

STATEMENT OF FACTS

Riyaa Kapoor, a noted Bollywood actress was arrested for causing death of two pavement dwellers due to her rash and negligent driving. It is alleged that she was under the influence of alcohol at that time. The incident occurred on the night of 26th July 2010 at about 2:30 a.m. opposite Hotel Sea Royal which was merely two blocks away from her residence. Awake inquisitors gathered at the spot of accident surrounding the car. On preliminary site investigation it was revealed that Riyaa Kapoor had fled the spot of accident and that the vehicle involved in the accident was a Toyota Prado registered in 2007 in her name. The police arrived at the site and immediately filed an F.I.R on 26th July 2010 at 3:30 a.m. Due to inclement weather and heavy rains for the following 3 days the suburban areas were flooded. It is believed that Riyaa Kapoor was underground and could not be arrested for carrying out custodial investigation until 28th July 2010. On 29th July 2010 at about 8 a.m. Riyaa Kapoor was arrested from her residence with the aid of a lady constable. Preliminary medical inquires were conducted by the Chief Medical Officer of a government hospital. Blood samples to detect alcohol content in Riyaa Kapoors blood were sent for examination. The reports stated that it couldn't be conclusively proved that Riyaa Kapoor was driving under the influence of alcohol at the time of the accident. Riyaa Kapoors blood samples were sent to a renowned private hospital (KK Hospital). The Chief Medical Officer of KK hospital upon further testing concluded as follows:

- i) Trace amounts of alcohol were existent in the blood however it couldn't conclusively be said that Riyaa Kapoor had excess alcohol in her blood.

- ii) An unusually high quantity of mephedrone drug, commonly known as M-CAT was traced in the blood sample.
- iii) The doctor further suggested that blood samples should have been collected at the earliest possible opportunity following the incident, in order to ascertain the probable existence of other narcotics and psychotropic substances.

Earlier, at the accident spot there were two passengers in the car who had not fled the scene of the accident. The person sitting on the passenger seat was a close friend of Riyaa Kapoor, who identified himself as Bobby Khan. On 26th July 2010, when his statement was recorded at Juhu Police Station, he admitted that the duo had spent the four hours preceding the accident, in four different restaurants. He also admitted that both of them i.e. Bobby and Riyaa were heavily intoxicated and stated that he had footed all the restaurant bills with his credit card. Upon further investigation, the police learnt that only one of the restaurants served alcohol. The police also collected the bills for food and beverages from the four restaurants stated above. Incidentally the bill did not specify the particulars of the beverages that were served to the two of them. However, the total beverage bill was Rs. 22,738.00/-. The restaurant manager had confirmed that the bill included alcohol, but due to some malfunction in the computer, the particulars couldn't be specified.

Bobby Khan was a resident of UK and was unavailable for further investigation; hence the police were unable to comply with the procedure for recording the statement under section 164 of the Criminal Procedure Code, 1973 before the Magistrate. It was later learnt that Bobby Khan had fled the

country. Subsequently in 2011, before the commencement of the trial, Bobby Khan died.

The second person at the scene of the accident was Constable Ramesh Sawant who had been designated to provide personal protection to Riyaa Kapoor, as she had been receiving death threats. Constable Ramesh Sawant's statement was recorded in front of the Magistrate by following the due procedure under Section 164 of the Criminal Procedure Code, 1973. He also stated that Riyaa Kapoor was heavily intoxicated and insisted on driving the vehicle herself.

He further stated that Bobby Khan had fallen asleep at the time of the accident, but was awakened by the impact of the accident. He stated that the car was being driven at a high speed above 100 Kmph, but was unsure of the exact speed.

The police also recorded the statement of 3 eye witnesses namely:

- i) Rajesh Dinanath Surve, watchman of Gurukripa Building.
- ii) Manoj Kishan Mishra, who was passing the accident spot on his bicycle and narrowly missed being run over. He did not give clear cut answers in his statement even though the police grilled him as to where he was travelling.
- iii) Bhola Raju Ram, another pavement dweller who was sleeping on the other side of the road.

In the F.I.R. the police registered offences under Sections 279, 337 r/w 304 of the I.P.C. 1860 and Sections 134(a), 134(b), 185, 187 of the Motors Vehicle Act, 1988 and Section 66 (1)(b) of Maharashtra Prohibition Act, 1949.

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However on the insistence of the Investigating Officer and advice of the Public Prosecutor, sections 283, 304A, 338 and 510 were added at the time of filing of chargesheet

In the chargesheet, police have come up with a sequence of events leading to the accident. The police concluded that the actress was intoxicated and unable to control herself while driving. The police have concluded that it was a case of “hit and run” where the driver had fled the crime scene. Based on the massive damage suffered by the car and the skid marks on the road, the police concluded that Riya Kapoor had lost control of the vehicle due to her state of intoxication and crashed the car on to the pavement, killing two of the pavement dwellers instantly. The statements of the doctor from the government hospital, the private hospital and Ramesh Sawant (Constable/Bodyguard) were recorded.

The matter is now time bound and expedited by the High Court and is kept for hearing as the trial has been delayed for about five years. The delay was because the previous defence attorney had successfully managed to get Riya Kapoor out on bail from the Bombay High Court after it was rejected by all other courts. Delay was also caused due to stay on the proceedings in light of filing of Writ Petition No. 382 of 2010 filed by Riya Kapoor for quashing the proceedings u/s. 482 of the Criminal Procedure Code, 1973 in the Bombay High Court. The High Court has remanded the matter to the trial court with a direction to conduct trial on a day to day basis.

FIRST INFORMATION REPORT

Under section 154 Cr. P.C.

1. State: Maharashtra District: Mumbai Police Station: Juhu
FIR No.:- R1-4432 Year: 2010 Date: 26/07/2010
2. (i) Act : Indian Penal Code Sections: 279, 304 and 337.
(ii) Act: Code of Criminal Procedure Sections: 154.
(iii) Act: Motors Vehicle Act, 1988 Sections: 134(a), 134(b), 185 and 187.
(iv) Other Acts and Sections: Section 66(1)(b) of Prohibition Act, 1949.
3. (a) Occurrence of Offence
Day: Monday
Date: 26/07/2010
From: Night
Time: 02:30 hrs
(b) Information received at Police Station: Juhu
Date: 26/07/2010 Time: 03:30 hrs
(c) General Diary Reference: R1-10-4432
Entry No.:27 Date: 26/07/2010 Time: 04:00 hrs.
4. Type of Information: Oral
5. Place of Occurrence: Juhu
(a) **Direction and distance from P.S.:** 1 km. away from P.S.
Chouki/Beat/O.P Name & No. : 2

(b) Address of Occurrences: Opposite Sea Royal Hotel, Juhu Mara Marg, Juhu, Mumbai

Name: N/A

No. if any: N/A

Ward: N/A

Name of Road: Juhu Mara Road

Nearest identifiable place: Sea Royal Hotel

Village: N/A

Taluka: Mumbai

District: Mumbai

State: Maharashtra

(c) In case outside the limit of this Police Station then that Police Stations

Name: N/A

Takula: N/A

District: N/A

State: N/A

6. Complainant/ Informant

(a) Name: Manoj Kishan Mishra

(b) Fathers/ Husband's Name: Kishan Mishra

(c) Date of Birth & Age: 25/05/1986, 29 years

(d) Nationality: Indian

Phone Nos.: 09769483288

(e) Passport No.: N/A

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Date of Issue: N/A

Place of Issue: N/A

(f) Occupation: Vendor

(g) Religion: Hindu

Caste: N/A

Sub Caste: N/A

(h) Address: 88, RC Chawl, Juhu Underpass, Mumbai-40049.

Ward/Survey No: N/A

House/ Name No.: Matrix Compound

Phone No.: 09769483288

PAN No.: NIL

Voters Card No.: WSG002541

Road: Golkhe Marg

Nearest identifiable place: Juhu Bus Depot

Post: Juhu Post Office

Police Station: Juhu Police Station

District: Mumbai

State: Maharashtra

Present Address: No.201, Plot No. A10, Matrix Compound, Juhu,
Mumbai

7. Details, Name and Address of Known Accused: Riyaa Sandeep Kapoor;
Age: 27 years, Address: 52 Silver Rose, Juhu Mara Road, Santacruz
(W), Mumbai-400049
8. Reasons for delay in reporting by the Complainant/Informant: N/A

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9. Particulars of properties stolen/recovered (Attach necessary proforma) write down

The details on a back blank page: N/A

- a. Total values of properties stolen/ involved: N/A
- b. Recovered properties: N/A
- c. Unnatural /Accidental death. Case No. If any: N/A

10. First Information brief contents (attach separate sheet, if required) details write down back blank page: N/A

11. Action taken: Since the above information reveals Commission of offence(s) u/s as mentioned at Item No. 2:

(1) Registered the case and took up the Investigation or Directed P. I.

Sushant Shinde

To take up the Investigation or

(2) Refused Investigation due to- N/A

(3) Transferred to P.S..... District..... on the point of Jurisdiction.

F.I.R. read over to the Complainant / informant, admitted to be correctly recorded and a copy given to the Complainant/ informant, free of cost.

Sd/-

Sd/-

Signature and Thumb Impression
of the Complainant/ Informant

Signature of Officer, Police Station
Name: Sushant Rajan Shinde
Rank: P.I.
Posting: Juhu Police Station
Code No. I. O.: P.B.N. 1276

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1. Date and time of submitted to the Court
2. To Complainant,
3. Supdt. Of Police,
4. Inv. Officer
5. Office Copy

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Date: 26/07/2010

Spot Panchnama

- 1) Pancha 1:- Mr. Bhola Raju Ram Age: 32 Occupation: Daily Wage Worker
R/o: NA
- 2) Pancha 2:- Mr. Rajesh Dinanath Surve Age: 33 Occupation: Security
Guard R/o: 11, Dagdi Chawl Juhu Koliwada, Mumbai-400049.

Today, we the abovementioned Panchas on being called by Police Inspector Sushant Rajan Shinde of Juhu Police Station visited the place of occurrence, opposite famous Hotel Sea Royal on Juhu Mara Road, Mumbai at about 6:00 a.m. under Crime Registration No. 252/2010 u/s 279, 304, 337 of I.P.C.1860, sections 134A, 134B, 185, 187 of Motor Vehicles Act, 1988 and section 66(1)(b) of Prohibition Act,1949 We were briefly explained the incident as under. The complainant Manoj Kishan Mishra was personally present and showed us the site of the incident. We were requested to be Panchas for the purpose of the Panchanama.

The complainant showed us that the place of incidence was in the Juhu locality of Mumbai city which is a western suburb. The accident took place on Juhu Mara Road which is a road stretching across the sea face for about 2 kms. The accident took place opposite the famous Hotel Sea Royal. The exact spot was about 250 mtrs. adjacent to the entrance gate of the hotel in the opposite lane of the road heading towards Bandra. The lane was turning towards the left side and the accident took place exactly after the turn.

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There was blood all over the pavement and there was a damaged Prado against the pavement.

The aforesaid Panchanama is true and correct as per the site as seen and heard by we Panchas. Panchanama commenced at 5:00 a.m. and completed at 6:00 a.m.

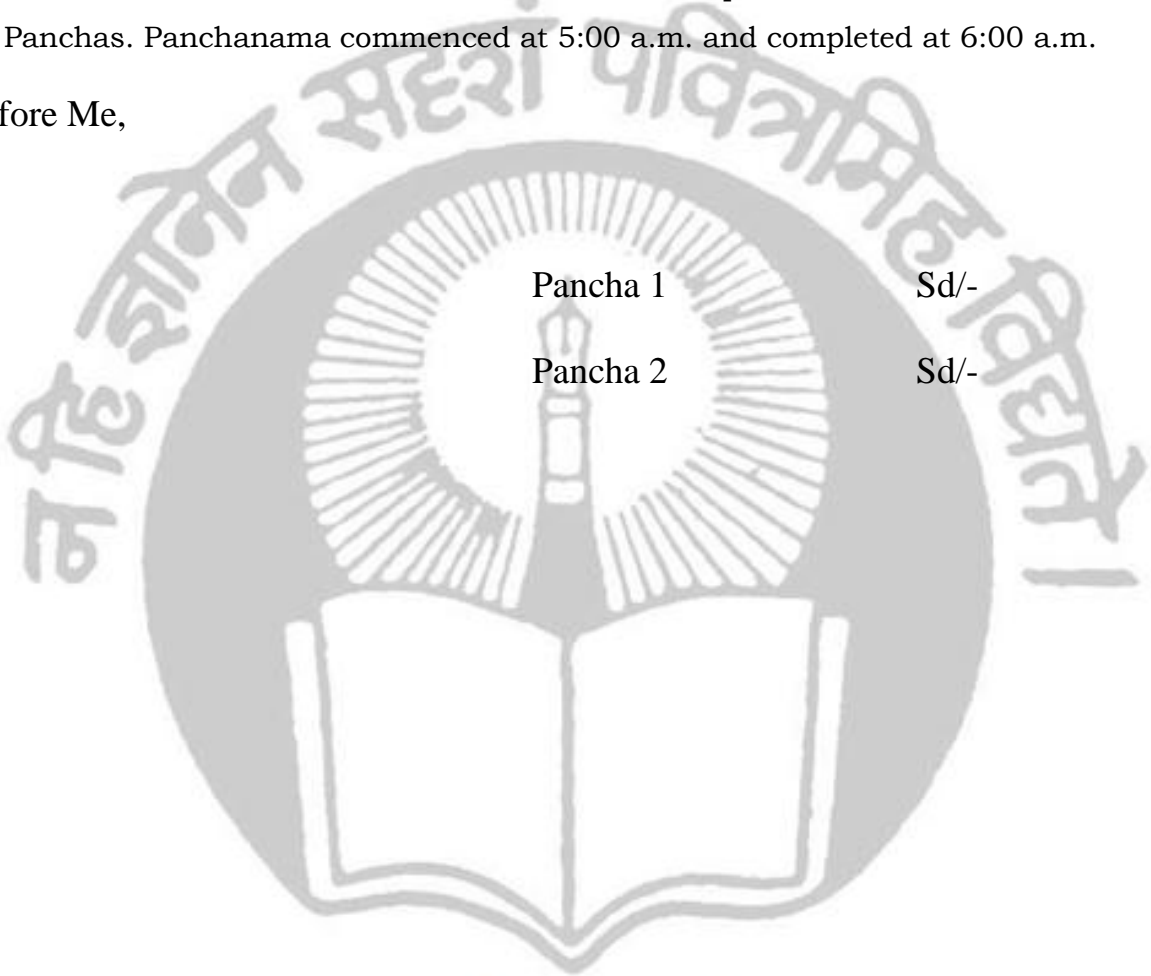
Before Me,

Pancha 1

Sd/-

Pancha 2

Sd/-



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FINAL INVESTIGATION REPORT

(U/s. 173 of the Code of Criminal Procedure)

Court: IN THE COURT OF SESSIONS AT MUMBAI

1. District : **MUMBAI**
Police Station : **JUHU POLICE STATION**
Year : **2010**
C.R. No. : **252/2010**
Date : **27/07/2010**
2. Final report/Charge sheet No. : **08953512**
3. Date : **7/12/2010**
4. Provision : **INDIAN PENAL CODE, 1860**
: **MOTOR VEHICLES ACT, 1988**
 1. Act : **IPC** Section : **279**
 2. Act : **IPC** Section : **283**
 3. Act : **IPC** Section : **304**
 4. Act : **IPC** Section : **304A**
 5. Act : **IPC** Section : **337**
 6. Act : **IPC** Section : **338**
 7. Act : **IPC** Section : **510**
 8. Act : **MVA** Section : **134(a)**
 9. Act : **MVA** Section : **134(b)**
 10. Act : **MVA** Section : **185**
 11. Act : **MVA** Section : **187**
 12. Act : **Maharashtra** Section : **66 (1)(b)**

Prohibition

Act, 1949

5. Nature of Final Report: **Charge sheet Filed**

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6. If Final report is of the nature of did not occur then the reasons: **N/A**
7. If Charge sheet is filed : **Original**
8. Name of the Investigating Officer : **PI SUSHANT RAJAN SHINDE**
Designation of Investigating Officer : **PI, P.B.N. 3432**
9. Name of Complainant/ Informant : **MANOJ MISHRA**
Father/ Husband's name : **KISHAN MISHRA**
10. Things obtained at the time of the investigation/ Confiscated and property relied upon/ details of the articles (if necessary add a separate list along with the same)

Sr.	Description of the property	Estimated value	Sr. no. of the Police Station record diary	Property recovered from whom and from where	Disposal
1.	Silver color, Toyota Prado (Chassis no: 254159845214)	25 Lakhs.	825	Spot of incidence	NA

**11. DETAILS OF THE ACCUSED AGAINST WHOM CHARGE SHEET IS FILED
(IF NECESSARY ADD A SEPARATE SHEET)**

1. Name & Age : **RIYAA KAPOOR, 27 YRS.**
2. Identified & how : **BY WITNESS**

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3. Father/Husband's name : **SANDEEP KAPOOR**
4. Sex : **FEMALE**
5. Nationality : **INDIAN**
6. Passport No. : **L60304283**
Date of issuance : **16/02/2008**
7. Religion : **HINDU**
8. If belongs to SC/ST : **NO**
9. Profession : **ACTRESS**
10. Address : **52 SILVER ROSE,
JUHU ROAD,
MUMBAI-400049.**
- If verified : **YES**
11. Temporary offender No. : **26365/10**
12. Regular Offender No. : **N/A**
(If known)
13. Date of Arrest : **29/07/2010**
14. Date of release on bail : **24/08/2010**
15. Date of sending to Court : **NA**
16. Provision of arrest : **279, 283,304, 304A, 337, 338,
510-Indian Penal Code, 1860
: 185 - Motors Vehicle Act, 1988**
17. Surety's name & address : **NA**
18. Related previous conviction : **NIL**
19. Condition of the Accused : **P.C.**

12. DETAILS OF THE EXAMINED WITNESSES:

	NAME	FATHER/ HUSBANDS NAME	AGE	OCCUPATION	ADDRESS	NATURE OF WITNESS
1	MANOJ KISHAN MISHRA	KISHAN MISHRA	29 YRS	VENDOR	88, RC CHAWL, JUHU UNDERPASS, MUMBAI-40049.	INFORMAN T (P.W.-1)
2	BHOLA RAJU RAM	RAJU RAM	32 YRS	DAILY WAGE WORKER	N/A	PANCHA 1 (P.W.-2)
3	RAJESH DINANAT SURVE	DINANATH SURVE	33 YRS	SECURITY GUARD (GURUKRIPA)	11, DAGDI CHAWL JUHU KOLIWADA, MUMBAI-400049.	PANCHA 2 (P.W.-3)
4	RAMESH MANGESH SAWANT	MANGESH SAWANT	38 YRS	CONSTABLE FOR PROTECTION	23, POLICE APTS POCHKANWALA, WORLI, MUMBAI-400077	EYE WITNESS (P.W.-4)

5	PI SUSHANT RAJAN SHINDE	RAJAN SHINDE	35 YRS	P.I.	12, UPAVAN APTS, RMA MARG, BANDRA (W) MUMBAI-400050.	INVESTIGATING OFFICER (P.W.-5)
6	RIYAA SANDEEP KAPOOR	SANDEEP KAPOOR	27 YRS	ACTRESS	5, SILVER APT, MG ROAD, SANTACRUZ (W), MUMBAI-400049.	ACCUSED (D.W.-1)

13. Mention the action taken u/s. 182 /211 of the Indian Penal Code if the first information is false

14. FINDINGS OF LAB TESTING:

The reports declared that it couldn't be conclusively proved that Riyaa Kapoor was driving under the influence of alcohol at the time of the accident.

15. SHORT DESCRIPTION OF THE INCIDENT:

Riyaa Kapoor, a noted actress was arrested for driving under the influence of alcohol that caused the death of two pavement dwellers residing two blocks away from her house. The accident occurred on the night of 26th July 2010 at about 2.30 a.m. opposite hotel Sea Royal. On preliminary site investigation it was revealed that Riyaa Kapoor had fled the spot of accident and that the vehicle involved in the accident was a Toyota Prado registered in 2010 in Riyaa

Kapoor's name. The police arrived at the site and immediately filed an F.I.R on 26/07/2010 at 3:30 a.m. It is believed that Riyaa Kapoor was underground and could not be arrested for carrying out custodial investigation until 29th June 2010. On 29th June 2010 at about 9 a.m. in the morning Riyaa Kapoor was arrested from her residence with the help of lady constables. Blood samples to detect alcohol content in the blood of Riyaa Kapoor were sent for examination. The reports declared that it couldn't be conclusively proved that Riyaa Kapoor was driving under the influence of alcohol at the time of the accident. The person sitting on the passenger seat was a close friend of Riyaa Kapoor. He identified himself as Bobby Khan. On 26th July 2010, when his statement was recorded at Juhu Police Station, he confessed that Riyaa Kapoor and he had spent the four hours preceding the accident in four different restaurants. He also confessed that both of them i.e. Bobby and Riyaa were heavily intoxicated. The police upon further investigation learnt that only one of the restaurants served alcohol to them. The police also collected the bills for food and beverages from the 4 restaurants stated above. Incidentally the bill for the beverages did not specify the particulars of the beverages that were served to the two of them. However the total beverage bill was not less than 22,000. The restaurant manager had confirmed that the bill included alcohol but due to the software constraints, the particulars couldn't be specified. The second person at the scene of the accident was constable Ramesh Sawant who had been designated to provide personal protection to Riyaa Kapoor. He also admitted that Riyaa Kapoor was heavily intoxicated.

He further declared that she wouldn't listen to him and insisted on driving the vehicle, herself. He also declared that Bobby Khan had fallen asleep or was unconscious at the time of the accident, but was awakened by the shock and damage to the speeding car. He stated that the car was being driven at a high speed above 100 Kmph, but was unsure of the exact speed.

In the F.I.R. the police registered offences under Sections 279, 337 r/w 304 of the I.P.C. 1860 and Sections 134A, 134B, 185, 187 of the Motors Vehicle Act and Section 66 (1)(b) of Prohibition Act. However on the insistence of the Investigating Officer and advice of the Public Prosecutor Sections 283, 304A, 338 and 510 were added at the time of filing of charge sheet

Therefore the Ld. Public Prosecutor be pleased to frame the following charges before this Hon'ble Court.

16. If notice is issued to concerned person : **NA**
Dated : **NA**
17. Date of sending the notice : **NA**

**Endorsed by the Senior officer/
Station House officer**

Sd/-

Name: API AJIT RAO

Designation: API

**Officer presenting the
Final Report**

Sd/-

Name: PI SUSHANT SHINDE

Designation: PI

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