawn her main case vide letter dated 14.09.2020 and the prosecuting agency had specifically held that the registration of FIR by the Respondent No.1 is illegal and against the directions of this Hon’ble Court.

**C.** Because the Hon’ble High Court has wrongly concluded by stating that online consultation with the doctor, Mr. TarunKumar and the prescription

- is fabricated, without appreciating that Telemedicine guidelines permits caregiver to get prescription issued by registered medicinal practitioner.
- D.** Because Respondent No. 1 has not even conducted preliminary inquiry to ascertain whether the drug alleged by complainant were even actually prescribed by doctor. Thus, FIR is clearly non maintainable as same is registered in violation of guidelines prescribed *Jacob Matthew Vs. State of Punjab (2005) (6) SCC 1*. has clearly held that obtaining a medical opinion from the experts is sine qua non for direction and investigation of offences against a registered medical practitioner and thus the said F.I.R. is liable to be quashed.
- E.** Because the Hon'ble High Court failed to take into consideration the law laid down in *Jacob Matthew(supra) and in Dr. Ashok and Anr Vs. State of Maharashtra (2020) SCC Online Bom 296*, wherein it is well settled that in criminal cases, delay of even one hour, forget several days or years, can be crucial as, passage of time after the commission of offence enables the complainant and the witnesses to fabricate stories and use their imagination in exaggerating the facts of the case and therefore, delay in filing F.I.R. has been treated as fatal to the prosecution and further on the ground that the Investigating Officer proceeded to register F.I.R. without following the guidelines as laid down by the Hon'ble Supreme Court in *Jacob Matthew(supra)*, thus the Hon'ble Court ought to quash the said F.I.R. outrightly on this ground alone.
- F.** Because the Hon'ble High Court failed to take into consideration that Respondent No. 2 has withdrawn her case and has been making contrary statement before all authorities to make out a false case against the Petitioner.

- G.** Because the bare perusal of allegations made in complaint of the Respondent No. 2, do not constitute a cognizable offence, and thus this case does not mandate registration of F.I.R. Further, the Hon'ble High Court failed to consider the judgment of Hon'ble Apex Court in *State of Haryana Vs. Bhajan Lal & Ors. AIR (1992) SC 604* and failed to exercise its extraordinary inherent powers to quash the F.I.R.
- H.** Because the Hon'ble High Court failed to consider that the present case falls under one of the categories of cases formulated in '**Bhajan Lal**' (Supra) calling for the exercise of extraordinary inherent powers to quash the FIR itself.
- I.** Because the Hon'ble High Court failed to note that the F.I.R. registered by the Respondent No. 1 is at the behest of the Respondent No. 2 is malicious and more in the nature of counter blast as the same is filed at the instance of Respondent No.2 who is an accused in the earlier FIR.

**Registration of F.I.R. against a Doctor not maintainable**

- J.** Because the Hon'ble High Court failed to appreciate that the said F.I.R. is a blatant violation of the guidelines laid by the Hon'ble Supreme Court in *Jacob Matthew Vs. State of Punjab (supra)* and in case the present order is not set aside, it would become a great havoc for all medical practitioners against whom FIR would be registered without following Jacob Mathew.
- K.** Because the Hon'ble High Court failed to look into the crucial fact that a private complainant, i.e. Respondent No. 2 and police authorities, i.e. Respondent No. 1 cannot have the requisite knowledge of medical science as to determine Tele Medicine Guidelines or Tele Psychiatry Guidelines have been adhered or not. It is only a trained medical

professional/expert is required to determine whether alleged prescribed medication is actually a salt or chlordiazepoxide or clonazepam. Without taking into consideration an opinion of an expert and in violation of the guidelines issued by the Hon'ble Supreme Court in Jacob Matthew case, if a criminal process is initiated on the basis of a malicious complaint of an ordinary layman, it will result in the embarrassment and humiliation of medical profession.

**L.** Because the Hon'ble High Court failed to consider the fact that the said substance form a part of Schedule H and Schedule H1 of the Drugs and Cosmetics Act. The FAQ release mentioned that Schedule H drugs are not specifically mentioned in the specific restricted list. Later, an amendment dated 11.04.2020 also exempted certain anti-anxiety drugs belonging to the drugs mentioned in the alleged F.I.R.

**M.** Because the Hon'ble High Court failed to consider, without prejudice to the above, and assuming of the sake of arguments that allegation regarding the F.I.R. are true, it is presumed that the prescription of a doctor is given in *bonafide* manner to the best interest of the patient suffering from severe anxiety during the period of complete national lockdown due to COVID-19 pandemic and hence the acts done by the doctor were done in good faith for the mental and physical wellbeing of the patient. That the Hon'ble High Court even failed to consider that protection is given to doctor/medical practitioner under Section 31 of the Indian Medical Council Act, 1956 for such acts and actions done by him, as done in the present case. Additionally, the F.I.R. wrongly states that super specialist in cardiology does not bar doctors from prescribing medications and the doctor having the MBBS degree can prescribe medicines. Since Mr. Tarun Kumar is a MD in Medicine and therefore, a

highly qualified doctor to prescribe the alleged medication. Thus, the present F.I.R. is itself not maintainable.

**N.** Because lockdown imposed by Government of India in month of March, 2020 was unprecedented situation and government of center and state were also not clear with regard to its policies and new policies were imposed regularly thus there was no clear picture with government as well. Telemedicine Practice Guidelines were published in March, 2020 by Medical council of India which was clarified by subsequent notifications in April and May, 2020. Moreover, Telepsychiatry Operation Guidelines were published in May, 2020. Thus, there was no clarity as how patient would be granted prescription. In the present case, even if Dr. Tarun Kumar had given, it shall be presumed that the prescription of a doctor is given in *bonafide* manner to the best interest of the patient suffering from severe anxiety during the period of complete national lockdown due to COVID-19 pandemic read with section 31 of The Indian Medical Council Act, 1956.

**O.** Because the Hon'ble High Court failed to look into the provisions guiding issuance of a prescription laid down in the Indian Medical Council (Professional conduct, Etiquette and ethics) Regulations, 2002. That the Prescription does not contravene any of the Regulations with respect to 'prescription' as set out in the said Regulations.

**P.** Without prejudice to the rights and contentions, even if assuming that there is some alleged medical negligence or misconduct, the jurisdiction lies with the Medical Council of India and/or State Medical council and the Medical Council of India and/or State Medical council has deciding authority, as set out in the Regulations.

**Q.** Because the Hon'ble High Court failed to consider that fact that on a bare perusal of the F.I.R. along with the alleged prescription, it is *prima facie*, that the alleged offences as made out against the Petitioner are fallacious and without any merits and misconceived. Therefore, if the present F.I.R. is not quashed at the threshold, the Petitioner will suffer great mental and emotional harassment at the hand of the Respondent No. 1 and it will be a grave concern for the larger public, interest as the same will set in motion a parallel investigation in the present matter which has already attained considerable media attention and speculations. That the present F.I.R. will cause adverse impact and undue inference on the ongoing CBI investigations and the same is contrary to *State of Haryana &Ors. Vs. Ch. Bhajan Lal &Ors.(supra)*

**Improvised statement and setting up a new case with incorrect and misconceived facts and being influenced from medial trail cannot be used to register counter F.I.R.**

**R.** Because the Hon'ble High Court failed to consider that on a bare perusal of the F.I.R., there is no material evidence against the Petitioner and no cognizable offence is made out against the Petitioner. That the F.I.R. in question is merely filed to divert and derail the ongoing investigation being conducted by the Respondent No. 3, ED and the NCB in the death of the late actor. Further, the Respondent No. 2 by way of the complaint completely sets up a new case against the Petitioner, after a delay of 90 days of the alleged incident of the late actor, coming forward with concocted, meritless and misconceived facts to gain public attention and sympathy and to divert the investigation of the CBI, ED and NCB which compelled the late actor to take such extreme harsh step. That the

- Respondent No. 2 anticipating an arrest from the NCB, made out a false and frivolous F.I.R. to maliciously prosecute the Petitioner.
- S.** Because the Hon'ble High Court has failed to consider that Respondent No. 2 has retracted from her complaint on 14.09.2020 and stated that she is not alleging abetment of suicide contrary to the contents of the present subject FIR.
- T.** Because the Hon'ble High Court failed to look consider that the present F.I.R. is full of contradictions and discrepancies and as such does not merit cognizance and deserved to be quashed at the outset. That the Respondent No. 2 maintains it stand and earlier claim about her departure from the residence of the late actor on 08.06.2020 has been the same and the sole reasons for her departure was at the insistence of the Late actor since her sister, Ms. Meetu Singh, was coming to stay with him. The same very stand has been reiterated by the Respondent No. 2 till 27.08.2020, when the Respondent No. 2, at length, gave an interview to a News Channel and reiterated the same. Thus, it is evident that the present allegations have been concocted and now are merely used as an afterthought to shift the burden and focus of the investigation from herself to the Petitioner. That such contradictory stand and concocted stories, which are as an afterthought to derail the investigation of the Late actor, which deserves to be dismissed and thus fit to be quashed in entirety as being based in conjectures and surmises.
- U.** Because the Hon'ble high Court failed to take into consideration that the Respondents have admittedly relied upon TV reports and News Channels to register a F.I.R., which by any stretch of imagination cannot be termed as a valid and cogent evidence. In addition, the Respondent No. 2 has concocted a new story altogether to prosecute the Petitioner which is

entirely different from the statement made earlier made by her before the Hon'ble Supreme Court and also before various News Channels which the Respondent No. 2 never contemplated earlier. The Respondent No. 1 is hand in glove with the Respondent No. 2. That the Respondent No. 2 in complete abdication of its duty, the Respondent No. 1 while conducting the inquest proceedings under Section 174 and Section 175 of Cr.P.C. did not find any reasons to register a FIR despite complaints with the family of the Petitioner as earlier as February 2020. And thus now, when the matter cannot be any further investigated by the Respondent No. 1, they decided to register an F.I.R. at the instance of the Respondent No. 2 at the time when she was apprehending arrest from the NCB.

V. Because the Hon'ble High Court failed to consider that the F.I.R. is registered without preliminary investigation and without following any due process of law in terms of the judgement passed by the Hon'ble Supreme Court which mandates that the allegations of the Respondent No. 2 be considered by an independent medical board before alleged role and conduct of medical professional.

**Registration of F.I.R. is contrary to the directions of the Hon'ble Supreme Court**

W. Because the Hon'ble High Court failed to consider that the present F.I.R. is in the teeth of orders passed by the Apex Court vide Order dated 19.08.2020, wherein this Hon'ble Court while transferring the investigation to the Respondent No. 3 categorically stated that the Respondent No. 1 and Respondent No. 2 did not have an independent right to register a new case, but were only permitted to register a case only upon a condition that some cognizable offence came out during the inquest investigation under Section 174 and 175 Cr.P.C. After concluding

the inquest proceedings and handing over the documents to the CBI, the registration of fresh F.I.R. is in complete violation of the orders passed by this Hon'ble Court specially para 34 of the said judgment and in the said F.I.R. is contrary to the decision of the Hon'ble Supreme Court in the judgment of TT Antony(supra) and in order of Supreme Court in Transfer Petition has categorically held that Respondent No. 1 has only power to register the case arising out of inquest proceedings.

**Unexplained and inordinate delay not explained in registration of F.I.R.**

X. Because the Hon'ble High Court failed to quash to the F.I.R. at the very outset, since the F.I.R. is delayed, with ulterior motives, concocted and do not disclose any cognizable offence. That the Hon'ble High Court overlooked the fact that that is a delay of 91 (Ninety-One) days from the alleged incident till the registration of the F.I.R. which remains unexplained and is mysterious in nature at the behest of the Respondent No. 2. That the Respondent No. 2 had the knowledge of the alleged medial prescription since 08.06.2020 and has seen the alleged chats herself and as such, the Respondent No. 2 has miserably failed to explain the delay and as to why she remained silent till 91 days and what difference would it make if she saw the alleged prescription consequently when she already knew that the said alleged prescription is not suitable for the late actor. That the period of 91 days is sufficient to exaggerate the facts and add new facts, setting up a new case and to divert the actual investigation conducted by the CBI, ED and NCB and to gain public importance and sympathies. Thus, the present F.I.R. has been registered which is in gross and blatant violation and guidelines of the Hon'ble Apex Court in *Lalita Kumari Vs Govt. of U.P &Ors. (2014) 2 SCC 1.*

That a very interesting fact that comes out is that the first information was received at the Police Station on 07.09.2020 at 07:30 p.m. and the F.I.R. was registered on the same day without conducting any preliminary inquiry by the police authorities, which clearly shows that the F.I.R. was lodged by the Respondent No. 2 with ulterior and ill motives and smacks connivance and the Police authorities are hand in glove with the Respondent No. 2

**Alleged medical prescription issued by Mr. Tarun Kumar is covered under Telemedicine Guidelines and Telepsychiatry Operational Guidelines**

Y. Because the Hon'ble High Court overlooked the fact and has not arrived at correct findings that the alleged prescription of Dr. Tarun Kumar prescribed banned medicines as per Telemedicine Practice Guidelines are baseless and without merits. That the Respondent No. 2 alleges that the drugs prescribed by Dr. TarunKumar were prohibited from being prescribed electronically under the Telemedicine Practice Guidelines issued on 25<sup>th</sup>March, 2020, which constitutes Appendix 5 of the Indian Medical Council (Profession Conduct, Etiquette and Ethics) Regulations, 2002. It is the allegation of the Respondent that the complaint reveals that in the prescription dated 8/6/2020, Dr. TarunKumarhas prescribed Nexito 5 mg, Librium 10 mg and Lonazep MD 0.5 mg to Late actor for anxiety. It is alleged that tablet Librium is with thecontent'Chlorodiazepoxide'whichappearsatItemNo.36in the list of psychotropic substances under the NDPS Act, while Nexito and Lonazep MD both contain Clonazepam which appears at Item No.38 in the list of psychotropic substances under the NDPS Act and that these

medicines have a high potential of abuse and could harm the patient or the society at large if used improperly. Medicines listed in Schedule X of Drugs and Cosmetic Act and Rules or any Narcotic and psychotropic substances listed in the NDPS Act. The allegation is that the accused prescribed psychotropic substances without any consultation or examination in violation of various provisions of the NDPS Act and the Telemedicine Practice Guidelines, 2020. It is further alleged that the prescription prepared by them in connivance with each other is a fabricated and false document. However, the Hon'ble Court overlooked the fact that alleged drugs prescribed in the prescription being chlordiazepoxide or clonazepam are contained in Schedule H and Schedule H1 of the Drugs and Cosmetics Act, 1945 which are not at all banned drugs under the Telemedicine Practice Guidelines, 2020.

**Z.** Because the Hon'ble High Court failed to consider the submission of the Petitioner that the Medical Council of India vide Public Notice No. MCI-211(2)/2019(Ethics)/201874 has specifically notified that the drugs, Clonazepam, can be prescribed to a patient even at the first consultation. Thus, the Petitioner only in consultation with Dr. Tarun Kumar has prescribed the said drug despite of notice by the Medical Council of India. Since Mr. Tarun Kumar is a MD in Medicine and therefore, a highly qualified doctor, is a senior interventional cardiologist working with RML Hospital, Delhi and having exceptional medical practice record, could prescribe the alleged medication. Thus, the present F.I.R. is itself not maintainable on this ground alone.

**AA.** Because the Hon'ble High Court failed to appreciate the fact the alleged prescription and the alleged drugs prescribed by the Dr. Tarun Kumar are not banned substances/drugs under the Drugs and Cosmetics

Act, 1945 and the said drugs were prescribed to the Late actor only after consultation with the doctor adhering the Telemedicine Practice Guidelines, 2020. However, the said fact remained unnoticed by the Hon'ble High Court in the Impugned Judgment and Final Order since the Respondent No. 2 only wanted to shift the burden upon the Petitioner in connivance with the Respondent No. 1. That the Hon'ble High Court failed to exercise the extraordinary power and the inherent powers vested in it, despite the alleged drugs being prescribed after due consultation.

**Malicious and malafide Prosecution of the Respondent No. 1 in connivance and at the behest of the Respondent No. 2**

**BB.** Because the registration of the F.I.R. amounts to mockery of justice without due process of law being followed and shows that the present F.I.R. is filed by the Respondent No. 1 in connivance with and at the behest of the Respondent No. 2 in a mechanical and in a motivated manner. It is alleged that the said prescription of Dr. Tarun Kumar is forged and fabricated, however, there is not a single iota to suggest that the alleged prescription has been forged by the Petitioner neither any material evidence has been adduced nor any preliminary enquiry was conducted by the police before the registration of the F.I.R. on the very same day the complaint was received which smacks connivance of Respondent No. 2 with the Respondent no. 1 without applying due application of mind.

**CC.** Because the Hon'ble High Court overlooked the fact that the said F.I.R. is a counterblast to the F.I.R. filed by the Petitioner's father, which the Respondent No. 1 filed to level the scores and shift the burden upon the Petitioner which was later transferred to the CBI.

**DD.** Because the Hon'ble High Court failed to consider the submission of the Petitioner that the present case is purely *malafide* and full of malicious prosecution with ulterior motives for seeking vengeance and revenge from the Petitioner and her family. The reputation of the Petitioner, which is an integral part of their personal liberty guaranteed by the Constitution of India under Article 21, is being destroyed by the Respondent No. 1 and by the Respondent No. 2 by registering the said F.I.R. That the Petitioner is the sister of the Late actor Sh. Rajput, who is constantly under media glare after the death of her brother. The aspersions casted in the Petitioner and their lives, if the said F.I.R. is allowed to sustain, will cause irreparable harm and injury to the Petitioner and her family.

**EE.** Because the Hon'ble High Court failed to consider that the Respondent No. 1 was under constant media highlights, after Resopndent No. 1 time and again made statements that the present case is of a simpliciter suicide. Infact no F.I.R. was registered by Mumbai Police then when the case was handed over to the CBI. However, the Respondent No. 1 took a altogether new and contrary stand subsequent to the complaint lodged by the Respondent No. 2.

**FF.** Because the Hon'ble High Court failed to protect the tarnishing image of the Petitioner as the same was being carried by all news channels. It is submitted that the hard earned and reputed image of deceased Sh. Rajput and the Petitioner and the family members is being destroyed by the Respondents due to no fault of theirs. An integral facet of the Petitioner and the family and the personal liberty guaranteed under Article 21 is being destroyed.

**GG.** Because the Hon'ble High Court has utterly disregarded the fact that F.I.R. was widely being circulated and displayed on Media Channels and in the news even before the preliminary investigation ought to have begun and the copy of the said F.I.R. being handed over to the Petitioner and without letting the Petitioner to speak out their version.

**HH.** Because the Hon'ble High Court failed to ponder into the fact that Respondent No. 1 and 2 acted in malicious manner to launch prosecution against the Petitioner and her family. On a bare perusal of the F.I.R. it shows that it has been written in English, however, when the statement of the Petitioner and Ms. Meetu Singh were recorded, with regard to the death of Sh. Rajput, despite the request of the Petitioner and her sister, the same was denied and were stated that the same would only be recorded in Marathi. This very conduct shows that the Respondent No. 1 is protecting the Respondent No. 2, at any cost, and the said F.I.R. is only but a counterblast to the F.I.R of the petitioner's father.

**II.** Because the Respondents know fully well that the Petitioner has not committed any offence, yet in a malafide manner, has arrayed the Petitioner in the complaint and initiated criminal proceedings against her which is in complete violation of the Fundamental Rights enshrined under Article 21 of the Constitution of India.

**JJ.** Because the Hon'ble High Court failed to consider that that the Respondent No. 1 without proper application of mind converted the complaint into F.I.R. without appreciating that not a single offence is made out against the Petitioner. That there is no material in the F.I.R. which suggests that the Petitioner had used the alleged prescription to buy the alleged drugs from any third party or had induced it to the Late actor.

**KK.** Because the Hon'ble High Court failed to take into consideration the most crucial aspect that Respondent No. 1 in connivance with the Respondent No. 2 has proceeded to harass the Petitioner in the F.I.R. which is evident from the chronological events and facts that after the unfortunate death of Late actor Sh. Rajput, the Respondent No. 1 did not register any F.I.R. However as soon as the Respondent No. 1 was made the accused on F.I.R. No. 241 of 2020 registered at Rajiv Nagar Police Station, Patna, the Respondent No. 1 sought transfer of the same to itself. The Respondent No. 1 for days went on taking the statements from various persons but did not deem fit to check the electronic records of the Respondent No. 2 who had stayed with Late Sh. Rajput till 08.06.2020. However, it was only upon the intervention of the ED that the crucial messages came to light. Thus, it has not become evident that with the passage of time and as the facts revealed, the Respondent No. 1 at the behest of the Respondent No. 2 registered an FIR, which casts severe aspersions on the conduct of the Respondent No. 1 and the present F.I.R. is prima facie motivated, inspired, manufactured and in counter to the proceedings by ED and NCB initiated against the Respondent No. 2.

**LL.** Because the Hon'ble High Court failed to appreciate that the F.I.R. is a blatant and malicious attempt to derail and disrupt and influence the ongoing proceedings by the ED and the NCB initiated the Respondent No. 2 and thus the present F.I.R. is liable to be quashed.

**MM.** Because the Hon'ble High Court failed to take into consideration that the Respondent No. 2 claims to have seen the messages of the Petitioner with the Late actor, wherein the Petitioner has been allegedly sending the list of medicines on 08.06.2020. The Respondent No. 2 claims that the purported exchange came to light, and she recollected it was the same

messages which she saw on the said date. However, the Respondent No. 2 is silent about this fact that she revealed this fact to CBI or not. That the Respondent No. 2 in her complaint has further stated that she is fully cooperating with the investigation agencies and it is peculiar that the Respondent No. 2 instead of bringing these facts to the attention of the CBI has instead chosen to prefer the present F.I.R. Clearly this is a blatant attempt to overreach the ongoing investigation by the CBI, ED and the NCB. Thus the Respondent No. 2 has withheld this information from the CBI and other investigating agencies also. Thus the source of the information of the Respondent No. 2 is not credible and cannot be relied upon and casts aspersion upon the information and thus the present F.I.R. is based in surmises and conjectures and is liable to be quashed at the threshold.

**Ingredients of Forgery not made out against the Petitioner and the offence of forgery requires meticulous preliminary investigation.**

NN. Because the Hon'ble High Court failed to consider that none of the essential ingredients of forgery under Sections 420, 464, 465, 466, 474 and 468 of the IPC are made out against the Petitioner. It is also not the case that Dr. Tarun Kumar 'posed' as doctor and gave the alleged prescription or has given the prescription as someone else. Thus, there has been no preliminary investigation conducted by the police as held by the Hon'ble Supreme Court in number of cases. It is *prima facie*, that the alleged prescription has been duly signed by Dr. Tarun Kumar under his official capacity as a Doctor of RML Hospital, New Delhi. Nonetheless, it is also not the case that the alleged prescription of the doctor was shown to be signed, executed and prescribed to someone

else. Thus clearly, none of the ingredients of the of forgery are made out under Section 464 of the IPC. Thus, the allegations of forgery are not tenable in law in view of Telemedicine and telepsychiatry guidelines, which allows consultation of a patient through telemedicine for issuance of drugs as per the requirement of the patient. Reliance is placed upon *Mir Nagvi Askari Vs. CBI (2009) 15 SCC 643 and Md. Ibrahim and Ors. Vs. State of Bihar &Anr. (2009) 8 SCC 751*. Thus no offences as mentioned in the F.I.R. are made out under Sections 464, 465, 466, 474 and 468 of IPC and required dismissal the very outset.

**Ingredient of Section 306 of the IPC not made out in the complaint.**

**OO.** Because the High Court grossly misunderstood that even if the contents of the complaint are taken in toto the same shall fail to establish the commission of any offence under Section 306 of the IPC. That so constitute an offence under Section 306 of the IPC is suicidal death and the abetment thereof is already being investigated by the agencies regarding the past history of the Respondent No. 2 with the late actor from past one year and their relationship.

**PP.** Because Hon'ble High has failed to consider that Respondent No. 2 has withdrawn her case with regard to abetment of suicide and same has been reiterated in her reply on affidavit.

**QQ.** Because the Hon'ble High Court failed to appreciate the fact that so as to constitute an offence of abetment, the intention and the involvement of the Petitioner and her aid or instigation for the commission of the suicide is of utmost importance. Any severance or absence of any of the ingredients would mitigate against the indictment. Remoteness of the culpable acts or omission rooted in the intention of

the accused to actualize the suicide would fall short as well of the offences of abetment essential to attract the Section of 306 of the IPC. Contiguity, culpability and complicity of the indictable acts or omissions are the concomitant indices of abetment. Section 306 of IPC thus criminalizes the sustained incitements of suicide. The Hon'ble High Court failed to appreciate that material placed by the Respondent No. 2 with the complaint, do not *prima facie* suggest, any acts which provoked and/or compelled the late actor to commit such extreme and harsh step. Thus on a bare perusal of the F.I.R. it is clear that the essential ingredients have remained unproved and thus the F.I.R. ought to be dismissed.

**RR.** Because the Hon'ble High Court grossly overlooked that the alleged Whatsapp chat between the Petitioner No. 1 and Late Sh. Rajput enclosed with the complaint of the Respondent No. 2, without prejudice, even if taken on record clearly shows that the Petitioner had informed Late. Sh. Rajput that in case he wanted, the Petitioner would connect the Late actor to some doctor in Mumbai. Thus, it is clear from the conversation that even if the allegation of the Respondent No. 2 are believed to be true, the Petitioner tried her best to get the Late actor consulted with a Doctor in Mumbai. Thus, it was only after the due consultation with Dr. Tarun Kumar in Delhi, that the Petitioner sent the alleged prescription from Delhi to Late actor after due consultation as laid down in Telemedicine and telepsychiatry guidelines. Thus, *prima facie* there is no case made out under Section 306 of the IPC against the Petitioner and the Petitioner is maliciously being prosecuted at the behest of the Respondent No. 2 merely to shift the burden from herself

upon the Petitioner and to derail the ongoing investigation.

**SS.** Because the Hon'ble High Court failed to consider the fact that merely issuing a prescription cannot be, of its own, criminalized to such an extent so as to bring the same within the ambit of the F.I.R.

**No offence made out under the NDPS Act, 1985**

**TT.** Because the Hon'ble High Court failed to consider the fact that the F.I.R. against the Petitioner does not meet any of the ingredients, the accusations of which are levelled against the Petitioner under the NDPS Act which relates to production, manufacturing, possession, sale, purchase, transport, warehousing, usage, consumption, import/export etc. except for medical or scientific purposes. On a bare perusal of the said F.I.R. read with the concerned provisions makes it crystal clear the allegations levelled against the Petitioner are not made out under the NDPS Act.

**UU.** Because the Hon'ble High Court grossly failed to consider the fact that in the Complaint, there is not even a single allegation nor any information as to whether any such medicine was actually procured or administered to anyone. Thus, the present F.I.R. is just based on concocted facts and irrelevant materials influenced by News channels and media trials and the same is very vague and based on conjectures and surmises.

**VV.** Because the Hon'ble High Court failed to consider that the offence under the NDPS Act does not have any bearing on the F.I.R. so far as the alleged prescription is concerned, without prejudice, even is assumed to be true for the sake of arguments, the same were prescribed by the reputed Doctor under his guidance and consultation which is as

per the telemedicine practice guidelines read with Section 31 of Indian Medical Council Act, 1956.

**WW.** Because the Hon'ble High Court failed to consider the precedents as laid down by this Hon'ble Apex Court in *Jacob Mathew Vs State of Punjab (supra)*

**Registration of F.I.R. based on online media reports not tenable in law and is not cogent evidence.**

**XX.** Because the Hon'ble High Court failed to consider that the Mumbai police is wrong and flimsy and an extremely casual approach was opted by the Respondent No. 1 which lacks material proof. It is submitted that the Complaint relies on the leaked Whatsapp chats pertaining to the medical prescription given to Sh. Rajput and the said messages were continuously being circulated in the news channels and also in the newspapers. That it was upon these reports, that the Respondent No. 1 took cognizance against the Petitioner which is blatantly illegal and arbitrary and itself perverse. It is submitted that if the present F.I.R. is allowed to sustain, then it would open floodgates to multiple complaints based on messages, chats, and/or records doing rounds on News Channels and/or newspapers. Thus the F.I.R. is without any reliable and material evidence being placed on record by the Respondent No. 2 and smacks malafide intent of the Respondent No. 1 and abuses the process of law and same is also in violation of *Dr. B. Singh Versus Union of India [(2004) 3 SCC 363]*.

**YY.** Because the Hon'ble High Court failed to look into the consequences of events pertaining to allegedly taken place on 08.06.2020. That the F.I.R. is not only in the teeth of the order of the Hon'ble Supreme

Court's Judgment dated 19.08.2020 in *Rhea Chakraborty Vs State of Bihar (Transfer Petition Crl. 225 of 2020)* but also a blatant attempt to derail and digress the ongoing investigation by the CBI and other agencies.

**ZZ.** Because the Hon'ble High Court submit that the contents of the F.I.R. even taken on the face value, do not contain allegations of any cognizable offences. Interestingly, after the death of the late actor, the Respondent No. 2 had written to the Hon'ble Home Minister on 16.07.2020 stating that she was not aware of the cause of death of the late actor and requests a CBI inquiry for the same. Therefore, it is a clear contradiction of statement made by the Respondent No. 2 and conflict of her own version which cannot be overlooked before the consideration of the said F.I.R. and hence the said F.I.R. is not based on actual facts but only on probabilities, assumptions and presumptions.

**AAA.** Because the Hon'ble High Court failed to consider the relevant information that the Telemedicine Practice Guidelines were issued on 25.03.2020 with an aim to increase the probability and timely access to appropriate medial interventions that may not, otherwise be available in person. It is pertinent to mention that the guidelines provide prescription of medication online and also permits procurement of medication by a relative of the patient as well.

**BBB.** Because the Hon'ble High Court failed to take note that the Respondent No. 2 has sought to place reliance on an alleged prescription to make out a completely new case and had blamed the family of the Petitioner and the Late actor. It is submitted that this story is complete departure from all her previous stories and affidavits filed before this

Hon'ble Supreme Court. Therefore, to give credibility of such a version of story of the Respondent No. 2 when she is in the verge of being arrested, proves her vindictiveness and casts aspersions on her credibility which altogether brings out a new story which cannot be relied upon.

**CCC.** Because the Hon'ble High Court failed to consider the fact that as per the allegation of the Respondent No. 2 in the F.I.R. the alleged medicine was prescribed by Dr. Tarun Kumar at the instance of the Petitioner, however on a bare perusal of the complaint there is not even a single allegation nor any information as to whether any such medicine was actually procured or administered to anyone.

**DDD.** Because the Hon'ble High Court have utterly failed to exercise its extra-ordinary jurisdiction under Article 226 of the Constitution of India and the inherent power under Section 482 of the Cr.P.C.

**EEE.** Because this Hon'ble Court has the absolute power to quash the proceedings arising out of the present F.I.R. when it is manifestly clear from the facts and grounds abovementioned, that the proceedings against the Petitioner is at an initial stage and itself can be quashed and no offence is made out against the Petitioner.

**FFF.** That the Petitioner states that the Petitioner does not have any other alternate remedy available with them. The Petitioner also submits that this is a fit case for adjudication and allowing the present appeal in

favour of the Petitioner.

**GGG.** That the Petitioner has not filed other application/petition either in this Hon'ble Court or before any other Court relating to the present subject matter.

**HHH.** That the Hon'ble Court as the jurisdiction to try and adjudicate the present petition.

**6. GROUNDS FOR INTERIM RELIEF:**

**A.** That *prima facie*, on a bare perusal of the F.I.R. emanating from the Complaint filed by the Respondent No. 2, no case made out against the Petitioner and the F.I.R. does not disclose commission of any cognizable offence as alleged by the Respondent No. 1 and 2.

**B.** That the Respondent No. 1 does not have any jurisdiction to register the second FIR, i.e. 576 of 2020, in view of the fact that the earlier FIR no. 241 of 2020, pending on same cause of action, is being investigated by the Respondent No. 3 as per the direction of the this Hon'ble Court

**C.** That the criminal proceeding is at an initial stage which out to be quashed and dismissed at the threshold against the Petitioner.

**D.** That the Petitioner and the family members are facing emotional as well as mental harassment, mental agony and embarrassment at the hands of the Respondent No. 1 and such criminal proceedings are tarnishing the image, goodwill and the hard-earned image of the Petitioner and her family.

**E.** That the Petitioner has a good *prima facie* case and there is every likelihood of succeeding in the case.

**7. MAIN PRAYER:**

It is, therefore, respectfully prayed that this Hon'ble Court may graciously be pleased to –

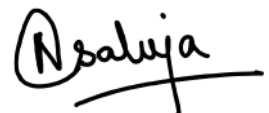
- a. Grant special leave to appeal against the Impugned Judgment and Order 15.02.2021 passed in Criminal Writ Petition Stamp No. 2712 of 2020 passed by Hon'ble High Court of Judicature at Bombay in favour of the Petitioner and against the Respondent and;
- b. Pass any further order(s) that this Hon'ble Court may deem fit and proper.

**8. INTERIM PRAYERS**

It is, therefore, respectfully prayed that this Hon'ble Court may graciously be pleased to –

- a. Pass an Ex-Parte order staying the operation of the impugned final judgement and order dated 15.02.2021 passed by High Court of Judicature at Bombay in Writ Petition Stamp No.2712/2020
- b. Pending the hearing and final disposal of the present Petition, stay the F.I.R. and all the proceedings emanating out of the F.I.R. 576 of 2020, registered as P.S. Bandra, Mumbai and;
- c. Direct no coercive actions may be taken against the Petitioner in terms of F.I.R. 576 of 2020
- d. pass any other order as it may deem fit.

**Filed by:**



NITIN SALUJA  
Advocate on Record for  
the Petitioner

Drawn By:  
Advocate Varun Singh  
Advocate Akshay Dev

**IN THE SUPREME COURT OF INDIA**  
**ORDER XXII RULE 2(1)**  
**CRIMINAL APPELLATE JURISDICTION**  
**SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

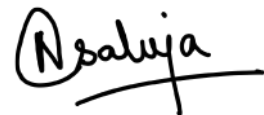
PRIYANKA SINGH ...PETITIONER

VERSUS

STATE OF MAHARASHTRA & ORS. ...RESPONDENTS

**CERTIFICATE**

Certified that the Special Leave Petition is confined only to the pleading before the Court/Tribunal whose Order is challenged and the documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the documents/ annexures attached to the Special Leave Petition are necessary to answer the question of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. This Certificate is given on the basis of the instruction given by the Petitioner/Person authorized by the Petitioner whose affidavit is filed in support of the Special Leave Petition.



Date: 25.02.2021  
Place: New Delhi

ADVOCATE FOR THE PETITIONER

**IN THE SUPREME COURT OF INDIA**  
**ORDER XXII RULE 2(1)**  
**CRIMINAL APPELLATE JURISDICTION**  
**SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

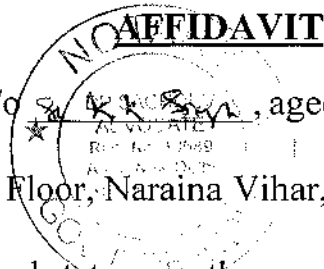
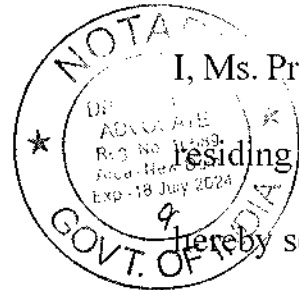
PRIYANKA SINGH

...PETITIONER

VERSUS

STATE OF MAHARASHTRA & ORS.

...RESPONDENTS



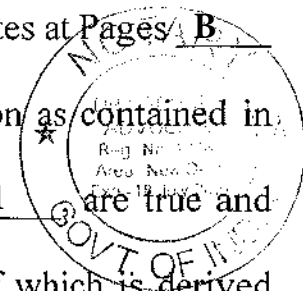
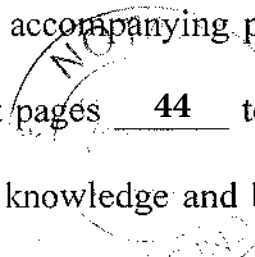
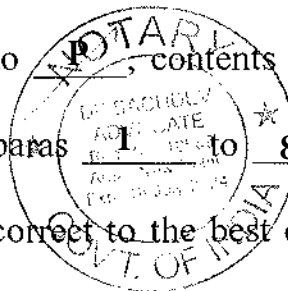
**AFFIDAVIT**  
 I, Ms. Priyanka Singh, D/o ~~S. K. S. S. S.~~, aged about 39 years, presently residing at C-10, Second Floor, Naraina Vihar, New Delhi – 110 028, do hereby solemnly affirm and state on oath as under:

1. That I am the Petitioner above named and am conversant with the facts and circumstances of the case as such competent to swear the present affidavit.

*Sh. Dr. 703/1/2021*

*At 25/2/2021*

2. That the contents of the Synopsis and List of Dates at Pages **B** to **P**, contents of the accompanying petition as contained in paras **1** to **8** at pages **44** to **71** are true and correct to the best of my knowledge and belief which is derived from the record of the case and the legal submissions are made as



per the advice of the counsel which are believed to be true and correct. This has also been read over to me in vernacular language.

- 3. That the annexures filed with the special leave petition are true copies of their respective originals and formed part of the record in the courts below.

*P. Singh*  
**DEPONENT**

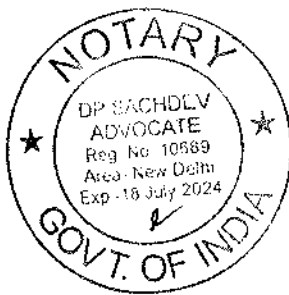
**VERIFICATION**

Verified at New Delhi on this *25<sup>th</sup>* day of February 2021 that the contents of the contents of the accompanying affidavit are true and correct to the best of my knowledge and no material fact has been concealed therefrom.

*P. Singh*  
**DEPONENT**

*I identify the Executant/ Deponent who has Signed in my Presence*  
*D/ 15/2/2021*

*Sl. No. 703/1/2021*  
*dt 25/2/2021*



ATTESTED

*[Signature]*  
 NOTARY PUBLIC

## **APPENDIX**

### **Section 482 of Crpc 1973**

482. Saving of inherent powers of High Court.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

### **Article 226 of Constitution of India**

226. Power of High Courts to issue certain writs:

(1) Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose

(2) The power conferred by clause ( 1 ) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause ( 1 ), without

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the aid next day, stand vacated

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme court by clause ( 2 ) of Article 32

## ANNEXURE P-1

3:48



O.P. Singh CP/Fdb  
online



Thanks Paramjeet

Rhea's father is retired military doctor. Just after couple of days of association she moved in at Sushant's place.

On the pretext of curing him of depression, she and her family took him to a resort near airport and kept him for there for months together. Since then, they are managing him and his business affairs. He is downhill since then.

When the matter went out of hand, Sushant called up my wife to be rescued. He stayed with us 2/3 days, went back fine citing his shooting commitments.

He is downhill again with reports of Rhea firing all Sushant's loyal team members and putting her own stooges in place.

Her third sister, a Delhi-based lawyer, who used to be with him and visit him frequently is panicky



3:48



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Her third sister, a Delhi-based lawyer, who used to be with him and visit him frequently is panicky that he has surrendered to a manipulative group of people and his life is at risk.



**TYPED COPY OF THE COMPLAINT MADE BY FAMILY MEMBER OF  
LATE SH. SUSHANT SINGH RAJPUT TO DCP, MUMBAI POLICE IN  
FEBRUARY, 2020**

Rhea's father is retired military doctor. Just after couple of days of association she moved in at Shushant's place.

On the pretext of curing him of depression, she and her family took him to a resort near airport and kept him there for months together. Since then, they are managing him and his business affairs. He is downhill since then.

When the matter went out of the hand, Sushant called up my wife to be rescued. He stayed with us 2/3 days, went back fine citing his shooting commitments.

He is downhill again with reports of Rhea firing all Sushant's loyal team members and putting her own stooges in place.

Her third sister, a Delhi-based lawyer, who used to be with him and visit him frequently is panicky that he has surrendered to a manipulative group of people and his life is at risk.

**ANNEXURE P-2**

**FIRST INFORMATION REPORT**  
(Under Section 154 Cr.P.C)

- 1 State: \_\_\_\_\_ Dist; Patna Police Station: Rajiv Nagar  
FIR No.: 211/20 Date: 25.07.2020
  
- 2 (i) Act I.P.C Sections: 341/348/380/406/420/306/  
306/120/B of I.P.C.  
(ii) Act- Sections: .....  
(iii) Other Acts and Sections: .....  
..... Abetment of suicide.....
  
- 3 a) Occurrence of the offence :  
Day:..... Date : 02/06/2020 to 14/06/2020  
  
b) Date of Information received at Police Station:  
Date: 25.07.2020 Time : 18.30  
  
c) Date of filing FIR: 25.07.2020 Time : 18.30
  
- 4 Type of information: Written/Oral: Typed application letter
  
- 5 Place of occurrence:
  - (a) Direction and distance from the P.S.: 25 Km. towards  
North-East.
  - (b) Address of Occurrence:  
Usha Singh House, Road No. 06, P.S. Rajiv Nagar,  
Dist: Patna.
  - (c) In case, outside the limit of this Police Station:

Taluka: ..... Dist.:..... State: .....

6. Complainant/Informant:

(a) Name: Krushna Kishor Singh

(b) Name of the father/husband:

(c) Date of Birth /Year :

(d) Nationality: Indian

(e) Passport no.: \_\_\_\_ Date of Issue: \_\_\_\_

Place of Issue: \_\_\_\_\_

(f) Address: Usha Singh House, Road No.06,

P.S.: Rajiv Nagar, Dist: Patna.

To,

Station Incharge  
Rajiv Nagar, Patna,  
Bihar.

Subject: Application for filing a case against Riya Chakravarti and her family members Indrajit Chakravarti, Sandhya Chakravarti, Shovik Chakravarti, Saimiyal Miranda, Shruti Modi and others for cheating, fraudulent, dishonesty and holding hostage and forcing him to commit suicide.

Respected Sir,

It is requested that the applicant Krushna Kishor Singh, residing at Usha Singh House, Road No.6, Rajiv Nagar, Patna, Bihar, I am a senior citizen. I am about 74 years old. I have 4 daughters and one son. I wife passed away in the year 2002, my son Sushant Singh was very much attached with his mother, I realized that my son was very sentimental when my wife passed away. My late son, Shri Sushant Singh Rajput was famous star in film industry. He acted in super-hit films life KAI PO CHE, VYOMKESH BAKSHI, M.S. DHONI, KEDARNATH, CHHICHORE and received various awards in Indian Film World/industry with the strength of his acting.

Till May 2019, My son Sushant was on the top in acting world. Mean while, a girl namely Riya Chakravarti, along with her family members and others did a planned conspiracy and Riya Chakravarti started to get acquainted with my son Sushant Singh. Whereby she can take the advantage of contact with Sushant Singh to be able to establish herself in the acting world and could grab the crates of rupees of Sushant Singh. Due to this conspiracy, Riya and her family members, Indrajit Chakravarti Sandhya Chakravarti, Shovik Chakravarti increased acquaintance with my son and all of them were interfering in each and every matter of my son. In spite of this, they vacated the house where my son was living by giving the reason that there is presence of ghost in that house. This influenced the mentality of my son and my son was taken to a resort near Mumbai Airport where Riya and her family and my son can reside and my son was frequently told by all of these that you talk deceptively, you have some influence on your mind. You need good treatment, so let a good doctor start your treatment When I came to know about this matter, my daughter met Sushant Singh and tried to get him return from Mumbai, but Riya and her family members pressurised to live in Mumbai and get treatment in

Mumbai and did not allowed Sushant Singh to return, hence, my daughter returned from Mumbai.

After that my son Sushant Singh was taken to Riya's home in Mumbai on the pretext of treatment and he was given overdose medicine there. At that time, Riya told everyone that Sushant is suffering from Dengue and his treatment is underway, but Sushant was never suffering from Dengue, fat the meantime, Riya and her family members took all the things of Sushant into their possession. Sushant Singh was talking very less with his family. Riya and her family members ware keeping Sushant's phone with them. Whatever film offers were coming, Riya was including the condition in the offers that Sushant would work only if Riya shall be taken as a main heroine with Sushant in the film, Riya changed all faithful employees of Sushant and in their place, Riya kept her knowing/close persons in service. All credit cards, Bank accounts ware in the control of Riya and her family mantes. Sushant was completed separated from his family. Earlier, my son's phone number was 9324398079, which was blocked by them in December, because, other people should be separated from Sushant Singh automatically, Riya replaced it with a new phone number

9820800308 on I.D. of her closely person namely Saimiyal Mirinda, by this phone number some time I can talk with Sushant. Many time Sushant told me that these people are willing to admit him in Mental Hospital, he cannot do anything.

After that Sushant Singh came to meet my daughter in Delhi and Haryana. Only 2 days were passed, Riya was calling him repeatedly on phone and pressurized him for return to Mumbai. Due to this pressure, my son Sushant Singh returned to Mumbai. After that we were talking very less and Riya and her family members and employees deployed by her started to utilize Sushant Singh's contact, his bank accounts, his cash as per their own willingness and for their benefit.

My son, Sushant Singh was willing to leave film line and wanted to do organic farming in Coorg, Kerala, his friend Mahesh was ready to go with him at Coorgs when Riya opposed that Sushant will not go anywhere. If, you did not listen me, then I will your medical report in media and tell everybody that you are mad. When Riya realized that Sushant Singh is not agreeing and his bank balance is very low. Riya thought that now Sushant Singh is no longer of her use. On 08.06.2020, Riya who was living with Sushant Singh went away with much goods,

cash, jewellery, laptops password, credit card and its pin numbers, important documents, treatment papers in the house of Sushant Singh and blocked phone number of my son, After that, Sushant Singh told my daughter on phone that Riya will cheat him, she went away with more goods, and threatened me that if my son doesn't agree with her, then she will open all his treatment papers in media and will tell everybody that you are mad and henceforth, you will not get any work and you will finish. After that, in the night of 08/09/06.2020, Disha, a temporary secretary selected by Riya committed suicide. That, news was spread in the media, hence, my son afraid of and tried to contact Riya, but Riya had blocked Sushant's phone number, therefore, he could not get contacted with Riya. My son was feared that Riya would not held responsible to my son for this suicide. After that my daughter went to meet Sushant and stayed with my son Sushant Singh for 3 to 4 days and understood him and encouraged him that everything will be all right. As my daughters children are small, she understood him and went, away after 3 to 4 days. But, on 14.06.2020 my son Sushant committed suicide after 2 days of her departure. Riya and her family members and their associate employees did conspiracy and thereby did acts of cheating, dishonesty and forcibly held hostage for long time for

their financial benefits and forced him to commit suicide, therefore, in view of above, I am kindly requesting you to file case against them in respect of following points and investigate the same.

1. Till 2019 my son Sushant was not suffering from any mental problem, but after contact with Riya, suddenly what happened with Sushant Singh that he was suffering from mental disease, it should be investigated?
2. If, meantime he was mentally disturbed, or he was taking treatment for mental disease, then why should written or oral permission not taken from us in that respect, because, if any person is suffering from mental diseases, all his rights stays with his family members, it should be investigated.
3. During this period, the doctors who treated my son Sushant Singh as per the instructions of Riya, I thought that all these doctors may be involved in conspiracy, it should be investigated that what kind of treatment was done and which medicines were given to my son.

- 4 If, Riya knew that my son's mental condition, is weak, in such situation, without giving him proper treatment and taking away all medical papers with her and leave my son alone in such critical condition, and break relation in all ways, due to which my son committed suicide, hence, Riya and her family members and associates are responsible for his death, it should be investigated.
- 5 I discovered from the statement of one bank account of my son that in last one year nearby 17 crore rupees were balance in account no. 1011972591 in Kotak Mahindra bank, meantime, 15 crore rupees were withdrawn from this account The money was transferred in the accounts of such persons, with whom my son is not concern in any way. My son's all accounts should be investigated and how much money has been grabbed by Riya along with her family members and associates by cheating and conspiracy.
- 6 Before this matter, Sushant Singh was famous in acting world, then what is the reason that after acquaintance of Riya, Sushant Singh's film were reduced, it should be investigated.

7 My son Sushant Singh wanted to go Coorg, Kerala with his friend Mahesh for doing business of organic farming, for this purpose, they were searching land. When Riya came to know about the same, she opposed and threatened Sushant that she will highlight all his medical papers in media and due to good influence, you will be ruined in every way, but when Sushant Singh opposed her. Riya thought that now Sushant Singh is no longer of her use, so she went away with laptop, cash jewellery, credit card, treatment papers, pin numbers password, it should be investigated.

When I was at my home in Patna, Bihar, I tried to contact with my son Sushant for many times, but Riya, her family members and associates always thwarted all my efforts and did not allow him to come to Patna. I am a senior citizen, I am 74 years old. I am in depression due to death of my son. About 40 days passed, but, Mumbai Police inspite of taking action against main accused; is investigating the persons who have fewer roles in this case and till date no any suit is filed against anyone. I am very sure that if the case was registered on the basis of the above facts and the investigation was done, then the truth will be revealed and above fraudulent and conspiratorial gang will be exposed and the

whole world will know that their favorite actor has been a victim of conspiracy and due to which their beloved actor is passed away. I request you that prosecution/crime should be registered against above all persons under Section 306,342, 380,406, 420, 506, 120/B of I.P.C and under Mental Health Care Act and one S.I.T., should be formed and strict legal action should be taken against them.

Krishna Kishore Singh  
Resident of Usha Singh House,  
Road Number 6, Rajeev Nagar,  
Patna Bihar

Requested Rajeev Nagar  
PS Case No.241/20.....on 25.072020 u/s 341,342,  
380,406,420, 306,506,120(B) IPC

TRUE COPY

**ANNEXURE P-3**INDEX

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2.	Cover Page of Paper Book		A4	
3.	Index of Record of Proceedings		A-5	
4.	Defect List		A-6	
5.	Note Sheet		NS1 to	
6.	Synopsis and List of Daises			
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8.	<u>APPENDIX 1</u> Relevant Provisions of the Code of Criminal Procedure, 1973	16		
9.	<u>ANNEXURE P-1</u> True Translated Copy of FIR No.241 of 2020 dated 25.07.2020 under .Sections 341, 342, 380, 406, 420, 306, 506, & 120(B) of Indian Penal Code, registered at Rajeev Nagar Police Station Police Station at Patina, in the jurisdiction of the Magistrate at Patna.	17-24		
10.	<u>ANNEXURE P-2</u> Copy of the news paper	25-26		

	report dated 28.07.2020 uploaded on Times Now Bureau.			
11.	<b>CRL.M.P. NO. OF 2020</b> APPLICATION FOR INTERIM RELIEFS WITH AFFIDAVIT	27-32		
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16.	Memo of Parties		46	

**IN THE HON'BLE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION  
TRANSFER PETITION (CRL.) NO. 225 OF 2020**

(UNDER SECTION 406 OF THE CODE OF CRIMINAL  
PROCEDURE, 1973 READ WITH ORDER XXXIX OF THE  
HON'BLE SUPREME COURT RULES, 2013)

**IN THE MATTER OF:**

Rhea Chakraborty		...Petitioner
	VERSUS	
State of Bihar & Anr.		....Respondents
	WITH	

CRL.M.P. NO. OF 2020 APPLICATION FOR INTERIM RELIEFS

CRL.M.P. NO. OF 2020 APPLICATION FOR EXEMPTION FROM  
FILING OFFICIAL TRANSLATION OF  
ANNEXURES

CRL.M.P. NO. OF 2020 APPLICATION FOR EXEMPTION FROM  
FILING NOTARIZED ORIGINAL  
AFFIDAVITS AND VAKALATNAMA

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONER: MALAK MANISH BHATT

### **SYNOPSIS AND LIST OF DATES**

The Petitioner by way of the instant Transfer Petition seeks to invoke the jurisdiction of this Hon'ble Court under Section 406 of the Code of Criminal Procedure, 1973 read with Order XXXIX of the Hon'ble Supreme Court Rules, 2013 seeking transfer of the case of the Respondent no.1 against the Petitioner herein in FIR No. 241 of 2020 dated 25.07.2020 under Sections 341, 342,380, 406, 420, 306, 506 & 120(B) of the Indian Penal Code hereinafter referred to as "IPC", registered at Rajeev Nagar Police Station Patna and all consequent proceedings, from the jurisdiction of the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna, to the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai having jurisdiction over Bandra Police Station, where the first 'Unnatural Death Report' as per Section 174 of CrPC was lodged on 14.06.2020 to look into the matter of suicide of Late Shri Sushant Singh Rajput hereinafter referred to as the (Deceased).

The Petitioner is an actress and is into acting since 2012. In the peculiar facts and circumstances of the present case, the Petitioner has been falsely implicated in the present case by filed at the instance of Shri Krishna Kishore Singh - father of the deceased hereinafter

referred to as the “Complainant”. It is pertinent to mention that the deceased and petitioner were in a live-in relationship since a year up till 8.06.2020 when the Petitioner had temporarily shifted to her own residence in Mumbai. Deceased was suffering from depression from some time and was also on anti-depressants and he committed suicide on the morning of 14.06.2020 at his Bandra residence by hanging himself 'Unnatural Death Report' was filed by Bandra Police Station at Mumbai and causes leading to taking of such drastic step are being examined. Petitioner was summoned and she had visited the Bandra Police Station on various occasions and her statement was also recorded under Section 175 of CrPC Petitioner understands that the investigation of Mumbai police is still going on as some of the forensic reports are still awaited, Further, from the news the Petitioner has learnt that a 4 member police team is sent to Mumbai from Patna for conducting investigation. The news report states that-

“According to latest reports, a four-member team has reached Mumbai and is discussing Sushant’s case with Mumbai Police, Bihar Police have asked for women constables from Mumbai Police for help in the investigation.”

Section 177 of CrPC mandates that every offence shall be inquired into and shall be tried by the Magistrate within whose local jurisdiction it was committed. Assuming that there is an iota of truth in the case registered by Respondent no.1, the offence would still have entirely been committed within the jurisdiction of Respondent no. 3. At the highest, Respondent no.1 ought to have registered the FIR after doing preliminary inquiry and forward the case to jurisdictional Police Station at Bandra, Mumbai for conducting investigation. However, in the present case, after recording the FIR, the investigation has been mechanically commenced wholly without jurisdiction by sending report to the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna, instead of sending the FIR to the jurisdictional Addl. Chief Metropolitan Magistrate, Bandra, Mumbai and the Bandra Police Station.

The allegations in FIR No. 241 of 2020 dated 25.07.2020 registered against the Petitioner herein reflect the influence of the Respondent no.2 in illegally roping in the Petitioner herein in the said FIR and the connivance of the Respondent no.1 and 2 is writ large. It becomes abundantly clear that the commencement of investigation in

Patna is erroneous in absence of any cause of action having arisen thereto in Patna. Further, as per Section 156(1), a cognizable case can be investigated by that police station, over which a Court having jurisdiction, would have power to inquire into or try under the provisions of Chapter XIII. The Additional Chief Judicial Magistrate 3, Patna Sadar at Patna has no jurisdiction to inquire into or try under the provisions of Chapter XIII as the entire cause of action as alleged in the FIR is at Bandra, Mumbai, within the jurisdiction of the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai and the Bandra Police Station at Mumbai.

Petitioner has also received various death and rape threats and she is in deep trauma due to loss of deceased, which has multiplied further due to the media sensitivity of the case. Petitioner has also filed a complaint at Santa Cruz Police Station in Mumbai against the death and rape threats. It would be just and expedient, if the transfer of the case is directed from Patna to Mumbai. No prejudice would be caused to the Respondents, if the direction sought herein is issued by this Hon'ble Court.

Hence, the instant Transfer Petition is being filed by the Petitioner seeking to invoke the jurisdiction of this Hon'ble Court under Section 406 of the Code of Criminal Procedure, 1973 read with Order XXXIX of the Hon'ble Supreme Court Rules, 2013, which if allowed, would be expedient for the ends of justice.

### **LIST OF PATES**

- 14.06.2020 Sushant Singh Rajput Committed suicide at his Bandra West residence in Mumbai in the morning Hours.
- 14.06.2020 Mumbai Police reached the spot and found the cause of death as asphyxia due to hanging and registered "unnatural death report" and commenced its proceedings to look into the circumstances leading to suicide. Various forensic examinations were conducted and investigation by the Mumbai Police is continuing, in the jurisdiction of the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai.

- Mid June  
2020 Petitioner was summoned on phone and she had joined proceedings by visiting Bandra Police Station (Mumbai) where she was questioned for hours.
- 18.6.2020 Statement of the Petitioner was recorded at Bandra Police Station (Mumbai)
- 25.7.2020 Father of deceased lodged a complaint at Rajeev Nagar Police Station, Patna for the alleged offences committed by Petitioner and various others and requested for investigation under Sections 342, 380, 406, 420, 306, 306, & 120(B) of the Indian Penal Code and provisions of Mental Health Care Act.
- 25.07.2020 FIR 241 of 2020 was lodged at Rajeev Nagar Police Station Patna for investigation into alleged offences allegedly committed under Sections 341, 342, 380, 406, 420, 306, 506, & 120(B) of the Indian Penal Code, and was sent to the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna.

Around

28.07.2020 As per news reports, 4 member police team was flown from Patna to Mumbai to investigate the offence and help was sought from Mumbai police to provide female constables for conducting investigation.

29.07.2020 Hence, the present Transfer Petition.

**IN THE HON'BLE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION  
TRANSFER PETITION (CRL.) NO. OF 2020**

(UNDER SECTION 406 OF THE CODE OF CRIMINAL  
PROCEDURE, 1973 READ WITH ORDER XXXIX OF THE  
HON'BLE SUPREME COURT RULES, 2013)

Ms. Rhea Chakraborty D/o Mr. Indrajeet  
Chakraborty  
R/o. 101, Primrose Apartments, Near  
Ajivasan Hall, Next to SNTD College,  
Juhu Road, Santacruz West 400054

....Petitioner

Versus

1. State of Bihar  
Through Station House Officer,  
Rajeev Nagar Police Station, Patna

Contesting  
Respondent No.1

2. Krishna Kishore Singh, Usha Singh  
House, Road no.6, Rajeev Nagar,  
Patna, Bihar.

Contesting  
Respondent No.2

TRANSFER PETITION SECTION 406 OF CRIMINAL  
PROCEDURE CODE, 1973 READ WITH ORDER XXXIX OF THE  
HON'BLE SUPREME COURT RULES, 2013 SEEKING  
TRANSFER OF THE CASE OF THE RESPONDENT NO.1  
AGAINST THE PETITIONER HEREIN IN FIR NO. 241 OF 2020  
DATED 25.07.2020 AND ALL CONSEQUENT PROCEEDINGS,  
FROM THE JURISDICTION OF THE ADDITIONAL CHIEF

JUDICIAL MAGISTRATE 3, PATNA SADAR AT PATNA, TO  
THE ADDL. CHIEF METROPOLITAN MAGISTRATE HAVING  
JURISDICTION OVER BANDRA POLICE STATION  
HAVING JURISDICTION UNDER SECTION 156(1) READ WITH  
177 OF CRPC

To,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS  
OTHER COMPANION JUDGES OF THE HON'BLE  
SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF THE  
PETITIONER ABOVENAMED.

MOST RESPECTFULLY SHOWETH AS UNDER:

1. That the Petitioner by way of instant Transfer Petition seeks to invoke the jurisdiction of this Hon'ble Court under Section 406 of the Code of Criminal Procedure, 1973 read with Order XXXIX of the Hon'ble Supreme Court Rules, 2013 seeking transfer of the case of the Respondent no.1 against the Petitioner herein in FIR No. 241 of 2020 dated 25.07.2020 tinder Sections 341, 342, 380, 406, 420, 306, 506 & 120(B) of the Indian Penal Code hereinafter inferred to as "IPC", registered at Rajeev Nagar Police Station Patna and all consequent proceeding from the jurisdiction State

of Bihar & Anr. Vs. Rhea Chakraborty of the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna, Case GR No. 4046/2020 to the Chief Metropolitan Magistrate having jurisdiction over Bandra Police Station, where the first “Unnatural Death Report” as per Section 174 of Cr.P.C was lodged on 14.06.2020 to look into the matter of suicide of Late Shri Sushant Singh Rajput hereinafter referred to as the (Deceased). A True Copy of FIR No. 241 of 2020 dated 25.07.2020 lodged by Rajeev Nagar Police Station Patna is annexed herewith and marked as **ANNEXURE- P-1** (Pages 17 to 24)

- 2 Late Shri Sushant Singh Rajput committed suicide by hanging himself on 14.06.2020 at his Bandra West residence in Mumbai, Mumbai Police visited the spot and commenced proceedings as per Section 174 of CrPC on the same day.
- 3 Petitioner was orally summoned to join the proceedings and she visited the Bandra West Hill Road Police Station Mid-June and deposed her statement under Section 175 of CrPC on 18.6 Statements of several other persons were also recorded by Respondent no 3 and the investigation proceedings of Respondent

no.3 are pending under the jurisdiction of the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai.

- 4 Father of the deceased -- Respondent no. 2 filed a complaint before Respondent no.1 on 25.07.2020 which was reduced to FIR No. 241 of 2020 dated 25.07.2020 at Patna, Bihar, a place very far off from the place of alleged commission of offence i.e. Mumbai.
5. Allegations in brief in the said FIR registered in Patna are as under:
  - a. Deceased was an established bollywood actor and therefore Petitioner along with various other co-accused under a pre-planned conspiracy increased proximity with deceased to thrust her acting
  - b. Petitioner distances deceased from his family and completely took deceased into her influence.
  - c. On 08.06.2020, Petitioner left the Mumbai residence of the deceased with his valuables.

- d. Petitioner exercised power over the deceased while he was alive by threatening the deceased to abide by her decisions failing which the Petitioner would make the medical papers of Petitioner's mental health public and defame the petitioner.
  - e. Permission of family members of the deceased was not taken while treating him for mental healthcare.
6. The allegations in the FIR are entirely false and concocted with ulterior motive and Petitioner denies the same. Petitioner was in a year long relationship with the deceased and is herself in the state of trauma from the incident. Petitioner and the deceased last resided together on 08.06.2020 when the Petitioner temporarily moved to her Santa Cruz residence.
7. The petitioner was in love with the deceased and is in trauma after his death. Infact, the Petitioner through her social platform has requested the Union Home Minister for CBI inquiry to know the causes that led the deceased to take such drastic steps. Tweet sent

from the twitter account of the Petitioner on 16.07.2020 at 2.56 pm are reproduced as under:-

“Part 1 Respected @AmitShah sir, I’m Sushants Singh Rajputs girlfriend Rhea Chakraborty, is now over a month since his sudden demise I have complete faith in the government, however in the interest of justice, I request you with folded hands to initiate a CBI enquiry.

Part 2. I request you with folded hands to initiate a CBI enquiry into this matter. I only want to understand what pressures, prompted Sushant to take this step. Yours sincerely #satyamevajayate@AmitShah sir”

8. The Petitioner is also victimized and trolled on social platforms with various threats. Petitioner reported the same to *cybercrimemedia* through her twitter. Said message is reproduced as under:-

“I was called a gold digger..... I kept quiet

I was called a murderer ...I kept quiet

I was slut shamed... I kept quiet

But how does wry silence give you the right to tell me that you will get me RAPED and MURDERED if I don't commit suicide @mannu\_raaut ?

Do you realize the seriousness of what you have said? These are crimes, and by law no one, I repeat NO ONE should be subjected to this kind of toxicity and harassment.

I request @cyber\_crime\_helpline @cybercrimemedia, to please take necessary action.

ENOUGH IS ENOUGH”

An offence for the same was registered at Santa Cruz Police Station being 221 of 2020 under Section 509 and 507 of IPC read with Section 67 of the IT Act on 17 July 2020.

9. As per Section 156(1), a cognizable case can be investigated by that police station, over which a Court having jurisdiction, would have power to inquire into or try under the provisions of Chapter XIII. Section 177 of CrPC mandates that every offence shall be inquired into and shall be tried by the Magistrate within whose

local jurisdiction it was committed. Section 157 of CrPC requires forthwith sending of a report to Magistrate empowered to take cognizance.

10. However, copy of the said FIR was erroneously sent to Additional Chief Judicial Magistrate 3, Patna Sadar at Patna, instead of the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai having jurisdiction and empowered to take cognizance of the alleged offence.
11. It is reported online in a news that a 4 member team comprising of officers from Bihar Police has landed, in Mumbai and is seeking assistance from local the police in Mumbai for providing female constable to conduct, investigation. The news report states that-

*“.....According to latest reports, a four-member team has reached Mumbai and is discussing Sushant’s case with Mumbai Police, Bihar Police have asked for women constables from. Mumbai Police for help in the investigation...”*

A copy of the online news article dated 28.07.2020 is annexed herewith and marked as ANNEXURE- P-2 (Pages 25 to 26)

12 **GROUND**S

- A. FOR THAT there is no jurisdiction with the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna, as tire entire alleged cause of action is in Mumbai, particularly in the jurisdiction of Bandra Police Station at Mumbai, which is under jurisdiction of the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai.
- B. FOR THAT, Section 177 of CrPC mandates that every offence shall be inquired into and shall be tried by the Magistrate within whose local jurisdiction it was committed. Assuming that the there is an iota of truth in the case registered by Respondent no.1, the offence would still have entirely been committed within the jurisdiction of Respondent no.3.
- C. FOR THAT, at the highest, Respondent no. 1 ought to have registered the FIR and should have forward the case to jurisdictional Police Station at Bandra, Mumbai for conducting investigation.

- D. FOR THAT, in the present case, after recording the FIR at a far off place in Patna, Bihar, the investigation has been mechanically commenced wholly without jurisdiction under Section 156(1) CrPC and report was sent to the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna, instead of the jurisdictional Addl. Chief Metropolitan Magistrate, Bandra, Mumbai and the Bandra Police Station.
- E. FOR THAT the Petitioner submits that the Petitioner is innocent Respondent no 3-Mumbai Police has questioned the Petitioner for hours and has not attributed any culpable role to the Petitioner. Petitioner has joined the proceedings in Mumbai and have fully cooperated with the Respondent no.3. Investigations of Respondent No.3 within jurisdiction of the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai are continued.
- F. FOR THAT the Petitioner is also victimised and. trolled on social platforms with various threats. Petitioner reported the same to *cybercrimemedia* through her twitter. Said message is reproduced as under:

“I was called a gold digger..... I kept quiet

I was called a murderer ...I kept quiet

I was slut shamed... I kept quiet

But how does wry silence give you the right to tell me that you will get me RAPED and MURDERED if I don't commit suicide @mannu\_raaut ?

Do you realize the seriousness of what you have said? These are crimes, and by law no one, I repeat NO ONE should be subjected to this kind of toxicity and harassment.

I request @cyber\_crime\_helpline @cybercrimemedia, to please take necessary action.

ENOUGH IS ENOUGH”

An offence for the same was registered at Santa Cruz Police Station being 221 of 2020 under Section 509 and 507 of IPC read with Section 67 of the I.T. Act on 17 July 2020.

G. FOR THAT, cause of action has not even remotely arisen in Patna, and there is no basis for the Respondent no.1 to investigate

the alleged offences under the jurisdiction of the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna.

- H. FOR THAT the Petitioner submits that there is serious apprehension that the she will not be fairly treated by the Respondent no.1 who have usurped jurisdiction at the very outset Further the Respondent no.1 has also mobilized a 4 member team from Patna to Mumbai amidst the Covid-19 pandemic. Such conduct action without jurisdiction and haste strongly reeks of malice on the part of Respondent no.1.
- I. FOR THAT if at all any cause of action qua the case registered by the Respondent no.1 has occurred, it has entire transpired in the geographical limit of Mumbai and the investigation proceedings of Respondent no 3 are still ongoing in the jurisdiction of the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai.
- J. FOR THAT no harm or prejudice would be caused to either Respondent or the Complainant if the proceedings are transferred from Patna to Mumbai.

- K. FOR THAT it is apparent that the Complainant has substantial influence at Patna as he is able to mobilize investigation in a case without jurisdiction and, therefore, the Petitioner fears that she would be unable to get a fair and just trial in as much as the local authorities are hand in glove with the complaint and he possesses the capacity to greatly influence the investigation and trial in the cases.
- L. FOR THAT the case filed at Patna against, the Petitioner is entirely misconceived and have been, so filed only to harass the Petitioner. Close relative of deceased is ADG in Haryana Police. Possibility of influencing the filing of FIR in Patna and further proceeding cannot be ruled out. Said relative of deceased pressurised a potential witness and former associate of the deceased who has reported the same to Mumbai Police via email. Said email is reproduced as under :-

“From: Siddharth Pithani [pithani0721@gmail.com](mailto:pithani0721@gmail.com)

Date: Tue, Jul. 28, 2020, 2:48 PM

Subject: Being pressurized to give false statements regarding late sushant sing rajput

To: <ps.bandra.mum@mahapolice.gov.in>

Dear sir,

This mail is to inform you that, I received conference phone calls from the family members of Sushant Singh Mr OP Singh, Ms Meetu Singh and an unknown number (9811077353) on 22nd July and they asked me questions regarding Rhea Chakraborty and her expenses during her stay at mount blanc with Sushant

I received another phone call yesterday i.e. on 27 July 2020 and Mr O P Singh, asked me to give a statement against Rhea Chakraborty to Bihar police I was told I would receive a phone call after which I received a call from an unknown whatsapp number i.e +90 992053333, but the call ended within 40 secs, and no statement was recorded, I am pressurized to comply and record statements against Rhea, the things which I am not aware of.

Regards

Siddharth Pithani (Buddha)  
+91 9987710549  
Hyderabad 500062”

**Mr. Siddharth Pithani shared the said mail with the Petitioner.**

M. FOR THAT it would be just, proper, convenient for the parties and for the investigation agencies, if the present proceedings are expeditiously transferred at Mumbai.

R FOR THAT the present case is a fit case for the exercise of the jurisdiction of this Hon'ble Court under Section 406 of the Code of Criminal procedure in the interest of justice for the transfer of the related proceedings from the magistrate having jurisdiction over the Respondent no.1 to the magistrate having jurisdiction over Respondent no 3.

13. That the Petitioner submits that present is the only efficacious remedy available to him. The Petitioner has not filed any other petition on the same subject and for the same remedy, either in this Hon'ble Court or in any other court.

PRAYER

In the facts and circumstances, the Petitioner most respectfully and humbly prays that this Hon'ble Court may be pleased to:

- (a) Direct transfer of the case of the Respondent no.1 against the Petitioner herein in FIR No.241 of 2020 dated 25.07.2020 under Sections 341, 342, 380, 406, 420, 306, 506 & 120(B) of the Indian Penal Code hereinafter referred to as "IPC" registered at Rajeev Nagar Police Station Patna and all consequent proceeding from the jurisdiction of the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna, being State of Bihar & Anr. Vs. Rhea Chakraborty – Case GR No. 4046/2020 to the Addl. Chief Metropolitan Magistrate, Bandra, Mumbai having jurisdiction over Bandra Police Station, where the cause of action has arisen and first 'Unnatural Death Report' as per Section 174 of CrPC was already lodged on 14.06.2020;
- (b) Pass such other and further order/s as this Hon'ble Court may deem fit, proper and just on the facts and circumstances of the case.

AND FOR WHICH ACT OF KINDNESS OF YOUR  
LORDSHIPS THE PETITIONER AS IN DUTY BOUND  
SHALL EVER PRAY.

FILED ON: 29 JULY 2020  
FILED BY

MALAK MANISH BHATT  
ADVOCATE FOR THE PETITIONER

PLACE: NEW DELHI

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION [CRIMINAL] NO.      OF 2020

**IN THE MATTER OF:**

Reha Chakraborty		....Petitioner
	Versus	
State of Bihar & Anr.		...Respondents

**A F F I D A V I T**

I, Rhea Chakraborty d/o Mr. Indrajit Chakraborty, aged 28 years, R/o 101, Primrose Apartments, near Ajivasan Hall, next to SNDT College, Juhu Road, Santacruz West, Mumbai - 400054 do hereby solemnly affirm and state as under:-

1. That I am the petitioner and as such, I am conversant with the facts and circumstances of the case, hence, competent to swear the instant affidavit on behalf of the Petitioner.
2. That I have read a copy of the accompanying Transfer Petition [paras 11 ] [page 2 – 6], I.As. and having understood the contents thereof. I say that the facts stated therein are true to my knowledge.
3. That the annexures are true copies of their respective originals.

4. That the T.P. Paper book contains total 46 pages.
5. That the facts stated in the above affidavit are true to my knowledge. No part of the same is false and nothing material has been concealed therefrom.

Sd/-  
**DEPONENT**

**VERIFICATION**

I, the above-named deponent do hereby verify that the facts stated in the above affidavit are true to my knowledge. No part, of the same is false and nothing material has been concealed therefrom.

Verified at Mumbai on this the 28 day of July, 2020.

Sd/-  
**DEPONENT**

**Relevant Provisions of The Code Of Criminal Procedure, 1973****406. Power of Supreme Court to transfer cases and appeals.**

- (1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a Criminal Court subordinate to one High Court to another Criminal Court of equal or superior jurisdiction subordinate to another High Court.
- (2) The Supreme Court may act under this section only on the application of the Attorney General of India or of a party interested, and every such application shall be made by motion, which shall, except when the applicant is the Attorney- General of India or the Advocate- General of the State, be supported by affidavit or affirmation.
- (3) Where any application for the exercise of the powers conferral by this section is dismissed, the Supreme Court may, if it is of opinion that, the application was frivolous or vexatious, order

the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.

FIRST INFORMATION REPORT  
(Under Section 154 Cr.P.C)

- 1 State: \_\_\_\_\_ Dist; Patna Police Station: Rajiv Nagar  
FIR No.: 211/20 Date: 25.07.2020
- 2 (i) Act I.P.C Sections: 341/348/380/406/420/306/  
306/120/B of I.P.C.  
(ii) Act- Sections: .....  
(iii) Other Acts and Sections: .....  
..... Abetment of suicide.....
- 3 a) Occurrence of the offence :  
Day:..... Date : 02/06/2020 to 14/06/2020  
b) Date of Information received at Police Station:  
Date: 25.07.2020 Time : 18.30  
c) Date of filing FIR: 25.07.2020 Time : 18.30
- 4 Type of information: Written/Oral: Typed application letter
- 5 Place of occurrence:  
(a) Direction and distance from the P.S.: 25 Km. towards  
North-East.  
(b) Address of Occurrence:  
Usha Singh House, Road No. 06, P.S. Rajiv Nagar,  
Dist: Patna.

(c) In case, outside the limit of this Police Station:

Taluka: ..... Dist.:..... State: .....

6. Complainant/Informant:

(a) Name: Krushna Kishor Singh

(b) Name of the father/husband:

(c) Date of Birth /Year :

(d) Nationality: Indian

(e) Passport no.: \_\_\_\_ Date of Issue: \_\_\_\_

Place of Issue: \_\_\_\_\_

(f) Address: Usha Singh House, Road No.06,

P.S.: Rajiv Nagar, Dist: Patna.

To,

Station Incharge  
Rajiv Nagar, Patna,  
Bihar.

Subject: Application for filing a case against Riya Chakravarti and her family members Indrajit Chakravarti, Sandhya Chakravarti, Shovik Chakravarti, Saimiyal Miranda, Shruti Modi and others for cheating, fraudulent, dishonesty and holding hostage and forcing him to commit suicide.

Respected Sir,

It is requested that the applicant Krushna Kishor Singh, residing at Usha Singh House, Road No.6, Rajiv Nagar, Patna, Bihar, I am a senior citizen. I am about 74 years old. I have 4 daughters and one son. I wife passed away in the year 2002, my son Sushant Singh was very much attached with his mother, I realized that my son was very sentimental when my wife passed away. My late son, Shri Sushant Singh Rajput was famous star in film industry. He acted in super-hit films life KAI PO CHE, VYOMKESH BAKSHI, M.S. DHONI, KEDARNATH, CHHICHORE and received various awards in Indian Film World/industry with the strength of his acting.

Till May 2019, My son Sushant was on the top in acting world. Meanwhile, a girl namely Riya Chakravarti, along with her family members and others did a planned conspiracy and Riya Chakravarti started to get acquainted with my son Sushant Singh. Whereby she can take the advantage of contact with Sushant Singh to be able to establish herself in the acting world and could grab the crates of rupees of Sushant Singh. Due to this conspiracy, Riya and her family members, Indrajit Chakravarti Sandhya Chakravarti, Shovik Chakravarti increased acquaintance with my son and all of them were interfering in each and every matter of my son. In spite of this, they vacated the house where my son was living by giving the reason that there is presence of ghost in that house. This influenced the mentality of my son and my son was taken to a resort near Mumbai Airport where Riya and her family and my son can reside and my son was frequently told by all of these that you talk deceptively, you have some influence on your mind. You need good treatment, so let a good doctor start your treatment When I came to know about this matter, my daughter met Sushant Singh and tried to get him return from Mumbai, but Riya and her family members pressurised to live in Mumbai and get treatment in

Mumbai and did not allowed Sushant Singh to return, hence, my daughter returned from Mumbai.

After that my son Sushant Singh was taken to Riya's home in Mumbai on the pretext of treatment and he was given overdose medicine there. At that time, Riya told everyone that Sushant is suffering from Dengue and his treatment is underway, but Sushant was never suffering from Dengue. In the meantime, Riya and her family members took all the things of Sushant into their possession. Sushant Singh was talking very less with his family. Riya and her family members were keeping Sushant's phone with them. Whatever film offers were coming, Riya was including the condition in the offers that Sushant would work only if Riya shall be taken as a main heroine with Sushant in the film, Riya changed all faithful employees of Sushant and in their place, Riya kept her knowing/close persons in service. All credit cards, Bank accounts were in the control of Riya and her family members. Sushant was completely separated from his family. Earlier, my son's phone number was 9324398079, which was blocked by them in December, because, other people should be separated from Sushant Singh automatically, Riya replaced it with a new phone number

9820800308 on I.D. of her closely person namely Saimiyal Mirinda, by this phone number some time I can talk with Sushant. Many time Sushant told me that these people are willing to admit him in Mental Hospital, he cannot do anything.

After that Sushant Singh came to meet my daughter in Delhi and Haryana. Only 2 days were passed, Riya was calling him repeatedly on phone and pressurized him for return to Mumbai. Due to this pressure, my son Sushant Singh returned to Mumbai. After that we were talking very less and Riya and her family members and employees deployed by her started to utilize Sushant Singles contact, his bank accounts, his cash as per their own willingness and for their benefit.

My son, Sushant Singh was willing to leave film line and wanted to do organic farming in Coorg, Kerala, his friend Mahesh was ready to go with him at Coorgs when Riya opposed that Sushant will not go anywhere. If, you did not listen me, then I will your medical report in media and tell everybody that you are mad. When Riya realized that Sushant Singh is not agreeing and his bank balance is very low. Riya thought that now Sushant Singh is no longer of her use. On 08.06.2020, Riya who was living with Sushant Singh went away with much goods,

cash, jewellery, laptops password, credit card and its pin numbers, important documents, treatment papers in the house of Sushant Singh and blocked phone number of my son, After that, Sushant Singh told my daughter on phone that Riya will cheat him, she went away with more goods, and threatened me that if my son doesn't agree with her, then she will open all his treatment papers in media and will tell everybody that you are mad and henceforth, you will not get any work and you will finish. After that, in the night of 08/09/06.2020, Disha, a temporary secretary selected by Riya committed suicide. That, news was spread in the media, hence, my son afraid of and tried to contact Riya, but Riya had blocked Sushant's phone number, therefore, he could not get contacted with Riya. My son was feared that Riya would not held responsible to my son for this suicide. After that my daughter went to meet Sushant and stayed with my son Sushant Singh for 3 to 4 days and understood him and encouraged him that everything will be all right. As my daughters children are small, she understood him and went, away after 3 to 4 days. But, on 14.06.2020 my son Sushant committed suicide after 2 days of her departure. Riya and her family members and their associate employees did conspiracy and thereby did acts of cheating, dishonesty and forcibly held hostage for long time for

their financial benefits and forced him to commit suicide, therefore, in view of above, I am kindly requesting you to file case against them in respect of following points and investigate the same.

1. Till 2019 my son Sushant was not suffering from any mental problem, but after contact with Riya, suddenly what happened with Sushant Singh that he was suffering from mental disease, it should be investigated?
2. If, meantime he was mentally disturbed, or he was taking treatment for mental disease, then why should written or oral permission not taken from us in that respect, because, if any person is suffering from mental diseases, all his rights stays with his family members, it should be investigated.
3. During this period, the doctors who treated my son Sushant Singh as per the instructions of Riya, I thought that all these doctors may be involved in conspiracy, it should be investigated that what kind of treatment was done and which medicines were given to my son.

- 4 If, Riya knew that my son's mental condition, is weak, in such situation, without giving him proper treatment and taking away all medical papers with her and leave my son alone in such critical condition, and break relation in all ways, due to which my son committed suicide, hence, Riya and her family members and associates are responsible for his death, it should be investigated.
- 5 I discovered from the statement of one bank account of my son that in last one year nearby 17 crore rupees were balance in account no. 1011972591 in Kotak Mahindra bank, meantime, 15 crore rupees were withdrawn from this account The money was transferred in the accounts of such persons, with whom my son is not concern in any way. My son's all accounts should be investigated and how much money has been grabbed by Riya, along with her family members and associates by cheating and conspiracy.
- 6 Before this matter, Sushant Singh was famous in acting world, then what is the reason that after acquaintance of Riya, Sushant Singh's film were reduced, it should be investigated.

7 My son Sushant Singh wanted to go Coorg, Kerala with his friend Mahesh for doing business of organic farming, for this purpose, they were searching land. When Riya came to know about the same, she opposed and threatened Sushant that she will highlight all his medical papers in media and due to good influence, you will be ruined in every way, but when Sushant Singh opposed her. Riya thought that now Sushant Singh is no longer of her use, so she went away with laptop, cash jewellery, credit card, treatment papers, pin numbers password, it should be investigated.

When I was at my home in Patna, Bihar, I tried to contact with my son Sushant for many times, but Riya, her family members and associates always thwarted all my efforts and did not allow him to come to Patna. I am a senior citizen, I am 74 years old. I am in depression due to death of my son. About 40 days passed, but, Mumbai Police inspite of taking action against main accused; is investigating the persons who have fewer roles in this case and till date no any suit is filed against anyone. I am very sure that if the case was registered on the basis of the above facts and the investigation was done, then the truth will be revealed and above fraudulent and conspiratorial gang will be exposed and the

whole world will know that their favorite actor has been a victim of conspiracy and due to which their beloved actor is passed away. I request you that prosecution/crime should be registered against above all persons under Section 306,342, 380,406, 420, 506, 120/B of I.P.C and under Mental Health Care Act and one S.I.T., should be formed and strict legal action should be taken against them.

Krishna Kishore Singh  
Resident of Usha Singh House,  
Road Number 6, Rajeev Nagar,  
Patna Bihar

Requested Rajeev Nagar  
PS Case No 241/20.....on 25.072020 u/s 341,342,  
380,406,420, 306,506,120(B) IPC

**Sushant Singh Rajput case: Family files FIR against Rhea Chakraborty, 5 others for abetment of suicide**

**Times Now Bureau**

Updated Jul 28,2020 | 20:09 1ST

Patna: In a major development in the Sushant Singh Rajput's suicide case, the late actor's father has filed an FIR against Rhea Chakraborty and five other people for abetment of suicide and a string of other charges, Bihar Police has reached Mumbai and has sought Mumbai Police's help in investigating the case. According to sources, Rhea Chakraborty, who was reportedly Sushant's girlfriend, used his credit cards on a Europe tour, sacked one of his bodyguards and even has stakes in the late Bollywood actors company.

According to latest reports, a four-member team has reached Mumbai and is discussing Sushant's case with Mumbai Police. Bihar Police have asked for women constables from Mumbai Police for help in the investigation.

While speaking to media, Patna Central Zone IG Sanjay Singh confirmed, "The FIR has been registered.

While speaking to media, Patna Central Zone IG Sanjay Singh confirmed, “The FIR has been registered against Rhea Chakraborty under various sections, including abetment of suicide, on the complaint filed by Sushant Singh Rajput's father.”

The FIR was filed on Sunday in Rajeadra Nagar police station in Patna. Rhea and five other individuals have been booked under IPC Section 306 (Abetment of suicide), Sec 341 (Punishment for wrongful restraint), Sec 342 (Punishment for wrongful confinement), Sec 380 (Theft in dwelling housed Sec 406 (Punishment for criminal breach of trust), and Sec 420 (Cheating and dishonestly inducing delivery of property).

Interestingly, this development has come weeks after Rhea Chakraborty had called for a CBI investigation into Sushant's death, tagging Union Home Minister Amit Shah in a post on Instagram.

Before claiming that she had received rape and death threats on social media over Sushant's death, the Bollywood actress explained that she "only wanted to understand what prompted him to take the step".

The police have recorded statements of over 40 people, including film critic Rajeev Masand, director-producer Sanjay Leelaa Bhansali, filmmakers Aditya Chopra and Mahesh Bhatt in the investigation so far.

Among others whose statements were recorded in the case at Bandra police station are Rajput's cook Neeraj Singh, domestic help Keshav Bachner, manager Deepesh Sawant, creative manager Siddharth Ramnathmurti Pithani, sisters Neetu and Meetu Singh.

Television actor Mahesh Shetty, casting director Mukesh Chhabra, business manager Shruti Modi, PR manager Ankita Tehlani, actor Rhea Chakraborty, two former employees of Yash Raj Films, among others have also recorded their statement.

<https://www.timesnewnews.com/india/article/sushant-singh-rajpote-case-family-films-fir-against-rhea-chakraborty-5-others-for-attempt-of-suicide/628531>

TRUE COPY

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

Crl MP NO. OF 2020

IN

TRANSFER PETITION (CRIMINAL) NO. OF 2020

**In the Matter of:**

Rhea Chakraborty

..... Petitioner

Versus

State of Bihar & Anr.

.....Respondents

**APPLICATION FOR INTERIM RELIEFS**

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUSTICES OF THE  
SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF  
THE PETITIONER. ABOVE-NAMED

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner is filing the above Transfer Petition under Section 406 of the Code of Criminal Procedure of the Constitution of India seeking the transfer of Case No. 241/2020 filed in Rajeev Nagar Police Station, Patna wherein the Petitioner has been arraigned as an accused.
2. The accompanying Application is being filed inter-alia for seeking interim relief namely that this Hon'ble Court may in

consideration of the facts and circumstances be pleased to stay all proceedings and coercive actions against the above-named Petitioner in the jurisdiction of ACMM, Patna pursuant to FIR No. 214 of 2020 as registered before PS, Rajeev Nagar, Patna.

3. The contents of the accompanying Petition duly supported by Affidavit may be considered as part and parcel of the present Application and hence the Petitioner for the sake of brevity has not repeated the same.
4. It is submitted that tire captioned complaint and FIR were erroneously registered to Additional Chief Judicial Magistrate 3, Patna Sadar at Patna, Instead of the concerned / appropriate court at Mumbai having jurisdiction and empowered to take cognizance of the alleged offence.
5. It is trite law that as per Section 156(1) of CrPC, a cognizable case can be investigated by that police station, over which a Court having jurisdiction, would have power to inquire into or try under the provisions of Chapter XIII, Section 177 of CrPC mandates that every offence shall be inquired into and shall be tried by the Magistrate within whose local jurisdiction it was

committed. Therefore, only the Magistrate at Mumbai has the appropriate jurisdiction in the instant matter.

6. The Petitioner has a strong prima facie case in her favour as ii is further submitted that the cause of action has not even remotely arisen in Patna, and there is no basis for the Respondent No.1 to investigate the alleged offences under the jurisdiction of the Additional Chief Judicial Magistrate 3<sub>5</sub> Patna Sadar at Patna.
7. The balance of convenience also rests with the Petitioner as Petitioner was summoned and she had visited the Bandra Police Station on various occasions and her statement was also recorded under Section 175 of CrPC Petitioner understands that the investigation, of Mumbai police is still going on as some of the forensic reports are still awaited. Further, from the news the Petitioner has learnt that a 4 member police team is sent to Mumbai from Patna for conducting investigation,
8. It is in view of the foregoing circumstances that the Petitioner apprehends that she would not be subject to a fair trial in the matter and that it would cause serious detriment to the rights of the Petitioner. Hence it is respectfully submitted that this Hon'ble Court consider this matter in the same light and provide

the Petitioner the necessary and instant relief he is entitled to under the given circumstances;

9. The present application is being made *bona-fide* and in the interest of justice.

PRAYER

In the circumstances, it is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- A. Pass an interim order granting stay over all proceedings and coercive actions against the above-named Petitioner in the jurisdiction of ACMM, Patna pursuant to FIR No. 214 of 2020 as registered before PS, Rajeev Nagar being State of Bihar & Anr. V. Rhea Chakraborty – Case G.R. No. 4046/2020;
- B. Pass any other order this Hon'ble Court may deem fit and necessary, in the interest of justice and good faith.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EVERY PRAY.

FILED ON: 29 JULY 2020  
FILED BY

MALAK MANISH BHATT  
ADVOCATE FOR THE PETITIONER

PLACE: NEW DELHI

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

I.A No. .... of 2020

IN

TRANSFER PETITION [CRIMINAL] NO. OF 2020

**IN THE MATTER OF:**

Rhea Chakraborty

...Petitioner

Versus

State of Bihar & Anr.

...Respondents

**AFFIDAVIT**

I, Rhea Chakraborty d/o Mr. Indrajit Chakraborty, aged 28 years, R/o 101, Primrose Apartments, near Ajivasan Hall, next to SNTD College, Juhu Road, Santacruz West, Mumbai - 400054 do hereby solemnly affirm and state as under:

1. That I am the petitioner and as such, I am conversant with the facts and circumstances of the case; hence, competent to swear the instant affidavit on behalf of the Petitioner.
2. That I have read and understood the accompanying Application and further state that the contents thereof are true and correct to the best of my knowledge and based on the records of the case.
3. That the annexures are true copies of their respective originals.

SOLEMNLY AFFIRMED AT MUMBAI  
ON THIS 28 DAY OF July 2020

Sd/-  
DEPONENT

**VERIFICATION :**

I, the above-named deponent do hereby verify that the facts stated in the above affidavit are true to my knowledge. No part of the same is false and nothing material has been concealed therefrom.

Verified at Mumbai on this 28<sup>th</sup> day of July, 2020.

Sd/-  
DEPONENT

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

CrI MP NO. OF 2020

IN

TRANSFER PETITION (CRIMINAL) NO. OF 2020

**In the Matter of:**

Rhea Chakraborty

,.. Petitioner

Versus

State of Bihar & Anr.

.Respondents

**APPLICATION FOR SEEKING EXEMPTION FROM FILING  
OFFICIAL TRANSLATIONS**

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUSTICES OF THE  
SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF  
THE PETITIONER ABOVE-NAMED

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner is filing the above Transfer Petition under Section 406 of the Code of Criminal Procedure of the Constitution of India seeking the transfer of Case No. 241 /2020 filed in Rajeev Nagar Police Station, Patna wherein the Petitioner has been arraigned as an accused.

2. All the facts relevant to the filing of the said Criminal Miscellaneous Application have been fully set out therein and the Petitioner craves leave of this Hon'ble Court to refer to and rely upon the same at the time of hearing of this Petition as if the same form part of this Application.
3. The Petitioner has filed in this Hon'ble Court Annexure Nos. P-1, which was originally in Hindi. Since there is urgency in the matter and apprehending that long time will be taken by the Official Translator, the Petitioner got the said Annexure translated into English through its own source. It is submittal that the said translation has been done by a competent person who is conversant with the legal phraseology and the same is a correct and true English Translation of the said Annexure.
4. It is in the interest of justice that the English Translations filed by the Petitioner be taken on record and the Petitioner be exempted from filing the Official Translation.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to :-

- a) Exempt the Petitioner from filing Official Translation of Annexure P-3;
- b) pass such other further order(s) as this Hon'ble Court may deem fit and proper.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EWEY PRAY.

FILED ON: 29 JULY 2020

FILED BY

MALAK MANISH BHATT  
ADVOCATE FOR THE PETITIONER

PLACE: NEW DELHI

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

I.A No. .... of 2020

IN

TRANSFER PETITION [CRIMINAL] NO. OF 2020

**IN THE MATTER OF:**

Rhea Chakraborty

...Petitioner

Versus

State of Bihar & Anr

...Respondents

**AFFIDAVIT**

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1. That I am the Petitioner and as such, I am conversant with the facts and circumstances of the case; hence, competent to swear the instant affidavit on behalf of the Petitioner.
2. That I have read and understood the accompanying Application and further state that the contents thereof are true and correct to the best of my knowledge and based on the records of the case,
3. That the annexures are true copies of their respective originals.

SOLEMNLY AFFIRMED AT MUMBAI  
ON THIS 28 DAY OF July 2020

Sd/-  
DEPONENT

**VERIFICATION :**

I, the above-named deponent do hereby verify that the facts stated in the above affidavit are true to my knowledge. No part of the same is false and nothing material has been concealed therefrom.

Verified at Mumbai on this 28<sup>th</sup> day of July, 2020.

Sd/-  
DEPONENT

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION  
Crl MP NO. OF 2020

IN  
TRANSFER PETITION (CRIMINAL) NO. OF 2020

**In the Matter of:**

Rhea Chakraborty

.. Petitioner

Versus

State of Bihar & Anr.

...Respondents

**APPLICATION FOR INTERIM RELIEF**

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUSTICES OF THE  
SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF  
THE PETITIONER ABOVE-NAMED

**APPLICATION FOR SEEKING EXEMPTION FROM FILING  
NOTARIZED ORIGINAL AFFIDAVITS AND  
VAKALATNAMA**

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner is filing the above Transfer Petition under Section 406 of the Code of Criminal Procedure of the Constitution of India seeking the transfer of Case No. 241/2020 filed in Rajeev Nagar Police Station, Patna wherein the Petitioner has been arraigned as an accused.

2. In light of the prevailing situation concerning the global pandemic of COVID-19 the present petition and the accompanying application is being filed without any court fees, notarized affidavit or original Vakalatnama. The Petitioner undertakes to file the same as soon as normal court functioning resumes.
3. The present application is being filed bona fide and in the interest of justice.

**PRAYER**

In the circumstances, it is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- A. Allow the present application and exempt the Petitioner from filing court fees, notarized affidavit and original Vakalatnama along with the present Petition for the time being;
- B. Pass any other Order this Hon'ble Court may deem fit and necessary in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN  
DUTY BOUND SHALL EWEY PRAY.

FILED ON; 29 JULY 2020  
FILED BY

MALAK MANISH BHATT  
ADVOCATE FOR THE PETITIONER

PLACE: NEW DELHI

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

I.A No. .... of 2020

IN

TRANSFER PETITION [CRIMINAL] NO. OF 2020

**IN THE MATTER OF:**

Rhea Chakraborty

...Petitioner

Versus

State of Bihar & Anr

...Respondents

**AFFIDAVIT**

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3. That the annexures are true copies of their respective originals.

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ON THIS 28 DAY OF July 2020

Sd/-  
DEPONENT

**VERIFICATION :**

I, the above-named deponent do hereby verify that the facts stated in the above affidavit are true to my knowledge. No part of the same is false and nothing material has been concealed therefrom.

Verified at Mumbai on this 28<sup>th</sup> day of July, 2020.

Sd/-  
DEPONENT

Annexure-P-4

[REPORTABLE]

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

Transfer Petition (Crl.) No.225 of 2020

Rhea Chakraborty

Petitioner

Versus

State of Bihar & Ors.

Respondent(s)

JUDGMENT

Hrishikesh Roy, J.

1. This Transfer Petition is filed under section 406 of the Code of Criminal Procedure, 1973 (for short "CrPC") read with Order XXXIX of the Supreme Court Rules, 2013 with prayer for transfer of the FIR No. 241 of 2020 (dated 25.7.2020) under Sections 341, 342, 380, 406, 420, 306, 506 and 120B of the Indian Penal Code, 1860 (for short "IPC") registered at the Rajeev Nagar Police Station, Patna and all consequential proceedings, from the jurisdiction of the Additional Chief Judicial Magistrate III, Patna Sadar,

Signature Not Verified

Digitally signed by  
HCU MARK  
Date: 2020.08.19  
17:57:44 IST  
Reason:

to the Additional Chief Metropolitan Magistrate, Bandra Mumbai. The matter relates to the unnatural death of the actor Sushant Singh Rajput on 14.6.2020, at his Bandra residence at Mumbai. The deceased resided within Bandra Police Station jurisdiction and there itself, the unnatural death under section 174 of CrPC was reported.

2. The petitioner is a friend of the deceased, and she too is in the acting field since last many years. As regards the allegations against the petitioner in the FIR, the petitioner claims that she has been falsely implicated in the Patna FIR, filed by Krishan Kishor Singh (respondent no. 2) - the father of the deceased actor. The petitioner and the deceased were in a live-in relationship but on 8.6.2020, a few days prior to the death of the actor, she had shifted to her own residence at Mumbai. According to the petitioner, the Mumbai Police is competent to undertake the investigation, even for the FIR lodged at Patna.

3. Heard Mr. Shyam Divan, learned Senior Counsel appearing for the petitioner, Mr. Maninder Singh,

learned Senior Counsel appearing on behalf of Respondent No. 1 (State of Bihar), Mr. Vikas Singh, learned Senior Counsel appearing on behalf of respondent No. 2 (Complainant), Dr. A.M. Singhvi and Mr. R. Basant, learned Senior Counsel appearing on behalf of respondent No. 3 (State of Maharashtra) and Mr. Tushar Mehta, learned Solicitor General of India appearing on behalf of respondent No. 4 (Union of India)

4. The petitioner contends that the incidents alleged in the Complaint lodged by the father of the deceased, have taken place entirely within the jurisdiction of State of Maharashtra and therefore, the Complaint as received, should have been forwarded to the jurisdictional police station at Bandra, Mumbai for conducting the investigation. However, despite want of jurisdiction, the Complaint was registered at Patna only because of political pressure brought upon the Bihar Police authorities. Mr Shyam Divan, the learned Senior Counsel for the Petitioner argues that the courts in Bihar do not exercise lawful jurisdiction in the subject matter of the Complaint and since the acts

alleged in the Complaint are relatable to Mumbai jurisdiction, the mere factum of Complainant being a resident of Patna, does not confer jurisdiction on the Bihar police to conduct the investigation. Adverting to the subsequent transfer of the investigation to the CBI, Mr. Divan argues that since the Bihar police lacked jurisdiction to investigate the allegations in the Complaint, the transfer of the investigation to the CBI on Bihar Government's consent, would not amount to a lawful consent of the State government, under Section 6 of the Delhi Special Police Act, 1946 (for short "DSPE Act"). The FIR according to the petitioner is contradictory and the Complaint fails to disclose how the alleged actions of the petitioner, led to the suicidal death of the actor. The petitioner projects that she has fully co-operated with the Mumbai Police in their inquiry but will have no objection if the investigation is conducted by the CBI. Mr. Shyam Divan the learned Senior Counsel submits that justice needs to be done in this case and powers under Article 142 of the Constitution can be invoked by the Court.

5. Representing the State of Bihar, Mr. Maninder Singh, the learned Senior Counsel submits that the Complaint disclosed a cognizable offence and therefore, it was incumbent for the Patna Police to register the FIR and proceed with the investigation. Since allegations of criminal breach of trust, Cheating and defalcation of money from the account of the deceased are alleged, the consequences of the offence are projected to be within the jurisdiction of the State of Bihar. The Senior Counsel highlights that the Mumbai Police was conducting the enquiry into the unnatural death of the actor u/s 174, 175 CrPC and such proceeding being limited to ascertaining the cause of death, does not empower Mumbai Police to undertake any investigation, on the allegations in the Complaint of the Respondent No 2, without registration of an FIR at Mumbai. Referring to the non-cooperation and obstruction of the Maharashtra authorities to the SIT of Bihar Police which reached Mumbai on 27.07.2020 and the quarantined detention of the Superintendent of Police, Patna who had reached Mumbai on 02.08.2020, senior counsel argues that the Mumbai Police was trying to suppress the real

facts and were not conducting a fair and professional inquiry. Since no investigation relatable to the allegations in the complaint was being conducted and FIR was not registered by the Mumbai Police, the action of the Bihar Police in registering the Complaint, is contended to be legally justified. On that basis, the Bihar Government's consent for entrustment of the investigation to the CBI is submitted to satisfy the requirement of Section 6 of the DSPE Act. Besides, as the petitioner herself has called for a CBI investigation and as the CBI has since registered a case and commenced their investigation, (on the request of the State of Bihar), the Senior Counsel submits that this transfer petition is infructuous.

6. Projecting the agony of the deceased's father, Mr. Vikas Singh, the learned Senior Counsel submits that the Complainant has lost his only son under suspicious circumstances and was naturally interested in a fair investigation to unravel the truth. The inquiry by the Mumbai Police under section 174 of the CrPC is not an investigation of the complainant's allegations and therefore the registration of the case and

investigation into those allegations by the Bihar Police is contended to be justified. Since only an investigation (not a case or appeal) is pending at Patna, and a legally competent investigation has commenced, invocation of Section 406 power by this Court to transfer the investigation, is projected to be not merited. When misappropriation and criminal breach of trust is alleged in respect of the assets of the deceased actor and the concerned property relatable to the alleged offence, will have to be accounted eventually to the Complainant (as a Class I legal heir of the deceased), the action of the Patna Police is contended to be within jurisdiction, under Section 179 read with Section 181(4) of the CrPC which speaks of consequences ensuing at another place, as a result of the alleged crime.

7. Representing the State of Maharashtra, Dr. Abhishek Manu Singhvi, the learned Senior Counsel submits that following the unnatural death of Sushant Singh Rajput on 14.06.2020 at his Bandra residence, the Mumbai Police registered an Accidental Death Report (ADR) and commenced inquiry under Section 174 of the CrPC to

ascertain the cause of death and also to determine whether the death was the result of some criminal act committed by some other persons. In course of the inquiry, the statements of 56 persons were recorded and other evidence such as the Post Mortem report, Forensic report etc have been collected. If the inquiry discloses commission of a cognizable offence, the Mumbai police will register a FIR. According to Dr. Singhvi, there can be no outer time limit for conclusion of Section 174 or Section 175 CrPC proceedings. The State of Maharashtra Counsel argues that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction, the offence was committed and on that basis, Dr Singhvi submits, that the Bihar police should have transferred the Complaint to the Mumbai Police authorities. Alternately, they could have registered a "zero FIR" and then should have transferred the case for investigation to Mumbai police. Pointing towards potential misuse, Dr. Singhvi submits that if registration of Complaint in another state is permitted, it will enable a person to choose the

investigating authority and will obstruct exercise of lawful jurisdiction by the local police. This will impact the country's federal structure. The Senior Counsel refers to media reports to project that the Bihar Police were hesitant to register the Complaint of Respondent No 2 but they were prevailed upon by political pressure. The Maharashtra counsel submits that the father and other family members of the deceased in their statements to the Mumbai Police, never mentioned about the allegations in the Complaint and those are projected to be afterthoughts and improvements. Under the constitutional scheme, the States have exclusive power to investigate a crime and the Senior Counsel accordingly argues that crime investigation cannot be routinely transferred to the Central Agency. Referring to the reasons (a) *sensitivity* and (b) *Inter-state ramifications*, given by the Bihar Police for entrusting the investigation to the CBI, Dr. Singhvi argues that the reasons are neither germane nor bona fide. He submits that ordinarily, the local police should conduct investigation into any reported crime and entrustment

of the investigation to the CBI must be an exception to meet extraordinary exigencies, but here consent was given by Bihar government, for political exigencies.

8. Mr Tushar Mehta, the learned Solicitor General of India, appears for the Union of India and the CBI. He projects that the Maharashtra Police is yet to register any FIR but is conducting only a limited inquiry under section 174 of the CrPC, into the unnatural death of the actor. In the absence of any FIR by the Mumbai Police following the death of the actor on 14.06.2020, the FIR registered at Patna at the instance of the deceased's father is projected to be the only one pending. He therefore contends that the present matter does not relate to two cases pending in two different states. Referring to the contradictory stand and the parallel allegation of state's Police being influenced by external factors in both states, Mr. Mehta submits that this itself justifies entrustment of the investigation to an independent Central Agency. The learned Solicitor General then points out that by acceding to the request made by the State of Bihar, the CBI has registered the FIR and commenced investigation.

Besides the Directorate of Enforcement, a central agency, is also acting under the Prevention of Money Laundering Act, 2002. He therefore argues that a fair and impartial inquiry can be ensured if the police of either state are kept away from investigating the alleged crime, relating to the suspicious death of the film actor. Adverting to the affidavit of the Maharashtra Police that they have recorded the statements of 56 persons in the section 174 proceedings, the Solicitor General submits that since FIR is not yet registered and the Mumbai Police is discharging limited functions under section 174 of the CrPC, the investigation of any alleged crime following registration of FIR is yet to legally commence in Mumbai and as such, there is no case pending in the State of Maharashtra which can justify the invocation of powers under section 406 of the CrPC.

9. Under the federal design envisaged by the Constitution, Police is a state subject under List II of Seventh Schedule of the Constitution. Therefore, investigation of a crime should normally be undertaken by the concerned state's police, where the case is

registered. There can be situations where a particular crime by virtue of its nature and ramification, is legally capable of being investigated by police from different states or even by other agencies. The entrustment of investigation to the CBI is permitted either with consent of the concerned state or on orders of the constitutional court. However, investigation of a crime by multiple authorities transgressing into the others domain, is avoidable.

10. In the instant case, the petitioner repose confidence on Mumbai police. The records of the case produced before this Court, does not prima facie suggest any wrong doing by the Mumbai Police. However, their obstruction to the Bihar police team at Mumbai could have been avoided since it gave rise to suspicion on the bonafide of their inquiry. The Police at Mumbai were conducting only a limited inquiry into the cause of unnatural death, under Section 174 CrPC and therefore, it cannot be said with certainty at this stage that they will not undertake an investigation on the other aspects of the unnatural death, by registering a FIR.

11. Uncertain about the future contingency at Mumbai, the father of the deceased has filed the Complaint at Patna, levelling serious allegations against the petitioner following which, the FIR is registered and the Bihar Police has started their investigation. The case is now taken over by the CBI at the request of the Bihar government. The petitioner has no objection for investigation by the CBI, but is sceptical about the bonafide of the steps taken by the Bihar government and the Patna police.

12. On the other hand, the projection from the side of the Complainant and the Bihar government is that the Mumbai Police even during the limited inquiry under Section 174 CrPC, are attempting to shield the real culprits under political pressure. This is however, stoutly refuted by the State of Maharashtra whose stand is that the Bihar police has no jurisdiction to investigate the crime where, the incident and criminal acts if any, have occurred within the State of Maharashtra.

13. Transfer of investigation to the CBI cannot be a routine occurrence but should be in exceptional circumstances. One factor which however is considered relevant for induction of the Central Agency is to retain "public confidence in the impartial working of the State agencies", as was recently reiterated for the Bench by Justice Dhananjaya Y Chandrachud, in *Arnab Ranjan Goswami vs. Union of India* 2020 SCC Online SC 462. It is also the consistent view of the Court that it is not for the accused to choose the investigating agency. In the instant case, political interference against both states is alleged which has the potential of discrediting the investigation. The legal process must therefore be focused upon revelation of the correct facts through credible and legally acceptable investigation. It must be determined whether the unnatural death was the result of some criminal acts. In order to lend credibility to the investigation and its conclusion, it would be desirable in my view, to specify the authority, which should conduct the investigation in this matter.

14. At this stage, having regard to the respective stand of the parties, following core issues arise for consideration in this case:

(a) Whether this Court has power to transfer investigation (not case or appeal) under Section 406 of the CrPC;

(b) Whether the proceeding under Section 174 CrPC conducted by the Mumbai Police to inquire into the unnatural death, can be termed as an investigation;

(c) Whether it was within the jurisdiction of the Patna Police to register the FIR and commence investigation of the alleged incidents which took place in Mumbai? As a corollary, what is the status of the investigation by the CBI on the consent given by the Bihar government; and

(d) What is the scope of the power of a single judge exercising jurisdiction under section 406 of the CrPC and whether this Court can issue direction for doing complete justice, in exercise of plenary power.

#### TRANSFER POWER UNDER SECTION 406 CRPC

15. Section 406 CrPC empowers the Supreme Court to transfer cases and appeals. The scope of exercise of

this power is for securing the ends of justice. The precedents suggest that transfer plea under Section 406 CrPC were granted in cases where the Court believed that the trial may be prejudiced and fair and impartial proceedings cannot be carried on, if the trial continues. However, transfer of investigation on the other hand was negated by this Court in the case of *Ram Chander Singh Sagar and Anr. vs. State of Tamil Nadu*, (1978) 2 SCC 35. Writing the judgment Justice V R Krishna Iyer, declared that:-

*"The Code of Criminal Procedure clothes this Court with power under Section 406 to transfer a case or appeal from one High Court or a Court subordinate to one High Court to another High Court or to a Court subordinate thereto. But, it does not clothe this Court with the power to transfer investigations from one police station to another in the country simply because the first information or a remand report is for warded to a Court. The application before us stems from a misconception about the scope of Section 406. There is as yet no case pending before any Court as has been made clear in the counter affidavit of the State of Tamil Nadu. In the light of this counter affidavit, nothing can be done except to dismiss this petition.*

*" 2. If the petitioners are being directed to appear in a far-off court during investigatory stage it is for them to move that court for appropriate orders so that they may not be tormented by long travel or otherwise teased by judicial process. If justice is denied there are other redresses, not under Section 406, though it*

*is unfortunate that the petitioners have not chosen to move that court to be absolved from appearance until necessitated by the circumstances or the progress of the investigation. To come to this Court directly seeking an order of transfer is travelling along the wrong street. We are sure that if the second petitioner is ailing, as is represented, and this fact is brought to the notice of the Court which has directed her appearance, just orders will be passed in case there is veracity behind the representation. We need hardly say courts should use their processes to the purpose of advancing justice, not to harass parties. Anyway, so far as the petition for transfer is concerned. there is no merit we can see and so we dismiss it."*

16. The contrary references cited by the Petitioner where transfer of investigation was allowed, do not in any manner, refer to a determination on the question of competence to transfer investigation under Section 406. In the cited cases, relief was granted without any discussion of the law, ignoring the long standing ratio laid down in *Ram Chander Singh Sagar* (Supra).

17. Having considered the contour of the power under section 406 CrPC, it must be concluded that only cases and appeals (not investigation) can be transferred. The ratio in *Ram Chander Singh Sagar and Anr.* (Supra) in my view, is clearly applicable in the present matter.

## SCOPE OF SECTION 174 CRPC PROCEEDING

18. The proceeding under Section 174 CrPC is limited to the inquiry carried out by the police to find out the apparent cause of unnatural death. These are not in the nature of investigation, undertaken after filing of FIR under Section 154 CrPC. In the instant case, in Mumbai, no FIR has been registered as yet. The Mumbai Police has neither considered the matter under Section 175 (2) CrPC, suspecting commission of a cognizable offence nor proceeded for registration of FIR under Section 154 or referred the matter under Section 157 CrPC, to the nearest magistrate having jurisdiction.

19. On the above aspect, the ratio in *Manoj K Sharma vs. State of Chhatisgarh* (2016) 9 SCC 1 will bear scrutiny. This was a case of suicide by hanging and Justice M B Lokur, speaking for the Bench held as follows:-

*"19. The proceedings under Section 174 have a very limited scope. The object of the proceedings is merely to ascertain whether a person has died under suspicious circumstances or an unnatural death and if so what is the apparent cause of the death. The question regarding the details as to how the*

deceased was assaulted or who assaulted him or under what circumstances he was assaulted is foreign to the ambit and scope of the proceedings under Section 174 of the Code. Neither in practice nor in law was it necessary for the police to mention those details in the inquest report. It is, therefore, not necessary to enter all the details of the overt acts in the inquest report. The procedure under Section 174 is for the purpose of discovering the cause of death, and the evidence taken was very short.....

20. .... Sections 174 and 175 of the Code afford a complete Code in itself for the purpose of "inquiries" in cases of accidental or suspicious deaths and are entirely distinct from the "investigation" under Section 157 of the Code....

\*\*\*\*            \*\*\*\*            \*\*\*\*            \*\*\*\*            \*\*\*\*

22. In view of the above, we are of the opinion that the investigation on an inquiry under Section 174 of the Code is distinct from the investigation as contemplated under Section 154 of the Code relating to commission of a cognizable offence...."

20. In the present case, the Mumbai Police has attempted to stretch the purview of Section 174 without drawing up any FIR and therefore, as it appears, no investigation pursuant to commission of a cognizable offence is being carried out by the Mumbai police.

They are yet to register a FIR. Nor they have made a suitable determination, in terms of Section 175(2) CrPC. Therefore, it is pre-emptive and premature to hold that a parallel investigation is being carried out by the Mumbai Police. In case of a future possibility of cognizance being taken by two courts in different jurisdictions, the issue could be resolved under Section 186 CrPC and other applicable laws. No opinion is therefore expressed on a future contingency and the issue is left open to be decided, if needed, in accordance with law.

21. Following the above, it is declared that the inquiry conducted under Section 174 CrPC by the Mumbai police is limited for a definite purpose but is not an investigation of a crime under Section 157 of the CrPC.

#### JURISDICTION OF PATNA POLICE TO REGISTER COMPLAINT

22. The Respondent no 2 in his Complaint alleged commission of a cognizable offence and therefore, it was incumbent for the police to register the FIR and commence the investigation. According to the Complainant, his attempt from Patna to talk to his son

on telephone was thwarted by the accused persons and the possibility of saving the life of his son through father son engagement, was missed out. In consequence, the Complainant lost his only son who at the appropriate time, as the learned counsel has vividly submitted, was expected to light the funeral pyre of the father.

23. Registration of FIR is mandated when information on cognizable offence is received by the police. Precedents suggest that at the stage of investigation, it cannot be said that the concerned police station does not have territorial jurisdiction to investigate the case. On this aspect the ratio in *Lalita Kumari Vs. Govt. of UP* (2014) 2 SCC 1 is relevant where on behalf of the Constitution Bench, Chief Justice P Sathasivam, pronounced as under:-

*"120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.*

*120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not."*

24. The interpretation of Sections 177 and 178 of the CrPC would be relevant on the issue. In *Satvinder Kaur Vs. State (Govt of NCT of Delhi)* (1999) 8 SCC 728 for the Division Bench, Justice M B Shah wrote as under:-

"12. A reading of the aforesaid sections would make it clear that Section 177 provides for "ordinary" place of enquiry or trial. Section 178, *inter alia*, provides for place of enquiry or trial when it is uncertain in which of several local areas an offence was committed or where the offence was committed partly in one local area and partly in another and where it consisted of several acts done in different local areas, it could be enquired into or tried by a court having jurisdiction over any of such local areas. Hence, at the stage of investigation, it cannot be held that the SHO does not have territorial jurisdiction to investigate the crime."

25. Likewise, Justice Arijit Pasayat, in *Y Abraham Ajith vs. Inspector of Police, Chennai & Anr.* (2004) 8 SCC 100, writing for the Division Bench pronounced as follows:-

"12. The crucial question is whether any part of the cause of action arose within the jurisdiction of the court concerned. In terms of Section 177 of the Code, it is the place where the offence was committed. In essence it is the cause of action for initiation of the proceedings against the accused.

13. While in civil cases, normally the expression "cause of action" is used, in criminal cases as stated in Section 177 of the Code, reference is to the local jurisdiction where the offence is committed. These variations in etymological expression do not really make the position different. The expression "cause of action" is, therefore, not a stranger to criminal cases.

14. It is settled law that cause of action consists of a bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the allegedly affected party a right to claim relief against the opponent. It must include some act done by the latter since in the absence of such an act no cause of action would possibly accrue or would arise."

26. When allegation of Criminal Breach of Trust and Misappropriation is made, on the jurisdictional aspect, this Court in *Asit Bhattacharjee Vs. Hanuman Prasad Ojha* (2007) 5 SCC 786, in the judgment written by Justice S B Sinha, observed as under:-

"21. Section 181 provides for place of trial in case of certain offences. Sub-section (4) of Section 181 was introduced in the Code of Criminal Procedure in 1973 as there existed conflict in the decisions of various High Courts as regards commission of offence of criminal misappropriation and criminal breach of trust and with that end in view, it was provided that such an offence may be inquired into or tried by the court within whose jurisdiction the accused was bound by law or by contract to render accounts or return the entrusted property, but failed to discharge that obligation.

22. The provisions referred to hereinbefore clearly suggest that even if a part of cause of action has arisen, the police station concerned situate within the jurisdiction of the Magistrate empowered to take cognizance under Section 190(1) of the Code of Criminal Procedure will have the jurisdiction to make investigation."

27. In the later judgment of *Naresh Kavarchand Khatri Vs. State of Gujarat (2008)8 SCC 300*, this Court reiterated the ratio in *Satvinder Kaur(supra)* and *Asit Bhattacharjee (Supra)*.

28. Once again, in *Rasiklala Dalpatram Thakkar Vs. State of Gujarat (2010) 1 SCC 1*, while approving the earlier decisions in *Satvinder Kaur(supra)* in the judgment rendered by Justice Altamas Kabir as he was then, the Supreme Court made it very clear that a police officer cannot refrain from investigating a matter on territorial ground and the issue can be decided after conclusion of the investigation. It was thus held:-

"27. In our view, both the trial court as well as the Bombay High Court had correctly interpreted the provisions of Section 156 CrPC to hold that it was not within the jurisdiction of the investigating agency to refrain itself from holding a proper and complete investigation merely upon arriving at a conclusion that the offences had been committed beyond its territorial jurisdiction."

29. Moreover, the allegation relating to criminal breach of trust and misappropriation of money which were to be eventually accounted for in Patna (where the Complainant resides), could prima facie indicate the lawful jurisdiction of the Patna police. This aspect was dealt succinctly by Justice J S Khehar, as a member of the Division Bench in *Lee Kun Hee, President, Samsung Corporation, South Korea and Others Vs. State of Uttar Pradesh and Ors.* (2012) 3 SCC 132 and it was held as under:-

“38 \*\*\*\*\*

181. *Place of trial in case of certain offences.*-(1)-(3)\* \* \*

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.”

A perusal of the aforesaid provision leaves no room for any doubt, that in offences of the nature as are subject-matter of consideration in the present controversy, the court within whose local jurisdiction, the whole or a part of the consideration

"... were required to be returned or accounted for..." would have jurisdiction in the matter."

30. Having regard to the law enunciated by this Court as noted above, it must be held that the Patna police committed no illegality in registering the Complaint. Looking at the nature of the allegations in the Complaint which also relate to misappropriation and breach of trust, the exercise of jurisdiction by the Bihar Police appears to be in order. At the stage of investigation, they were not required to transfer the FIR to Mumbai police. For the same reason, the Bihar government was competent to give consent for entrustment of investigation to the CBI and as such the ongoing investigation by the CBI is held to be lawful.

#### OPTIONS BEFORE MUMBAI POLICE

31. The Patna police although found to be competent to investigate the allegation in the Complaint, the FIR suggests that most of the transactions/incidents alleged in the Complaint occurred within the territorial jurisdiction of the State of Maharashtra. The Mumbai Police was inquiring into the unnatural

death of the complainant's son under section 174 of the CrPC. So far, their inquiry has not resulted in any FIR suggesting commencement of investigation on the criminal aspects, if any. However, the incidents referred to in the Complaint does indicate that the Mumbai police also possess the jurisdiction to undertake investigation on those circumstances. Therefore, in the event of a case being registered also at Mumbai, the consent for the investigation by the CBI under Section 6 of the DSPE Act can be competently given by Maharashtra Government.

#### INVESTIGATION ENTRUSTMENT TO CBI

32. While the CBI cannot conduct any investigation without the consent of the concerned state as mandated under section 6, the powers of the Constitutional Courts are not fettered by the statutory restriction of the DSPE Act. For this proposition, one can usefully refer to *State of West Bengal Vs. Sampat Lal* (1985) 1 SCC 317 where Justice Ranganath Mishra in his judgment for the 3 judges Bench, held that:-

*"13. ....It is certainly not for this Court at the present stage to examine and come to a conclusion as to whether this was a case of suicide or murder. If as a result of investigation, evidence is*

gathered and a trial takes place the Sessions Judge will decide that controversy and it may be that in due course such controversy may be canvassed before this Court in some form or the other. It would, therefore, be wholly inappropriate at this stage to enter into such a question.....In our considered opinion, Section 6 of the Act does not apply when the Court gives a direction to the CBI to conduct an investigation and counsel for the parties rightly did not dispute this position....."

33. Similarly, the Constitution Bench in the judgment authored by Justice D K Jain in *State of W B Vs. Committee for Protection of Democratic Rights* (2010) 3 SCC 571 pronounced as follows:-

"68. Thus, having examined the rival contentions in the context of the constitutional scheme, we conclude as follows:

(v) Restriction on Parliament by the Constitution and restriction on the executive by Parliament under an enactment, do not amount to restriction on the power of the Judiciary under Articles 32 and 226 of the Constitution.

(vi) If in terms of Entry 2 of List II of the Seventh Schedule on the one hand and Entry 2-A and Entry 80 of List I on the other, an investigation by another agency is permissible subject to grant of consent by the State concerned, there is no reason as to why, in an exceptional situation, the Court would be precluded from exercising the same power which the Union could exercise in terms of the provisions of the statute. In our opinion, exercise of such power by the constitutional courts would not violate the doctrine of separation of powers. In fact, if in such a situation the Court fails to grant relief, it would be failing in its constitutional duty.

(vii) When the Special Police Act itself provides that subject to the consent by the State, CBI can take up investigation in relation to the crime which was otherwise within the jurisdiction of the State police, the Court can also exercise its constitutional power of judicial review and direct CBI to take up the investigation within the jurisdiction of the State. The power of the High Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted by Section 6 of the Special Police Act. Irrespective of there being any statutory provision acting as a restriction on the powers of the Courts, the restriction imposed by Section 6 of the Special Police Act on the powers of the Union, cannot be read as restriction on the powers of the constitutional courts. Therefore, exercise of power of judicial review by the High Court, in our opinion, would not amount to infringement of either the doctrine of separation of power or the federal structure."

34. As noted earlier, the FIR at Patna was subsequently transferred to the CBI with consent of the Bihar government during pendency of this Transfer Petition. However, in future, if commission of cognizable offence under section 175(2) CrPC is determined, the possibility of parallel investigation by the Mumbai Police cannot be ruled out. Section 6 of the DSPE Act, 1946 read with Section 5 prescribe the requirement of consent from the State government, before entrustment of investigation to the CBI. As the CBI has already registered a case and commenced investigation at the

instance of the Bihar government, uncertainty and confusion must be avoided in the event of Mumbai Police also deciding to simultaneously investigate the cognizable offence, based on their finding in the inquiry proceeding. Therefore, it would be appropriate to decide at this stage itself as to who should conduct the investigation on all the attending circumstances relating to the death of the actor Sushant Singh Rajput. This issue becomes relevant only if another FIR is registered on the same issue, at Mumbai. A decision by this Court on the point would confer legitimacy to the investigation.

#### DIRECTION ON INVESTIGATION

35. The conflict between the two State governments on, who amongst the two is competent to investigate the case, is apparent here. In *K.V. Rajendran Vs. Superintendent of Police, CBCID, Chennai & Ors. (2013) 12 SCC 480*, the 3 judges Bench in the judgment authored by Justice Dr B S Chauhan held that transfer of investigation must be in rare and exceptional cases in order to do complete justice between the parties and to instil straight confidence in the public mind.

While the steps taken by the Mumbai police in the limited inquiry under Section 174 CrPC may not be faulted on the material available before this Court, considering the apprehension voiced by the stakeholders of unfair investigation, this Court must strive to ensure that search for the truth is undertaken by an independent agency, not controlled by either of the two state governments. Most importantly, the credibility of the investigation and the investigating authority, must be protected.

36. The ongoing investigation by the CBI is held to be lawful. In the event a new case is registered at Mumbai on the same issue, in the fitness of things, it would be appropriate if the latter case too gets investigated by the same agency, on the strength of this Court's order. Such enabling order will make it possible for the CBI to investigate the new case, avoiding the rigors of Section 6 of the DSPE Act, requiring consent from the State of Maharashtra.

37. In *Monica Kumar (Dr.) and Anr. Vs. State of Uttar Pradesh and Others* (2008) 8 SCC 781, Justice L.S. Panta

in his judgment, referred to the inherent power conferred on this Court and stated the following:-

"45. Under Article 142 of the Constitution this Court in exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any "cause" or "matter" pending before it. The expression "cause" or "matter" would include any proceeding pending in court and it would cover almost every kind of proceeding in court including civil or criminal. ....This Court's power under Article 142(1) to do "complete justice" is entirely of different level and of a different quality. What would be the need of "complete justice" in a cause or matter would depend upon the facts and circumstances of each case and while exercising that power the Court would take into consideration the express provisions of a substantive statute. Any prohibition or restriction contained in ordinary laws cannot act as a limitation on the constitutional power of this Court. Once this Court has seisin of a cause or matter before it, it has power to issue any order or direction to do "complete justice" in the matter."

38. The above ratio makes it amply clear that the Supreme Court in a deserving case, can invoke Article 142 powers to render justice. The peculiar circumstances in this case require that complete justice is done in this matter. How this is to be achieved must now be decided.

39. As noted earlier, as because both states are making acrimonious allegations of political interference against each other, the legitimacy of the investigation has come under a cloud. Accusing fingers are being pointed and people have taken the liberty to put out their own conjectures and theories. Such comments, responsible or otherwise, have led to speculative public discourse which have hogged media limelight. These developments unfortunately have the propensity to delay and misdirect the investigation. In such situation, there is reasonable apprehension of truth being a casualty and justice becoming a victim.

40. The actor Sushant Singh Rajput was a talented actor in the Mumbai film world and died well before his full potential could be realised. His family, friends and admirers are keenly waiting the outcome of the investigation so that all the speculations floating around can be put to rest. Therefore a fair, competent and impartial investigation is the need of the hour. The expected outcome then would be, a measure of justice for the Complainant, who lost his only son.

For the petitioner too, it will be the desired justice as she herself called for a CBI investigation. The dissemination of the real facts through unbiased investigation would certainly result in justice for the innocents, who might be the target of vilification campaign. Equally importantly, when integrity and credibility of the investigation is discernible, the trust, faith and confidence of the common man in the judicial process will resonate. When truth meets sunshine, justice will not prevail on the living alone but after Life's fitful fever, now the departed will also sleep well. Satyameva Jayate.

41. In such backdrop, to ensure public confidence in the investigation and to do complete justice in the matter, this Court considers it appropriate to invoke the powers conferred by Article 142 of the Constitution. As a Court exercising lawful jurisdiction for the assigned roster, no impediment is seen for exercise of plenary power in the present matter. Therefore while according approval for the ongoing CBI investigation, if any other case is registered on the death of the actor Sushant Singh Rajput and the

surrounding circumstances of his unnatural death, the CBI is directed to investigate the new case as well. It is ordered accordingly.

42. Before parting, it is made clear that the conclusion and observations in this order is only for disposal of this petition and should have no bearing for any other purpose.

43. The Transfer Petition is disposed of with the above order.

.....J.  
[HRISHIKESH ROY]

NEW DELHI  
AUGUST 19, 2020

*Annexure P-5*

TRUE COPY OF TRANSCRIPT OF THE INTERVIEW OF RESPONDENT NO.2 BY  
INDIA TODAY DATED 27.08.2020 (from 09:26 minutes to 14:55 minutes)

RS: What happened on 8 June 2020, tell us about the whole day?

RC: Sushant was preparing to shift to Coorg. Contrary to the allegations on me that I was now allowing him to go, I was very understanding about this that if it was better for him – which I felt so – then that is that. It can be a long distance relationship, I can spend some months there and some time at my house. This continued. Through the lockdown, Sushant's depression kicked in again, there were phases; sometimes he felt ok, and sometimes he felt more depressed. It has been diagnosed as bipolar disorder. In this particular phase he was up and down on a very frequent basis – like on a daily basis – like Monday up, Tuesday down – within the same day as well. In fact I felt very nervous about this and for this reason I contacted Dr. Karsi Chawra on 3<sup>rd</sup> June, his psychiatrist to talk to him again as I felt he again is undergoing depression and looks he also had paranoid (I also have chat of that), talk to him and see what medication he requires. Sushant had a talk with Dr. Chawra on 3<sup>rd</sup> June. Dr. Chawra felt that he needs medication and he is into depression. However Sushant was behaving very aloof with me and he was telling me again and again to go home. This had started from 1<sup>st</sup> June itself because Sushant thought he had to shift to Coorg, I should go home because I was also getting

anxiety attacks in May and June and Sushant was not feeling good about my condition. He thought that if I was not in good health how I could take care of him.

On 8<sup>th</sup> June I had a therapy session booked with Dr. Susan Walker at 11.30 am. That goes to prove that I had no intention to leave on 8<sup>th</sup> June. I could not have the therapy session at home because I did not wish my parents to see me in that condition. I need to have a brave face to my parents because no parents want to see their child in that condition. Therefore, I told Sushant about my therapy session and he told me not to have the therapy session there but go home. I asked him to let me have the therapy session and then go. He told me that I should go before the therapy session as his sister was coming as he had been continuously talking to his father and sisters on phone during the whole of June for shifting to Coorg and if anyone of them could come to help me. There was no reply and finally when he told me on 8<sup>th</sup> June to leave I said that I would go only on the condition that if his sister, Neetuji who lives in Goregaon, Mumbai should come and when she comes then I will leave. In fact I asked him it is now 12 and at what time she is coming. I said that when she reaches and is at the building I will leave. He said that she is likely to reach in 1 or 2 hours and that I should leave before she reaches. My relations with his family were not good from the very beginning and there were many problems. It is now clear

that I am not at all liked by his family. I neither had nor now have strong emotions for them. When someone is going through mental health problems, depression or any kind of health problem then it is very essential for someone from the family to be present. I understand this, know this and believe this and for this reason I wanted that his sister should come and then I should leave. When I left I ensured that Neetu, his sister was there and she was there.

RS: So, you were told by Sushant on 8<sup>th</sup> to leave for your house. Whatever therapy sessions are needed should be done at your house not here. And then his sister came. I am asking this because there are whatsapp chats between yourself and Mahesh Bhatt of the same day in which you were saying 'thanking you very much' I have finally seen the light and I know what I need to do. This indicates that you took the decision to leave Sushant. I am asking iff Sushant asked you to leave then why did you tell this to Mahesh Bhatt.

RC: Sushant told me to leave his house because if someone tells you to go, please go, meaning take your baggage.

ANNEXURE P-6

TRANSLATED COPY  
FIRST INFORMATION REPORT 0125175  
(Under Section 154 Cr PC)

1. State District Mumbai Police Station Bandra  
FIR No.576 Year 2020 Date: 7/9/2020
2. (i) Acts) : I.P.C. Section(s) 420  
464, 465, 466, 474, 468, 306, 120(B), 34  
  
(ii) Act NDPS Act Sections 8(1), 21, 22(A), 29  
(iii) Other Acts and Sections
3. Occurrence of Offence:
  - (a) Day: 7/9/2020 Time 19.30  
09.00 to 12.00
  - (b) Information received at P.S.:
  - (c) General Diary Reference: 38/2020/7/9/2020  
Date 7/9/2020 Time 29.11
4. Type of information: Written
5. Place of Occurrence:
  - (a) Direction and Distance from P.S: N/A Beat No.: 00
  - (b) Address of Occurrence Name 601, Mount Blanc, Opp. Joggers  
Park, Bandra (W), Mumbai
  - (c) In case, Outside the limit of the Police Station:

Name of PS:

District:

6. Complainant /Informant:

- (a) Name: Miss Rhea Chakraborty
- (b) Fathers / Husbands name Indrajit
- (c) Date/Year at Birth: 09.07.1992
- (d) Nationality: Indian

(e)Passport No.

- (f) Occupation: Actress
- (g) Religion: Hindu
- (h) Address: 101, Primrose Apartment, Near SNTD College,  
Juhu Road, Santacruz West, Mumbai 400054

7. Details Name and Address of known Accused (Attach separate sheet, if necessary) (if suspect particular of physical feature write on form 1-B of attach FIR 1-B to Case Diary)

1. Priyanka Singh
2. Dr. Tarun Kumar
3. Meetu Singh

And others

8. Reasons for delay in reporting by the complaint/informant:

Immediate

9. Particulars of properties stolen and involved (attach necessary proforma) write down details on blank back page

10(a) total value of properties stolen/involved

(b) recovered properties

11. Unnatural/accidental death case No., if any

12. First Information Brief contents (attach separate sheet if required) details write down back blank page

On M/N date time and place M/N accused person had the conspiracy and obtained false prescription on the letter head of government hospital with containing banned medicine which are annexed NDPS Act and administered the same without supervising doses and quantity which may result in a chronic anxiety attack, and resulted into commission of suicide and abetted the same hence committed an offence u/s 420, 464, 465, 466, 468, 474, 306, 120(B), 34 of IPC r/w Sec, 8(c) 21, 22(A) 29 of NDPS Act.

13. Action taken since the above information reveals commission of offence(s) u/s as mentioned at item No.2.

(1) registered the case and took up the investigation or directed (Name of) ..... to take up the investigation or

(2) refused investigation due to —(3) transferred to P.S.

District.... on point of jurisdiction

FIR, read over to the complainant/informant admitted to be correctly recorded and a copy given to the complainant/informant, free of cost.

(RO.A.C.)

14. Signature and thumb impression of complainant/informant  
Signature of officer in charge Name Pramod Kumar Rank Police inspector

15.

1. date and time of submitted to the Court Code No. of I.O.

Copy to 2- Complainant 3. Supdt. Of Police (Computer)

4. Inv. Officer, 5. Office copy

Attachment to item 7 of First Information Report

A statement of Miss Rhea Indrajit Chakraborty Age 28 years, occ: film actress, r/o 101, Primrose Apartment, Near SNDT College, Juhu Road, Santacruz West, Mumbai 400054 has been recorded on separate paper are treated as FIR and attached herewith.

By me

Sd/-

(Pramod Kmiibhar)

7320

Inspector of Police

Bandra police

station

Mumbai

True copy

*Annexure P-7*

**COMPLAINT FILED BY RESPONDENT NO. 2 TO MUMBAI  
POLICE DATED 07.09.2020**

Statement of Miss Rhea Indrajit Chakraborty – Age – 28 years, Occ: Film Actress, R/o – 101, Primrose Apartment, Near SNDT College, Juhu Road, Santacruz West, Mumbai 400054

I am as above residing at above mentioned address with my parents and brother.

I am professionally an actress and done movies in Hindi film industry since the year 2012. I know Sushant Singh Rajput from past several years as we were working in the Indian Film Industry. We both had maintained a cordial friendship and would occasionally communicate with each other. In April 2019, Sushant Singh Rajput and I had attended a party hosted by the film fraternity and shortly thereafter we began dating each other. Then myself and Sushant Singh officially moved in together in live in relationship in December, 2019 at our residence at Mount Blanc, Bandra, Mumbai and I resided there till the 8<sup>th</sup> of June, 2020 and on 14<sup>th</sup> of June, 2020 Sushant Singh was found dead at the said residence. During the course of my relationship with Sushant Singh, he had been undergoing treatment for various mental health issues and had been diagnosed as suffering from bipolar disorder and severe depression and anxiety by multiple renowned doctors. However, Sushant Singh was not

disciplined in respect of his treatment and would often abruptly stop his medication to the dismay of his doctors and myself.

In the morning of 8<sup>th</sup> June, Sushant Singh had been on his mobile phone incessantly and when I enquired what he was doing, he showed me the messages he was exchanging with his sister Priyanka Singh. When I have seen the messages, I was shocked upon reading the said messages as his sister Priyanka had sent him a list of medications to take. I explained to Sushant Singh that considering the seriousness of his condition and the fact that he already had medications prescribed by the well known psychiatrist from Mumbai who had examined and treated him over several months and hence I said he ought not to take any other medication, which was prescribed by his sister Priyanka, who has no medical degree. However Sushant was disagreed with me on this aspect and further informed me that he would only take the medicine prescribed by her sister Priyanka Singh. Sushant Singh then proceeded to ask me to leave the house as his other sister Meetu Singh was coming to live with him and would take care of him. Thus, I left our residence at Mount Blanc, Bandra, Mumbai and this was last time that I saw the Sushant Singh alive. On the 14<sup>th</sup> of June, 2020, one of my friend called me and said the news is coming in media that Sushant Singh is committed suicide.

Subsequent to the death of Sushant Singh, the Bandra Police Station initiated an enquiry as per section 174 of the Code of Criminal Procedure, 1973. In respect of the said enquiry, I have visited the Bandra Police Station on 18<sup>th</sup> of June 2020 and 17<sup>th</sup> of July, 2020 and extended my full cooperation in respect of the said enquiry.

Despite a lapse of several weeks, as there was no clarity in respect of the circumstances leading to the death of the Sushant Singh, I addressed a message on social media to Amit Shah, Minister of Home Affairs, Govt. of India, on 16<sup>th</sup> July, 2020, requesting and pleading with him to transfer the case and investigation to the Central Bureau of Investigation, India so that they could carry out a thorough investigation into the death of Sushant Singh.

Meanwhile, the father of Sushant Singh had registered a FIR No.241 of 2020 dated 25<sup>th</sup> of July 2020 at Rajiv Nagar Police Station, Patna, Bihar against me and my family members for abetting the suicide of Sushant Singh and applied other offences. It was preposterous that such false allegations were being made over 40 days after the demise of Sushant Singh.

The allegations made in the aforesaid FIR registered at Rajiv Nagar Police Station came within the jurisdiction of the Mumbai Poice, who were already enquiring into the death of Sushant Singh, I preferred Transfer Petition No.225 of 2020 before the Hon'ble Supreme Court of

India. During the pendency of the said petition, the govt. of Bihar requested the Central Government to refer the said FIR to the Central Bureau of Investigation and accordingly Crime No.RC2242020S0001 of 2020 was registered with the CBI. Based on information available in the public domain, it appears that the family of Sushant Singh, in their statement before the CBI has alleged that Sushant Singh was murdered. During the investigation at CBI, myself and my family members have remained present before the CBI on several occasions and have extended our full cooperation to the said investigation.

Meanwhile my aforesaid Transfer Petition was pending before Hon'ble Supreme Court, the Enforcement Directorate also registered ECIR/MB20-1/31/20 against me and my family members. In respect to the investigation as well, my family members and I have been duly cooperating with the investigation. During the course of investigation with CBI, my family members and I had handed over our mobile phones to the Enforcement Directorate who proceeded to take a full data download of the said phones.

It appears that based on certain messages that come to light from the aforesaid data downloaded, the Narcotics Control Bureau also registered a case against various accused including me. In respect of this investigation as well, me and my family members are duly cooperating with all investigating agencies and are ourselves desirous that the truth

regarding the circumstances surrounding the death of Sushant Singh come to light.

Recently certain Whatsapp messages exchanged between Sushant Singh and his sister Priyanka Singh on 8<sup>th</sup> of June, 2020 has come to light which are extremely disturbing and disclose the commission of various offences. There I recollected those are the same whatsapp messages with which I confronted with Sushant Singh in the morning of 8<sup>th</sup> of June 2020. In the said messages, Priyanka Singh has advised Sushant Singh to take various medication controlled under the Narcotics Drugs and Psychotropic Substances Act, 1985 i.e. NDPS Act. It seems that based on my discussion with Sushant Singh at that time, he had informed his sister that he would not be able to obtain the said medication without a prescription. Shockingly, it has now come to light that his sister Priyanka had subsequently on the same day sent him a prescription by one Dr. Tarun Kumar, an associate Professor of Cardiology from Dr. Ram Manohar Lohia Hospital, New Delhi.

When I gone through the prescription of Dr. Tarun Kumar, prima facie it appears forged and fabricated as it is OPD prescription of Dr. Ram Manohar Lohia Hospital, for which patient should be physically in front of the doctor. In addition, the said Dr. Tarun Kumar appears to have prescribed medication controlled under the Narcotics Drugs and Psychotropic Substances Act, 1985 to Sushant Singh without any

consultation as mandated by Law. In fact, the drugs prescribed by Dr. Tarun Kumar were prohibited from being prescribed electronically under the Telemedicine Practice Guidelines issued on 25<sup>th</sup> March 2020, which constitutes Appendix 5 of the Indian Medical Council (Profession Conduct, Etiquette and Ethics Regulation, 2002).

In the prescription dated 8<sup>th</sup> of June 2020, Dr. Tarun Kumar has prescribed Nexito 5 mg, Librium 10 mg and Lonazep MD 0.5 mg to Sushant Singh for anxiety. It is pertinent to note that the Tablet Librium is with the content Chlorodiazepoxide which appears at Item No.36 in the List of Psychotropic Substances under the NDPS Act, while Nexito and Lonazep MD both contain Clonazepam which appears at Item No.38 in the list of Psychotropic Substances under the NDPS Act.

I want to say that Clause 3.7.4 of the Telemedicine Practice Guidelines provides as “.....Prohibited List: An RMP providing consultation via telemedicine cannot prescribe medicines in this list. These medicines have a high potential of abuse and could harm the patient or the society at large if used improperly.... Medicines listed in Schedule X of Drugs and Cosmetic Act and Rules or any Narcotic and Psychotropic substance listed in the Narcotic Drugs and Psychotropic Substances Act, 1985”

Also I further say that Clause 3.7.1.4 of the Telemedicine Practice Guidelines provides as under:

“Misconduct

It is specifically noted that in addition to all general requirements under the MCI Act for professional conduct, ethics etc. while using telemedicine all actions that willfully compromise patient care or privacy and confidentiality, or violate any prevailing law are explicitly not permissible. Some examples of actions that are not permissible:

- RMPs insisting on telemedicine, when the patient is willing to travel to a facility and/ or requests an in-person consultation.
- RMPs misusing patient images an explicit picture of patient on social and sensitive in nature (e.g. RMP uploads an explicit picture of patient on social media etc.)
- RMPs who use telemedicine to prescribe medicines from the specific restricted list
- RMPs are not permitted to solicit patients for telemedicine through any advertisements or inducements”

I say that thus actions of Priyanka Singh and Dr. Kumar in prescribing psychotropic substances without any consultation or examination is in violation of various provisions of the Narcotics Drugs and Psychotropic Substances Act 1985 and the Telemedicine Practice Guidelines, 2020. In addition, the prescription prepared by them in connivance with each other is a fabricated and false document given that the same reflects the Deceased as an OPD patient when on the date and time at which the said prescription was sent, the Deceased was very much in Mumbai.

Maharashtra and not in New Delhi. I say that it is also surprising that Dr. Tarun Kumar being a Cardiologist sought fit to prescribe a person he did not know and had never met with psychotropic substances.

I say that the deceased died merely 5 days after he obtained the said prescription wherein he was unlawfully prescribed psychotropic substance at the behest of his sister Priyanka and the said Dr. Kumar. Given the death of the deceased and the investigations surrounding the circumstances of his death, it is imperative that the actions of Priyanka Singh, Dr. Tarun Kumar and other known and unknown persons who conspired to prescribe the deceased, such controlled substances ought to be investigated as well.

I say that it is imperative that the actions of Priyanka Singh, Dr. Tarun Kumar and other known and unknown persons be investigated and it be determined as to how they came to provide the deceased with such a bogus and unlawful prescription. It is also required to be investigated as to whether the deceased then proceeded to take the medicines thus prescribed which may have contributed to his death and/or further deteriorated his mental health.

Also I want to say that on 8<sup>th</sup> of June, 2020, when I left our house i.e. Mount Blanc, Bandra, Mumbai, I came to know that on the same day evening Sushant Singh another sister Meetu Sigh who lives in Mumbai came to stay with Sushant Singh. Thereafter till 12<sup>th</sup> of June 2020, Meetu

Singh was the only person taking care of Sushant Singh and she had administered the medicine mentioned in Dr. Tarun Kumar prescription, without supervising the doses and the quantity of medicine. Due to this Sushant Singh health worsen and deteriorating. Also I came to know from the media that on the earlier night of Sushant Singh committed suicide i.e. night of 13<sup>th</sup> of June 2020, one of his house staff has given the marijuana joint. The above medicine which prescribed by Priyanka Singh and the consumption of marijuana joint must have taken Sushant Singh to such drastic stage and committed suicide.

I further say that on 20<sup>th</sup> of January, 2020 Sushant Singh along with his sister went to Chandigarh and in a day or two he suddenly returned to Mumbai and on my enquiry he told me that he has stopped medicine prescribed by Dr. Kersi Chawada at the instance of sister Nitu Singh and Meetu Singh and he further informed that he had under going medication suggested by his sister Priyanka Singh.

I further state that sisters of Sushant Singh i.e. Meetu Singh and Priyanka Singh are the beneficiaries of the bank account of Sushant Singh, who always want to control the finances of Sushant Singh.

I further say that I had come to know from Sidharth Pithani, friend of Sushant Singh who was residing in the same house, has told me in the month of July, 2020 that IPS officer O.P. Singh, the brother in law of Sushant Singh has called him on his mobile phone and informed him that

Bihar Police will call him and forced Sidharth to tell them lie about Rhea Chakraborty, who has siphoned the money of Sushant Singh but he refused to do the same. Being a police official how could IPS officer OP Singh can coerced the witness in the case.

I further say that in April, 2020 when we had party in the bar in Mumbai and came back to house of Sushant Singh at Capri Heights, Bandra, Mumbai Priyanka Singh started touching to my body with unusual behavior and then she started molesting me and started demanding sexual relationship.

In light of what is stated hereinabove, Priyanka Singh in connivance with the Dr. Tarun Kumar, Cardiologist, who is attached to the government hospital like Dr. Ram Manohar Lohia Hospital, New Delhi for having knowledge that he is not a psychiatrist though he has issued false prescription without consultation of the patient and prescribed the medicines controlled under NDPS Act on the letterhead of said government hospital at the behest of Priyanka Singh and other known and unknown persons to enable Sushant Singh to get said banned medicines from the chemist. Also I suspect that due to such banned medicine prescribed by Dr. Tarun Kumar at the behest of Priyanka Singh having knowledge that such banned medicine and heavy dose of medicine may result into chronic anxiety attack which may damage health of Sushant Singh further and the medicine might have been procured by the sister

Meetu Singh and further consumption by Sushant Singh which resulted into suicide. Hence I say that Priyanka Singh, Meetu Singh and Dr. Tarun Kumar had abetted to his suicide.

Now I lodged herewith complaint as above and request action as per the law.

I herewith submit copies following documents in support of my complaint.

1. Printouts of chats on whatsapp on 8<sup>th</sup> of June, 2020 between Sushant Singh and Priyanka Singh.
2. Printout of the prescription on the letterhead of the government hospital Dr. Ram Manohar Lohia Hospital, New Delhi on 8<sup>th</sup> of June, 2020 having stamp and signature of Tarun Kumar, Cardiologist.

I read complaint and found correctly recorded.

Before me

Sd/- 7.9.20

Inspector of Police

Bandra Police Station

Mumbai

Ph:011-23404040, 23365525

DR. RAM MANOHAR LOHIA HOSPITAL, NEW DELHI 110001

Medicine non-CGHS

Date 08.06.2020

Sushant Singh

Age 34 years

Anxiety

Adv.

T. Nexita 5 mg

T. Librium 10 mg

1-1-2 x 4 days

1-1-1 x 1 day

1-0-1 x 1 day

1-0-0 continue T. Lonazel MD 0.5 mg

Sd/- Dr. Tarun Kumar

9198111010590 whatsapp.net Priyanka

Timestamp: 08/06/20 4:44:57 AM (UTC +0)

Source App: WhatsApp

Body

Lonazep 0.25 MD

Nexito 10 mg      1-0-0      1-1-2

-----

9198111010590 whatsapp. net Priyanka

Timestamp: 08/06/2020 4:48:26 AM (UTC+0)

Source App: WhatsApp

Body:

First take Librium for a week then start nexito 10 mg once every day after  
breakfast. Keep lonazep handy whenever there is anxiety attack.

----

From: 919820800308@s. whatsapp.net Sushant Singh Rajput (owner)

Timestamp: 08/06/2020 4:48:57 AM (UTC+0)

Source App: WhatsApp

Body:

Ok sonudi

----

From: 919820800308@s. whatsapp.net Sushant Singh Rajput (owner)

Timestamp: 08/06/2020 5:11:31 AM (UTC+0)

Source App: WhatsApp

Body:

No one will give without prescription

----

919811101059@s.whatsapp.net Priyanka

Timestamp: 08/06/2020 5:12:53 AM (UTC+0)

Source App: WhatsApp

Body:

Let me see if I manage

-----

System message system message

Timestamp: 08/06/2020 5:24:05 AM (UTC+0)

Source App: WhatsApp

Body:

Missed voice call

-----

919811101059@s.whatsapp.net Priyanka

Timestamp: 08.06.2020 5:27:14 AM (UTC+0)

Source App: WhatsApp

Body:

Babu call me.... I have to send the prescription

----

919811101059 @ whatsapp.net Priyanka

Timestamp: 08/06/2020 5:28:43 AM (UTC+0)

Source App: Whatsapp

Body

My friend here is a well renowned doctor who can get you connected to  
the best doctor in Mumbai all confidential... so don't worry

----

919811101059@s.whatsapp.net Priyanka

Timestamp: 08/06/2020 5:29:06 AM (UTC+0)

Source app: Whatsapp

Body:

Just call

----

919811101059@s.whatsapp.net Priyanka

Timestamp: 08/06/2020 7:08:25 AM (UTC+0)

Source app: Whatsapp

Attachments:

#1: chats\whatsapp\_native\attachments1\52d7f21b-52e5-4w19-bdb7-  
bd4f73de7924.pdf

Body:

camScanner 06-08-2020 11.26.16

---

919811101059@s.whatsapp.net Priyanka

Timestamp: 08/06/2020 7:09:16 AM (UTC+0)

Source App: Whatsapp

Body:

Babu, this is the prescription

----

919811101059@s.whatsapp.net Priyanka

Timestamp: 08/06/2020 7:10:17 AM (UTC+0)

Source App: Whatsapp

Body:

It's of Delhi but it should not matter. If anything, one can say it is on  
online consultation

----

From: 919820800308 @s. whatsapp.net Sushant Singh Rajput (owner)

Timestamp: 08/06/2020 7:15:16 AM (UTC+0)

Source App: Whatsapp

Body:

Ok thank you so much sonadi

----

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL WRIT PETITION NO/ 2712 OF 2020**

**DISTRICT: MUMBAI**

Priyanka Singh & Anr.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2712 OF 2020

DISTRICT: MUMBAI

IN THE MATTER OF ARTICLE 226 OF  
THE CONSTITUTION OF INDIA;

AND

IN THE MATTER OF SECTION 482 OF  
THE CODE OF CRIMINAL  
PROCEDURE, 1973;

AND

IN THE MATTER OF C.R. NO. 576 OF  
2020 REGISTERED WITH BANDRA  
HILL POLICE STATION, MUMBAI, FOR  
OFFENCES PUNISHABLE UNDER  
SECTIONS 420, 464, 465, 466, 474, 468,  
306, 120-B READ WITH 34 OF THE  
INDIAN PENAL CODE, 1860 AND  
SECTIONS 8(C), 21, 22(A) AND 29 OF  
THE NARCOTICS DRUGS AND  
PSYCHOTROPIC SUBSTANCES ACT,  
1985.

1. Priyanka Singh  
Age: 39 years,  
Residing at: C 10,  
NananaYihar, New Delhi - 110 028
2. Meetu Singh  
Aged- 45 years,  
Residing at: B-21,  
Rajnigandha Apartments,  
Goregaon (West), Mumbai- 400 104

Petitioners

Versus

1. The State of Maharashtra  
(Through the Senior Inspector  
Malabar Hill Police Station,  
Mumbai.)
2. Rhea Chakraborty  
Age: 28 years, Actress,  
Residing at: 101, Primrose Apartments,  
Near Ajivasan Hall  
Next to SNDT College,  
Juhu Road, Sanutacruz (West),  
Mumbai -- 400049
3. Central Bureau of Investigation  
Through Directors,  
Plot No. 5-B, 5th Floor,  
CGO Complex, Lodhi Road,  
New Delhi- 110003

. Respondents

TO

THE HON'BLE CHIEF JUSTICE AND  
THE OTHER HON'BLE PUISNE  
JUDGES OF THIS HON'BLE HIGH COURT  
OF JUDICATURE AT BOMBAY

THE HUMBLE REPLY OF THE  
RESPONDENT NO.2 ABOVENAMED

MOST RESPECTFULLY SHEWETH:

1. The Respondent No.2 is an Indian Citizen residing at the above-mentioned address along with her family. The Respondent No. 2 is an actor/model by profession. The Respondent No. 2 has been a video-jockey on MTV India and thereafter appeared in Hollywood films such as Mere Dad Ki Maruti, Sonali Cable, Half Girlfriend and Jalebi. The Respondent No.2 is a well-respected member of society.
2. That the Respondent No. 2 had registered a First Information Report bearing No. 576 of 2020 against the Petitioner Nos. 1 and 2 and one Dr. Tarun Kumar with the Bandra police station for an offence under Sections 420, 464, 465, 466, 474, 468, 306, 120-B read with 3-1 of the Indian Penal Code, 1860 and Sections 8(c), 21, 22(a) And 29 of the Narcotics Drugs and Psychotropic

Substances Act, 1985 on 7<sup>th</sup> September 2020. That the Petitioner Nos. 1 and 2 are the sisters of the late Sushant Singh Rajput.

3. That the brief facts leading up to the registration of the aforesaid crime are as under:-

- a. That the Respondent No. 2 and the laic actor, Sushant Singh Rajput (hereinafter referred to as "Sushant") were known to each other over the past several years as they were both working in the Indian Film Industry. They had maintained a cordial friendship and would occasionally communicate with each other. On 13<sup>th</sup> April 2019, Sushant and the Respondent No. 2 had attended a party hosted by Rohini Iyer and subsequently the next day he asked the Respondent No.2 and Rohini to come along with him to his Pawna farmhouse. The Petitioner No.1 and brother in law Siddharth along with his entourage also accompanied them. After spending a day in Pawna, the Respondent No. 2 came back the next day for a movie screening of Kalank. Sushant convinced the Respondent No. 2 to come back to Pawna the

next day. Shortly thereafter, the Respondent No. 2 and Sushant began dating each other.

- b. That the Respondent No. 2 learnt that at that time, Sushant resided at Capri Heights, Bandra in a duplex apartment: with his friends Aayush Shanna, Siddharth Pithani, Sam, 1 Himanshu as well as the Petitioner No. 1 and her husband Siddharth. The Respondent No. 2 learnt that Sushant liked the concept of having an entourage as he was inspired by the American television show 'Entourage' and liked living with his friends. Since Sushant was so distant from his own family, he liked living with his friends, who were like a family to him. Sushant liked helping out his friends from small towns, who wanted to make a name for themselves in Mumbai and who shared similar interests as well, such as astronomy, global welfare and Artificial Intelligence. Prior to living at Capri Heights, Bandra, Sushant resided at a building called Little Heights in Mumbai, with a different set of friends, one of them being, Vikas Gupta's brother. His friends were always very inspired by Sushant as he would

come up with various interesting ideas for setting up NGOs or come up with brilliant ideas with respect to Artificial Intelligence and Sushant would involve them in these projects, making these ideas come to life and thereby providing them with a livelihood as well. There were other friends as well, who did not reside in the house but visited from time to time. This sort of arrangement never interfered in the Respondent No. 2's relationship with Sushant as they lived on one floor of the duplex apartment, while his friends lived on the other. The Respondent No. 2 in fact enjoyed the company of his friends and was in awe of the brilliant topics Sushant and his friends discovered.

- c. That Sushant's friend Siddharth Pithani is a graduate from National Institute of Design, originally from Hyderabad, and Sushant wanted him to document his (Sushant's) life. On many occasions, Siddharth Pithani had taken various videos of Sushant and the Respondent No. 2 for their social media content. Sushant wanted to document his daily life as he desired to change people's perception of him. Siddharth

Pithani was also musically inclined and would participate with Sushant in Iris daily prayers by playing an instrument.

- d. That in the night of 21<sup>st</sup> April 2019, the Petitioner No. 1 and the Respondent No. 2 went out with a few friends to a party as the Petitioner No. 1 wanted to experience the party life in Mumbai. She consumed copious amounts of alcohol that night and started dancing weirdly with men and women. After seeing this, the Respondent No. 2 insisted that they go back to Sushant's house at: Capri Heights. When they reached Sushant's house, the petitioner No. 1 and Sushant continued drinking whereas the Respondent No. 2 called it a night as she had to leave for Chennai the next day (22<sup>nd</sup> April 2019) for her Tamil film's muharat pooja. The Respondent No. 2 was asleep at Sushant's house when she suddenly awoke to find that the Petitioner No. 1 had got into bed with her and was groping her. The Respondent No. 2 was extremely shocked and demanded that the Petitioner No. 1 leave the room immediately. Subsequently,

the Respondent No. 2 left the house and informed Sushant as to what had transpired. Sushant got into an argument with the Petitioner No. 1 regarding the same. Due to this incident, the relationship between Sushant's family members and the Respondent No. 2 had been strained since inception. Sushant also forwarded the Respondent No. 2 his messages to the Petitioner No. 1 and brother in law. These messages were about the Petitioner No.1 harassing him for standing up for the Respondent No. 2.

e. That subsequently, in June 2019, Sushant informed the Respondent No. 2 that the Petitioner No. 2 had called and threatened him that she would file a false criminal case against him regarding his altercation with the Petitioner No. 1. Sushant was extremely disturbed by this incident as the husband of the Petitioner No. 2 is an IPS Officer and he was concerned that they would misuse his connections to coerce and threaten him. In order to resolve the situation and assist Sushant, the Respondent No. 2 reached out to O. P. Singh, who is an IPS

officer and the husband of the Petitioner No. 2. The Respondent No.2 informed him that if they file any false allegations against Sushant, she would go to the police regarding the molestation incident. This seemed to scare Sushant's relatives who went on to ignore Sushant and the Respondent No. 2 for the next several months.

- f. That as time went on, the relationship continued to grow and Sushant became well acquainted with the Respondent No. 2's family members. Sushant had informed the Respondent No.2 that his father had left their family when they were very young and gotten remarried. Sushant explained that as a result, he had an extremely strained relationship with his father and often did not interact with him for prolonged durations. Sushant had also revealed to the Respondent No. 2 that his mother had suffered from depression which attributed to her early death and that he suspected that his father suffered from bipolar disorder as well. Sushant had also revealed that the Petitioner No. 1 suffered from certain mental illnesses for

which she took regular medication. It was extremely obvious to the Respondent No. 2 that Sushant had a tumultuous relationship with his family.

- g. That during the course of their relationship, the Respondent No. 2 also observed that Sushant appeared to be in the regular habit of smoking cigarettes containing ganja which he sourced and procured for himself using his household staff. The Respondent No. 2 was concerned about this habit and when she asked Sushant about it, he informed her that he had developed a deep liking for it during the shooting of his film "Kedarnath" at Kedarnath sometime in the year 2015-2016. The Respondent No. 2 routinely tried to dissuade Sushant from smoking such cigarettes and consistently endeavored to wean him off this drug habit.
- h. That in July 2019, the Respondent No. 2 was shooting for Chehre (a movie) directed by Romy Jaffrey, Sushant would often drop the Respondent No. 2 and pick her up from the set and soon got friendly with Romy Jaffrey as they were

from the same theatre group, led by Nadirafiabbar. During that time, Sushant came up with an idea that Romy Jaffrey and Annu Kapoor should direct the play "Laila Majnu" with Sushant and the Respondent No. 2 as leads. Thereafter this idea turned into a script for a movie as a play would take a while.

- i. That in August 2019, Sushant had asked Shruti Mody and the Respondent No.2 to start looking for oilier accommodations as he believed that Capri Heights was haunted. In the interim, the Respondent No. 2 and Sushant were staying in Waterstones hotel as Sushant didn't want to spend more time at Capri Heights. In September 2019, Sushant's film "Chhichhore" was to release and on 5<sup>th</sup> September 2019, the Respondent No. 2 and Sushant organized a small screening for him at PVR Juhu. Thereafter the Respondent No. 2 and Sushant spent a lot of time at Waters tones club playing tennis and badminton during their stay.

j. That in October 2019, the Respondent No. 2 was to travel to Paris for promotions relating to a brand called 'Shein'. The brand had paid for the Respondent No. 2's airline tickets and accommodation. However, Sushant suggested that they use this opportunity to go on a month-long European tour together and proceeded to cancel all her bookings so that they could travel and stay together. During this trip, the Respondent No. 2's brother also joined them for a few days at Sushant's insistence and they all had a really great time together. Towards the end of the holiday, when Sushant and the Respondent No. 2 were in Florence, Italy and were staying in a gothic hotel, Sushant began to behave erratically and informed the Respondent No. 2 that he was feeling extremely anxious and disturbed. At this time, Sushant informed the Respondent No. 2 that he had experienced a similar incident in the year 2013 for which he had been treated by one Dr. Harish Shetty. Despite the passage of a few days, Sushant's condition did not improve and hence the Respondent No. 2 and Sushant decided to return to India earlier.

k. That upon returning to India, Sushant informed the Respondent No. 2's father who is a General Surgeon that he wanted to seek psychiatric help. Thus, arrangements were made for Sushant to visit Dr. Nikita Shah. On 6<sup>th</sup> November 2019, Dr. Nikita Shah on examining Sushant, felt that he was most likely suffering from Bipolar Disorder and suggested that he start therapy. Accordingly, arrangements were made for Sushant to meet Dr. Susan Walker, who is a renowned therapist in the city of Mumbai. On 7<sup>th</sup> November 2019, Dr. Walker confirmed her first appointment with Sushant for therapy. On 11<sup>th</sup> November 2019, Dr. Susan Walker was of the opinion that Sushant required additional medication and referred him to Dr. Parveen Dadachandji. On the very next day 12<sup>th</sup> November 2019, Sushant began his treatments with Dr. Parveen Dadachandji who also diagnosed Sushant with Bipolar Disorder. Throughout this period, Sushant had been routinely contacting his family to inform them about his bouts of depression and other issues but Sushant's family members did not seem overly concerned regarding the same. Ultimately in third week of

November 2019, the Petitioner Nos. 1 and 2 alongwith Sushant's third sister came to Mumbai and informed him that they would be taking him to Chandigarh for further treatment. The Respondent No. 2 did not interfere with their decision and was in fact relieved to see his family members finally take some interest in his wellbeing and health. However, on 26<sup>th</sup> November 2019, Sushant called the Respondent No. 2 and informed him that he would not be travelling to Chandigarh the Petitioner Nos. 1 and 2 as well as his third sister as he doubted their motives and felt that they were merely alter his money. That very same night, the Petitioner Nos. 1 and 2 alongwuh their third sister left Sushant alone at the peak of his depression at Waterstones club.

1. That subsequently, Sushant reached out to the Respondent No. 2 informing her that he was not doing too well and needed company. Since Sushant shared a cordial relationship with the Respondent No. 2's family, he suggested that he come and live in her parents' home till he felt better. The Respondent No. 2's parents agreed and for

three weeks he resided with them at their residence. During this time, Sushant mentioned to the Respondent No. 2 that, he was desirous of being admitted to a hospital so that he could receive proper treatment and make a swift recovery. Since Dr. Parveen Dadachandi was out of town, Sushant recommended that they find another psychiatrist and through research they found Dr. Kersi Chavda. Accordingly, Sushant on his own accord got admitted to Hinduja Hospital for four days under Dr. Kersi Chavda. At the end of the fourth day Sushant felt that he had made significant progress and checked himself out of hospital. At this time Sushant even explored Ayurvedic options for treatment as he seemed determined to get better.

m. That in December 2019, Sushant and the Respondent No. 2 moved into the flat at Mount Blanc, Bandra together. Subsequently, Sushant seemed to be doing well in his new apartment, by undergoing therapy and taking the necessary medication. Although he still had a few bad days, the

medicines seemed to be working and he seemed to be doing better.

- n. That in January 2020, Siddharth Pithani came back to Mumbai to live with Sushant on his request and was joined by another of his friends, Deepesh Sawant. On 9<sup>th</sup> January 2020, Sushant abruptly asked the Respondent No. 2 to leave and go home as he was planning to move to Pawna. He even called Romy Jaffrey to inform him about this move and was apologetic about not being able to do the film as he wanted to have a career change and considered fanning in Pawna. On 10<sup>th</sup> January 2020, Sushant called the Respondent No. 2 back home and she returned. Sushant informed the Respondent No. 2 that he had watched Jim Carret's journey about depression and was feeling inspired to fight his own battle.
- o. That on 20<sup>th</sup> January 2020, Sushant on the spur of the moment decided to drive to Chandigarh to visit his family. He decided to drive down with the Petitioner No. 2, Siddharth Pitani and Sahil (bodyguard). Between 10<sup>th</sup>

January and 20<sup>th</sup> January 2020, he had a few good days and extremely low days. On 20<sup>th</sup> January he asked the Respondent No. 2 to leave before the Petitioner No. 2 would arrive, he felt that leaving Mumbai for a while might help his state of mind. The Respondent No.2 was highly encouraging towards this move as long as she knew his sister was with him. It was his birthday on 21<sup>st</sup> January 2020 and he was driving down to Chandigarh on the same day. He ended up returning nearly 48 hours later. On returning Sushant informed the Respondent No. 2 that he was absolutely fine and would no longer be taking any medication. Both Dr. Chavda and the Respondent No. 2 were extremely concerned by this decision, but their hands were tied. Sushant seemed better and wanted to get back to physical fitness but this time not with Samee Ahmed (his trainer) and without any performance enhancers. Meanwhile he also wanted to do some transcendental meditation, so the Respondent No. 2 found a teacher named Sanjay Cheulkar who would come and teach the same. That the Petitioner No. 2 with her daughter came and stayed with

Sushant for a week. During this period, the Respondent No. 2 used to go back home to stay the night and spend the whole day with the Petitioner No. 2 and Sushant. The three of them even did the transcendental meditation course together for a week. One morning Sushant called the Respondent No. 2 sounding very disturbed and asked her to come see him immediately as the Petitioner No. 2 had left without informing him. He felt very sad about this. Thereafter the Respondent No. 2 continued to stay with him. During this period he was better and was keen on making their movie project come to life and met with Vashu Bhagnani, who was to be the producer of this film and discussed financials regarding the movie. Sushant was extremely happy as he was offered Rs. 14 Crores for the movie. Meanwhile the Petitioner No. 2 and her husband O.P Singh informed him that they were coming to Mumbai. He expected them to stay with him. Upon arrival, they did not contact him until the next day and instead stayed at a hotel. This made him feel highly disappointed. Despite this, he went to meet them a couple of times and was subsequently

even photographed in public with them as well. A few days later Sushant informed the Respondent No. 2 that O.P Singh and his family were up to something to smear his image. He was highly upset by this and called his father and O.P Singh requesting them to not harass him.

p. That in March 2020, Sushant and the Respondent No. 2 started training with Harrison James and they were prepping for their movie. However, India was hit with the COVID-19 pandemic and the entire country went into lockdown. In the initial days of the lockdown, Sushant appeared stable, however with each passing day his mental health appeared to deteriorate. The death of actors Rishi Kapoor and Irfan Khan also had a tremendous impact on Sushant who seemed to spiral into depression. However, Sushant refused any treatment and/or medication.

q. That throughout this time. Sushant insisted on continuing with his drug habit, to the dismay of his doctors and the Respondent No. 2. The Respondent No. 2 in fact discussed the downfalls of Sushant mixing prescribed medication

with his drug habit with his Doctor KersiChavda, who warned Sushant that he must stop his drug habit so as not to interfere with his treatment.

- r. That on 30<sup>th</sup> May 2020, a blind item/article was published in Mumbai Mirror, Times of India about Sushant, calling him a difficult person to work with and that people had several issues with his attitude. The Respondent No. 2 was at her parents' house on that day and Sushant sent her a picture of the said article, asking her to come see him immediately. When the Respondent No. 2 reached his house, Sushant informed her that he wanted to leave Mumbai and settle elsewhere and asked for her help. Sushant had gone off his medication since January 2020 and due to the stressful times due to the Covid-19 pandemic, his depression had worsened, he started considering places like Bir, Himachal Pradesh and contacted his friend Aayush Sharma, who was already living there to find him houses there. Thereafter, Sushant felt that living in South India would be better for him as he would be less recognizable and considered Coorg,

Karnataka. Me asked Siddharth Pithamto help him find houses down there. Siddharth in turn asked a friend for the same and even received pictures of some houses in Coorg. In June 2020, Sushant informed the Respondent No. 2 that he could hear his late mother's voice when no one was around. The Respondent No. 2 was extremely worried by this revelation but fortunately, Sushant agreed to get help. On 3<sup>rd</sup> June 2020, Sushant spoke to Dr. KersiChavda himself on the phone and a new medical prescription was provided to him by the psychiatrist.

- s. That on 7<sup>th</sup> June 2020, Sushant requested the Respondent No. 2 to contact his lawyer Priyanka Khimani for seeking her advice for getting out of his lease agreement in regard to his Bandra residence as well as other legal procedures required to be fulfilled for him to move to Coorg. In the meanwhile, Sushant kept calling his family, informing them of his decision to move out of Mumbai and requesting them to come meet him.

t. That on the morning of 8<sup>th</sup> June 2020, Sushant had been on his phone incessantly and when the Respondent No. 2 enquired what he was doing, he showed her the messages he was exchanging with the Petitioner No. 1 between 10.14 am and 10.18 a.m. The Respondent No. 2 was shocked upon reading the said messages as the Petitioner No. 1 had sent him a list of medications to take. The Respondent No. 2 explained to Sushant that given the seriousness of his condition, and the fact that he already had medications prescribed by doctors who had examined and treated him over several months, he ought not to take any other medication, least of all medication being prescribed by his sister who has no medical qualifications. Sushant and the Respondent No. 2 disagreed on this aspect and he insisted that he would only take the medicine the Petitioner No. 1 was prescribing him. He then proceeded to ask the Respondent No.2 to leave the house with her bag and baggage and other belongings as the Petitioner No. 2 was coming to live with him and would take care of him.

- u. Throughout this time, the Respondent No. 2 also suffered from her own anxiety issues and often endured panic attacks. The conduct of Sushant also aggravated these conditions. Even though the Respondent No. 2 was desirous of seeing her family, she was not at all comfortable with leaving Sushant alone. The very same day the Respondent No. 2 had in fact arranged to have a therapy session for her own self with Dr. Susan Walker and requested Sushant if she could leave after the session. Sushant however told her to leave immediately before the Petitioner No. 2 arrived. Thus, the Respondent No. 2 reluctantly left and informed Sushant to contact her or her brother in case he needed to talk. It was thus that the Respondent No. 2 came to leave Sushant's residence at Mount Blanc, Bandra, and this was also the last time that she saw Sushant alive.
  
- v. That upon returning home, the Respondent No. 2's condition worsened and for the first time Sushant didn't call her or message her to check if she had reached home safe (as he did not drop her like he normally did). The

Respondent No. 2 was deeply hurt by this behaviour as she felt that in her times of anxiety he wanted her to be gone.

- w. That on 9<sup>th</sup> June 2020, the Respondent No. 2 received a text from Sushant to which she didn't respond as she was extremely anxious and unclear about his behaviour. The Respondent No. 2 was upset as any girlfriend would be and went ahead and blocked his phone number on the same day. On 10<sup>th</sup> June, 2020, Sushant even called the Respondent No. 2's brother to enquire about the Respondent No. 2's well being on phone as well as send a text message. This made it clear to the Respondent No. 2 that he did not want her to come back to his house as normally whenever he asked her to leave he would always ask her to come back.
- x. That on 14<sup>th</sup> June, 2020, the Respondent No. 2 was devastated to learn of the Sushant's demise through common friends. The Respondent No. 2 and her brother tried enquiring with Sushant's staff about, the funeral details as she was deeply desirous of seeing him. The staff made it clear to the Respondent No. 2 that Sushant's family did not

want her to visit his home or attend his funeral and had not included her name in the funeral list which was limited to only 20 persons due to Covid restrictions. This caused the Respondent No.2 deep anguish as given the on-going pandemic, the Respondent No. 2 would not be allowed to attend the funeral if her name was not on the restricted list of 20 persons. The Respondent No. 2 was completely devastated and was grateful to two of her friends who arranged for the Respondent No.2 to pay her last respects to Sushant once all procedures were completed at the hospital where his body was kept and while it was being transported to the ambulance to be taken for the funeral.

y. That subsequent to Sushant's death, the Bandra Police Station initiated an enquiry as per Section 174 of the Code of Criminal Procedure, 1973. In respect of the said enquiry, the Respondent No. 2 appeared at the Bandra Police Station on 18<sup>th</sup> June 2020 and 17<sup>th</sup> July 2020 and extended her full cooperation in respect of the said enquiry.

z. That despite a lapse of several weeks, as there was no clarity in respect of the circumstances leading to Sushant's death, the Respondent No. 2 addressed a message on social media to Amit Shah, Minister of Home Affairs, Government of India, on 16<sup>th</sup> July 2020, requesting and pleading with him to transfer the case and investigation to the Central Bureau of Investigation, India, so that they could carry out a thorough investigation into the death.

aa. That subsequently, the Respondent No. 2 was shocked to discover that Sushant's father had registered a first Information Report No. 241 of 2020 dated 25<sup>th</sup> July 2020 at Rajiv Nagar police station, Patna, Bihar against the Respondent No. 2 and her family members for abetting Sushant's suicide, criminal misappropriation of Rs. 17 Crores and other offences. It was preposterous that such false allegations were being made over 40 days after his demise.

bb. That given that all the allegations made in the aforesaid FIR came within the jurisdiction of the Mumbai police, who

were already enquiring into Sushant's death, the Respondent No. 2 preferred Transfer Petition No. 225 of 2020 before the Hon'ble Supreme Court of India. During the pendency of the said petition, the Government of Bihar requested the Central Government to refer the said FIR to the Respondent No. 3 and accordingly Crime No. RC2242020S0001 of 2020 was registered with the Respondent No. 3. Based on information available in the public domain, it appears that Sushant's family in their statement before the Respondent No.3 has alleged that Sushant was murdered. The Respondent No. 2 and her family members have remained present before the Respondent No. 3 on several occasions and have extended their full cooperation to the said investigation. By an Order dated 19<sup>th</sup> August 2020, the Hon'ble Supreme Court transferred all present and future cases in relation to Sushant's death to the Respondent No. 3.

cc. That while the aforesaid Transfer Petition was pending before the Hon'ble Supreme Court, the Enforcement Directorate also registered ECIR/MB20-1/31/20 against the

Respondent No. 2 and her family members. In respect to this investigation as well, the Respondent No. 2 and her family members have been duly cooperating with the investigation. During the course of this investigation, the Respondent No. 2 and her family had handed over their mobile phones to the Enforcement Directorate, who proceeded to take a full data download of the said phones.

dd. That pertinently, despite the Respondent No.2 being subjected to multiple investigations and having various heinous allegations leveled against her and her family, no evidence whatsoever has been forthcoming against her in relation thereto despite the lapse of several months.

ee. That in the first week of September 2020, certain WhatsApp messages exchanged between the Petitioner No. 1 and Sushant on 8<sup>th</sup> June 2020 came to light in the social media which were extremely disturbing and disclosed the commission of various offences. In the said messages, the Petitioner No.1 had advised Sushant to take various medications. It seems that based on the Respondent No. 2's

discussions with Sushant at that time, he had informed the Petitioner No. 1 that he would not be able to obtain the said medication without a prescription. Shockingly, it came to light by virtue of these messages that the Petitioner No. 1 had subsequently on the same day sent him a prescription by Co-Accused Dr. Tarun Kumar, an Associate Professor of Cardiology from Dr. Ram Manohar Lohia Hospital, New Delhi. Prime facie the said document appeared forged and fabricated. In addition, the said Co-Accused Dr. Tarun Kumar appears to have prescribed medication to Sushant without any consultation as mandated by Law. In fact, the drugs prescribed by the Co-Accused Dr. Kumar were prohibited from being prescribed electronically under the Telemedicine Practice Guidelines issued on 25<sup>th</sup> March 2020, which constitutes Appendix 5 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics Regulation, 2002). In the prescription dated 8<sup>th</sup> June 2020, the Co- Accused Dr. Kumar has prescribed Nexito 5 mg, Librium 10 mg and Lonazep MD 0.5mg to Sushant for anxiety.

ff. That in the prescription dated 8<sup>th</sup> June 2020; Dr. Kumar has prescribed Nexito 5 mg, Librium 10 mg and Lonazep MD 0.5mg to Sushant for anxiety. That it is pertinent to note that the Tablet Librium is Chlordiazepoxide which appears at Item No.36 in the List of Psychotropic Substances under the NDPS Act, while Nexito and Lonazep MD both contain Clonazepam which appears at Item No. 38 in the list of Psychotropic Substances under the NDPS Act.

gg. That Clause 3.7.4 of the Telemedicine Practice Guidelines provides as under:

*“... Prohibited List : An RMP providing consultation via telemedicine cannot prescribe medicines in this list. These medicine have a high potential of abuse and could harm the patient or the society at large if used improperly.*

*Medicines listed in Schedule X of Drug and Cosmetic Act and Rules or any Narcotic and Psychotropic substance listed in the Narcotic Drugs and Psychotropic Substances, Act, 1985.”*

hh. That Clause 3.7.14 of the Telemedicine Practice Guidelines provides as under:-

“Misconduct

It is specifically noted that in addition to all general requirements under the MCI Act for professional conduct, ethics etc, while using telemedicine all actions that wilfully compromise patient care or privacy and confidentiality, or violate any prevailing law are explicitly not permissible.

Some examples of actions that are not permissible:

- RMPs insisting on Telemedicine, when the patient is willing to travel to a facility and/ or requests an in person consultation
- RMPs misusing patient images and data, especially private and sensitive in nature (e.g. RMP uploads an explicit picture of patient on social media etc.)
- RMPs who use telemedicine to prescribe medicines from the specific restricted list.

- RMPs are not permitted to solicit patients for telemedicine through any advertisements or inducements”

jj. That the actions of Petitioner No.1 and Dr. Kumar in prescribing psychotropic substances without any consultation or examination is in violation of various provisions of the Narcotics Drugs and Psychotropic Substances Act, 1985 and the Telemedicine Practice Guidelines, 2020. In addition, the prescription prepared by them in connivance with each other is a fabricated and false document given that the same reflects Sushant as an OPD patient when on the date and time at which the said prescription was sent, Sushant was very much in Mumbai, Maharashtra and not in New Delhi. That it is also surprising that that Dr. Tarun Kumar being a Cardiologist sought it "tit to prescribe medications to a person he did not know and had never met with Psychotropic substances, there is nothing to indicate that there was ever-any teleconference held between Sushant and the accused doctor.

kk. That Sushant died merely 5 days after he obtained the said prescription wherein he was unlawfully prescribed psychotropic substances at the behest of his sister Petitioner No.1 and the said Dr. Kumar. Given the death of Sushant and the investigations surrounding the circumstances of his death, it is imperative that the actions of Petitioners, Dr. Tarun Kumar and other known and unknown persons who conspired to prescribe Sushant, such controlled substances ought to be investigated as well. That it is imperative that the actions of the Petitioners, Dr. Tarun Kumar and other known and unknown persons be investigated and that it be determined as to how they came to provide Sushant with such a bogus and unlawful prescription. It is also required to be investigated as to whether Sushant then proceeded to take the medicines thus prescribed; which may have contributed to his death and/or further deteriorated his mental health.

4. That in view of these revelations, the Respondent No. 2 filed a Complaint with the Respondent No. 1 dated 6th September 2020,

after which the present FIR bearing No. 576 of 2020 came to be registered against the Petitioner Nos. 1 and 2, Co-Accused Dr. Tarun Kumar and other known and unknown persons for an offence under Sections 420, 464, 465, 466, 474, 468, 306 and 34 read with 120(B) of the Indian Penal Code, 1860, and Sections 8(c), 21, 22(A) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985. That shortly after the registration of the aforesaid came, the Respondent No. 2 came to be arrested. During her judicial custody, the Respondent No. 2 addressed a letter dated 13<sup>th</sup>/14<sup>th</sup> September 2020 to the Respondent No. 3 informing them that as they were already investigating the abatement of suicide angle in the death of Sushant Singh Rajput, they may restrict their investigation in regard to the present crime to the other serious offences alleged therein.

5. That thereafter, it appears that based on certain messages that came to light from the aforesaid data download by the enforcement Directorate, the Narcotics Control Bureau also registered Case No. 16 of 2020 against various Accused including the Respondent No. 2 and started investigations covering the drug angle in Sushant's death.

6. The Respondent No. 2 was summoned by the Narcotics Control Bureau in connection with NCB/M/U/CU 16/2020 for an offence punishable under sections 8(c) read with 20 (b) (ii), 22, 27A, 28 29 and 30 of the Narcotics Drugs and Psychotropic Substances Act, 1985 on 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> of September 2020, at which time she duly remained present and cooperated with the investigation. Subsequently, on 8<sup>th</sup> September 2020, the Respondent No. 2 came to be arrested in connection with the aforesaid crime. The Respondent No. 2 was produced before the Ld. Magistrate on the very same day via video conferencing, at which time the Ld. Magistrate was pleased to remand the Respondent No. 2 to judicial custody as the Narcotics Control Bureau in their Remand Application specifically sought judicial custody till 22<sup>nd</sup> September 2020. The Respondent No. 2 also filed her Bail Application on the very same day. By an Order dated 8<sup>th</sup> September 2020, the Ld. Magistrate was pleased to reject the said Bail Application of the Respondent No. 2. That the Respondent No. 2 has retracted her statements made before the Narcotics Control Bureau by way of her Retraction Statement submitted before the Learned Magistrate Court on 8<sup>th</sup> September 2020.

7. The Respondent No. 2 then filed a Bail Application before the Hon'ble Sessions Court on the 9<sup>th</sup> of September 2020. That by an Order dated 11<sup>th</sup> September 2020 the Hon'ble Sessions judge was pleased to reject the Bail Application of the Respondent No. 2.
8. That subsequently, the Respondent No. 2 preferred Criminal Bail Application bearing No. 2386 of 2020 before tins Hon'ble Court on 21<sup>st</sup> September, 2020. That by an Order dated 7<sup>th</sup> October, 2020; this Hon'ble Court was pleased to release the Respondent No. 2 on bail.
9. That the present Petition is preferred by the Petitioners for quashing of the FIR bearing No. 576 of 2020 which is registered by the Respondent No. 1 for an offence punishable under Sections 420, 464, 465, 466, 474, 468,306 and 34 read with 120(B) of the Indian Penal Code, 1860, and Sections 8(c), 21, 22(A) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985, at the instance of Respondent No. 2.
10. That without prejudice to what is stated hereinabove, the paragraph wise reply of the Respondent No. 2 to the present Petition is as under:

- a. With reference to Paragraph Nos. 1 to 3, the Respondent No. 2 states that by virtue of her Complaint dated 6<sup>th</sup> September 2020 she has made out a strong prima facie case against the Petitioners and Co-Accused for the offences alleged therein. That the investigation in respect of the present crime is at a nascent stage and the Respondent No.3 ought to be given sufficient time to conduct a proper investigation in regard to such serious offences.
- b. With reference to Paragraph No. 4, the Respondent No. 2 states that there is no delay in the institution of the present prosecution nor are her statements contained therein in any manner' contradictory to any of her previous statements. During the course of her interrogation with various investigative agencies, the Respondent No. 2 has always narrated the same facts devoid of any contradiction. The Respondent No. 2 vehemently denies any and all allegations of acting hand in glove with Respondent No. 1 or any other agency. Such callous statements ought not to be made by the Petitioners in an arbitrary and malafide manner.

- c. With reference to Paragraph No. 5, the contents thereof do not warrant any reply.
- d. With reference to Paragraph No. 6, the Respondent No. 2 states that, she has made out a strong prima facie case against the Petitioners and Co- Accused. The very prescription issued by Accused Dr. Tarun Kumar shows the late Sushant Singh Rajput as being an OPD patient of Dr. Ram Manohar Lohia Hospital, New Delhi, when at the relevant time Sushant was very much in Mumbai, Maharashtra. This makes it clear that the said document is forged and fabricated. Aside from the fact of whether or not such medication could be prescribed over a tele-consult, there is nothing on record to suggest that the Petitioners did in fact arrange for the Co-Accused Dr. Tarun Kumar to virtually consult with the late Sushant Singh Rajput before prescribing such medication. Regardless of the doctor's ability to prescribe such medication, it was his legal obligation to first consult with the patient whether virtually or otherwise before issuing any such prescription. The nature of the messages exchanged between the Petitioner No. 1 and the late

Sushant Singh Rajput strongly suggest that no such consultation took place and hence the actions of the Accused are in clear contravention of both the Telemedicine Practice Guidelines as well as the Indian Medical Council (Professional Conduct, Etiquette and Ethics Regulation, 2002). Thus it is preposterous to suggest that the present prosecution is devoid of merit or deserves to be quashed at this preliminary stage.

- e. With reference to Paragraph Nos. 7, 8 & 9, the Respondent No. 2 states that she has registered the present FIR as certain messages had come to light between the late Sushant Singh Rajput and Petitioner No. 1. That the acts committed by the Petitioners alongwith the Co-Accused Tarun Kumar are of serious nature and thus the Respondent No. 2 registered the present FIR. That the Respondent No. 2 is in no manner departing from her statements as alleged by the Petitioner Nos. 1 and 2. That at the time of requesting the Hon'ble Home Minister to direct a CBI enquiry into the cause of death of the late actor in July 2020, the Respondent No. 2 was not aware of the illegally obtained forged and fabricated prescription dated

8<sup>th</sup> June 2020. It was only in early September 2020 that certain WhatsApp messages exchanged between the Petitioner No. 1 and the late actor were revealed in the media which disclosed the obtaining of such a false prescription, it is pertinent to note that there was no denial of the aforesaid message exchange by the Petitioner No.1 or the Co-Accused. In any case, the genuineness of the said messages could easily be revealed if the investigation is permuted to be carried out.

f. With, reference 10 Paragraph Nos. 10 to 14, the Respondent No. 2 states that as per the Public Notice No. mci 211 (2)/2019(ethics)/201874 dated 11<sup>th</sup> April, 2020 issued by the Medical Council of India clearly states that Clonazepam can be prescribed to a patient upon first consultation with the Registered Medical Practitioner. That upon perusing the said Public Notice, it is evident that the said medicines can be prescribed only upon consultation with the Registered Medical Practitioner. That in the present case, the Petitioner No.1 had already procured the prescription for Sushant from the Co-Accused Dr. Tarun Kumar without any consultation. That

the Petitioners have provided no evidence whatsoever that Sushant had indeed consulted with the Co-accused Dr. Tarun Kumar to treat himself. That the Petition is silent as to me glaring fabrication in the said prescription wherein the laic actor is shown as an OPD patient of a hospital in Delhi while he was very much in Mumbai at the relevant time. The Petitioners are deliberately misinterpreting the facts narrated by the Respondent No. 2 so as to escape their criminal liability. The Respondent No. 2 has made it abundantly clear in both her Complaint dated 6<sup>th</sup> September 2020 as well as her statement forming part of the First Information Report that her differences with Sushant which occurred on 8<sup>th</sup> June 2020 were in respect of the medications being prescribed by the Petitioner No. 1. It was only in September 2020 that the Respondent No. 2 discovered that after she had left the late actor's house, the Petitioner No. 1 had proceeded to obtain a bogus prescription from the Co-Accused.

g. That the Paragraph Nos. 15 to 31, the Respondent No. 2 states that she has never changed her narrative or contradicted herself

in any manner whatsoever. The Transfer Petition preferred by her before the Hon'ble Supreme Court was due to the fact that there was an ongoing inquiry being conducted by Respondent No. 1 into the facts and circumstances leading to Sushant's death and the crime registered in Patna, Bihar fell within the jurisdiction of Respondent No. 1. The Respondent No. 2 also had grave apprehensions regarding the motivation behind the belated registration of an FIR by the Patna police and was concerned by various media reports commenting on the involvement of politicians in the registration of the said FIR. The Respondent No. 2 expressed these concerns in writing before the Hon'ble Supreme Court and even produced the media reports that she was relying upon. A perusal of the transcript of the interview given by Respondent No. 2 on 27<sup>th</sup> August 2020 which is at Exhibit "K" of the present petition clearly mentions that she left the house on 8<sup>th</sup> June 2020 as per the directions of the late actor, who informed her that his sister Petitioner No. 2 would be coming to reside with him. The Respondent No. 2 also described the mental state of the late actor during that time and specifically stated that he had been

in constant touch with the Petitioners on 8<sup>th</sup> June 2020. Hence it is preposterous to suggest that the Respondent No. 2 has contradicted herself in any manner whatsoever.

h. With reference to Grounds A to OO, the Respondent No. 2 reiterates that the Co-Accused is in violation of the ethical code as a Medical Practitioner. That the Co-Accused failed to follow the guidelines as laid down by the Medical Council of India via Public Notice dated 11<sup>th</sup> April, 2020. It is pertinent to note that the Co-Accused Dr. Tarun Kumar without any knowledge about the history of Sushant's menial illness, his treatment thus far or any consultation, readily issued a prescription to the Petitioner No. 1 herein to treat Sushant. That there is no evidence to show that the Petitioner No. 1 had shared the medical documents of Sushant with the Co-Accused Dr. Tarun Kumar so as to enable him to prescribe the medications to Sushant. That it is unfathomable that a Medical Practitioner would treat a patient with severe anxiety and other mental health issues without any consultation. The Respondent No. 2 states that the present FIR is registered within tune. That

as soon as the Respondent No. 2 became aware of the messages that were being circulated, she approached the Respondent No. 1 and registered the present FIR. That on the 8<sup>th</sup> of June 2020, the Respondent No. 2 had only been privy to the medicines prescribed by the Petitioner No.1 and had warned Sushant against taking such medicines. It was only in September 2020 that the Respondent No. 2 became aware of the fact that rather than heeding her advice, the Petitioner No. 1 had fraudulently obtained a fabricated prescription from the Co-Accused. This was a shocking, revelation to the Respondent No. 2 who immediately became concerned as to the authenticity of the prescription and whether Sushant had proceeded to obtain the medicines prescribed and consumed the same under the supervision of Petitioner No. 2. Thus, the Respondent No. 2 had immediately approached the Respondent No.1 upon becoming aware of the said prescription without any delay whatsoever. That the Respondent No.2 has at all times maintained that she is innocent and falsely implicated in the death of Sushant. The Respondent No. 2 states that she has co-operated with all the Investigating Agencies including

Respondent Nos.1 and 3. That the Respondent No. 2 was interrogated for several hours by the Investigating Agencies. That the Respondent No. 2 states that a criminal conspiracy was hatched by the Petitioners alongwith Co-Accused Dr. Tamil Kumar to illegally obtain a medical prescription for Sushant and thus the present FIR came to be registered. The Respondent No. 2 states that the present FIR is not contrary to the Order dated 19<sup>th</sup> August, 2020 passed by the Hon'ble Supreme Court to permit only the Respondent No. 3 to carry out investigations. That as per the said Order, if any fresh case was registered, the same would be investigated by the Respondent No. 3. That the Respondent No. 2 states that since the demise of Sushant, she was continuously hounded by the family of Sushant including the Petitioners and news channels. That the investigations are on-going and thus it cannot be said that the present FIR suggests ulterior motive as alleged by the Petitioners. It is pertinent to note that the Petitioner No. 2 was residing with Sushant till 13<sup>th</sup> June, 2020 and was supervising the medicines, if any, consumed by Sushant in the period immediately preceding his demise. The Respondent No.2 states

that it is the Petitioners, who are running various campaigns via social media platforms against the Respondent No. 2 to harass and falsely implicate her in various cases. That these antics of the Petitioners have caused immense stress to the parents of the Respondent No. 2. That the Respondent No. 2 has provided her complete co-operation to all the Investigating Agencies as and when called upon to do so. That the Respondent No. 2 categorically denies that she is in any manner attempting to tarnish the reputation of the Petitioners and Sushant's family. That it is the Respondent No. 2 who has been facing anger and hate since the demise of Sushant to such an extent that the Respondent No. 2 was receiving death and rape threats on a daily basis, it is also preposterous and legally untenable to suggest that the Respondent No.2 instituted the present proceedings to avoid her arrest in respect of the crime registered by the Narcotics Control Bureau.

11. That in the case of Kurukshetra University and another v. State of Haryana and another. (1977) 4 SCC 451, the Hon'ble Supreme Court held as under: -

*“Inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases. Thus, the High Court in exercise of inherent power under Section 482, Criminal Procedure Code cannot quash a first information report moreso when the police had not even commenced the investigation and no proceeding at all is pending in any Court in pursuance of the said F.I.R.”*

12. That in the case of MCD v. Ram Kishan Rohtagi, 1983 (1) SCC 1, the Hon'ble Supreme Court held that:-

*“The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should refrain from giving a prima jade decision unless there are compelling circumstances to do so. TAKING the allegations and the complaint as they were, without adding or subtracting anything, if no offence was made out, only then the High Court would be justified in quashing the proceedings in the exercise of its power under Section 482, Cr.P.C.”*

13. Similarly in the case of State of W.B. v. Swapan Kumar Guha, 1982 (1) SCC 561, emphasising that the High Court will not normally interfere with an investigation and will permit the inquiry into the alleged offence to be completed, the Hon'ble Supreme Court observed that:-

“65. An investigation is aimed on for the purpose of gathering necessary materials for establishing and proving an offence which is disclosed. When an offence is disclosed, a proper investigation in the interests of justice becomes necessary to collect materials for establishing the offence, and /or bringing the offender to book. In the absence of a proper investigation in a case where an offence is disclosed, the offender may succeed in escaping from the consequences and the offender may go unpunished to the detriment of the cause of justice and the society at large. Justice required that a person who commits an offence has to be brought to book and must be punished for the same, if the court interferes with the proper investigation in a case where an offence has been disclosed, the offence will go unpunished to the serious detriment of the

welfare of the society and the cause of the justice suffers. It is on the basis of this principle that the court normally does not interfere with the investigation of a case where an offence has been disclosed.

66. Whether an offence has been disclosed or not must necessarily depend on the facts and circumstances of each particular case. If on a consideration of the relevant materials, the court is satisfied that an offence is disclosed, the court will normally not interfere with the investigation into the offence and will generally allow the investigation into the offence to be completed for collecting materials for proving the offence.”

14. That in case of *Rishipal Singh v. State of U.P. and another*, 2014 (3) SCC 2015 the Hon'ble Supreme Court deprecated the quashing of bill at the initial stage of investigation and stated that at this stage the FIR can be quashed only when the uncontroverted allegations made in the FIR, do not disclose any offence.

15. That more recently, the Hon'ble Supreme Court in the case of N. Soundaram v. R.K. Pounraj and another, 2014 (10) SCC 616, HELD that the power under Section 482, Cr.P.C. should not be exercised to stifle a legitimate prosecution.
16. That in the case of State of Punjab through Secretary Home v. Subhash Kumar & others, 2014 (13) SCC 417, the Hon'ble Supreme Court held that the High Court cannot quash the FIR by entering into the tactical arena. It cannot, act as an investigating agency at a stage when the case is under the investigation.
17. In light of what is stated hereinabove and the observations of the Hon'ble Supreme Court in a plethora of cases, it is evident that the Respondent No. 2 has made out a strong prime facie case against the Petitioners. The investigation in respect of the present prosecution is at a nascent stage and the investigating agency ought to be afforded sufficient opportunity of investigating into the allegations of the Respondent No. 2 which are of a serious nature. Thus, this would not be a fit case or stage for this Hon'ble Court to exercise its jurisdiction.

18 It is therefore prayed that:

- a) This Hon'ble Court may be pleased to dismiss the present Criminal Writ Petition with cost/s; and
- b) For such further and other reliefs as this Hon'ble Court may deem fit to impose in the interest of justice and circumstances of the case.

FOR THIS ACT OF KINDNESS THE RESPONDENT NO. 2 AS IN DUTY BOUND SHALL EVER PRAY.

Mumbai

This 26<sup>th</sup> day of October, 2020

Sd/-  
Advocate for the Respondent no.2

**VERIFICATION**

I, RHEA INDRAJIT CHAKRABORTY, age 28 years, Indian inhabitant, residing at: 101, Primrose Apartments. Near Ajivasan Hall, Next to SNDT College, Juhu Road, Santacruz (West.), Mumbai - 400049, the Respondent No. 2 above named do hereby state on solemn affirmation that whatever stated in the Reply herein above is true and correct to the best of my knowledge and I believe the same to be true.

Solemnly affirmed at Mumbai

On this 26<sup>th</sup> day of October 2020

Sd/-  
Respondent no.2  
RHEA INDRAJIT CHAKRABORTY

Identified by me.

Sd/-  
Advocate for the Respondent No. 2.

Before me

26.10.2020

Annexure P-9

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
 CRIMINAL APPELLATE JURISDICTION  
 CRIMINAL WRIT PETITION NO. 2712 OF 2020

IN THE MATTER OF:

PRIYANKA SINGH & OTHERS

.....PETITIONERS

VERSUS

STATE OF MAHARASHTRA & OTHERS

.....RESPONDENTS

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Through

Counsel for the Respondent

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO. 2712 OF 2020

IN THE MATTER OF:

PRIYANKA SINGH & OTHERS .....PETITIONERS

VERSUS

STATE OF MAHARASHTRA & OTHERS

.....RESPONDENTS

REPLY ON BEHALF OF RESPONDENT NO. 3 (CBI) TO THE  
WRIT PETITION FILED BY THE PETITIONERS UNDER ARTICLE  
226 OF THE CONSTITUTION OF INDIA AND SECTION 482 OF  
THE CODE OF CRIMINAL PROCEDURE

To,

Hon'ble the Chief Justice and the other Companion Judges of  
the Hon'ble High Court of Judicature at Bombay

**MAY IT PLEASE YOUR LORDSHIPS,**

On behalf of the Respondent No. 3 i.e. Central Bureau of  
Investigation (CBI), it is most respectfully submitted as under: -

**MOST RESPECTFULLY SHOWETH**

1. That pursuant to notification No. 9/C.B.I-80-09/2020 HP-5101/Patna dated 04.08.2020 issued by the Home Department, Govt. of Bihar u/s 6 of the Delhi Special Police Establishment Act (DSPE), 1946 followed by the notification no. F.No.228/20/2020-AVD-II dated 05.08.2020 issued u/s 5 of the DSPE Act, 1946 by the Government of India, the investigation of FIR No. 241/2020 dated 25.07.2020 registered



u/s 341, 342, 380, 406, 420, 306, 506, 120B IPC at PS Rajiv Nagar, Patna, Bihar related to the death of Bollywood Actor Sushant Singh Rajput was transferred to Central Bureau of Investigation for investigation. Accordingly, a Regular Case vide RC 2242020S0001 dated 06.08.2020 was registered u/s 341, 342, 380, 406, 420, 306, 506, 120B IPC against (1) Rhea Chakroborty and her family members (2) Sh. Indrajit Chakraborty, (3) Smt. Sandhya Chakraborty, (4) Sh. Showik Chakraborty, (5) Sh. Samuel Miranda, (6) Ms. Shruti Modi & others, by the CBI.

2. This case was registered on the basis of a complaint of Sh. K. K. Singh (father of Sushant Singh) wherein it is alleged that Ms. Rhea Chakraborty, her family members and others hatched a conspiracy and in pursuance thereof, Rhea Chakraborty developed intimacy with Sushant Singh Rajput and took control of his Credit Cards and Bank Accounts and misappropriated the funds of Sushant Singh Rajput. In furtherance of said criminal conspiracy, deceased Sushant Singh Rajput was illegally restrained and confined. Further, Sushant Singh Rajput was threatened that he would be implicated in the suicide case of Ms. Disha, his Secretary, who died under mysterious circumstances in the intervening night of 08-09.06.2020. It is alleged that Sushant Singh Rajput was made to believe that he was suffering from mental problem and was threatened that if he fails to tow their line, his medical



reports would be made public, and thereby abetted him to finally commit suicide on 14.06.2020.

3. That in compliance of the aforesaid notifications issued by the Government of Bihar and Government of India, the CBI commenced investigation into the FIR registered by it, in a professional manner.
4. That subsequently vide order dated 19.08.2020 in TP (Crl.) No. 225/2020 titled Rhea Chakraborty Vs. The State of Bihar & Ors., Hon'ble Supreme Court of India approved the investigation being carried out by CBI and ordered that *"In such backdrop, to ensure public confidence in the investigation and to do complete justice in the matter, this Court considers it appropriate to invoke the powers conferred by Article 142 of the Constitution. As a Court exercising lawful jurisdiction for the assigned roster, no impediment is seen for exercise of plenary power in the present matter. Therefore while according approval for the ongoing CBI investigation, if any other case is registered on the death of the actor Sushant Singh Rajput and the surrounding circumstances of his unnatural death, the CBI is directed to investigate the new case as well. It is ordered accordingly."*
5. That in the present petition, Central Bureau of Investigation (CBI) is answering Respondent No. 3 and it has been mentioned in the petition itself that it is a formal party.



6. That in reply to averments made in Para 1 of the petition, it is submitted that the same are personal submissions by the petitioners, hence need no reply.
7. That in reply to averments made in Para 2 to 5 of the petition, it is submitted that the same are a matter of record, hence need no reply.
8. That in reply to averments made in Para 6 of the petition, it is submitted that there is apparent deviation in the statements made by Respondent No. 2 which were widely circulated on electronic and print media and the averments mentioned in the complaint submitted by Respondent No. 2 to PS- Bandra, Mumbai.
9. That in reply to averments made in Para 7 to 12 of the petition, it is submitted that the same are a matter of record, hence need no reply.
10. That in reply to averments made in Para 13 of the petition, it is submitted that the complaint filed by Respondent No. 2 is mostly speculative in nature and such speculation cannot be made the basis of an FIR.
11. That in reply to averments made in Para 14 to 20 of the petition, it is submitted that the same are matter of record, hence need no reply.



12. That in reply to averments made in Para 21 of the petition, it is submitted that it is settled law that two FIRs cannot be registered on the same cause of action. It is a fact that the CBI is already investigating the causes relating to death of Sushant Singh Rajput on the basis of an FIR No. 241/2020 of PS Rajiv Nagar, Patna, Bihar (re-registered by CBI as RC 2242020S0001) on the basis of a complaint filed by Sh. K.K. Singh, father of the deceased. The CBI is meticulously investigating all the aspects related to the death of Sushant Singh Rajput. In view of the present situation and order dated 19.08.2020 passed by Hon'ble Supreme Court of India, it was expected from the Mumbai Police to forward the complaint received from Ms. Rhea Chakraborty (Respondent No. 2), to the CBI for necessary action, instead of registering an FIR itself.
13. That in reply to averments made in Para 22 of the petition, it is submitted that the CBI has taken over all the records/materials pertaining to the inquest proceedings being conducted by Mumbai Police for the purpose of investigation in the case related to the death of Sushant Singh Rajput.
14. That in reply to averments made in Para 23 to 24 of the petition, it is submitted that the same are matter of record, hence need no reply.
15. That in reply to averments made in Para 25 of the petition, it is submitted that the Respondent No. 2 was summoned by the



CBI for the purpose of investigation and she joined investigation on 28.08.2020, 29.08.2020, 30.08.2020 and 31.08.2020.

16. That in reply to averments made in Para 26 of the petition, it is submitted that the same are matter of record, hence need no reply.
17. That in reply to averments made in Para 27 to 29 of the petition, it is submitted that the same are not related to the Respondent No. 3 (CBI), hence need no reply.
18. That in reply to averments made in Para 30 and 31 of the petition, it is submitted that the same are submissions of the petitioners, hence need no reply by Respondent No. 3 (CBI).

#### REPLY TO GROUNDS

- A. That in reply to averments made in ground 'A' of the petition, it is submitted that the present FIR has been registered by Mumbai Police in complete disregard to the provisions of section 154 Cr.P.C. Both the Respondent No. 1 & Respondent No. 2 were consciously aware that an FIR has been registered by Patna Police to look into the circumstances surrounding the death of Late Sushant Singh Rajput which was transferred to CBI for investigation. The investigation by CBI has also been approved by Hon'ble Supreme Court of India vide judgement dated 19.08.2020. Therefore, registration of another FIR on the same facts and cause of action was neither warranted nor



allowed under law. Thus the FIR No. 576 of 2020 is vitiated and bad in law. It is further submitted that in light of the case laws cited by the petitioner in this Para, Mumbai Police was required to follow the procedure laid down by the Hon'ble Supreme Court in Jacob Matthew Vs, State of Punjab & Anr. 2005 (6) SCC 1.

- B. That in reply to averments made in ground 'B' of the petition, it is submitted that before proceeding to initiate any criminal action, the law laid down by the Constitutional Courts is required to be adhered to.
- C. That in reply to averments made in ground 'C' of the petition, it is submitted that the same are a matter of record, hence need no reply.
- D. That in reply to averments made in ground 'D' of the petition, it is submitted that as mentioned above, the very genesis of the FIR no. 576 of 2020 registered at PS Bandra is flawed.
- E. That in reply to averments made in ground 'E' of the petition, it is submitted that the same are matter of record, hence need no reply.
- F. That in reply to averments made in ground 'F' of the petition, it is submitted that it is correct that if the allegations mentioned in the FIR, prima facie, do not constitute any offence or make out a case against the accused, the FIR can be quashed by Constitutional Courts. Pertinently, the allegations levelled in



the instant FIR are mostly presumptive and speculative in nature.

- G. That in reply to averments made in ground 'G' to 'I' of the petition, it is submitted that the same are matter of record, hence need no reply. However, it is submitted that deviation from earlier statements, casts a serious doubt on the bonafides of the person making such statements.
- H. That in reply to averments made in ground 'J' of the petition, it is submitted that the same are matter of record, hence need no reply. However, it is submitted that the Mumbai Police has not registered FIR No. 576/2020 as an outcome of the inquest proceedings being conducted by them. Therefore, the judgement dated 19.08.2020 passed by the Hon'ble Supreme Court of India does not allow registration of any such FIR and registration of FIR no. 576/2020 at Police Station Bandra, is complete departure from the judgement passed by Hon'ble Supreme Court of India.
- I. That in reply to averments made in ground 'K' of the petition, it is submitted that the same are submissions of the petitioners, hence need no reply.
- J. That in reply to averments made in ground 'L' of the petition, it is submitted that it is correct that Respondent No. 2 has stated to have known about alleged chats of deceased Sushant Singh Rajput with Petitioner No. 1 since 08.06.2020. However, she did not rake up this issue till 07.09.2020 at any platform.



As mentioned by the petitioners, the option of conducting a Preliminary Enquiry into the allegations levelled by Respondent No. 2, was available at the disposal of Mumbai Police, however, it did not exercise the said option and rather went ahead with the registration of instant FIR.

- K. That in reply to averments made in ground 'M' to 'O' of the petition, it is submitted that the same are matter of record, hence need no reply.
- L. That in reply to averments made in ground 'P' of the petition, it is submitted that it is apparent from the allegations levelled in the complaint/FIR that the present FIR has been lodged in respect of the circumstances which are already under investigation by CBI. Therefore, registration of second FIR concerning same circumstances and cause of action, is barred in law as upheld by Hon'ble Supreme Court of India in a catena of judgements.
- M. That in reply to averments made in ground 'Q' of the petition, it is submitted that the same are matter of record, hence need no reply.
- N. That in reply to averments made in ground 'R' to 'U' of the petition, it is submitted that the same are allegations levelled by the petitioners against Respondent No. 1 and 2, thus, need no reply from Respondent No. 3.



- O. That in reply to averments made in ground 'V' and 'W' of the petition, it is submitted that the same are submissions made by the petitioners, hence need no reply.
- P. That in reply to averments made in ground 'X' to 'AA' of the petition, it is submitted that the same are allegations levelled by the petitioners against Respondent No. 1 and 2, thus, need no reply from Respondent No. 3.
- Q. That in reply to averments made in ground 'BB' of the petition, it is submitted that the CBI is conducting investigation meticulously and professionally without being hindered by any external factor and would thoroughly look into each and every aspect relating to the death of Late Sushant Singh Rajput in a fair and impartial manner. It is also submitted that if the Respondent No. 1 or Respondent No. 2 had to provide any information regarding the death of Sushant Singh Rajput, the same should have been directly shared with the CBI for necessary action at its end and the registration of the FIR by Bandra Police Station on the said information was not required, however, they chose to register a separate FIR, in the matter.
- R. That in reply to averments made in ground 'CC' to 'EE' of the petition, it is submitted that the same are allegations of the petitioners against Respondent No. 2, hence need no reply by Respondent No. 3. However, it is submitted that the CBI investigation is uninfluenced from any external factor including



the media coverage of the case or the FIR got registered by the Respondent No. 2. The allegations levelled in the FIR lodged by Respondent No. 2 could have been well looked into during the ongoing investigation by CBI. Therefore, there was no need of registration of a separate FIR on this issue.

- S. That in reply to averments made in ground 'FF' and 'GG' of the petition, it is submitted that for offence of abetment, instigation or aiding any person to do any act, is required. If these ingredients are not available, a case of abetment cannot be made out. The CBI is already conducting an investigation wherein Section 306 has been invoked in the FIR. Thus, the role of each and every person, whosoever had instigated or abetted the commission of suicide by the deceased, is being investigated.
- T. That in reply to averments made in ground 'HH' of the petition, it is submitted that the same are matter of record, hence need no reply.
- U. That in reply to averments made in ground 'II' of the petition, it is submitted that it is correct that the complaint is based on the conjectures and surmises of the Respondent No. 2 on the basis of the alleged prescription. It is further submitted that the present FIR is untenable in the eyes of law.
- V. That in reply to averments made in ground 'JJ' to 'MM' of the petition, it is submitted that the present FIR registered by Mumbai Police is bad in law and vitiated *ab initio* being



registered on the same cause of action on which a FIR is already under investigation by the CBI.

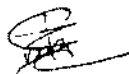
- W. That in reply to averments made in ground 'NN' of the petition, it is submitted that the same are submissions of the petitioners, hence need no reply.
- X. That in reply to averments made in ground 'OO' of the petition, it is submitted that the same are allegations against Respondent No. 1 and 2, hence need no reply.
19. That in reply to averments made in Para 32 to 36 of the petition, it is submitted that the same are submissions of the petitioners, hence need no reply.
20. That the Respondent No. 3 (CBI) has received an application submitted by Respondent No. 2 through Jail Authorities wherein she had mentioned that in the FIR lodged on the basis of her complaint, Bandra Police Station has also invoked Section 306 of IPC and now she has been advised that a second FIR cannot be registered for 306 IPC in respect of the death of Sushant Singh Rajput. Therefore, she has requested to drop or delete the offence u/s 306 of the IPC in FIR No. 576/2020. She also requested that the facts stated in her complaint to Bandra Police Station and the material disclosed by her may be investigated along with the investigation carried out in RC 2242020S0001. Copy of the letter dated 14.09.2020 received from Superintendent, Byculla District Jail, Byculla Mumbai is annexed with this reply as




**Annexure A.** In this regard, it is submitted that the procedure of dropping a penal section of law during investigation, is a process unknown to law and the same cannot be done by the investigating agencies. A FIR which has been registered can either be quashed by Constitutional Courts or culminate into a report u/s 173 Cr.P.C. Therefore, the request of Respondent no. 2 to drop section 306 IPC from FIR No. 576/2020, cannot be acceded to. Further, these facts reveal that Respondent No. 2 was not even sure about the allegations levelled by her based on which the FIR No. 576 of 2020 was registered. In light of the submissions made by the complainant, as mentioned above, it is clear that the instant FIR is not valid in law.

**PRAYER**

In view of the above submissions, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to pass orders as deemed fit in the interest of justice.



Advocate for Respondent No.3

  
10.10.20

(Anil Kumar Yadav)  
Addl. Supdt. of Police  
CBI, AC-VI/SIT, New Delhi

Through

Counsel for the Respondent

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
 CRIMINAL APPELLATE JURISDICTION  
 CRIMINAL WRIT PETITION NO. 2712 OF 2020

IN THE MATTER OF:

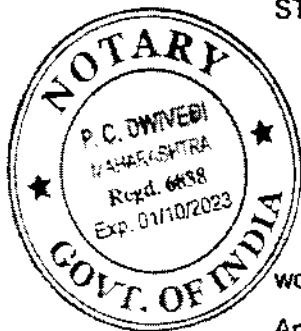
PRIYANKA SINGH & OTHERS

.....PETITIONERS

VERSUS

STATE OF MAHARASHTRA & OTHERS

..... RESPONDENTS



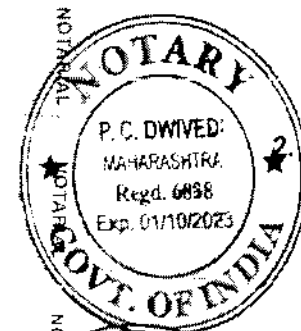
AFFIDAVIT

I, Anil Kumar Yadav s/o Sh. Balwant Singh, aged 52 years, working as Addl. Supdt. of Police, Central Bureau of Investigation, Anti Corruption-VI/SIT, 5<sup>th</sup> Floor, CBI Headquarters, 5-B, CGO Complex, Lodhi Road, New Delhi-110003, do hereby solemnly affirm on oath as under:

1. That I am working as Addl. Supdt. of Police, Central Bureau of Investigation in Anti Corruption-VI/SIT branch at New Delhi and Investigating Officer of the case and as such competent to swear this affidavit in my official capacity.

That, the facts mentioned in the petition at Para 1 to 20 are true to my knowledge and based on official record. Nothing has been concealed therein.

DEPONENT



Advocate for Respondent No.3

VERIFICATION

Verified at Mumbai on this 10<sup>th</sup> day of October, 2020 that the contents of the above affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therein.

BEFORE ME

P.C. DWIVEDI DEPONENT  
 NOTARY  
 MAHARASHTRA  
 (Govt. of India)

Advocate for Respondent No.3



10 OCT 2020

Serial No.	467	Book No.
		6

## Annexures-A



जा.क्र भाजिका/न्यायि/ (114) /२०, दिनांक-14.09.2020  
 अधीक्षक, भायखळा जिल्हा कारागृह वर्ग-१ यांचे कार्यालय,  
 दुरध्वनी क्रमांक-०२२/२३०८८१३३,  
 फॅक्स क्रमांक-०२२/२३०९९१३३,  
 ई-मेल-byculadiatpri@gmail.com / bycalladp-mh@gov.in

प्रति,  
 श्रीमती नुपुर प्रसाद  
 पोलीस अधीक्षक  
 सेट्रल ब्युरो ऑफ इन्वेस्टीगेशन,  
 एस आय टी, नवी दिल्ली  
 सध्याचा पत्ता:-  
 D.R.D.O गेस्ट हाउस,  
 कलिना, अली पवार जंग मार्ग,  
 बुध्दनगर हनुमान टेकडी,  
 सांताक्रुझ पूर्व,  
 मुंबई- 400 055.

विषय :- महिला न्याय. बंदी क्र. 704/20 रिया चक्रवर्ती हिचा विनंती  
 अर्ज सादर करणेबाबत...

महोदय,

उपरोक्त विषयान्वये सादर करण्यात येते की, महिला न्याय. बंदी क्र.704/20 रिया चक्रवर्ती हिचा एनसीबी मुंबई यांनी गु.र.क्र. 16/2020 मध्ये अटक केलेली असून सन्या. न्यायालयाच्या आदेशान्वये दिनांक 09.09.2020 पासून या कारागृहात बंदीस्त आहे.

सादर महिला न्याय. बंदी क्र.704/20 रिया चक्रवर्ती हिने आपल्या नावे केलेला विनंती अर्ज या पत्रासोबत पुढिल कार्यवाहीसाठी सादर करण्यात येत आहे.

सोबत- महिला बंदीचा विनंती अर्ज.

आपला विश्वासु,

अधीक्षक

भायखळा जिल्हा कारागृह वर्ग-०२

भायखळा, मुंबई-०८

*Handwritten signature/initials*

Rhea Indrajit Chakrabarty  
 101, Primrose Apartments,  
 Near Ajivaran Hall,  
 Next to SNDT College,  
 Juhu Road, Santacruz (W)  
 Mumbai - 400054  
 Date - 12<sup>th</sup> September 2020

To,  
 1. Madam Nupur Prasad,  
 Superintendent of Police,  
 Central Bureau of Investigation,  
 SIT, New Delhi,  
 Presently at DRDO Guest House,  
 Kalina, Mumbai  
 2. The Senior Inspector of Police,  
 Bandra Police Station,  
 Bandra (W), Mumbai 400050

SUBJECT: FIR NO. 576 of 2020 registered at Bandra Police Station against Priyanka Singh, M. Tanu Kumar, Meetu Singh and other known and unknown persons for an offence under sections 420, 464, 465, 466, 474, 468, 306, and 34 read with 120(B) of the Indian Penal Code, 1860 and Sections 8(C), 21, 22 (A) and 29 of the Narcotics Drug and Psychotropic Substances Act, 1985.

Dear Madam / Sir,  
 I, Rhea Indrajit Chakrabarty, Age 28y ears,  
 residing at 101, Primrose Apartments, Near  
 Ajivaran Hall, Next to SNDT college, Juhu

12/09/2020

दिल्ली का  
 पुलिस अधीक्षक  
 जिला प्रमुख का  
 भायखळा मुंबई

Road, Santacruz (West), Mumbai - 400054, currently lodged at Byculla Women's Jail, state as under :-

1. I had filed a written complaint dated 6<sup>th</sup> of September 2020 in respect of various offences against various accused at the Bandra Police Station on 7<sup>th</sup> of September 2020. On the basis of the said written complaint, the Bandra Police Station recorded my statement on the 7<sup>th</sup> of September 2020 and registered an offence being Crim. no. 576 of 2020 against various accused. A copy of the same has been furnished to me.
2. I had not read the same in detail on 7<sup>th</sup>/8<sup>th</sup> of September 2020, regarding the offences registered as I was arrested on 8<sup>th</sup> September 2020 by the Narcotics Control Bureau.
3. I have been in judicial custody since 8<sup>th</sup> September 2020 and now having read it in detail and on legal advice, have realized that, the Bandra Police Station has also invoked section 306 of the Indian Penal Code, 1860.
4. The Central Bureau of Investigation, SIT, is investigating an offence being CR (NO. RC 2242020500) of 2020 for offences under section 306 of the Indian Penal Code, 1860, along with other offences in respect of the death of Vishant Singh Rajput.
5. I am advised that a second FIR cannot be registered for the offence of section 306 of the Indian Penal Code, 1860, in respect of the death of Vishant Singh Rajput as it

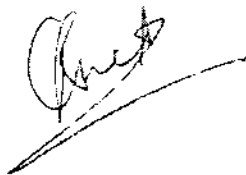
बंदूक  
14/9/2020  
मुंबई जिल्हा महिला कारागृह  
भायखळा मुंबई

12/09/2020

(3)  
is already under investigation. My allegations in my written complaint and the FIR, though all on subsequent facts that have come to light, it cannot form the subject matter of a second FIR.

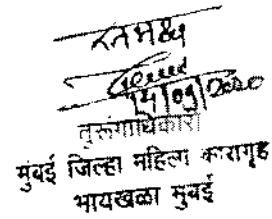
I would therefore, request you to drop or delete the said offence under section 306 of the Indian Penal Code, 1860 in FIR no. 576 of 2020, which is presently transferred to the Central Bureau of Investigation, SIT as per the order of the Hon'ble Supreme Court dated 19<sup>th</sup> August 2020. However, the facts stated in my complaint to Bandra Police station and the material disclosed by me may be investigated along with investigations being carried out in C.R. No. RC 22420203001 of 2020.

Thanking You  
Yours sincerely,



Mrs Indrajit Chakraborty

C/C 1. The Commissioner of Police, Mumbai  
2. The Deputy Commissioner of Police, Zone VIII, Mumbai

  
मुंबई जिल्हा महिला कारागृह  
भायखळा मुंबई

// TYPED/TRANSLATED COPY //

Letter No. BDJ/Jud./1949/20 dated 14.09.2020  
Office of Superintendent, Byculla District Jail Class-1,  
Telephone No. – 022/23088133,  
Fax No. – 022/23099133,  
Email – byculladistpri@gmail.com/byculladp-mh@gov.in

To.

Smt. Nupur Prasad,  
Supdt. of Police,  
Central Bureau of Investigation,  
SIT, New Delhi  
Present Address:-  
DRDO Guest House,  
Kalina, Ali Pawar Jung Road,  
Budhnagar, Hanuman Tekri,  
Santa Cruz East,  
Mumbai-400055.

Sub:- Application submitted by Women Judicial Prisoner No. 704/20 Ms. Rhea Chakraborty – reg.

Madam,

In connection with the aforesaid subject, Women Judicial Prisoner No. 704/20 Ms. Rhea Chakraborty is presently lodged in this Jail in compliance of order dated 09.09.2020 passed by Hon'ble Court in Case No. 16/2020 of NCB, Mumbai.

Women Judicial Prisoner No. 704/20 Ms. Rhea Chakraborty's request letter is enclosed along with this letter.

Encl.:- Application submitted by the women prisoner

Yours faithfully,

Sd/-

Superintendent  
Byculla District Jail Class-1  
Byculla, Mumbai-08

Rhea Indrajit Chakraborty  
101, Primrose Apartments,  
Near Ajivasan Hall.  
Next to SNTD College.  
Juhu Road, Santacruz (W)  
Mumbai-400054

Date – 12<sup>th</sup> September 2020-10-09

To,

1. Madam Nupur Prasad,  
Superintendent of Police,  
Central Bureau of Investigation,  
SIT, New Delhi,  
Presently at DRDRO Guest House,  
Kalina, Mumbai
2. The Senior Inspector of Police,  
Bandra Police Station,  
Bandra (W), Mumbai 400050

Subject: FIR No. 576 of 2020 registered at Bandra Police Station against Priyanka Singh, Dr. Tarun Kumar, Meetu Singh and other known and unknown persons for an offence under sections 420, 464, 465, 466, 474, 468, 306, and 34 read with 120(B) of the Indian Penal Code, 1860 and Sections 8(C), 21, 22(A) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985.

Dear Madam/Sir,

I, Rhea Indrajit Chakraborty, Age 28 years, Residing at 101, Primrose Apartments, Near Ajivasan Hall, Next to SNTD College, Juhu Road, Santacruz (West), Mumbai-400054, currently lodged at Byculla Womens Jail, state as under:-

1. I had filed a written complaint dated 6<sup>th</sup> of September 2020 in respect of various offences against various accused at the Bandra Police Station on 7<sup>th</sup> of September 2020. On the basis of the said written complaint, the Bandra Police Station recorded my statement on the 7<sup>th</sup> of September 2020 and registered an offence being crime no. 576 of 2020 against various accused. A copy of the same has been furnished to me.

2. I had not read the same in detail on 7<sup>th</sup>/8<sup>th</sup> of September 2020, regarding the offences registered as I was arrested on 8<sup>th</sup> September 2020 by the Narcotics Control Bureau.
3. I have been in judicial custody since 8<sup>th</sup> September 2020 and now having read it in detail and on legal advice, have realised that the Bandra Police Station has also invoked Section 306 of the Indian Penal Code, 1860.
4. The Central Bureau of Investigation, SIT, is investigating an offence being CR No. RC 2242020S0001 of 2020 for offences under section 306 of the Indian Penal Code, 1860, along with other offences in respect of the death of Sushant Singh Rajput.
5. I am advised that a second FIR cannot be registered for the offence of section 306 of the Indian Penal Code, 1860, in respect of the death of Sushant Singh Rajput as it is already under investigation. My allegations in my written complaint and the FIR, though are on subsequent facts that have come to light, it cannot form the subject matter of a second FIR. I would therefore, request you to drop or delete the said offence under section 306 of the Indian Penal Code, 1860 in FIR no. 576 of 2020, which is presently transferred to the Central Bureau of Investigation, SIT as per the order of the Hon'ble Supreme Court dated 19<sup>th</sup> August 2020. However, the facts stated in my complaint to Bandra Police Station and the material disclosed by me may be investigated along with investigations being carried out in C.R. No. RC 2242020S001 of 2020.

Thanking you

Yours Sincerely,

Sd/-

Rhea Indrajit Chakraborty

- C/C
1. The Commissioner of Police, Mumbai
  2. The Deputy Commissioner of Police, Zone VIII, Mumbai

*Annexure P-10*

**INDIAN MEDICAL COUNCIL**  
**(Professional Conduct, Etiquette and Ethics)**  
**Regulations, 2002**



**(AMENDED UPTO 8<sup>th</sup> OCTOBER 2016)**

**MEDICAL COUNCIL OF INDIA**  
**Pocket-14, Sector 8, Dwarka**  
**New Delhi - 110077**

**Indian Medical Council**  
**(Professional Conduct, Etiquette and Ethics) Regulations, 2002**

(Published in Part III, Section 4 of the Gazette of India, dated 6th April, 2002)

**MEDICAL COUNCIL OF INDIA**

**NOTIFICATION**

**New Delhi, dated 11th March, 2002**

No. MCI-211(2)/2001/Registration. In exercise of the powers conferred under section 20A read with section 33(m) of the Indian Medical Council Act, 1956 (102 of 1956), the Medical Council of India, with the previous approval of the Central Government, hereby makes the following regulations relating to the Professional Conduct, Etiquette and Ethics for registered medical practitioners, namely:-

**Short Title and Commencement:** (1) These Regulations may be called the Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002. (2) They shall come into force on the date of their publication in the Official Gazette.

**CHAPTER I**

**1. CODE OF MEDICAL ETHICS**

**A. Declaration:** Each applicant, at the time of making an application for registration under the provisions of the Act, shall be provided a copy of the declaration and shall submit a duly signed Declaration as provided in Appendix 1. The applicant shall also certify that he/she had read and agreed to abide by the same.

**B. Duties and responsibilities of the Physician in general:**

**1.1 Character of Physician** (Doctors with qualification of MBBS or MBBS with post graduate degree/ diploma or with equivalent qualification in any medical discipline):

1.1.1 A physician shall uphold the dignity and honour of his profession.

1.1.2 The prime object of the medical profession is to render service to humanity; reward or financial gain is a subordinate consideration. Who- so-ever chooses his profession, assumes the obligation to conduct himself in accordance with its ideals. A physician should be an upright man, instructed in the art of healings. He shall keep himself pure in character and be diligent in caring for the sick; he should be modest, sober, patient, prompt in discharging his duty without anxiety; conducting himself with propriety in his profession and in all the actions of his life.

1.1.3 No person other than a doctor having qualification recognised by Medical Council of India and registered with Medical Council of India/State Medical Council (s) is allowed to practice Modern system of Medicine or Surgery. A person obtaining qualification in any other system of Medicine is not allowed to practice Modern system of Medicine in any form.

**1.2 Maintaining good medical practice:**

1.2.1 The Principal objective of the medical profession is to render service to humanity with full respect for the dignity of profession and man. Physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion. Physicians should try continuously to improve medical knowledge and skills and should make available to their patients and colleagues the benefits of their professional attainments. The physician should practice methods of healing founded on scientific basis and should not associate professionally with anyone who violates this principle. The honoured ideals of the medical profession imply that the responsibilities of the physician extend not only to individuals but also to society.

**1.2.2 Membership in Medical Society:** For the advancement of his profession, a physician should affiliate with associations and societies of allopathic medical professions and involve actively in the functioning of such bodies.

**1.2.3** A Physician should participate in professional meetings as part of Continuing Medical Education programmes, for at least 30 hours every five years, organized by reputed professional academic bodies or any other authorized organisations. The compliance of this requirement shall be informed regularly to Medical Council of India or the State Medical Councils as the case may be.

**1.3 Maintenance of medical records:**

**1.3.1** Every physician shall maintain the medical records pertaining to his / her indoor patients for a period of 3 years from the date of commencement of the treatment in a standard proforma laid down by the Medical Council of India and attached as Appendix 3.

**1.3.2.** If any request is made for medical records either by the patients / authorised attendant or legal authorities involved, the same may be duly acknowledged and documents shall be issued within the period of 72 hours.

**1.3.3** A Registered medical practitioner shall maintain a Register of Medical Certificates giving full details of certificates issued. When issuing a medical certificate he / she shall always enter the identification marks of the patient and keep a copy of the certificate. He / She shall not omit to record the signature and/or thumb mark, address and at least one identification mark of the patient on the medical certificates or report. The medical certificate shall be prepared as in Appendix 2.

**1.3.4** Efforts shall be made to computerize medical records for quick retrieval.

**1.4 Display of registration numbers:**

**1.4.1** Every physician shall display the registration number accorded to him by the State Medical Council / Medical Council of India in his clinic and in all his prescriptions, certificates, money receipts given to his patients.

**1.4.2** Physicians shall display as suffix to their names only recognized medical degrees or such certificates/diplomas and memberships/honours which confer professional knowledge or recognizes any exemplary qualification/achievements.

**1.5 Use of Generic names of drugs:** Every physician should, as far as possible, prescribe drugs with generic names and he / she shall ensure that there is a rational prescription and use of drugs.

***The above Clause – 1.5 is substituted in terms of Notification published in the Gazette of India on 08.10.2016 as under.***

***“Every physician should prescribe drugs with generic names legibly and preferably in capital letters and he/she shall ensure that there is a rational prescription and use of drugs”***

**1.6 Highest Quality Assurance in patient care:** Every physician should aid in safeguarding the profession against admission to it of those who are deficient in moral character or education. Physician shall not employ in connection with his professional practice any attendant who is neither registered nor enlisted under the Medical Acts in force and shall not permit such persons to attend, treat or perform operations upon patients wherever professional discretion or skill is required.

**1.7 Exposure of Unethical Conduct:** A Physician should expose, without fear or favour, incompetent or corrupt, dishonest or unethical conduct on the part of members of the profession.

**1.8 Payment of Professional Services:** The physician, engaged in the practice of medicine shall give priority to the interests of patients. The personal financial interests of a physician should not conflict with the medical interests of patients. A physician should announce his fees before rendering service and not after the operation or treatment is under way. Remuneration received for such services should be in the form and amount specifically announced to the patient at the time the service is rendered. It is unethical to enter into a contract of "no cure no payment". Physician rendering service on behalf of the state shall refrain from anticipating or accepting any consideration.

**1.9 Evasion of Legal Restrictions:** The physician shall observe the laws of the country in regulating the practice of medicine and shall also not assist others to evade such laws. He should be cooperative in observance and enforcement of sanitary laws and regulations in the interest of public health. A physician should observe the provisions of the State Acts like Drugs and Cosmetics Act, 1940; Pharmacy Act, 1948; Narcotic Drugs and Psychotropic substances Act, 1985; Medical Termination of Pregnancy Act, 1971; Transplantation of Human Organ Act, 1994; Mental Health Act, 1987; Environmental Protection Act, 1986; Pre-natal Sex Determination Test Act, 1994; Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954; Persons with Disabilities (Equal Opportunities and Full Participation) Act, 1995 and Bio-Medical Waste (Management and Handling) Rules, 1998 and such other Acts, Rules, Regulations made by the Central/State Governments or local Administrative Bodies or any other relevant Act relating to the protection and promotion of public health.

## CHAPTER 2

### 2. DUTIES OF PHYSICIANS TO THEIR PATIENTS

#### 2.1 Obligations to the Sick

**2.1.1** Though a physician is not bound to treat each and every person asking his services, he should not only be ever ready to respond to the calls of the sick and the injured, but should be mindful of the high character of his mission and the responsibility he discharges in the course of his professional duties. In his treatment, he should never forget that the health and the lives of those entrusted to his care depend on his skill and attention. A physician should endeavour to add to the comfort of the sick by making his visits at the hour indicated to the patients. A physician advising a patient to seek service of another physician is acceptable, however, in case of emergency a physician must treat the patient. No physician shall arbitrarily refuse treatment to a patient. However for good reason, when a patient is suffering from an ailment which is not within the range of experience of the treating physician, the physician may refuse treatment and refer the patient to another physician.

**2.1.2** Medical practitioner having any incapacity detrimental to the patient or which can affect his performance vis-à-vis the patient is not permitted to practice his profession

**2.2 Patience, Delicacy and Secrecy :** Patience and delicacy should characterize the physician. Confidences concerning individual or domestic life entrusted by patients to a physician and defects in the disposition or character of patients observed during medical attendance should never be revealed unless their revelation is required by the laws of the State. Sometimes, however, a physician must determine whether his duty to society requires him to employ knowledge, obtained through confidence as a physician, to protect a healthy person against a communicable disease to which he is about to be exposed. In such instance, the physician should act as he would wish another to act toward one of his own family in like circumstances.

**2.3 Prognosis:** The physician should neither exaggerate nor minimize the gravity of a patient's condition. He should ensure himself that the patient, his relatives or his responsible friends have such knowledge of the patient's condition as will serve the best interests of the patient and the family.

**2.4 The Patient must not be neglected:** A physician is free to choose whom he will serve. He should, however, respond to any request for his assistance in an emergency. Once having undertaken a case, the physician should not neglect the patient, nor should he withdraw from the case without giving adequate notice to the patient and his family. Provisionally or fully

registered medical practitioner shall not willfully commit an act of negligence that may deprive his patient or patients from necessary medical care.

**2.5 Engagement for an Obstetric case:** When a physician who has been engaged to attend an obstetric case is absent and another is sent for and delivery accomplished, the acting physician is entitled to his professional fees, but should secure the patient's consent to resign on the arrival of the physician engaged.

### **CHAPTER 3**

#### **3. DUTIES OF PHYSICIAN IN CONSULTATION**

##### **3.1 Unnecessary consultations should be avoided:**

**3.1.1** However in case of serious illness and in doubtful or difficult conditions, the physician should request consultation, but under any circumstances such consultation should be justifiable and in the interest of the patient only and not for any other consideration.

**3.1.2** Consulting pathologists /radiologists or asking for any other diagnostic Lab investigation should be done judiciously and not in a routine manner.

**3.2 Consultation for Patient's Benefit:** In every consultation, the benefit to the patient is of foremost importance. All physicians engaged in the case should be frank with the patient and his attendants.

**3.3 Punctuality in Consultation:** Utmost punctuality should be observed by a physician in making themselves available for consultations.

##### **3.4 Statement to Patient after Consultation:**

**3.4.1** All statements to the patient or his representatives should take place in the presence of the consulting physicians, except as otherwise agreed. The disclosure of the opinion to the patient or his relatives or friends shall rest with the medical attendant.

**3.4.2** Differences of opinion should not be divulged unnecessarily but when there is irreconcilable difference of opinion the circumstances should be frankly and impartially explained to the patient or his relatives or friends. It would be opened to them to seek further advice as they so desire.

**3.5 Treatment after Consultation:** No decision should restrain the attending physician from making such subsequent variations in the treatment if any unexpected change occurs, but at the next consultation, reasons for the variations should be discussed/ explained. The same privilege, with its obligations, belongs to the consultant when sent for in an emergency during the absence of attending physician. The attending physician may prescribe medicine at any time for the patient, whereas the consultant may prescribe only in case of emergency or as an expert when called for.

**3.6 Patients Referred to Specialists:** When a patient is referred to a specialist by the attending physician, a case summary of the patient should be given to the specialist, who should communicate his opinion in writing to the attending physician.

##### **3.7 Fees and other charges:**

**3.7.1** A physician shall clearly display his fees and other charges on the board of his chamber and/or the hospitals he is visiting. Prescription should also make clear if the Physician himself dispensed any medicine.

**3.7.2** A physician shall write his name and designation in full along with registration particulars in his prescription letter head.

Note: In Government hospital where the patient-load is heavy, the name of the prescribing doctor must be written below his/her signature.

#### CHAPTER 4

#### 4. RESPONSIBILITIES OF PHYSICIANS TO EACH OTHER

**4.1 Dependence of Physicians on each other** : A physician should consider it as a pleasure and privilege to render gratuitous service to all physicians and their immediate family dependants.

**4.2 Conduct in consultation** : In consultations, no insincerity, rivalry or envy should be indulged in. All due respect should be observed towards the physician in-charge of the case and no statement or remark be made, which would impair the confidence reposed in him. For this purpose no discussion should be carried on in the presence of the patient or his representatives.

**4.3 Consultant not to take charge of the case**: When a physician has been called for consultation, the Consultant should normally not take charge of the case, especially on the solicitation of the patient or friends. The Consultant shall not criticize the referring physician. He / she shall discuss the diagnosis treatment plan with the referring physician.

**4.4 Appointment of Substitute**: Whenever a physician requests another physician to attend his patients during his temporary absence from his practice, professional courtesy requires the acceptance of such appointment only when he has the capacity to discharge the additional responsibility along with his / her other duties. The physician acting under such an appointment should give the utmost consideration to the interests and reputation of the absent physician and all such patients should be restored to the care of the latter upon his/her return.

**4.5 Visiting another Physician's Case**: When it becomes the duty of a physician occupying an official position to see and report upon an illness or injury, he should communicate to the physician in attendance so as to give him an option of being present. The medical officer / physician occupying an official position should avoid remarks upon the diagnosis or the treatment that has been adopted.

#### CHAPTER 5

#### 5 DUTIES OF PHYSICIAN TO THE PUBLIC AND TO THE PARAMEDICAL PROFESSION

**5.1 Physicians as Citizens**: Physicians, as good citizens, possessed of special training should disseminate advice on public health issues. They should play their part in enforcing the laws of the community and in sustaining the institutions that advance the interests of humanity. They should particularly co-operate with the authorities in the administration of sanitary/public health laws and regulations.

**5.2 Public and Community Health**: Physicians, especially those engaged in public health work, should enlighten the public concerning quarantine regulations and measures for the prevention of epidemic and communicable diseases. At all times the physician should notify the constituted public health authorities of every case of communicable disease under his care, in accordance with the laws, rules and regulations of the health authorities. When an epidemic occurs a physician should not abandon his duty for fear of contracting the disease himself.

**5.3 Pharmacists / Nurses**: Physicians should recognize and promote the practice of different paramedical services such as, pharmacy and nursing as professions and should seek their cooperation wherever required.

#### CHAPTER 6

**6. UNETHICAL ACTS** : A physician shall not aid or abet or commit any of the following acts which shall be construed as unethical -

## **6.1 Advertising:**

**6.1.1** Soliciting of patients directly or indirectly, by a physician, by a group of physicians or by institutions or organisations is unethical. A physician shall not make use of him / her (or his / her name) as subject of any form or manner of advertising or publicity through any mode either alone or in conjunction with others which is of such a character as to invite attention to him or to his professional position, skill, qualification, achievements, attainments, specialities, appointments, associations, affiliations or honours and/or of such character as would ordinarily result in his self aggrandizement. A physician shall not give to any person, whether for compensation or otherwise, any approval, recommendation, endorsement, certificate, report or statement with respect of any drug, medicine, nostrum remedy, surgical, or therapeutic article, apparatus or appliance or any commercial product or article with respect of any property, quality or use thereof or any test, demonstration or trial thereof, for use in connection with his name, signature, or photograph in any form or manner of advertising through any mode nor shall he boast of cases, operations, cures or remedies or permit the publication of report thereof through any mode. A medical practitioner is however permitted to make a formal announcement in press regarding the following:

- (1) On starting practice.
- (2) On change of type of practice.
- (3) On changing address.
- (4) On temporary absence from duty.
- (5) On resumption of another practice.
- (6) On succeeding to another practice.
- (7) Public declaration of charges.

**6.1.2** Printing of self photograph, or any such material of publicity in the letter head or on sign board of the consulting room or any such clinical establishment shall be regarded as acts of self advertisement and unethical conduct on the part of the physician. However, printing of sketches, diagrams, picture of human system shall not be treated as unethical.

**6.2 Patent and Copy rights:** A physician may patent surgical instruments, appliances and medicine or Copyright applications, methods and procedures. However, it shall be unethical if the benefits of such patents or copyrights are not made available in situations where the interest of large population is involved.

**6.3 Running an open shop (Dispensing of Drugs and Appliances by Physicians):** - A physician should not run an open shop for sale of medicine for dispensing prescriptions prescribed by doctors other than himself or for sale of medical or surgical appliances. It is not unethical for a physician to prescribe or supply drugs, remedies or appliances as long as there is no exploitation of the patient. Drugs prescribed by a physician or brought from the market for a patient should explicitly state the proprietary formulae as well as generic name of the drug.

## **6.4 Rebates and Commission:**

**6.4.1** A physician shall not give, solicit, or receive nor shall he offer to give solicit or receive, any gift, gratuity, commission or bonus in consideration of or return for the referring, recommending or procuring of any patient for medical, surgical or other treatment. A physician shall not directly or indirectly, participate in or be a party to act of division, transference, assignment, subordination, rebating, splitting or refunding of any fee for medical, surgical or other treatment.

**6.4.2** Provisions of para 6.4.1 shall apply with equal force to the referring, recommending or procuring by a physician or any person, specimen or material for diagnostic purposes or other study / work. Nothing in this section, however, shall prohibit payment of salaries by a qualified physician to other duly qualified person rendering medical care under his supervision.

**6.5 Secret Remedies:** The prescribing or dispensing by a physician of secret remedial agents of which he does not know the composition, or the manufacture or promotion of their use is unethical and as such prohibited. All the drugs prescribed by a physician should always carry a proprietary formula and clear name.

**6.6 Human Rights:** The physician shall not aid or abet torture nor shall he be a party to either infliction of mental or physical trauma or concealment of torture inflicted by some other person or agency in clear violation of human rights.

**6.7 Euthanasia:** Practicing euthanasia shall constitute unethical conduct. However on specific occasion, the question of withdrawing supporting devices to sustain cardio-pulmonary function even after brain death, shall be decided only by a team of doctors and not merely by the treating physician alone. A team of doctors shall declare withdrawal of support system. Such team shall consist of the doctor in charge of the patient, Chief Medical Officer / Medical Officer in charge of the hospital and a doctor nominated by the in-charge of the hospital from the hospital staff or in accordance with the provisions of the Transplantation of Human Organ Act, 1994.

The Clause No. 6.8, as under, is included in terms of Notification published on 14.12.2009 in Gazette of India .

*“6.8 Code of conduct for doctors and professional association of doctors in their relationship with pharmaceutical and allied health sector industry.*

*6.8.1 In dealing with Pharmaceutical and allied health sector industry, a medical practitioner shall follow and adhere to the stipulations given below:-*

*a) Gifts: A medical practitioner shall not receive any gift from any pharmaceutical or allied health care industry and their sales people or representatives.*

*b) Travel facilities: A medical practitioner shall not accept any travel facility inside the country or outside, including rail, air, ship , cruise tickets, paid vacations etc. from any pharmaceutical or allied healthcare industry or their representatives for self and family members for vacation or for attending conferences, seminars, workshops, CME programme etc as a delegate.*

*c) Hospitality: A medical practitioner shall not accept individually any hospitality like hotel accommodation for self and family members under any pretext.*

*d) Cash or monetary grants: A medical practitioner shall not receive any cash or monetary grants from any pharmaceutical and allied healthcare industry for individual purpose in individual capacity under any pretext. Funding for medical research, study etc. can only be received through approved institutions by modalities laid down by law / rules / guidelines adopted by such approved institutions, in a transparent manner. It shall always be fully disclosed.*

*e) Medical Research: A medical practitioner may carry out, participate in, work in research projects funded by pharmaceutical and allied healthcare industries. A medical practitioner is obliged to know that the fulfillment of the following items (i) to (vii) will be an imperative for undertaking any research assignment / project funded by industry – for being proper and ethical. Thus, in accepting such a position a medical practitioner shall:-*

*(i) Ensure that the particular research proposal(s) has the due permission from the competent concerned authorities.*

*(ii) Ensure that such a research project(s) has the clearance of national/ state / institutional ethics committees / bodies.*

*(iii) Ensure that it fulfils all the legal requirements prescribed for medical research.*

*(iv) Ensure that the source and amount of funding is publicly disclosed at the beginning itself.*

*(v) Ensure that proper care and facilities are provided to human volunteers, if they are necessary for the research project(s).*

(vi) Ensure that undue animal experimentations are not done and when these are necessary they are done in a scientific and a humane way.

(vii) Ensure that while accepting such an assignment a medical practitioner shall have the freedom to publish the results of the research in the greater interest of the society by inserting such a clause in the MoU or any other document / agreement for any such assignment.

f) **Maintaining Professional Autonomy:** In dealing with pharmaceutical and allied healthcare industry a medical practitioner shall always ensure that there shall never be any compromise either with his / her own professional autonomy and / or with the autonomy and freedom of the medical institution.

g) **Affiliation:** A medical practitioner may work for pharmaceutical and allied healthcare industries in advisory capacities, as consultants, as researchers, as treating doctors or in any other professional capacity. In doing so, a medical practitioner shall always:

(i) Ensure that his professional integrity and freedom are maintained.

(ii) Ensure that patients interest are not compromised in any way.

(iii) Ensure that such affiliations are within the law.

(iv) Ensure that such affiliations / employments are fully transparent and disclosed.

h) **Endorsement:** A medical practitioner shall not endorse any drug or product of the industry publically. Any study conducted on the efficacy or otherwise of such products shall be presented to and / or through appropriate scientific bodies or published in appropriate scientific journals in a proper way".

The title of Section 6.8 shall be further amended by deleting the words "and professional association of doctors" in terms of Notification published on 01.02.2016 in Gazette of India as under:-

**"6.8 Code of conduct for doctors in their relationship with pharmaceutical and allied health sector industry"**

The Section 6.8.1(b) shall be substituted in terms of Notification published on 01.02.2016 in Gazette of India, as under:-

(b) **Travel Facilities :** A medical practitioner shall not accept any travel Facility inside the country or outside, including rail, road, air, ship, cruise tickets, paid vacation, etc. from any pharmaceutical or allied healthcare industry or their representatives for self and family members for vacation or for attending conferences, seminars, workshops, CME Programme, etc. as a delegate.

(iii) Action to be taken by the Council for violation of Section 6.8, as amended vide notification dated 10/12/2009, shall be prescribed by further amending the Section 6.8.1 as under:-

SECTION	ACTION
6.8.1 In dealing with Pharmaceutical and allied health sector industry, a medical practitioner shall follow and adhere to the stipulations given below:-	
a) <b>Gifts:</b> A medical practitioner shall not receive any gift from any pharmaceutical or allied health care industry and their sales people or representatives.	Gifts more than Rs. 1,000/- upto Rs. 5,000/- : Censure Gifts more than Rs. 5,000/- upto Rs. 10,000/-: Removal from Indian Medical Register or State Medical Register for 3

	<p>(three) months.</p> <p><b>Gifts</b> more than Rs. 10,000/- to Rs. 50,000/- : Removal from Indian Medical Register or State Medical Register for 6(six) months.</p> <p><b>Gifts</b> more than Rs. 50,000/- to Rs. 1,00,000/- : Removal from Indian Medical Register or State Medical Register for 1 (one) year.</p> <p><b>Gifts</b> more than Rs. 1,00,000/-: Removal for a period of more than 1 (one) year from Indian Medical Register or State Medical Register.</p>
<p>b) <b>Travel facilities:</b> A medical practitioner shall not accept any travel facility inside the country or outside, including rail, road, air, ship, cruise tickets, paid vacations etc. from any pharmaceutical or allied healthcare industry or their representatives for self and family members for vacation or for attending conferences, seminars, workshops, CME programme etc. as a delegate.</p>	<p><b>Expenses for travel facilities</b> more than Rs. 1,000/- upto Rs. 5,000/-: Censure</p> <p><b>Expenses for travel facilities</b> more than Rs. 5,000/- upto Rs. 10,000/-: Removal from Indian Medical Register or State Medical Register for 3 (three) months.</p> <p><b>Expenses for travel facilities</b> more than Rs. 10,000/- to Rs. 50,000/-: Removal from Indian Medical Register or State medical Register for 6 (six) months.</p> <p><b>Expenses for travel facilities</b> more than more than Rs. 50,000/- to Rs. 1,00,000/-: Removal from Indian Medical Register or State Medical Register for 1 (one) year.</p> <p><b>Expenses for travel facilities</b> more than Rs. 1,00,000/-: Removal for a period of more than 1 (one) year from Indian Medical Register or State Medical Register.</p>
<p>c) <b>Hospitality:</b> A medical practitioner shall not accept individually any hospitality like hotel accommodation for self and family members under any pretext.</p>	<p><b>Expenses for Hospitality</b> more than Rs. 1,000/- upto Rs. 5,000/-: Censure</p> <p><b>Expenses for Hospitality</b> more than Rs. 5,000/- upto Rs. 10,000/-: Removal from Indian Medical Register or State Medical Register for 3 (three) months.</p> <p><b>Expenses for Hospitality</b> more than Rs. 10,000/- to Rs. 50,000/-: Removal from Indian Medical Register or State medical Register for 6 (six) months.</p> <p><b>Expenses for Hospitality</b> more than more than Rs. 50,000/- to Rs. 1,00,000/: Removal from Indian Medical Register or State Medical Register for 1 (one) year.</p> <p><b>Expenses for Hospitality</b> more than Rs. 1,00,000/-: Removal for a period of more</p>

	than 1 (one) year from Indian Medical Register or State Medical Register.
<p>d) <b>Cash or monetary grants:-</b> A medical practitioner shall not receive any cash or monetary grants from any pharmaceutical and allied healthcare industry for individual purpose in individual capacity under any pretext. Funding for medical research, study etc. can only be received through approved institutions by modalities laid down by law / rules / guidelines adopted by such approved institutions. in a transparent manner. It shall always be fully disclosed.</p>	<p><b>Cash or monetary grants</b> more than Rs. 1,000/- upto Rs. 5,000/-: Censure</p> <p><b>Cash or monetary grants</b> more than Rs. 5,000/- upto Rs. 10,000/-: Removal from Indian Medical Register or State Medical Register for 3 (three) months.</p> <p><b>Cash or monetary grants</b> more than Rs. 10,000/- to Rs. 50,000/-: Removal from Indian Medical Register or State Medical Register for 6 (six) months.</p> <p><b>Cash or monetary grants</b> more than more than Rs. 50,000/- to Rs. 1,00,000/-: Removal from Indian Medical Register or State Medical Register for 1 (one) year.</p> <p><b>Cash or monetary grants</b> more than Rs. 1,00,000/-: Removal for a period of more than 1 (one) year from Indian Medical Register or State Medical Register.</p>
<p>e) <b>Medical Research:</b> A medical practitioner may carry out, participate in, work in research projects funded by pharmaceutical and allied healthcare industries. A medical practitioner is obliged to know that the fulfillment of the following items (i) to (vii) will be an imperative for undertaking any research assignment/project funded by industry – for being proper and ethical. Thus, in accepting such a position a medical practitioner shall :-</p> <p>(i) Ensure that the particular research proposal(s) has the due permission from the competent concerned authorities.</p> <p>(ii) Ensure that such a research project(s) has the clearance of national/state/institutional ethics committees/bodies.</p> <p>(iii) Ensure that it fulfils all the legal requirements prescribed for medical research.</p> <p>(iv) Ensure that the source and amount of funding is publicly disclosed at the beginning itself.</p> <p>(v) Ensure that proper care and facilities are provided to human volunteers, if they are necessary for the research project(s).</p>	<p>First time censure, and thereafter removal of name from Indian Medical Register or State Medical Register for a period depending upon the violation of the clause.</p>

<p>(vi) <i>Ensure that undue animal experimentations are not done and when these are necessary they are done in a scientific and a humane way.</i></p> <p>(vii) <i>Ensure that while accepting such an assignment a medical practitioner shall have the freedom to publish the results of the research in the greater interest of the society by inserting such a clause in the MoU or any other documents/agreement for any such assignment.</i></p>	
<p>f) <b>Maintaining Professional Autonomy</b> :- <i>In dealing with pharmaceutical and allied healthcare industry a medical practitioner shall always ensure that there shall never be any compromise either with his/her own professional autonomy and/or with the autonomy and freedom of the medical institution.</i></p>	<p><i>First time censure, and thereafter removal of name from Indian Medical Register or State Medical Register.</i></p>
<p>g) <b>Affiliation</b>:- <i>A medical practitioner may work for pharmaceutical and allied healthcare industries in advisory capacities, as consultants, as researchers, as treating doctors or in any other professional capacity. In doing so, a medical practitioner shall always :-</i></p> <p>(i) <i>Ensure that his professional integrity and freedom are maintained.</i></p> <p>(ii) <i>Ensure that patients interest are not compromised in any way.</i></p> <p>(iii) <i>Ensure that such affiliations are within the law.</i></p> <p>(iv) <i>Ensure that such affiliations/ employments are fully transparent and disclosed.</i></p>	<p><i>First time censure, and thereafter removal of name from Indian Medical Register or State Medical Register for a period depending upon the violaton of the clause.</i></p>
<p>h) <b>Endorsement</b>:- <i>A medical practitioner shall not endorse any drug or product of the industry publically. Any study conducted on the efficacy or otherwise of such products shall be presented to and/or through appropriate scientific bodies or published in appropriate scientific journals in a proper way.</i></p>	<p><i>First time censure, and thereafter removal of name from Indian Medical Register or State Medical Register.</i></p>

## CHAPTER 7

**7. MISCONDUCT** : The following acts of commission or omission on the part of a physician shall constitute professional misconduct rendering him/her liable for disciplinary action

**7.1 Violation of the Regulations**: If he/she commits any violation of these Regulations.

**7.2** If he/she does not maintain the medical records of his/her indoor patients for a period of three years as per regulation 1.3 and refuses to provide the same within 72 hours when the patient or his/her authorised representative makes a request for it as per the regulation 1.3.2.

**7.3** If he/she does not display the registration number accorded to him/her by the State Medical Council or the Medical Council of India in his clinic, prescriptions and certificates etc. issued by him or violates the provisions of regulation 1.4.2.

**7.4 Adultery or Improper Conduct**: Abuse of professional position by committing adultery or improper conduct with a patient or by maintaining an improper association with a patient will render a Physician liable for disciplinary action as provided under the Indian Medical Council Act, 1956 or the concerned State Medical Council Act.

**7.5 Conviction by Court of Law**: Conviction by a Court of Law for offences involving moral turpitude / Criminal acts.

**7.6 Sex Determination Tests**: On no account sex determination test shall be undertaken with the intent to terminate the life of a female foetus developing in her mother's womb, unless there are other absolute indications for termination of pregnancy as specified in the Medical Termination of Pregnancy Act, 1971. Any act of termination of pregnancy of normal female foetus amounting to female foeticide shall be regarded as professional misconduct on the part of the physician leading to penal erasure besides rendering him liable to criminal proceedings as per the provisions of this Act.

**7.7 Signing Professional Certificates, Reports and other Documents**: Registered medical practitioners are in certain cases bound by law to give, or may from time to time be called upon or requested to give certificates, notification, reports and other documents of similar character signed by them in their professional capacity for subsequent use in the courts or for administrative purposes etc. Such documents, among others, include the ones given at Appendix -4. Any registered practitioner who is shown to have signed or given under his name and authority any such certificate, notification, report or document of a similar character which is untrue, misleading or improper, is liable to have his name deleted from the Register.

**7.8** A registered medical practitioner shall not contravene the provisions of the Drugs and Cosmetics Act and regulations made there under. Accordingly,

- a) Prescribing steroids/ psychotropic drugs when there is no absolute medical indication;
- b) Selling Schedule 'H' & 'L' drugs and poisons to the public except to his patient; in contravention of the above provisions shall constitute gross professional misconduct on the part of the physician.

**7.9** Performing or enabling unqualified person to perform an abortion or any illegal operation for which there is no medical, surgical or psychological indication.

**7.10** A registered medical practitioner shall not issue certificates of efficiency in modern medicine to unqualified or non-medical person.

(Note: The foregoing does not restrict the proper training and instruction of bonafide students, midwives, dispensers, surgical attendants, or skilled mechanical and technical assistants and therapy assistants under the personal supervision of physicians.)

**7.11** A physician should not contribute to the lay press articles and give interviews regarding diseases and treatments which may have the effect of advertising himself or soliciting practices; but is open to write to the lay press under his own name on matters of public health, hygienic

living or to deliver public lectures, give talks on the radio/TV/internet chat for the same purpose and send announcement of the same to lay press.

**7.12** An institution run by a physician for a particular purpose such as a maternity home, nursing home, private hospital, rehabilitation centre or any type of training institution etc. may be advertised in the lay press, but such advertisements should not contain anything more than the name of the institution, type of patients admitted, type of training and other facilities offered and the fees.

**7.13** It is improper for a physician to use an unusually large sign board and write on it anything other than his name, qualifications obtained from a University or a statutory body, titles and name of his speciality, registration number including the name of the State Medical Council under which registered. The same should be the contents of his prescription papers. It is improper to affix a sign-board on a chemist's shop or in places where he does not reside or work.

**7.14** The registered medical practitioner shall not disclose the secrets of a patient that have been learnt in the exercise of his / her profession except –

- i) in a court of law under orders of the Presiding Judge;
- ii) in circumstances where there is a serious and identified risk to a specific person and / or community; and
- iii) notifiable diseases.

In case of communicable / notifiable diseases, concerned public health authorities should be informed immediately.

**7.15** The registered medical practitioner shall not refuse on religious grounds alone to give assistance in or conduct of sterility, birth control, circumcision and medical termination of Pregnancy when there is medical indication, unless the medical practitioner feels himself/herself incompetent to do so.

**7.16** Before performing an operation the physician should obtain in writing the consent from the husband or wife, parent or guardian in the case of minor, or the patient himself as the case may be. In an operation which may result in sterility the consent of both husband and wife is needed.

**7.17** A registered medical practitioner shall not publish photographs or case reports of his / her patients without their permission, in any medical or other journal in a manner by which their identity could be made out. If the identity is not to be disclosed, the consent is not needed.

**7.18** In the case of running of a nursing home by a physician and employing assistants to help him / her, the ultimate responsibility rests on the physician.

**7.19** A Physician shall not use touts or agents for procuring patients.

**7.20** A Physician shall not claim to be specialist unless he has a special qualification in that branch.

**7.21** No act of invitro fertilization or artificial insemination shall be undertaken without the informed consent of the female patient and her spouse as well as the donor. Such consent shall be obtained in writing only after the patient is provided, at her own level of comprehension, with sufficient information about the purpose, methods, risks, inconveniences, disappointments of the procedure and possible risks and hazards.

**7.22** Research: Clinical drug trials or other research involving patients or volunteers as per the guidelines of ICMR can be undertaken, provided ethical considerations are borne in mind. Violation of existing ICMR guidelines in this regard shall constitute misconduct. Consent taken from the patient for trial of drug or therapy which is not as per the guidelines shall also be construed as misconduct.

***The following Clause No. 7.23 & 7.24 are deleted in terms of Notification published on 22.02.2003 in Gazette of India.***

7.23 If a physician posted in rural area is found absent on more than two occasions during inspection by the Head of the District Health Authority or the Chairman, Zila Parishad, the same shall be construed as a misconduct if it is recommended to the Medical Council of India/State Medical Council by the State Government for action under these Regulations.

7.24 If a physician posted in a medical college/institution both as teaching faculty or otherwise shall remain in hospital/college during the assigned duty hours. If they are found absent on more than two occasions during this period, the same shall be construed as a misconduct if it is certified by the Principal/Medical Superintendent and forwarded through the State Government to Medical Council of India/State Medical Council for action under these Regulations.

## **CHAPTER 8**

### **8. PUNISHMENT AND DISCIPLINARY ACTION**

8.1 It must be clearly understood that the instances of offences and of Professional misconduct which are given above do not constitute and are not intended to constitute a complete list of the infamous acts which calls for disciplinary action, and that by issuing this notice the Medical Council of India and or State Medical Councils are in no way precluded from considering and dealing with any other form of professional misconduct on the part of a registered practitioner. Circumstances may and do arise from time to time in relation to which there may occur questions of professional misconduct which do not come within any of these categories. Every care should be taken that the code is not violated in letter or spirit. In such instances as in all others, the Medical Council of India and/or State Medical Councils have to consider and decide upon the facts brought before the Medical Council of India and/or State Medical Councils.

8.2 It is made clear that any complaint with regard to professional misconduct can be brought before the appropriate Medical Council for Disciplinary action. Upon receipt of any complaint of professional misconduct, the appropriate Medical Council would hold an enquiry and give opportunity to the registered medical practitioner to be heard in person or by pleader. If the medical practitioner is found to be guilty of committing professional misconduct, the appropriate Medical Council may award such punishment as deemed necessary or may direct the removal altogether or for a specified period, from the register of the name of the delinquent registered practitioner. Deletion from the Register shall be widely publicized in local press as well as in the publications of different Medical Associations/ Societies/Bodies.

8.3 In case the punishment of removal from the register is for a limited period, the appropriate Council may also direct that the name so removed shall be restored in the register after the expiry of the period for which the name was ordered to be removed.

8.4 Decision on complaint against delinquent physician shall be taken within a time limit of 6 months.

8.5 During the pendency of the complaint the appropriate Council may restrain the physician from performing the procedure or practice which is under scrutiny.

8.6 Professional incompetence shall be judged by peer group as per guidelines prescribed by Medical Council of India.

**8.7 The following Clause No. 8.7 & 8.8 are included in terms of Notification published on 27.05.2004 in Gazette of India.**

***"8.7 Where either on a request or otherwise the Medical Council of India is informed that any complaint against a delinquent physician has not been decided by a State Medical Council within a period of six months from the date of receipt of complaint by it and further the MCI has reason to believe that there is no justified reason for not deciding the complaint within the said prescribed period, the Medical Council of India may-***

***(i) Impress upon the concerned State Medical council to conclude and decide the complaint within a time bound schedule;***

***(ii) May decide to withdraw the said complaint pending with the concerned State Medical Council straightaway or after the expiry of the period which had been stipulated by the***

*MCI in accordance with para(i) above, to itself and refer the same to the Ethical Committee of the Council for its expeditious disposal in a period of not more than six months from the receipt of the complaint in the office of the Medical Council of India.”*

*“8.8 Any person aggrieved by the decision of the State Medical Council on any complaint against a delinquent physician, shall have the right to file an appeal to the MCI within a period of 60 days from the date of receipt of the order passed by the said Medical Council:*

*Provided that the MCI may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, allow it to be presented within a further period of 60 days.*

### A. DECLARATION

At the time of registration, each applicant shall be given a copy of the following declaration by the Registrar concerned and the applicant shall read and agree to abide by the same:

- 1) I solemnly pledge myself to consecrate my life to service of humanity.
- 2) Even under threat, I will not use my medical knowledge contrary to the laws of Humanity.
- 3) I will maintain the utmost respect for human life from the time of conception.
- 4) I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient.
- 5) I will practice my profession with conscience and dignity.
- 6) The health of my patient will be my first consideration.
- 7) I will respect the secrets which are confined in me.
- 8) I will give to my teachers the respect and gratitude which is their due.
- 9) I will maintain by all means in my power, the honour and noble traditions of medical profession.
- 10) I will treat my colleagues with all respect and dignity.
- 11) I shall abide by the code of medical ethics as enunciated in the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002.

I make these promises solemnly, freely and upon my honour.

Signature .....

Name .....

Place .....

Address.....

.....

.....

Date .....

**1. FORM OF CERTIFICATE RECOMMENDED FOR LEAVE OR EXTENSION OR COMMUNICATION OF LEAVE AND FOR FITNESS**

Signature of patient  
or thumb impression \_\_\_\_\_

To be filled in by the applicant in the presence of the Government Medical Attendant, or Medical Practitioner.

Identification marks:-

1. \_\_\_\_\_

2. \_\_\_\_\_

I, Dr. \_\_\_\_\_ after careful examination of the case certify hereby that \_\_\_\_\_ whose signature is given above is suffering from \_\_\_\_\_ and I consider that a period of absence from duty of \_\_\_\_\_ with effect from \_\_\_\_\_ is absolutely necessary for the restoration of his health.

I, Dr. \_\_\_\_\_ after careful examination of the case certify hereby that \_\_\_\_\_ on restoration of health is now fit to join service.

Place \_\_\_\_\_

Signature of Medical attendant.

Date \_\_\_\_\_

Registration No. \_\_\_\_\_

(Medical Council of India / State Medical Council of ..... State)

**Note:-** The nature and probable duration of the illness should also be specified. This certificate must be accompanied by a brief resume of the case giving the nature of the illness, its symptoms, causes and duration.

**FORMAT FOR MEDICAL RECORD**

(see regulation 3.1)

Name of the patient :

Age :

Sex :

Address :

Occupation :

Date of 1st visit :

Clinical note (summary) of the case :

Prov. : Diagnosis :

Investigations advised with reports :

Diagnosis after investigation :

Advice :

Follow up :

Date:

Observations:

Signature in full .....

Name of Treating Physician

**LIST OF CERTIFICATES, REPORTS, NOTIFICATIONS ETC. ISSUED BY DOCTORS FOR THE PURPOSES OF VARIOUS ACTS / ADMINISTRATIVE REQUIREMENTS**

- a) Under the acts relating to birth, death or disposal of the dead.
- b) Under the Acts relating to Lunacy and Mental Deficiency and under the Mental illness Act and the rules made thereunder.
- c) Under the Vaccination Acts and the regulations made thereunder.
- d) Under the Factory Acts and the regulations made thereunder.
- e) Under the Education Acts.
- f) Under the Public Health Acts and the orders made thereunder.
- g) Under the Workmen's Compensation Act and Persons with Disability Act.
- h) Under the Acts and orders relating to the notification of infectious diseases.
- i) Under the Employee's State Insurance Act.
- j) In connection with sick benefit insurance and friendly societies.
- k) Under the Merchant Shipping Act.
- l) For procuring / issuing of passports.
- m) For excusing attendance in courts of Justice, in public services, in public offices or in ordinary employment.
- n) In connection with Civil and Military matters.
- o) In connection with matters under the control of Department of Pensions.
- p) In connection with quarantine rules.
- q) For procuring driving licence.

\*\*\*\*\*

**Foot Note:** The Principal Regulations namely, "Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002" were published in Part – III, Section (4) of the Gazette of India on the 6th April, 2002, and amended vide MCI notifications dated 22/02/2003, 26/05/2004 & 14.12.2009.

**BOARD OF GOVERNORS**  
In supersession of the Medical Council of India

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## **Telemedicine Practice Guidelines**

**Enabling Registered Medical Practitioners to Provide Healthcare Using  
Telemedicine**

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*[This constitutes Appendix 5 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics Regulation, 2002)]*

**25 March 2020**

**These Guidelines have been prepared  
in partnership with NITI Aayog**

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## TELEMEDICINE

**‘The delivery of health care services, where distance is a critical factor, by all health care professionals using information and communication technologies for the exchange of valid information for diagnosis, treatment and prevention of disease and injuries, research and evaluation, and for the continuing education of health care providers, all in the interests of advancing the health of individuals and their communities.’**

## TELEHEALTH

**‘The delivery and facilitation of health and health-related services including medical care, provider and patient education, health information services, and self-care via telecommunications and digital communication technologies.’**

## REGISTERED MEDICAL PRACTITIONER

**‘A Registered Medical Practitioner [RMP] is a person who is enrolled in the State Medical Register or the Indian Medical Register under the Indian Medical Council Act 1956.’ [IMC Act, 1956]**

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## Background

### **Telemedicine: An Enabler of Healthcare Access and Affordability**

There are a number of benefits of telemedicine. It increases *timely access* to appropriate interventions including *faster access* and *access to services that may not otherwise* be available.

In India, providing In-person healthcare is challenging, particularly given the large geographical distances and limited resources. One of the major advantages of telemedicine can be for saving of cost and effort especially of rural patients, as they need not travel long distances for obtaining consultation and treatment. In this type of scenario, telemedicine can provide an optimal solution for not just providing timely and faster access. It would also reduce financial costs associated with travel. It also reduces the inconvenience/impact to family and caregivers and social factors. Telemedicine can play a particularly important role in cases where there is no need for the patient to physically see the RMP (or other medical professional), e.g. for regular, routine check-ups or continuous monitoring. Telemedicine can reduce the burden on the secondary hospitals.

With telemedicine, there is higher likelihood of maintenance of records and documentation hence minimalizes the likelihood of missing out advice from the doctor other health care staff. Conversely, the doctor has an exact document of the advice provided via tele-consultation. Written documentation increases the legal protection of both parties. Telemedicine provides patient's safety, as well as health workers safety especially in situations where there is risk of contagious infections. There are a number of technologies that can be used in telemedicine, which can help patients adhere better to their medication regimens and manage their diseases better. Telemedicine can also enable the availability of vital parameters of the patient available to the physician with the help of medical devices such as blood pressure, blood glucose, etc management.

Disasters and pandemics pose unique challenges to providing health care. Though telemedicine will not solve them all, it is well suited for scenarios in which medical practitioners can evaluate and manage patients. A telemedicine visit can be conducted without exposing staff to viruses/infections in the times of such outbreaks. Telemedicine practice can prevent the transmission of infectious diseases reducing the risks to both health care workers and patients. Unnecessary and avoidable exposure of the people involved in delivery of healthcare can to be avoided using telemedicine and patients can be screened remotely. It can provide rapid access to medical practitioners who may not be immediately available in person. In addition, it makes available extra working hands to provide physical care at the respective health institutions. Thus, health systems that are invested in telemedicine are well positioned to ensure that patients with Covid-19 kind of issues receive the care they need.

The government is committed to providing equal access to quality care to all and digital health is a critical enabler for the overall transformation of the health system. Hence, mainstreaming telemedicine in health systems will minimize inequity and barriers to access. India's digital health policy advocates use of digital tools for improving the efficiency and outcome of the healthcare system and lays significant focus on the use of telemedicine services, especially in the Health and Wellness Centers at the grassroots level wherein a mid-level provider/health worker can connect the patients to the doctors through technology platforms in providing timely and best possible care.

However, there has been concern on the practice of telemedicine. Lack of clear guidelines has created significant ambiguity for registered medical professionals, raising doubts on the practice of telemedicine. The 2018 judgement of the Hon'ble High Court of Bombay had created uncertainty about the place and legitimacy of telemedicine because an appropriate framework does not exist.

In India, till now there was no legislation or guidelines on the practice of telemedicine, through video, phone, Internet based platforms (web/chat/apps etc). The existing provisions under the Indian Medical Council Act, 1956, the Indian Medical Council (Professional Conduct, Etiquette and Ethics Regulation 2002), Drugs & Cosmetics Act, 1940 and Rules 1945, Clinical Establishment (Registration and Regulation) Act, 2010, Information Technology Act, 2000 and the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules 2011 primarily govern the practice of medicine and information technology. Gaps in legislation and the uncertainty of rules pose a risk for both the doctors and their patients.

There are some countries that have put in legislative measures and some countries, which follow non-legislative measures such as guidelines to practice telemedicine. In some countries guidelines are treated as professional norms that need to be followed by medical practitioners. We reviewed these other guidelines and consulted to put together these guidelines to enable medical practitioners to practice telemedicine.

Telemedicine will continue to grow and be adopted by more healthcare practitioners and patients in a wide variety of forms, and these practice guidelines will be a key enabler in fostering its growth.

### Purpose

The purpose of these guidelines is to give practical advice to doctors so that all services and models of care used by doctors and health workers are encouraged to consider the use of telemedicine as a part of normal practice. These guidelines will assist the medical practitioner in pursuing a sound course of action to provide effective and safe medical care founded on current information, available resources, and patient needs to ensure patient and provider safety.

These telemedicine guidelines will help realize the full potential of these advancements in technology for health care delivery. It provides norms and protocols relating to physician-patient relationship; issues of liability and negligence; evaluation, management and treatment; informed consent; continuity of care; referrals for emergency services; medical records; privacy and security of the patient records and exchange of information; prescribing; and reimbursement; health education and counseling.

These guidelines will provide information on various aspects of telemedicine including information on technology platforms and tools available to medical practitioners and how to integrate these technologies to provide health care delivery. It also spells out how technology and transmission of voice, data, images and information should be used in conjunction with other clinical standards, protocols, policies and procedures for the provision of care. Where clinically appropriate, telemedicine is a safe, effective and a valuable modality to support patient care.

Like any other technology, the technology used for telemedicine services can be abused. It has some risks, drawbacks and limitations, which can be mitigated through appropriate training, enforcement of standards, protocols and guidelines,

These guidelines should be used in conjunction with the other national clinical standards, protocols, policies and procedures.

## 1. Telemedicine: Definitions and Applications

### 1.1 DEFINITIONS

#### 1.1.1 Definition of Telemedicine

World Health Organization defines telemedicine as

*“The delivery of health-care services, where distance is a critical factor, by all health-care professionals using information and communications technologies for the exchange of valid information for diagnosis, treatment and prevention of disease and injuries, research and evaluation, and the continuing education of health-care workers, with the aim of advancing the health of individuals and communities.”*

#### 1.1.2 Definition of Telehealth

NEJM Catalyst defines *telehealth* as *“The delivery and facilitation of health and health-related services including medical care, provider and patient education, health information services, and self-care via telecommunications and digital communication technologies.”*

In general, telemedicine is used to denote clinical service delivered by a Registered medical practitioner while telehealth is a broader term of use of technology for health and health related services including telemedicine.

#### 1.1.3 Definition of Registered Medical Practitioner (RMP)

For the purpose of this document a ‘Registered Medical Practitioner’ is defined as a person who is enrolled in the State Medical Register or the Indian Medical Register under the IMC Act 1956.

### 1.2 SCOPE

Within the broad paradigm of telemedicine, these guidelines will be published under the IMC Act and are for privileged access only. These guidelines are designed to serve as an aid and tool to enable RMPs to effectively leverage Telemedicine to enhance healthcare service and access to all

- The guidelines are meant for RMPs under the IMC Act 1956
- The guidelines cover norms and standards of the RMP to consult patients via telemedicine
- Telemedicine includes all channels of communication with the patient that leverage Information Technology platforms, including Voice, Audio, Text & Digital Data exchange

#### EXCLUSIONS:

The guidelines specifically explicitly **exclude** the following:

- Specifications for hardware or software, infrastructure building & maintenance
- Data management systems involved; standards and interoperability
- Use of digital technology to conduct surgical or invasive procedures remotely
- Other aspects of telehealth such as research and evaluation and continuing education of health-care workers
- Does not provide for consultations outside the jurisdiction of India

### 1.3 REGISTERED MEDICAL PRACTITIONERS ARE ENTITLED TO PRACTICE TELEMEDICINE: ALL OF THEM WILL TAKE AN ONLINE COURSE ON PRACTICE OF TELEMEDICINE

- 1.3.1** *A Registered Medical Practitioner* is entitled to provide telemedicine consultation to patients from any part of India
- 1.3.2** RMPs using telemedicine shall uphold the **same professional and ethical norms and standards** as applicable to traditional in-person care, within the intrinsic limitations of telemedicine
- 1.3.3** To enable all those RMPs who would want to practice telemedicine get familiar with these Guidelines as well as with the process and limitations of telemedicine practice:
- An online program will be developed and made available by the Board of Governors in supersession of Medical Council of India.
  - All registered medical practitioners intending to provide online consultation need to complete a mandatory online course within 3 years of its notification.
  - In the interim period, the principles mentioned in these guidelines need to be followed.
  - Thereafter, undergoing and qualifying such a course, as prescribed, will be essential prior to practice of telemedicine.

### 1.4 TELEMEDICINE APPLICATIONS

#### 1.4.1 Tools for Telemedicine

RMP may use any telemedicine tool suitable for carrying out technology-based patient consultation e.g. telephone, video, devices connected over LAN, WAN, Internet, mobile or landline phones, Chat Platforms like WhatsApp, Facebook Messenger etc., or Mobile App or internet based digital platforms for telemedicine or data transmission systems like Skype/ email/ fax etc.

Irrespective of the tool of communication used, the core principles of telemedicine practice remain the same.

- 1.4.2** Telemedicine applications can be classified into **four basic types**, according to the **mode of communication, timing of the information transmitted, the purpose of the consultation and the interaction between the individuals involved**—be it RMP-to-patient / caregiver, or RMP to RMP.

##### 1.4.2.1 According to the Mode of Communication

- Video (Telemedicine facility, Apps, Video on chat platforms, Skype/Face time etc.)
- Audio (Phone, VOIP, Apps etc.)
- Text Based:
  - Telemedicine chat based applications (specialized telemedicine smartphone Apps, Websites, other internet-based systems etc.)
  - General messaging/ text/ chat platforms (WhatsApp, Google Hangouts, Facebook Messenger etc.)
  - Asynchronous (email/ Fax etc.)

#### 1.4.2.2 According to timing of information transmitted

Real time Video/audio/text interaction	Asynchronous exchange of relevant information
Video/audio/text for exchange of relevant information for diagnosis, medication and health education and counseling	Transmission of summary of patient complaints and supplementary data including images, lab reports and/or radiological investigations between stakeholders. Such data can be forwarded to different parties at any point of time and thereafter accessed per convenience/need

#### 1.4.2.3 According to the purpose of the consultation

*For Non-Emergency consult:*

<b>First consult</b> with any RMP for diagnosis/treatment/health education/ counseling	<b>Follow-up</b> consult with the <i>same RMP</i>
Patients may consult with an RMP for diagnosis and treatment of her condition or for health education and counseling	Patients may use this service for follow up consultation on his ongoing treatment with the same RMP who prescribed the treatment in an earlier in-person consult.

*Emergency consult* for immediate assistance or first aid etc.

- In case alternative care is not present, tele-consultation might be the only way to provide timely care. In such situations, RMPs may provide consultation to their best judgement. Telemedicine services should however be avoided for emergency care when alternative in-person care is available, and telemedicine consultation should be limited to first aid, life-saving measure, counseling and advice on referral.
- In all cases of emergency, the patient must be advised for an in-person interaction with an RMP at the earliest.

#### 1.4.2.4 According to the individuals involved

<p style="text-align: center;"><b><i>Patient to RMP</i></b></p>	<p style="text-align: center;"><b><i>Caregiver to RMP</i></b></p>
<p>Telemedicine services may connect patients to an RMP</p>	<p>Telemedicine services may connect Care givers to an RMP, under certain conditions as detailed in Framework (Section 4)</p>
<p style="text-align: center;"><b><i>RMP to RMP</i></b></p>	<p style="text-align: center;"><b><i>Health worker to RMP</i></b></p>
<p>RMP may use telemedicine services to discuss with other RMPs issues of care of one or more patients, or to disseminate knowledge</p>	<p>A Health Worker <sup>1</sup> can facilitate a consultation session for a patient with an RMP. In doing so, the former can help take history, examine the patient and convey the findings. They can also explain/reinforce the advice given by the RMP to the patient.</p>

<sup>1</sup> Nurse, Allied Health Professional, Mid-level health provider, ANM or any other health worker designated by an appropriate authority

## 2. Technology Used & Mode of Communications

Multiple technologies can be used to deliver telemedicine consultation. There are 3 primary modes: **Video, Audio, or Text** (chat, messaging, email, fax etc.) Each one of these technology systems has their respective strengths, weaknesses and contexts, in which, they may be appropriate or inadequate to deliver a proper diagnosis.

It is therefore important to understand the strengths, benefits as well as limitations of different technologies. Broadly, though telemedicine consultation provides safety to the RMP from contagious conditions, it cannot replace physical examination that may require palpation, percussion or auscultation; that requires physical touch and feel. Newer technologies may improve this drawback.

### STRENGTHS AND LIMITATIONS OF VARIOUS MODES OF COMMUNICATION

Mode	Strengths	Limitations
<b>VIDEO:</b> Telemedicine facility, Apps, Video on chat platforms, Facetime etc.	<ul style="list-style-type: none"> <li>• Closest to an in person-consult, real time interaction</li> <li>• Patient identification is easier</li> <li>• RMP can see the patient and discuss with the caregiver</li> <li>• Visual cues can be perceived</li> <li>• Inspection of patient can be carried out</li> </ul>	<ul style="list-style-type: none"> <li>• Is dependent on high quality internet connection at both ends, else will lead to a sub optimal exchange of information</li> <li>• Since there is a possibility of abuse/ misuse, ensuring privacy of patients in video consults is extremely important</li> </ul>
<b>AUDIO:</b> Phone, VOIP, Apps etc.	<ul style="list-style-type: none"> <li>• Convenient and fast</li> <li>• Unlimited reach</li> <li>• Suitable for urgent cases</li> <li>• No separate infrastructure required</li> <li>• Privacy ensured</li> <li>• Real-time interaction.</li> </ul>	<ul style="list-style-type: none"> <li>• Non-verbal cues may be missed</li> <li>• Not suitable for conditions that require a visual inspection (e.g. skin, eye or tongue examination), or physical touch</li> <li>• Patient identification needs to be clearer, greater chance of imposters representing the real patient</li> </ul>
<b>TEXT BASED:</b> Specialized Chat based Telemedicine Smartphone Apps, SMS, Websites,	<ul style="list-style-type: none"> <li>• Convenient and quick</li> <li>• Documentation &amp; Identification may be an integral feature of the platform</li> <li>• Suitable for urgent cases, or follow-ups, second opinions provided RMP has enough context from other sources,</li> </ul>	<ul style="list-style-type: none"> <li>• Besides the visual and physical touch, text-based interactions also miss the verbal cues</li> <li>• Difficult to establish rapport with the patient.</li> </ul>

messaging systems e.g. WhatsApp, Google Hangouts, FB Messenger	<ul style="list-style-type: none"> <li>• No separate infrastructure required,</li> <li>• Can be real time</li> </ul>	<ul style="list-style-type: none"> <li>• Cannot be sure of identity of the doctor or the patient</li> </ul>
<b>ASYNCHRONOUS:</b> Email Fax, recordings etc.	<ul style="list-style-type: none"> <li>• Convenient and easy to document</li> <li>• No specific app or download requirement</li> <li>• Images, data, reports readily shared</li> <li>• No separate infrastructure required</li> <li>• More useful when accompanied with test reports and follow up and second opinions</li> </ul>	<ul style="list-style-type: none"> <li>• Not a real time interaction, so just one-way context is available, relying solely on the articulation by the patient</li> <li>• Patient identification is document based only and difficult to confirm</li> <li>• Non-verbal cues are missed</li> <li>• There may be delays because the Doctor may not see the mail immediately</li> </ul>

### 3. Guidelines for Telemedicine in India

The **professional judgment of a Registered Medical Practitioner** should be the **guiding principle for all telemedicine consultations**: An RMP is well positioned to decide whether a technology-based consultation is sufficient or an in-person review is needed. Practitioner shall exercise proper discretion and not compromise on the quality of care. Seven elements need to be considered before beginning any telemedicine consultation (see panel)

Seven Elements to be considered before any telemedicine consultation	
1	Context
2	Identification of RMP and Patient
3	Mode of Communication
4	Consent
5	Type of Consultation
6	Patient Evaluation
7	Patient Management

#### 3.1 TELEMEDICINE SHOULD BE APPROPRIATE AND SUFFICIENT AS PER CONTEXT

**3.1.1** The Registered Medical Practitioners should exercise their professional judgment to decide whether a telemedicine consultation is appropriate in a given situation or an in-person consultation is needed in the interest of the patient. They should consider the mode/technologies available and their adequacy for a diagnosis before choosing to proceed with any health education or counseling or medication. They should be reasonably comfortable that telemedicine is in the patient's interest after taking a holistic view of the given situation.

#### 3.1.2 Complexity of Patient's health condition

Every patient/case/medical condition may be different, for example, a new patient may present with a simple complaint such as headache while a known patient of Diabetes may consult for a follow-up with emergencies such as Diabetic Ketoacidosis. The RMP shall uphold the same standard of care as in an in-person consultation but within the intrinsic limits of telemedicine.

#### 3.2 IDENTIFICATION OF THE REGISTERED MEDICAL PRACTITIONER AND THE PATIENT IS REQUIRED

**3.2.1** Telemedicine consultation is should not be anonymous: both patient and the RMP need to know each other's identity.

**3.2.2** An RMP should verify and confirm patient's identity by name, age, address, email ID, phone number, registered ID or any other identification as may be deemed to be appropriate. The RMP should ensure that there is a *mechanism for a patient to verify* the credentials and contact details of the RMP.

- 3.2.3 For issuing a prescription, the RMP needs to explicitly ask the age of the patient, and if there is any doubt, seek age proof. Where the patient is a minor, after confirming the age, tele consultation would be allowed only if the minor is consulting along-with an adult whose identity needs to be ascertained.
- 3.2.4 An RMP should begin the consultation by informing the patient about his/her name and qualifications.
- 3.2.5 Every RMP shall *display the registration number* accorded to him/her by the State Medical Council/MCI, on prescriptions, website, electronic communication (WhatsApp/ email etc.) and receipts etc. given to his/her patients

### 3.3 MODE OF TELEMEDICINE

- 3.3.1 Multiple technologies can be used to deliver telemedicine consultations. All these technology systems have their respective strengths, weaknesses and contexts in which they may be appropriate or inadequate in order to deliver proper care.
- 3.3.2 *Primarily there are 3 modes: Video, Audio or Text (chat, images, messaging, email, fax etc.).* Their strengths, limitations and appropriateness as detailed in Section 2 need to be considered by the RMP.
- 3.3.3 There may be situations where in order to reach a diagnosis and to understand the context better; a real-time consultation may be preferable over an asynchronous exchange of information. Similarly, there would be conditions where an RMP could require hearing the patient speak, therefore, a voice interaction may be preferred than an email or text for a diagnosis. There are also situations where the RMP needs to visually examine the patient and make a diagnosis. In such a case, the RMP could recommend a video consultation. Considering the situation, using his/her best judgment, an RMP may decide the best technology to use to diagnose and treat.

### 3.4 PATIENT CONSENT

Patient consent is necessary for any telemedicine consultation. The consent can be Implied or explicit depending on the following situations:

- 3.4.1 If, the patient initiates the telemedicine consultation, then the consent is **implied**<sup>2</sup>.
- 3.4.2 An **Explicit patient** consent is needed if:  
A **Health worker, RMP or a Caregiver** initiates a Telemedicine consultation.

<sup>2</sup> Implied Consent: In an in-person consultation, it is assumed the patient has consented to the consult by his/her actions. When the patient walks in an OPD, the consent for the consultation is taken as implied. Like an in-person consultation, for most of the tele-consultations the consent can be assumed to be implied because the patient has initiated the consultation.

**3.4.3** An **Explicit consent can be recorded** in any form. Patient can send an email, text or audio/video message. Patient can state his/her intent on phone/video to the RMP (e.g. “Yes, I consent to avail consultation via telemedicine” or any such communication in simple words). The RMP must record this in his patient records.

## 3.5 EXCHANGE OF INFORMATION FOR PATIENT EVALUATION

RMPs must make all efforts to gather sufficient medical information about the patient’s condition before making any professional judgment.

### 3.5.1 Patient’s Information

- An RMP would use his/her professional discretion to gather the type **and extent of patient information** (history/examination findings/Investigation reports/past records etc.) required to be able to exercise proper clinical judgement.
- This information can be **supplemented** through conversation with a healthcare worker/provider and by any information supported by **technology-based tools**.
- If the RMP feels that the **information received is inadequate**, then he/she can request for additional information from the patient. This information may be shared in real time or shared later via email/text, as per the nature of such information. For example, an RMP may advise some laboratory or/and radiological tests to the patient. In such instances, the consult may be considered paused and can be resumed at the rescheduled time. An **RMP may provide health education as appropriate at any time**.
- Telemedicine has its own set of limitations for adequate examination. **If a physical examination is critical information for consultation, RMP should not proceed until a physical examination can be arranged through an in-person consult**. Wherever necessary, depending on professional judgement of the RMP, he/she shall recommend:
  - Video consultation
  - Examination by another RMP/ Health Worker ;
  - In-person consultation
- The information required may vary from one RMP to another based on his/her professional experience and discretion and for different medical conditions based on the defined clinical standards and standard treatment guidelines.
- RMP shall maintain all patient records including case history, investigation reports, images, etc. as appropriate.

### 3.6 TYPES OF CONSULTATION: FIRST CONSULT/ FOLLOW-UP CONSULT

There are two types of patient consultations, namely, first consult and the follow-up consult.

An RMP may have only a limited understanding of the patient seeking teleconsultation for the first time, when there have been no prior in-person consultation. However, if the first consult happens to be via video, RMP can make a much better judgment and hence can provide much better advice including additional medicines, if indicated.

On the other hand, if a patient has been seen in-person earlier by the RMP, then it is possible to be more comprehensive in managing the patient.

#### 3.6.1 First Consult means

- The patient is consulting with the RMP for the first time; or
- The patient has consulted with the RMP earlier, but more than 6 months have lapsed since the previous consultation; or
- The patient has consulted with the RMP earlier, but for a different health condition

#### 3.6.2 Follow-Up Consult(s) means

- The patient is consulting with the same RMP within 6 months of his/her previous in-person consultation and this is for continuation of care of the same health condition. However,

it *will not be considered* a follow up if:

- There are new symptoms that are not in the spectrum of the same health condition; and/or
- RMP does not recall the context of previous treatment and advice

### 3.7 PATIENT MANAGEMENT: HEALTH EDUCATION, COUNSELING & MEDICATION

**3.7.1** If the condition can be appropriately managed via telemedicine, based on the type of consultation, then the RMP may proceed with a professional judgement to:

- Provide *Health Education* as appropriate in the case; and/or
- Provide *Counseling* related to specific clinical condition; and/or
- *Prescribe Medicines*

**3.7.2 Health Education:** An RMP may impart health promotion and disease prevention messages. These could be related to diet, physical activity, cessation of smoking, contagious infections and so on. Likewise, he/ she may give advice on immunizations, exercises, hygiene practices, mosquito control etc

**3.7.3 Counseling:** This is specific advice given to patients and it may, for instance, include food restrictions, do's and don't's for a patient on anticancer drugs, proper use of a hearing aid, home physiotherapy, etc to mitigate the underlying condition. This may also include advice for new investigations that need to be carried out before the next consult.

### 3.7.4 Prescribing Medicines

Prescribing medications, via telemedicine consultation is at the professional discretion of the RMP. It entails the same professional accountability as in the traditional in-person consult. If a medical condition requires a particular protocol to diagnose and prescribe as in a case of in-person consult then same prevailing principle will be applicable to a telemedicine consult.

RMP may prescribe medicines via telemedicine ONLY when RMP is satisfied that he/ she has gathered adequate and relevant information about the patient's medical condition and prescribed medicines are in the best interest of the patient.

*Prescribing Medicines without an appropriate diagnosis/provisional diagnosis will amount to a professional misconduct*

#### Specific Restrictions

There are certain limitations on prescribing medicines on consult via telemedicine depending upon the type of consultation and mode of consultation. The categories of medicines that can be prescribed via tele-consultation will be as notified in consultation with the Central Government from time to time.

The categories of medicines that can be prescribed are listed below:

- **List O:** It will comprise those medicines which are safe to be prescribed through any mode of tele-consultation. In essence they would comprise of
  - Medicines which are used for common conditions and are often available 'over the counter'. For instance, these medicines would include, paracetamol, ORS solutions, cough lozenges etc
  - Medicines that may be deemed necessary during public health emergencies.
- **List A:** These medications are those which can be prescribed during the first consult which is a video consultation and are being re-prescribed for re-fill, in case of follow-up.
  - This would be an inclusion list, containing relatively safe medicines with low potential for abuse Is a list of medication which RMP can prescribe in a patient who is undergoing follow-up consult, as a refill.

- **List B:** Is a list of medication which RMP can prescribe in a patient who is undergoing follow-up consultation in addition to those which have been prescribed during in-person consult for the same medical condition.
- **Prohibited List:** An RMP providing consultation via telemedicine **cannot prescribe** medicines in this list. These medicine have a high potential of abuse and could harm the patient or the society at large if used improperly
  - Medicines listed in **Schedule X** of Drug and Cosmetic Act and Rules or any **Narcotic** and **Psychotropic** substance listed in the Narcotic Drugs and Psychotropic Substances, Act, 1985

The drugs in the above mentioned list is summarized in Annexure 1

#### 3.6.4.2 Issue a Prescription and Transmit

- If the RMP has prescribed medicines, RMP shall issue a prescription as per the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations and shall not contravene the provisions of the Drugs and Cosmetics Act and Rules. A sample format is suggested in Annexure 2
- RMP shall provide photo, scan, digital copy of a signed prescription or e-Prescription to the patient via email or any messaging platform
- In case the RMP is transmitting the prescription directly to a pharmacy, he/ she must **ensure explicit consent** of the patient that entitles him/her to get the medicines dispensed from any pharmacy of his/ her choice

**Table: Matrix of the permissible drug lists based on the type and mode of consultation**

<b>List Group</b>	<b>Mode of Consultation [Video/Audio/Text]</b>	<b>Nature of Consultation [First-consultation/ Follow-up]</b>	<b>List of Medicines</b>
<b>O</b>	Any	Any	List O <sup>1</sup>
<b>A</b>	Video	First Consultation  Follow-up, for continuation of medications	List A <sup>2</sup>
<b>B</b>	Any	Follow-up	List B <sup>3</sup>
<b>Prohibited</b>	Not to be prescribed	Not to be prescribed	Schedule X of Drug and Cosmetic Act and Rules or any Narcotic and Psychotropic substance listed in the Narcotic Drugs and Psychotropic Substances, Act, 1985 <sup>4</sup>
<ol style="list-style-type: none"> <li>1. <i>This list included commonly used 'over-the-counter' medications such as Paracetamol, Oral Rehydration Solution (ORS) packets, Antacids etc. This list also includes medicines that may be deemed necessary during emergencies and would be notified from time to time.</i></li> <li>2. <i>This list includes usually prescribed medications for which diagnosis is possible only by video consultation such as antifungal medications for Tinea Cruris, Ciprofloxacin eye drops for Conjunctivitis etc. and Re-fill medications for chronic diseases such as Diabetes, Hypertension, Asthma etc</i></li> <li>3. <i>This list includes 'add-on' medications which are used to optimize an existing condition. For instance, if the patient is already on Atenolol for hypertension and the blood pressure is not controlled, an ACE inhibitor such as Enalapril</i></li> <li>4. <i>For instance, Anti-Cancer drugs; Narcotics such as Morphine, Codeine etc</i></li> </ol>			

## 3.7 DUTIES AND RESPONSIBILITIES OF A RMP IN GENERAL

### 3.7.1 MEDICAL ETHICS, DATA PRIVACY & CONFIDENTIALITY<sup>3</sup>

**3.7.1.1** Principles of medical ethics, including professional norms for protecting patient privacy and confidentiality as per IMC Act shall be binding and must be upheld and practiced.

**3.7.1.2** Registered Medical Practitioner would be required to fully abide by Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002 and with the relevant provisions of the IT Act, Data protection and privacy laws or any applicable rules notified from time to time for protecting patient privacy and confidentiality and regarding the handling and transfer of such personal information regarding the patient. This shall be binding and must be upheld and practiced.

**3.7.1.3** Registered Medical Practitioners will not be held responsible for breach of confidentiality if there is a reasonable evidence to believe that patient's privacy and confidentiality has been compromised by a technology breach or by a person other than RMP. The RMPs should ensure that reasonable degree of care undertaken during hiring such services.

#### **3.7.1.4 Misconduct**

It is specifically noted that in addition to all general requirements under the MCI Act for professional conduct, ethics etc, while using telemedicine all actions that wilfully compromise patient care or privacy and confidentiality, or violate any prevailing law are explicitly not permissible.

Some examples of actions that are not permissible:

- RMPs insisting on Telemedicine, when the patient is willing to travel to a facility and/or requests an in-person consultation
- RMPs misusing patient images and data, especially private and sensitive in nature (e.g. RMP uploads an explicit picture of patient on social media etc)
- RMPs who use telemedicine to prescribe medicines from the specific restricted list
- RMPs are not permitted to solicit patients for telemedicine through any advertisements or inducements

**3.7.1.5 Penalties:** As per IMC Act, ethics and other prevailing laws.

<sup>3</sup> It is the responsibility of the RMP to be cognizant of the current Data Protection and Privacy laws. RMP shall not breach the patient's confidentiality akin to an in-person consultation. For example: If the RMP is planning to create virtual support group for disseminating health education for patients suffering from a particular disease condition then he/she shall be wary of the patient's willingness and not violate patient's privacy and confidentiality by adding them to the group without their consent.

**3.7.2 MAINTAIN DIGITAL TRAIL/ DOCUMENTATION OF CONSULTATION**

It is incumbent on RMP to maintain the following records/ documents for the period as prescribed from time to time:

**3.7.2.1** Log or record of Telemedicine interaction (e.g. Phone logs, email records, chat/ text record, video interaction logs etc.).

**3.7.2.2** Patient records, reports, documents, images, diagnostics, data etc. (Digital or non-Digital) utilized in the telemedicine consultation should be retained by the RMP.

**3.7.2.3** Specifically, in case a prescription is shared with the patient, the RMP is required to maintain the prescription records as required for in-person consultations.

**3.7.3 Fee for Telemedicine Consultation**

**3.7.3.1** Telemedicine consultations should be treated the same way as in-person consultations from a fee perspective: RMP may charge an appropriate fee for the Telemedicine consultation provided.

**3.7.3.2** An RMP should also give a receipt/invoice for the fee charged for providing telemedicine-based consultation.

## 4. Framework for Telemedicine

This section lays out the framework for practicing telemedicine in 5 scenarios:

1. Patient to Registered Medical Practitioner
2. Caregiver to Registered Medical Practitioner
3. Health Worker to Registered Medical Practitioner
4. Registered Medical Practitioner to Registered Medical Practitioner
5. Emergency Situations

### Essential Principles:

- The **professional judgement** of a Registered Medical Practitioner should be the guiding principle: an RMP is well positioned to decide whether a technology-based consultation is sufficient, or an in-person review is needed. Practitioner shall exercise proper discretion and not compromise on the quality of care
- **Same principles apply irrespective of the mode** (video, audio, text) used for a telemedicine consultation. However, the patient management and treatment can be different depending on the mode of communication used.
- RMP should exercise **his/her professional discretion** for the mode of communication depending on the type of medical condition. If a case requires a video consultation for examination, RMP should explicitly ask for it
- The RMP **can choose not to proceed** with the consultation at any time. At any step, the RMP may refer or request for an in-person consultation
- At any stage, the **patient has the right to choose to discontinue** the teleconsultation

### 4.1 CONSULTATION BETWEEN PATIENT AND REGISTERED MEDICAL PRACTITIONER

Specifically, this section details with the key elements of the process of teleconsultation to be used in the First consults and Follow up consults when a patient consults with an RMP.

***In these 2 situations, the patient initiates telemedicine consultation and thereby consent is implied***

#### 4.1.1 First Consult: Patient to Registered Medical Practitioner

##### 4.1.1.1 First Consult means

1. The patient is consulting with the RMP for the first time; or
2. The patient has consulted with the RMP earlier, but more than 6 months have lapsed since the previous consultation; or
3. The patient has consulted with the RMP earlier, but for a different health condition

#### 4.1.1.2 Tele-Consultation Process

The flow of the process is summarized in the Figure 1 and the steps are detailed below.

##### 1. *Start of a Telemedicine Consultation for First Consult*

- The telemedicine consultation is initiated by the patient (For example, a patient may do an audio or video call with a RMP or send an email or text with a health query)
- RMP accepts to undertake the consultation

##### 2. *Patient identification and consent*

- RMP should confirm patient identity to his/her satisfaction by asking patient's name, age, address, email ID, phone number or any other identification that may be reasonable
- Telemedicine consultation should be initiated by the patient and thereby consent is implied

##### 3. *Quick assessment:*

- The patient's condition needs to be quickly assessed by the RMP based on available inputs and RMP uses his professional discretion if emergency care is needed, to decide if emergency care is needed.
- If the condition of the patient merits emergency intervention, then advice for first aid/ immediate relief is provided and guidance is provided for referral, as appropriate.

If the condition does not merit an emergency intervention, the following steps are undertaken:

##### 4. *Exchange of Information for Patient Evaluation*

- The RMP may ask the patient to provide relevant information (complaints, information about any other consults for the same problem, available investigation and medication details, if any). The patient shall be responsible for accuracy of information shared by him/her with the RMP.
- If the RMP feels that the information provided at this stage is inadequate, then he/she shall request for additional information from the patient. This information may be shared in real time or shared later via email/text, as per the nature of such information. The consultation may be resumed at a rescheduled time after receipt of the additional information (this may include some laboratory or radiological tests). In the meantime, the RMP may provide health advice as appropriate.
- If the RMP is satisfied that he/she has adequate patient information for offering a professional opinion, then he/she shall exercise one's professional judgment for its suitability for management via telemedicine.
- If the situation is NOT appropriate for further telemedicine consultation, then the RMP should provide Health advice/ Education as appropriate; and/or refer for in-person consultation.

## 5. Patient Management

If the condition can be appropriately managed via telemedicine, then the RMP may take a professional judgement to either:

- Provide *Health Education* as appropriate in the case; and/or
- Provide *Counseling* related to specific clinical condition, *including advice related to new investigations that need to be carried out before next consult*; and/or
- Provide *specific treatment by prescribing medicines* as in List O (which are over the counter drugs or others as notified). Additional medicines (as per List A) can also be prescribed if the ongoing tele-consultation is on video.

### 4.1.2 Follow-up Consult: Patient to Registered Medical Practitioner

In a follow-up consultation, since the RMP-patient interaction has already taken place for the specific medical condition under follow-up, there is already an understanding of the context, with availability of previous records. This allows a more definitive and secure interaction between the RMP and the patient.

#### 4.1.2.1 Follow-Up Consult means

The patient is consulting with the RMP within 6 months of his/her previous in-person, and this consultation is for continuation of care of the same health condition. Follow-up can be in situations of a chronic disease or a treatment (e.g. renewal or change in medications) when a face-to-face consultation is not necessary. Examples of such chronic diseases are: asthma, diabetes, hypertension and epilepsy etc

#### 4.1.2.2 Tele-Consultation Process

The flow of the process is summarized in Figure 2 and the steps are detailed below:

##### 1. Start of a Telemedicine Consultation for Follow Up

- Patient may initiate a follow up consult with a RMP for continuation of his/her ongoing treatment or for a new complaint or complication arising during the course of the ongoing treatment using any mode of communication. For e.g., the patient may do an audio or video call with a RMP or send him/her an email or text message with a specific health query
- RMP accepts to undertake the consultation

##### 2. Patient identification and consent

- RMP should be reasonably convinced that he/she is communicating with the known patient, for e.g. if the patient is communicating with RMP through the registered phone number or registered email id
- If there is any doubt RMP can request the patient to reinitiate the conversation from a registered phone number or email id or should confirm patient identity to his/her satisfaction by asking patient's name, age, address, email ID or phone number. [Details in the section 3.2]
- Patient initiates the Telemedicine consultation and thereby consent is implied

### **3. Quick Assessment for Emergency Condition**

- If the patient presents with a complaint which the RMP identifies as an emergency condition necessitating urgent care, the RMP would then advice for first aid to provide immediate relief and guide for referral of the patient, as deemed necessary.

### **4. In case of routine follow-up consultation, the following would be undertaken:**

- If the RMP has access to previous records of the patient, he/ she may proceed with continuation of care.
- RMP shall apply his/her professional discretion for type of consultation based on the adequacy of patient information (history/examination findings/Investigation reports/past records).
- If the RMP needs additional information, he/ she should seek the information before proceeding and resume tele-consultation for later point in time.

### **5. Patient Management**

- If RMP is satisfied that he/she has access to adequate patient information and if the condition can be appropriately managed by tele-consultation, he/she would go ahead with the tele-management of the patient.
- If the follow-up is for continuation of care, then the RMP may take a professional judgement to either:
  - Provide health education as appropriate in the case; or
  - Provide counseling related to specific clinical condition *including advice related to new investigations that need to be carried out before next consult*;
  - And/or Prescribe Medications. The medications could be either of the below:
    - If the follow up is for *continuation of care for the same medical condition*, the RMP would re-prescribe original set of medications for a refill (List A of medications, which has been previously prescribed for the patient).

- If the RMP considers addition of a new drug, as an ‘add-on’ medication to optimize the underlying medical condition, then the RMP can prescribe medications listed under List B.
- If the follow-up consult is for a new minor ailment necessitating only ‘over the counter’ medications or those notified for this purpose, medications under List O can be prescribed.
- If the follow-up consult reveals new symptom pertaining to a different spectrum of disease, then the RMP would proceed with the condition as enunciated in the scenario for a first-time consultation (4.1.1).

## 4.2 CONSULTATION BETWEEN PATIENT AND RMP THROUGH A CAREGIVER

4.2.1 For the purpose of these guidelines “**Caregiver**” could be a family member, or any person authorized by the patient to represent the patient.

4.2.2 There could be two possible settings:

1. Patient **is present** with the **Caregiver** during the consultation.
2. Patient **is not present** with the **Caregiver**. This may be the case in the following:
  - 2a. Patient is a minor (aged 16 or less) or the patient is incapacitated, for example, in medical conditions like dementia or physical disability etc. The care giver is deemed to be authorized to consult on behalf of the patient.
  - 2b. **Caregiver** has a formal authorization or a verified document establishing his relationship with the patient and/or has been verified by the patient in a previous in-person consult (explicit consult).

In all of the above, the consult shall proceed as in the case of RMP and the patient (first or follow up consult, vide 4.1)

## CONSULTATION BETWEEN HEALTH WORKER AND RMP

For the purpose of these guidelines, “Health worker” could be a Nurse, Allied Health Professional, Mid-Level Health Practitioner, ANM or any other health worker designated by an appropriate authority

### Proposed Set up

- This sub section will cover interaction between a Health Worker seeking consultation for a patient in a public or private health facility.
- In a public health facility, the mid-level health practitioner at a Sub-center or Health and wellness center can initiate and coordinate the telemedicine consultation for the patient with a RMP at a higher center at district or State or National level. Health and Wellness centers are an integral part of comprehensive primary health care.
- This setting will also include health camps, home visits, mobile medical units or any community-based interaction.

### Tele-Consultation Process

The flow of the process is summarized in Figure 3 and the steps are detailed below:

#### **1. Start of a Telemedicine Consultation through a Health Worker/RMP**

- The premise of this consultation is that a patient has been seen by the Health worker
- In the judgment of the health worker, a tele-consultation with a RMP is required
- Health Worker should obtain the patient’s informed consent
- Health worker should explain potential use and limitations of a telemedicine consultation
- He/she should also confirm patient identity by asking patient’s name, age, address, email ID, phone number or any other identification that may be reasonable
- Health Worker initiates and facilitates the telemedicine consultation.

#### **2. Patient Identification (by RMP)**

- RMP should confirm patient identity to his/her satisfaction by asking patient’s name, age, address, email ID, phone number or any other identification that may be reasonable
- RMP should also make their identity known to the patient

#### **3. Patient Consent (by RMP):**

- RMP should confirm the patient’s consent to continue the consultation

#### **4. In case of Emergency,**

- The Health Worker would urgently communicate about the underlying medical condition of the patient to the RMP.
- If based on information provided, if the RMP identifies it as an emergency condition necessitating urgent care, he/she should advise for first aid to be provided by the Health Worker for immediate relief and guide for referral of the patient, as deemed necessary.

In case, the condition is not an emergency, the following steps would be taken:

#### **5. Exchange of Information for Patient Evaluation (by RMP)**

- The Health Worker must give a detailed explanation of their health problems to the RMP which can be supplemented by additional information by the patient, if required.
- The RMP shall apply his professional discretion for type and extent of patient information (history/examination findings/Investigation reports/past records) required to be able to exercise proper clinical judgement.
- If the RMP feels that the information provided is inadequate, then he/she shall request for additional information. This information may be shared in real time or shared later via email/text, as per the nature of such information. For e.g., RMP may advise some laboratory or/and radiological tests for the patient. For such instances, the consult may be considered paused and can be resumed at the rescheduled time. RMP may provide health education as appropriate at any time.

#### **6. Patient Management**

- Once the RMP is satisfied that the available *patient information is adequate* and that the case is *appropriate for management via telemedicine*, then he/she would *proceed with the management*. Health worker should document the same in his/her records.
- The RMP may take a professional judgement to either:
  - Provide health education as appropriate in the case,
  - Provide counseling related to specific clinical condition *including advice related to new investigations that need to be carried out before next consult*;
  - And/or prescribe medications.
    - as prescribed for use in guidelines from time to time for a particular cadre of Health Workers.

#### **5.2 Role of Health Worker:**

In all cases of emergency, the Health Worker must seek measures for immediate relief and first-aid from the RMP who is being tele-consulted. Health worker must provide the immediate relief/first aid as advised by the RMP and facilitate the referral of the patient for appropriate care. The Health Worker must ensure that patient is advised for an in-person interaction with an RMP, at the earliest.

For patients who can be suitably managed via telemedicine, the Health Worker plays a vital role of

- Reinforcing the health education and counseling provided by the RMP
- Providing the medicine prescribed by the RMP and providing patient counseling on his/her treatment.

#### 4.4 REGISTERED MEDICAL PRACTITIONER TO ANOTHER RMP/ SPECIALIST

- Registered Medical Practitioner might use telemedicine services to consult with another RMP or a specialist for a patient under his/her care. Such consultations can be initiated by a RMP on his/her professional judgement.
- The RMP asking for another RMP's advice remains the treating RMP and shall be responsible for treatment and other recommendations given to the patient.
- It is acknowledged that many medical specialties like radiology, pathology, ophthalmology, cardiology, dermatology etc. may be at advanced stages of adoption of technology for exchange of information or some may be at early stage. Guidelines support and encourage interaction between RMPs/ specialists using information technology for diagnosis, management and prevention of disease.
  - **Tele-radiology** is the ability to send radiographic images (x-rays, CT, MRI, PET/CT, SPECT/CT, MG, Ultrasound) from one location to another.
  - **Tele-pathology** is use of technology to transfer image-rich pathology data between distant locations for the purposes of diagnosis, education, and research.
  - **Tele-ophthalmology** access to eye specialists for patients in remote areas, ophthalmic disease screening, diagnosis and monitoring.

#### 4.5 EMERGENCY SITUATIONS

In all telemedicine consultations, as per the judgment of the RMP, if it is an emergency situation, the goal and objective should be to provide in-person care at the soonest. However critical steps could be life-saving and guidance and counseling could be critical. For example, in cases involving trauma, right advice and guidance around maintaining the neck position might protect the spine in some cases. The guidelines are designed to provide a balanced approach in such conditions. The RMP, based on his/ her professional discretion may

- Advise first aid
- Counseling
- Facilitate referral

In all cases of emergency, the patient **MUST** be advised for an in-person interaction with a Registered Medical Practitioner at the earliest

## 5. Guidelines for Technology Platforms enabling Telemedicine

This specifically covers those technology platforms which work across a network of Registered medical practitioners and enable patients to consult with RMPs through the platform

- 5.1 Technology platforms (mobile apps, websites etc.) providing telemedicine services to consumers shall be **obligated to ensure** that the consumers are consulting with **Registered medical practitioners** duly registered with national medical councils or respective state medical council and comply with relevant provisions
- 5.2 Technology Platforms shall conduct their **due diligence** before listing any RMP on its online portal. Platform must provide the **name, qualification and registration number, contact details of every RMP** listed on the platform
- 5.3 In the event some non-compliance is noted, the technology platform shall be required to **report** the same to BoG, in supersession to MCI who may take appropriate action
- 5.4 Technology platforms based on **Artificial Intelligence/Machine Learning are not allowed to counsel the patients or prescribe any medicines** to a patient. Only a RMP is entitled to counsel or prescribe and has to directly communicate with the patient in this regard. While new technologies such as Artificial Intelligence, Internet of Things, advanced data science-based decision support systems etc. could **assist and support a RMP** on patient evaluation, diagnosis or management, the final prescription or counseling has to be directly delivered by the RMP
- 5.6 Technology Platform must ensure that there is a proper mechanism in place to address any queries or grievances that the end-customer may have
- 5.7 In case any specific technology platform is found in violation, BoG, MCI may designate the technology platform as blacklisted, and no RMP may then use that platform to provide telemedicine

## 6. Special responsibilities of Board of Governors in supersession to Medical Council of India (BoG-MCI)

6.1 Any of the drug-lists contained in Telemedicine Practice Guidelines can be modified by the Board of Governors in super-session of the Medical Council of India/Medical Council of India from time to time, as required.

6.2 The Board of Governors in super-session of the Medical Council of India may issue necessary directions or advisories or clarifications in regard to these Guidelines, as required.

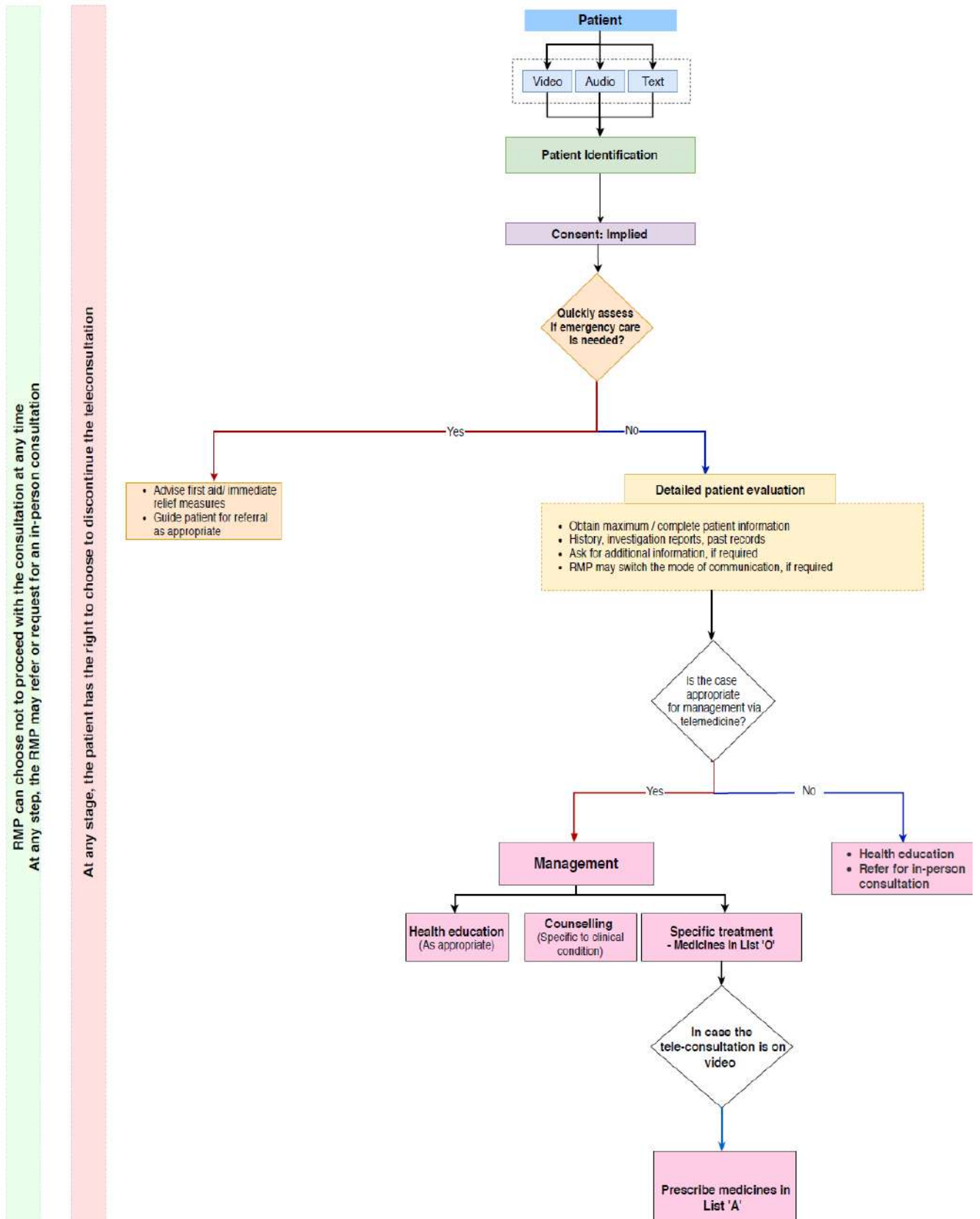
6.3 The Telemedicine Practice Guidelines can be amended from time to time in larger public interest with the prior approval of Central Government [Ministry of Health and Family Welfare, Government of India].

---

# ***Flow charts***

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**First Consult:  
Patient and Registered Medical Practitioner (RMP)**



**Figure 1: Flow chart for teleconsultation for first consult**

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# ***Annexures***

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## MEDICINE LISTS

### List O

---

- **Common over-the counter medications such as**
  - Antipyretics: Paracetamol
  - Cough Supplements: Lozenges,
  - Cough/ Common-cold medications (such as combinations of Acetylcysteine, Ammonium Chloride, Guaifensen, Ambroxol, Bromhexene, Dextromethorphan)
  - ORS Packets
  - Syrup Zinc
  - Supplements: Iron & Folic Acid tablets, Vitamin D, Calcium supplements
  - Etc
- **Medications notified by Government of India in case from time to time on an Emergency basis**
  - Such as Chloroquine for Malaria control for a specific endemic region, when notified by Government

### List A

---

- **First Consult Medications (Diagnosis done on video mode of consultation) such as**
  - Ointments/Lotion for skin ailments: Ointments Clotrimazole, Mupirocin, Calamine Lotion, Benzyl Benzoate Lotion etc
  - Local Ophthalmological drops such as: Ciprofloxacin for Conjunctivitis, etc
  - Local Ear Drops such as: Clotrimazole ear drops, drops for ear wax etc..
  - Follow-up consult for above medications
- **Follow-up medications for chronic illnesses for 're-fill' (on any mode of consultation) such as medications for**
  - Hypertension: Enalapril, Atenolol etc
  - Diabetes: Metformin, Glibenclamide etc
  - Asthma: Salmeterol inhaler etc
  - Etc

### List B

---

- **On follow-up, medications prescribed as 'Add-on' to ongoing chronic medications to optimize management such as for hYpertension: Eg, add-on of Thiazide diuretic with Atenolol**
  - Diabetes: Addition of Sitagliptin to Metformin
  - Etc

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## 6.1 SAMPLE PRESCRIPTION FORMAT

### REGISTERED MEDICAL PRACTITIONER'S NAME

QUALIFICATION

REGISTRATION NUMBER

ADDRESS

CONTACT DETAILS (EMAIL AND PHONE NUMBER)

Date Of Consultation	<input type="text"/>		
Name of Patient	<input type="text"/>	Age	<input type="text"/>
Address	<input type="text"/>	Gender	<input type="text"/>
		Height	<input type="text"/>
		Weight	<input type="text"/>
		LMP	<input type="text"/>

#### CHIEF COMPLAINTS

#### RELEVANT POINTS FROM HISTORY

#### EXAMINATION / LAB FINDINGS

#### SUGGESTED INVESTIGATIONS

#### DIAGNOSIS OR PROVISIONAL DIAGNOSIS

**Rx**

1. NAME OF MEDICINE (in capital letters only with generic name)  
drug form, strength, frequency of administration & duration.
2. NAME OF MEDICINE (in capital letters only with generic name)  
drug form, strength, frequency of administration & duration.
3. NAME OF MEDICINE (in capital letters only with generic name)  
drug form, strength, frequency of administration & duration.

#### SPECIAL INSTRUCTIONS

**RMP's Signature & Stamp**

Note: This prescription is generated on a teleconsultation.

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## Telepsychiatry Operational Guidelines - 2020

**Indian Psychiatric Society,  
&  
Telemicine Society of India,**

In collaboration with

**National Institute of Mental Health and Neuro Sciences,  
(Institute of National Importance)  
Bengaluru - 560029**

ISBN: 978-81-945815-2-9



NIMHANS Publication No. 170

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**May 2020**

## 7.2 List 'A' drugs

List A medications are those containing relatively safe medicines with low potential for abuse. These medications can be prescribed during the first/new consult via video consultation only and for tele-follow up consult any mode of consultation is allowed (text/audio/video) for re-filling the medications. Further, List-A are Psychotropic Drugs/Medicines as per sub-section (10) of Section 18 of Mental Healthcare Act, 2017 was notified as per letter F.No. V. 15012 /04 /2019-PH-I dated 16 Aug 2019.

To prescribe medicines under this List-A, live (synchronous) tele-video consultation is a must for first consult and any mode (text/audio/video) for tele-follow up consult

### Anti-depressants

1. Imipramine
2. Escitalopram
3. Fluoxetine

### Oral Antipsychotics

1. Haloperidol
2. Risperidone
3. Olanzapine

### Anti-epileptics

1. Phenobarbitone
2. Diphenylhydantoin

### Mood stabilizers

1. Lithium carbonate
2. Carbamazepine
3. Sodium Valproate

### Anti-cholinergic drugs

1. Trihexyphenidyl

### Sedative- Hypnotics /Benzodiazepines

1. Clonazepam
2. Clobazam

(Appendix-6, MCI amendment dated 11/04/2020)

**Injectables: - Online Prescription shall be given by a Psychiatrist to a RMP or to a Healthcare worker only through collaborative tele-video consultation**

1. Inj Fluphenazine
2. Inj Haloperidol
3. Inj Promethazine

### Caution Note: -

- a) *Zolpidem and Lorazepam*; although they are under essential drug list of the DMHP but, they fall under the ambit of NDPS act, hence do not prescribe online
- b) *Injectable Risperidone and Injectables Olanzapine*; needs to be given under the supervision of a psychiatrist only. Avoid prescribing online (telepsychiatry)

Phone : 25367033, 25367035, 25367036  
 दूरभाष : 25367033, 25367035, 25367036  
 Fax : 0091-11-25367024  
 E-mail : [mci@bol.net.in](mailto:mci@bol.net.in)  
 Website : [www.mciindia.org](http://www.mciindia.org)



पॉकेट - 14, सेक्टर - 8,  
 द्वारका फेस- 1  
 नई दिल्ली-110 077  
 Pocket- 14, Sector- 8,  
 Dwarka Phase - 1  
 New Delhi-110077

भारतीय आयुर्विज्ञान परिषद्  
**MEDICAL COUNCIL OF INDIA**  
 BOARD OF GOVERNORS  
 IN SUPERSESSION OF MEDICAL COUNCIL OF INDIA

BY MCI WEBSITE

PUBLIC NOTICE

No. MCI-211(2)/2019(Ethics)/ 2018 74


Dated: 11.04.2020

**Modification in Medicine list in Telemedicine Practice Guidelines**

1. The Board of Governors in Super-session of Medical Council of India in discharge of their special responsibilities prescribed under Guidelines 6.1 of Telemedicine Practice Guidelines make the following modification the in the "Medicine Lists" contained in Annexure-1 of Telemedicine Practice Guidelines.

2. Following Medicines shall be added to list A of Medicine Lists after the existing entries:

- Drugs used in Psychiatry practice such as Phenobarbitone, Clobazam and Clonazepam as first consult and as well as follow up.

  
 (Dr. R.K. Vats)  
 Secretary General

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CrI. M. P. No. \_\_\_\_\_ of 2021**

**IN**

**S.L.P.(CrI.) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRIYANKA SINGH

...PETITIONER

VERSUS

STATE OF MAHARASHTRA & ORS.

...RESPONDENTS

**AN APPLICATION FOR EXEMPTION OF FILING OF CERTIFIED  
IMPUGNED ORDER DATED 15.02.2021**

To,

The Hon'ble Chief Justice of India

And his Companion Justice of the

Supreme Court of India

The humble petition on Behalf of

The Petitioner above named

**MOST RESPECTFULLY SHOWETH**

1. That the present special leave petition under Article 136 of the Constitution of India is being filed for quashing of FIR as the Petitioner has been wrongly implicated and such is in grave violation of his fundamental rights granted under article 21 of the Constitution of India.

2. That the Petitioner prays that the averments made in the special leave petition may be read as part and parcel of this application. The Petitioner crave leave of this Hon'ble Court to refer and to rely upon the averments made in the special leave petition which are not being repeated herein for the sake of brevity.
3. This application ("**Application**") is being filed *bona fide* in the interest of justice. It is further submitted that no prejudice would be caused to any of the Respondents if the present Application is allowed as the balance of convenience lies solely in favour of the Petitioner. However, if the present Application is not allowed, interest of the Petitioner would be severely prejudiced.
4. The Petitioner has not filed any other proceedings either before this Hon'ble Court or any other High Court seeking any other reliefs of similar nature as prayed for *vide* the present Application.
5. That in the wake of the current Covid-19 pandemic, wherein most of the activities including transportation etc. are highly restricted the Petitioner has been unable to file certified copies of the Impugned order. The Petitioner undertakes to place on record certified copies wherever required of the impugned order as and when directed by this Hon'ble Court.
6. The Petitioner also undertakes to place on record the notarized affidavits within 72 hours of the resumption of normal functioning of this Hon'ble Court.

### **PRAYER**

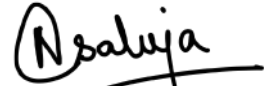
It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- i. Allow the Petitioner to place on record uncertified/dim copies of impugned order dated 15.02.2021;

- ii. Pass any other order(s) as this Hon'ble Court might deem fit.

**AND FOR WHICH ACT OF KINDNESS OF THIS HON'BLE COURT, THE  
PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.**

FILED BY:

A handwritten signature in black ink, appearing to read 'Nsaluja', with a long horizontal stroke extending from the end of the signature.

Nitin Saluja

(AOR for the Petitioner)

Filed on: 25.02.2021

**IN THE SUPREME COURT OF INDIA**  
**ORDER XXII RULE 2(1)**  
**CRIMINAL APPELLATE JURISDICTION**

*Crl. M* A. No. \_\_\_\_\_ of 2021  
in

SPECIAL LEAVE PETITION (CRL.) NO. \_\_\_\_\_ OF 2021

**IN THE MATTER OF:**

PRIYANKA SINGH

...PETITIONER

VERSUS

STATE OF MAHARASHTRA & ORS.

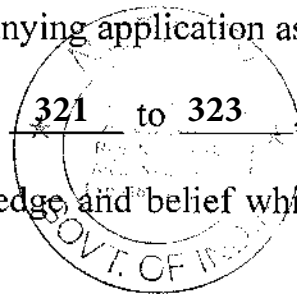
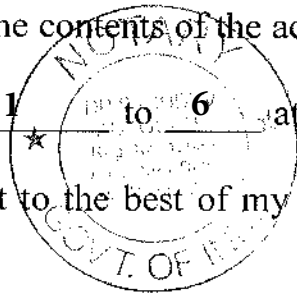
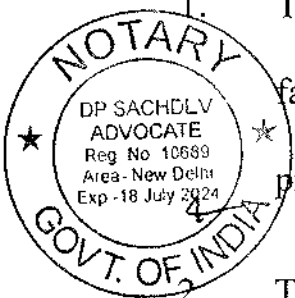
...RESPONDENTS

**AFFIDAVIT**

I, Ms. Priyanka Singh, D/o KK Singh, aged about 39 years, presently residing at C-10, Second Floor, Naraina Vihar, New Delhi – 110 028, do hereby solemnly affirm and state on oath as under:

1. That I am the Petitioner above named and am conversant with the facts and circumstances of the case as such competent to swear the present affidavit.

2. That the contents of the accompanying application as contained in paras 1 to 6 at pages 321 to 323 are true and correct to the best of my knowledge and belief which is derived



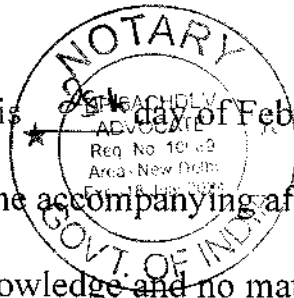
*SLN 700/1/2021*  
*dt 05/2/2021*

from the record of the case and the legal submissions are made as per the advice of the counsel which are believed to be true and correct. This has also been read over to me in vernacular language.

*P. Singh*  
**DEPONENT**

**VERIFICATION**

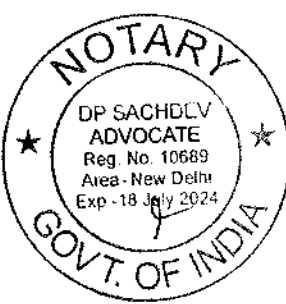
Verified at New Delhi on this *25* day of February 2021 that the contents of the contents of the accompanying affidavit are true and correct to the best of my knowledge and no material fact has been concealed therefrom.



*P. Singh*  
**DEPONENT**

I Identify the Executant/ Deponent who has Signed in my Presence  
*25/15/23/2021*

*Sh. A. 700/1/2021*  
*du 25/2/2021*



**ATTESTED**  
*25/2/2021*  
NOTARY PUBLIC

**INDEX**

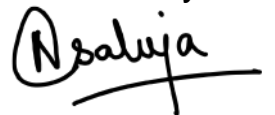
<b>SL.NO.</b>	<b>PARTICULARS</b>	<b>COPIES</b>	<b>C/FEE</b>
1.	S.L.P(Cr) WITH AFFIDAVIT		
2.	ANNEXURE P1 TO P.13		
3.	APPLICATION		
4.	VAKALATNAMA		

New Delhi

Dated 25.02.2021

Drawn By:  
Advocate Varun Singh  
Advocate Akshay Dev

Filed By



**(NITIN SALUJA)**

Advocate on Record for the petitioner  
SKV Law offices(commercial)  
B-50, Defence Colony,  
New Delhi- 110024  
Code No: 2868

## CRIMINAL APPELLATE JURISDICTION

S.L.P.(Crl.) NO. \_\_\_\_\_ OF 2021

IN THE MATTER OF:

Priyanka Singh

... Petitioner

VERSUS

State of Maharashtra &amp; Ors

... Respondents

## VAKALATNAMA

I, **Priyanka Singh**, the Petitioner in the above petition do hereby appoint and retain **Mr. Nitin Saluja**, Advocate Supreme Court, to act and appear for me/us in the above Petition and on our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for Review, and to file and obtain, return of documents, and to deposit and received any money on our behalf in the said Petition, and to represent us, and to take all necessary steps on our behalf in the above matter. We agree to pay his fees and out of pocket expenses, agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated this the 25 day of February 2021.

ACCEPTED AND IDENTIFIED

  
(NITIN SALUJA)  
ADVOCATE

Supreme Court

  
Petitioner  
(Priyanka Singh)

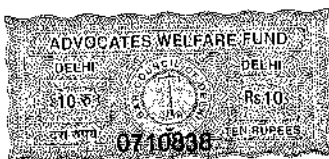
## MEMO OF APPEARANCE

To,  
THE REGISTRAR  
SUPREME COURT OF INDIA  
NEW DELHI-110001

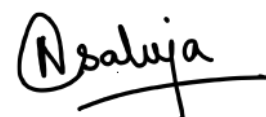


Sir,

Kindly enter my appearance in the above-mentioned Petition made on behalf of the Petitioner.



Yours Faithfully



(NITIN SALUJA)  
Advocate for the Petitioner

**Memo of Parties**

DIST.: MUMBAI

IN THE MATTER OF ARTICLE 226 OF  
THE CONSTITUTION OF INDIA.

AND

IN THE MATTER OF SECTION 482 OF  
THE CODE OF CRIMINAL  
PROCEDURE.

AND

F.I.R. NO. 576 OF 2020 REGISTERED  
AT BANDRA POLICE STATION,  
MUMBAI, MAHARASHTRA, FOR  
OFFENCES PUNISHABLE UNDER  
SECTIONS 420, 464, 465, 466, 474, 468,  
306, 120B, 34 OF THE INDIAN PENAL  
CODE AND SECTIONS 8(C), 21, 22A, 29  
OF NDPS ACT.

1. Priyanka Singh )  
Age - 39, )  
Resident: C-10, Second Floor )  
Naraina Vihar, )  
New Delhi - 110 028: )
  
2. Meetu Singh )  
Age - 45, )  
Resident: B-21, )  
Rajnighandha Apartment )  
Goregaon West, )  
Mumbai - 400 104. )

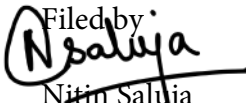
...Petitioners

1. State of Maharashtra )  
Through Inspector of Police )  
Bandra Police Station, )  
Mumbai, Maharashtra. )
  
2. Miss Rhea Indrajit Chakraborty )  
Age: 28 years ✓ )  
101, Primrose Apartment, )  
Near SNTD College, )  
Juhu Road, Santa Cruz, )  
West Mumbai – 400 054 )
  
3. Central Bureau of Investigation )  
Through Directors, )  
Plot No. 5-B, 6<sup>th</sup> Floor, )

CGO Complex, Lodhi Road, )  
New Delhi – 110 003. )

...Respondents

Drawn by  
Advocate Varun Singh  
Advocate Akshay Dev

Filed by  
  
Nitin Saluja

AOR Supreme Court of India