

IN THE SUPREME COURT OF INDIA
RHEA CHAKRABORTY VS. STATE OF BIHAR & ORS. - TP (CRL.) NO. 225 / 2020
BRIEF WRITTEN SUBMISSIONS ON BEHALF OF R-2 (STATE OF BIHAR)

1. The present Transfer Petition has been filed seeking transfer of proceedings in connection with FIR No. 241 of 2020 registered u/s 341, 342, 380, 406, 420, 306,506 & 120B IPCat Rajeev Nagar P.S., Patna, Bihar within the jurisdiction of ACJM-3, Patna Sadar, Patna to the court of competent jurisdiction in Mumbai. The brief chronology of relevant events in the present case are as under:-

14.06.2020	Sushant Singh Rajput, a brilliant & promising actor hailing from Bihar, allegedly committed suicide. Mumbai Police commenced proceedings u/s 174 / 175 Cr.P.C.
25.06.2020	As per news reports, Post Mortem Report of Sushant Singh Rajput was received by Mumbai Police on 25.06.2020. Even after receiving the Post Mortem report, the Mumbai Police has not registered any FIR till date.
16.07.2020	Petitioner (Rhea Chakraborty) [Pg. 4-5 of the T.P.] sent a tweet to the Union Home Minister requesting for investigation by CBI.
25.07.2020 [Pg. 17-24]	FIR in Patna, Bihar: On the basis of Written Complaint of Mr. K.K. Singh, father of the deceased, FIR bearing Rajeev Nagar P.S Case No. 241 of 2020 was registered u/s 341, 342, 380, 406, 420 and 306 IPC.
27.07.2020	4-Member SIT of State of Bihar A four member special investigation team was formed to probe the FIR. The said SIT went to Mumbai to conduct the investigation on 27.07.2020. Mumbai Police refused to cooperate or provide any documents to the SIT of Bihar Police. Despite the non-cooperation by Mumbai Police, the SIT made efforts to carry out a fair investigation by, inter alia, examining 10 persons. [Pg. 16-17 of the Affidavit of State of Bihar]
02.08.2020	FORCED QUARANTINE OF IPS OFFICER: For proper coordination in the investigation and ensuring a holistic probe, Mr. Vinay Tiwary (IPS), SP, Patna Central was sent to Mumbai. In this behalf, an advance intimation was sent to the authorities in Mumbai on 01.08.2020. Mr. Vinay Tiwary was forcibly quarantined by the authorities in Mumbai on 02.08.2020. Para 14 @ Page 9 of Affidavit of State of Bihar
03.08.2020	Inspector General of Police, Patna wrote a letter to the Chairman, BMC to release Mr. Vinay Tiwary from quarantine as he was on official duty to supervise the investigation. Para 18 at Page 15 of Affidavit of State of Bihar
04.08.2020	The State Government of Bihar recommended to the Union Government for CBI investigation in the present case. Page 24 of Affidavit of State of Bihar
05.08.2020	Union Government accepted the recommendation for investigation by CBI. @ Pg. 25 of Affidavit of State of Bihar
06.08.2020	CBI registered an FIR against the Petitioner and other accused persons.

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2. The Mumbai Police had only been carrying out inquest proceedings u/s 174 / 175 Cr.P.C. [**page 3, para 8(c) and (d) of Affidavit of State of Maharashtra**]. The proceedings u/s 174 / 175 are only for the purpose of ascertaining the “cause of death”. The proceedings come to an end on ascertaining the “cause of death” and in any case, when the post-mortem report is received. In the present case, on receipt of the post-mortem report by Mumbai Police on 25.06.2020, the proceedings u/s 174 / 175 Cr.P.C. came to a close.
3. There had not been any permissibility for Mumbai Police to undertake any investigation after the proceedings u/s 174 / 175 Cr.P.C. have come to a close and admittedly, no FIR is registered. [**Ashok Kumar Todi Vs. Kishwar Jahan & Ors. - (2011) 3 SCC 758 – paras 51-52.**]
4. After ascertaining the “cause of death”, any further investigation can only be carried out after registering an FIR u/s 154 Cr.P.C. Admittedly, no FIR has been registered by the Mumbai Police. Therefore, the Mumbai Police after 25.06.2020 has not been carrying out any authorized / valid / legal “investigation” as envisaged in law and Cr.P.C. There is no provision under which Mumbai Police is examining so-called 56 persons. Any such exercise claimed by Mumbai Police without registration of FIR is ex-facie - entirely without jurisdiction. [**Manoj Kumar Sharma Vs. State of Chhatisgarh - (2016) 9 SCC 1 – paras 19-22, 25.**]
5. When any cognizable offence is disclosed to any police officer, it is mandatory for the police officer to register the FIR and proceed with investigation. It is only after completion of investigation, the police officer shall forward the report u/s 170 Cr.P.C. to the concerned Court of competent jurisdiction. Reliance is placed on:-
- Satvinder Kaur Vs. State (Govt. of NCT Delhi) & Anr. - (1999) 8 SCC 728 – paras 9-13, 15.**
 - Rasiklal Dalpatram Thakkar Vs. State of Gujarat & Ors. - (2010) 1 SCC 1 – para 30.**

c. Lalita Kumari Vs. State of U.P - (2014) 2 SCC 1 – para 120.

6. Inter alia, it has been held that the Station House Officer is obliged to register the FIR and carry out the investigation expeditiously. At the stage of investigation, it cannot be said that the SHO does not have territorial jurisdiction to investigate the case. Any contention that the IO did not have jurisdiction to do so on the face of it deserves to be rejected. Section 156(2) contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate.
7. The action of the Bihar Police in registering the FIR on 25.07.2020 and undertaking the investigation is not only within its jurisdiction but the discharge of such an obligation by it, is also entirely valid and legal. Simultaneously, on the other hand, non-registration of an FIR by Mumbai Police is not only entirely inexplicable but is also contrary to law.
8. Without prejudice to the above, having regard to the allegations of criminal breach of trust, cheating etc. and defalcation of money from the account of Sushant Singh Rajput, whose only legal heirs are residing in Bihar, the consequences of the offence are within the jurisdiction of State of Bihar in terms of Section 179 Cr.P.C. [*Lee KunHee Vs. State of U.P. – (2012) 3 SCC 132, paras 35-38*].
9. The 4-member SIT of Bihar Police which had reached Mumbai on 27.07.2020, with an advance intimation, were not extended any cooperation. They were not given any document including the copy of the inquest report, post-mortem report etc. [**paras 14-16 of Affidavit of State of Bihar**].
10. Mr. Vinay Tiwari, IPS – Superintendent of Police in Bihar, who had reached Mumbai on 02.08.2020, with advance intimation to Mumbai Police – was virtually kept detained in the name of “quarantine” [when admittedly, the 4-member SIT of Bihar Police officers had not been quarantined when they had reached Mumbai on 27.07.2020] and was not allowed to discharge his duties for the conduct of investigation. The Inspector General of Police (IGP), Bihar had requested Mumbai authorities for removal of quarantine of Mr. Vinay Tiwari, IPS, however, the same had been unfortunately disregarded by them.
11. This Hon’ble Court had made observations regarding the said IPS Officer of Bihar police being incapacitated in the name of “quarantine” – in the hearing held on 05.08.2020. The State of Bihar had bonafide expected that the said IPS Officer would get relieved from “quarantine” immediately on 05.08.2020 itself. It is a matter of anguish and pain that it had taken a time of almost 3 days for the State of Maharashtra, which decided to relieve him only in the evening on 07.08.2020. Whereas on the one hand, the State of Bihar and its officials had acted with all sense of responsibility and regard to authorities of State of Maharashtra, sadly, it has met with complete absence of reciprocation by similar conduct by the authorities of State of Maharashtra.
12. It is apparent that it is on account of political pressure in the State of Maharashtra that neither the FIR has been registered by the Mumbai Police nor did they extend any cooperation to Bihar Police in discharging their obligation to conduct investigation expeditiously.
13. Admittedly, Petitioner in the present T.P. had herself, at Pg. 4-5 of the T.P., relied upon a tweet to the Union Home Minister requesting for investigation by the CBI. Even in the Additional Affidavit, Petitioner has stated that she has reiterated for investigation by CBI [**Pg. 8, para 5 of Addl. Affidavit**].
14. The Central Government has issued the notification dated 05.08.2020 transferring the investigation to CBI [**Pg. 25 of Affidavit of State of Bihar**]. Upon the conduct of and on the outcome of the investigation, it shall be for the CBI to file its report u/s 173 Cr.P.C. before the Court of competent jurisdiction.
15. In any case, the attention of this Hon’ble Court is also invited to the provision of Section 406 Cr.P.C., whereunder it has been envisaged to make a prayer for transfer of a “**case**”. Whenever there is an information regarding commission of a cognizable offence, u/s 154(1) Cr.P.C. it is mandatory to register an FIR and conduct investigation immediately and expeditiously. No doubt or dispute with regard to jurisdiction would permit, in any manner whatsoever, to cause any impediment in the expeditious conduct of the investigation. It is in this background that Section 406 provides for transfer of the case and not for transfer of the investigation. [**Para 6 @ Page 3 of Affidavit of State of Bihar.**]
16. In the light of the facts of the present case, the transfer petition filed by the Petitioner is not maintainable. In *Ram Chander Singh Sagar (Dr). Vs. The State of Tamil Nadu & Anr - (1978) 2 SCC 35*, this Hon’ble Court has held that there is no power in this Hon’ble Court to transfer case during investigation stage. [**Para 7 @ Page 4 of Affidavit of State of Bihar.**]
17. In view of the above position, nothing further is called for in the present Transfer Petition. It deserves to be rejected / disposed of by the orders of this Hon’ble Court. In the facts and circumstances of the present case, it is humbly submitted that no impediment would deserve to be allowed to come in the way of CBI to undertake and complete the investigation expeditiously.
18. As laid down by this Hon’ble Court including in the above-mentioned judgments, upon completion of the investigation and having regard to the outcome thereof, at that stage - the Investigating Agency would then file its report before the Court of competent jurisdiction in accordance with Section 170 Cr.P.C.