

Ingale/DDR

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

CRIMINAL WRIT PETITION STAMP NO. 2712 OF 2020

1. Priyanka Singh

[REDACTED]

2. Meetu Singh

[REDACTED]

....Petitioners

Vs.

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

2. Miss. Reha Indrajit Chakraborty
Age - 28 years

[REDACTED]

3. Central Bureau of Investigation
Through Directors,
Plot Not. 5 - B, 6th 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 : 07th JANUARY, 2021
PRONOUNCED ON : 15th 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 ¹**Dr.B.Singh Versus Union of India** to urge that Their Lordship have held that newspaper reports cannot be treated as

¹ (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 ²**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 ³**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

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 ⁴**Mir Nagvi Askari Vs. C.B.I.** and ⁵**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

4 92009) 15 SCC 643

5 (2009) 8 SCC 751

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 ⁶**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 ⁷**State of Haryana and ors. Vs. Bhajan Lal and Ors.**

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

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 **⁸Upkar 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

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 ⁹**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 ¹⁰**State of Telangana Vs. Habib Abdullah Jeelani** (paragraph 13) and the decision in the case of

9 (2006) 6 SCC 728

10 (2017) 2 SCC 779

¹¹XYZ 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

¹¹ (2019) 10 SCC 337

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**¹². 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**¹³ 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

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. 2nd respondent has filed the 2nd 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.**¹⁴. 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

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**¹⁵ in the backdrop of the interpretation of the various relevant

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 25th 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

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 of 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**¹⁶ 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**¹⁷ 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

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

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

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.

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.)