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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

2. Meetu Singh

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...Petitioners

Versus

1. The State of Maharashtra

(Through the Senior Inspector,
Malabar Hill Police Station, Mumbai.)

2. Rhea Chakraborty

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3. Central Bureau of Investigation

Through Directors,
Plot No. 5-B, 5th Floor, CGC Complex,
Lodhi Road, New Delhi- 110003

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...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 ABOVE NAMEDMOST 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 Bollywood 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 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 on 7th 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 late 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 13th 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 Sharma, Siddharth Pithani, Sam, 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 his daily prayers by playing an instrument.
- d. That on the night of 21st 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 (22nd 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. Singhi, 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 Nadira Babbar. 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 other 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 5th 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 Waterstones 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 6th 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 7th November 2019, Dr. Walker confirmed her first appointment with Sushant for therapy. On 11th 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 12th 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 26th 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 after his money. That very same night, the Petitioner Nos. 1 and 2 alongwith 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 Dadachandji was out of town, Sushant recommended that they find another psychiatrist and through research they found Dr. KersiChavda. 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 9th 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 farming in Pawna. On 10th January 2020, Sushant called the Respondent No. 2 back home and she returned. Sushant informed the Respondent No. 2 that he had watched Jim Carrey's journey about depression and was feeling inspired to fight his own battle.
- o. That on 20th 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 10th January and 20th January 2020, he had a few good days and extremely low days. On 20th 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 21st 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 Sameer 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 Kersi Chavda, who warned Sushant that he must stop his drug habit so as not to interfere with his treatment.
- r. That on 30th 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 Ayush 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. He asked Siddharth Pithanito 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 3rd 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 7th 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 8th 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 10:14a.m. and 10:18a.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 9th 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 10th 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 14th 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 18th June 2020 and 17th 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 16th 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 25th 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 19th 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.

cc. That in the first week of September 2020, certain WhatsApp messages exchanged between the Petitioner No. 1 and Sushant on 8th 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 25th March 2020, which constitutes Appendix 5 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics Regulation, 2002). In the prescription dated 8th 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 8th 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 3.7.1.4 of the Telemedicine Practice Guidelines provides as under:

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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 fit 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 crime, the Respondent No. 2 came to be arrested. During her judicial custody, the Respondent No. 2 addressed a letter dated 13th/14th 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/MZU/CR-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 6th, 7th and 8th of September 2020, at which time she duly remained present and cooperated with the investigation. Subsequently, on 8th September 2020, the Respondent No. 2 came to be arrested in connection with the aforesaid crime. The Respondent No. 2 was produced before the L.d. Magistrate on the very same day via video conferencing, at which time the L.d. 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 22nd September 2020. The Respondent No. 2 also filed her Bail Application on the very same day. By an Order dated 8th September 2020, the L.d. 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 8th September 2020.
7. The Respondent No. 2 then filed a Bail Application before the Hon'ble Sessions Court on the 9th of September 2020. That by an Order dated 11th 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 this Hon'ble Court on 21st September, 2020. That by an Order dated 7th 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 6th 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 8th 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 permitted to be carried out.

- f. With reference to Paragraph Nos. 10 to 14, the Respondent No. 2 states that as per the Public Notice No. mci 211(2)/2019(ethics)/201874 dated 11th 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 the glaring fabrication in the said prescription wherein the late 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 6th September 2020 as well as her statement forming part of the First Information Report that her

differences with Sushant which occurred on 8th 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 27th August 2020 which is at Exhibit "K" of the present petition clearly mentions that she left the house on 8th 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 8th 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 11th April, 2020. It is pertinent to note that the Co-Accused Dr. Tarun Kumar without any knowledge about the history of Sushant's mental 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 time. 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 8th 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. Tarun 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 19th 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 13th 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 powers under Section 482, Criminal Procedure Code cannot quash a first information report in case 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 facie 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 carried 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 for 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 FIR 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. RK. 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 and others*, 2014 (13) SCC 437, the Hon'ble Supreme Court held that the High Court cannot quash the FIR by entering into the factual 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 KINDESS THE RESPONDENT NO. 2 AS IN DUTY BOUND SHALL EVER PRAY.

Mumbai

This 26th day of October, 2020

Advocate for the Respondent No. 2