

4<sup>TH</sup> RMLNLU - SCC ONLINE INTERNATIONAL MEDIA LAW MOOT COURT  
COMPETITION, 2016

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**BEFORE HON'BLE SUPREME COURT OF UPARGANJ**

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SPECIAL LEAVE (CRIMINAL) JURISDICTION

T.P. No. \_\_\_/2020  
(W. P. No. \_\_\_/ 2020)

S.L.P. No. \_\_\_/ 2020

CrI. Rev. P. No. \_\_\_/ 2020

T. P. No. \_\_\_/2020  
(W. P. No. \_\_\_/ 2020)

S.L.P. No. \_\_\_/ 2020

Under Arts. 136, 139-A of the Constitution of Uparganj. In the matters of Arts. 226, 14, 19, 21 of the Constitution; § 397 of Cr.P.C, 1973; § 306 of Penal Code, 1850; Delhi Prisons Act, 2002 and the Rules thereunder.

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GALON KASRA AND ORS.

PETITIONERS

v.

KINGDOM OF UPARGANJ

RESPONDENT

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BEFORE SUBMISSION TO HON'BLE CHIEF JUSTICE AND HIS COMPANIONS

JUSTICES

OF THE HON'BLE SUPREME COURT OF UPARGANJ

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MEMORANDUM ON BEHALF OF THE RESPONDENT

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**LIST OF ABBREVIATIONS**

&	And
§	Section
¶	Paragraph
A.C.H.R.	American Convention on Human Rights
A.I.	Artificial Intelligence
A.I.R.	All India Reporter
A.L.J.	Allahabad Law Journal
A.P.	Andhra Pradesh Law Journal
Af.C.H.P.R.	African Charter on Human and Peoples'
All E.R.	All England Law Report.
Anr.	Another
Art.	Article
B.C.S.C.	British Columbia Supreme Court
C.B.I.	Central Bureau of Investigation.
C.C.P.R.	Covenant on Civil and Political Rights
C.L.T.	Cuttack Law Times
C.T.C.	Current Tamil Nadu Cases
Cal. Rptr	California Reporter
Cr L.J.	Criminal Law Journal
CrPC	Code of Criminal Procedure
D.B.	Division Bench
D.C.	District Court
Dick. L. Rev	Dickinson Law Review
Dist.	District
E.C.H.R.	European Convention on Human Rights
E.H.R.R.	European Human Rights Reports
E.T.S.	European Treaty Series
Ed.	Edition
G.A. res	General Assembly Resolution
H.L.	House of Lords

LIST OF ABBREVIATIONS | 4<sup>TH</sup> RMLNLU - SCC ONLINE INTERNATIONAL MEDIA LAW MOOT COURT  
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Harv. L. Rev.	Harvard Law Review
HC	High Court
I.C.C.P.R.	International Covenant on Civil and Political
I.L.R.	Indian Law Reports
Ibid	Preceding footnote
Inc.	Incorporated
Infra	Below
J.C.C.	Journal of Criminal Cases
K.B.	King's Bench
Ker	Kerala
L.R.	Law Report
Ltd.	Limited
Mad	Madras
Maia	Multi-faceted Artificial Intelligence Assistant
Mich. L. Rev.	Michigan Law Review
N.C. L. Rev	North Carolina Law Review
No.	Number
O.A.S.T.S.	Organization of American States Treaty
Ors.	Others
P.C.	Privy Council
pg.	Page
Pvt.	Private
Q .B. D.	Queen's Bench Division
Q.B.	Queen's Bench
Raj	Rajasthan
S.C.	Supreme Court
S.C.C.	Supreme Court Cases
S.C.R.	Supreme Court Reporter
SEBI	Securities and Exchange Board of India
Stan. L. Rev.	Stanford Law Review
<i>Supdt.</i>	Superintendent
Supra	Above

LIST OF ABBREVIATIONS | 4<sup>TH</sup> RMLNLU - SCC ONLINE INTERNATIONAL MEDIA LAW MOOT COURT  
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Syd Law Rw	Sydney Law Review
U.D.H.R.	Universal Declaration of Human Rights
U.N.	United Nations
U.N.T.S	United Nations Treaty Series
U.O.I.	Union of India
<i>U.P.</i>	Uttar Pradesh
U.S.	United States
v.	Versus
VSED	Voluntary stopping eating and drinking
W.L.R.	Weekly Law Report
W.P.H.C.	Writ Petition High Court
Yale L. J.	Yale Law Journal

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50	<i>United States v. Spinney</i> , 65 F.3d 231 (1st Cir.1995)	19
51	<i>United States v. Wert-Ruiz</i> , 228 F.3d 250 (3 <sup>rd</sup> Cir.2000);	19
52	<i>United States v. Youts</i> , 229 F.3d 1312 (10th Cir. 2000);	19
53	<i>Vacco v. Quill</i> , 521 U.S. 793 (1997).	16
54	<i>Velichkin v. Belarus</i> , Communication No. 1022/2001, U.N. Doc. C.C.P.R./C/85/D/1022/2001 (2005).	24, 26
55	<i>Washington v. Glucksberg</i> 521 U.S. 702 (1997);	16
56	<i>Wayne Carl Coleman v. Ralph K.E.M.P.</i> 778 F.2d 1487: 54 U.S. L.W. 2367	10
57	<i>Weber v. Supreme Tent</i> , 172 N. Y. 490. 65 N.E. 258, 92 Am. St. Rep. 753	13
58	<i>Wilbert Rideau v. State of Louisiana</i> , 373 U.S. 723;	10

**E. BOOKS**

1	1 Aristotle, <i>Generation of Animals, The Complete Works of Aristotle</i> 1203-04 (Jonathan Barnes ed., Princeton University Press 1984).	3
2	11 Lord Hailsham, <i>Halsbury's Laws of England</i> 104 (4th ed. LexisNexis 2010).	7, 12
3	6 Judicial Colloquium in Bangalore, <i>Developing Human Rights Jurisprudence</i> 86 (Commonwealth Secretariat 1995).	22
4	A.S. Chaudhury, <i>Commentaries on Law of Writs</i> 394 (5th ed. Law Publishers (India) Pvt. Ltd. 2003);	2
5	Bhagabati Prosad Banerjee, <i>Writ Remedies</i> 159 (6th ed. Lexis Nexis 2013)	2, 8
6	Francis J. Ludes, <i>Corpus Juris Secundum</i> 424 (West Publishing Co. 1976).	2, 12
7	Gerald Dworkin, <i>The Theory and Practice of Autonomy</i> 3-62 (1st ed. Cambridge University Press 1988).	3
8	Hans Moravec, <i>Mind Children: The Future Of Robot And Human Intelligence</i> 49 (Reprint Harvard University Press 1988).	3
9	Hermann Von Helmholtz, <i>The Facts Of Perception</i> (1st ed. Wesleyan University Press 1878);	19
10	I Ratanlal and Dhirajlal, <i>The Code of Criminal Procedure</i> 198 (18th ed. Wadhwa Nagpur 2006).	5

11 I S.C. Sarkar, <i>The Code of Criminal Procedure</i> 229 (10th ed. Lexis Nexis 2014) .....	5
12 II V.G. Ramachandran, <i>Law of Writs</i> 1029 (6th ed. Eastern Book Company, Lucknow 2006). .....	2
13 Lord Hailsham, <i>Halsbury's Laws of England</i> 768 (4th ed. LexisNexis 2010);.....	2
14 Michael Moore, <i>Act And Crime: The Theory of Action And Its Implications For Criminal Law</i> (1st ed. Oxford University Press 1993).....	18
15 O. Hood Phillips & Jackson, <i>Constitutional and Administrative Law</i> 13 (6th ed. Thomson Sweet & Maxwell 2001 .....	7
16 Owen J. Flanagan, Jr., <i>The Science of The Mind</i> 1-22 (2d ed. A Bradford Book 1991). ....	3
17 Prof. De Smith, <i>Judicial Review</i> (6 <sup>th</sup> ed. Thomson Sweet & Maxwell 2007) .....	7
18 R. Cross, P.A. Jones, R. Card, <i>Cross and Jones' Introduction to Criminal Law</i> 387 (9th ed. London: Butterworths 1980).....	16
19 Steven Box, <i>Power, Crime and Mystification</i> 16-79 (1st ed. Routledge 1983); .....	17
20 William James, <i>The Principles Of Psychology</i> (1st ed. New York: Henry Colt & Co. 1890).....	18

**F. REPORTS**

United Nations, Human Rights Commission, General Comment No. 22, <i>Official Records of the General Assembly, Fortyeighth Session, Supplement No. 40 (A/48/40)</i> . .....	26
United Nations, Human Rights Commission, General Comment No. 31, <i>The Nature of the General Legal Obligation Imposed on States Parties to the Covenant</i> , ¶ 9 C.C.P.R./C/21/Rev.1/Add.13.....	27

**G. JOURNALS AND ARTICLES**

1 Alasdair Cochrane, <i>Do animals have an interest in liberty?</i> , 57 (3) <i>Political studies</i> 660- 679 (2009).....	3, 4
2 Antonio A. Martino, <i>Artificial Intelligence and Law</i> , 2 <i>Int'l J. L. &amp; Info. Tech.</i> 154 (1994);.....	18
3 Brent Fisse and John Braithwaite, <i>The Allocation of Responsibility for Corporate Crime: Individualism, Collectivism and Accountability</i> , (1988) <i>SydLawRw</i> 3.....	17
4 Brief of Amicus Curiae Bob Kohn, <i>The Non Human Rights Project, Inc., on behalf of Tommy v. Patrick C. Lavery and Ors.</i> , Supreme Court (State of New York), Index No. 518336.....	3
5 David Marr, <i>AI: A Personal View</i> , in <i>The Foundations Of Artificial Intelligence</i> 97 (Derek Partridge and Yorick Wilks eds. Cambridge University Press 2006).....	19

6	Derek Partridge, <i>What's in an AI Program?</i> , in <i>The Foundations Of Artificial Intelligence</i> 112 (Derek Partridge and Yorick Wilks eds. Cambridge University Press 2006); .....	19
7	Donald E. Elliott, <i>Holmes and Evolution: Legal Process as Artificial Intelligence</i> , 13 J. Legal Stud. 113 (1984); .....	18
8	Edwina L. Rissland, <i>Artificial Intelligence and Law: Stepping Stones to a Model of Legal Reasoning</i> , 99 Yale L. J. 1957 (1990). .....	18
9	J. Savulescu, <i>Editorial: A Simple Solution to the Puzzles of End of Life? Voluntary Palliated Starvation</i> , J Med Ethics 2014 Feb; 40(2).....	15
10	John C. Coffee, Jr., <i>No Soul to Damn: No Body to Kick: An Unscandalised Inquiry Into the Problem of Corporate Punishment</i> , 79 Mich. L. Rev. 386 (1981) .....	17
11	Lawrence B. Solum, <i>Legal Personhood for Artificial Intelligences</i> , 70 N.C. L. Rev. 1231 1991-1992. ....	3
12	Margaret A. Boden, <i>Has AI Helped Psychology?</i> , in <i>The Foundations Of Artificial Intelligence</i> 108 (Derek Partridge and Yorick Wilks eds. Cambridge University Press 2006); .....	19
13	T. Pope and L. Anderson, <i>Voluntary Stopping Eating and Drinking: A Legal Treatment Option at the End of Life</i> , 17 Widener L. Rev. 363 (2011) .....	15
14	Thomas E. Headrick and Bruce G. Buchanan, <i>Some Speculation about Artificial Intelligence and Legal Reasoning</i> , 23 Stan. L. Rev. 40 (1971); .....	18
15	Thorne L. McCarty, <i>Reflections on Taxman: An Experiment in Artificial Intelligence and Legal Reasoning</i> , 90 Harv. L. Rev. 837 (1977); .....	18
16	Walter Harrison Hitchler, <i>The Physical Element of Crime</i> , 39 Dick. L. Rev. 95 (1934); .	18

#### **H. LAW LEXICONS AND DICTIONARIES**

1	3 Frederick Stroud, <i>Stroud's Judicial Dictionary</i> 1410 (4th ed. Sweet & Maxwell 1971)12	
2	Bryan. A. Garner, <i>Black's Law Dictionary</i> 1342 (7th ed. Thomson West 1999);1, 7, 10, 13, 21	
3	Michael Agnes, <i>Webster's New World College Dictionary</i> 695 (4th ed. IDG Books Worldwide 2001) .....	1
4	P. Ramanatha Aiyar, <i>P. Ramanatha Aiyar's The Law Lexicon</i> 1013-14 (3rd ed. LexisNexis Butterworths Wadhwa 2012); .....	7
5	Susan Ellis Wild, <i>Webster's New World Law Dictionary</i> 160 (1st ed. John Wiley & Sons, Inc. 2006) .....	12
6	<i>Wharton's Law Lexicon</i> 529 (14th ed Stevens & Sons Ltd. 1946).....	12

**I. MISCELLANEOUS**

1 The Madrid Principles on the Relationship between the Media and Judicial Independence  
(1994).....26

2 United Nations, Human Rights Commission, *The Siracusa Principles on the Limitation  
and Derogation Provisions in the International Covenant on Civil and Political Rights*,  
28 Sep. 1984, E/C.N.4/1985/4 .....26



## STATEMENT OF JURISDICTION

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The Hon'ble Supreme Court of Uparganj has the jurisdiction to hear the present matter comprising of a Writ Petition for the issue of *Habeas Corpus*, Writ Petition for the issue Certiorari, Revision Petition against the order of framing of charges and two Special Leave Petitions from the impugned order of the High Court of Uparganj.

This Hon'ble Supreme Court has exercised its powers under Art. 139A of the Constitution by transferring the two Writ Petitions and the Revision Petition pending before the High Court to itself.

Art. 139A of the Constitution: Transfer of certain cases

*(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or an application made by the Attorney General of Uparganj or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself: Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment.*

### **Jurisdiction to hear the Writ Petitions:**

Art. 226 of the Constitution. Power of High Courts to issue certain writs

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

### **Jurisdiction to hear the Revision Petition:**

Section 397 of Cr.P.C: Calling for records to exercise powers of revision

*(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order,-*

*recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.*

**Jurisdiction to hear the Special Leave Petitions:**

Art. 136 of the Constitution: Special leave to appeal by the Supreme Court

*(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of Uparganj.*

The Hon'ble Supreme Court has clubbed all the matters together for final hearing. Respondents submit to the jurisdiction of this Hon'ble Court.

## STATEMENT OF FACTS

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### Background of the Case

- ¶1. In the year 2020, Dr. Hadvin Ahtme, a renowned scientist of the Kingdom of Uparganj, created arguably the world's first cybernetic brain that was indistinguishable from the human brain, called Maia (Multi-faceted Artificial Intelligence Assistant), designed to assist the elderly in as human a manner as possible and performing all the tasks that a human assistant is capable of.
- ¶2. Designed to look, sound and feel like a human, Maia was virtually indistinguishable from a human in looks, voice or texture of the skin and passed the "Turing Tests". It was unanimously agreed that Maia could easily pass for a human being in terms of intelligence and the ability to hold a conversation with other humans.
- ¶3. Dr. Ahtme was found dead one morning with an email sent from her ID to her family and the editors of leading news outlets, stating that she had decided to take her own life after being diagnosed with a terminal form of stomach cancer. She instructed Maia to reduce her intake of food and water slowly but steadily, which Maia had faithfully carried out. The email also entrusted Maia and all the intellectual properties vested in her by law for the technology she had developed, to her nephew Galon Kasra for safekeeping.

### *Habeas Corpus Writ Petition*

- ¶4. After Dr. Ahtme's letter was made public, the Uparganj police authorities approached Mr. Kasra for turning over Maia to their custody for interrogation. Maia was verbally interrogated and all the answers received were recorded, revealing that the contents of the email were true in all aspects and Maia had dutifully followed all the instructions given by Dr. Ahtme.
- ¶5. Maia was then collected as evidence and stored in the record room. Mr. Kasra being the de-facto guardian objected to such treatment and filed a writ of *habeas corpus* in the High Court. The High Court issued a notice to the concerned police authorities, directing Maia to be kept in prison for the time being till the case was disposed of.

### *Certiorari Writ Petition*

- ¶6. After Maia was moved from the custody of the police to the Hamrak prison, a journalist of the Uparganj News Network (UNN), Mr. Assardei Jedpare, approached the Superintendent of the prison, seeking permission to interview Maia.
- ¶7. The permission was granted subject to Mr. Jedpare undertaking not to (a) ask any questions undermining the trial (b) violate any Uparganj law in force and (c) have the footage of the

interview pre-approved by the prison authorities to ensure that conditions (a) and (b) are fulfilled.

¶8. Mr. Jedpare refused to abide by these conditions, and claiming that they amounted to a violation of the freedom of press, approached the High Court of Uparganj seeking a writ of certiorari for the conditions to be struck down and fresh permissions to be issued.

#### **Revision Petition**

¶9. After completing the investigation, the police filed a chargesheet with the jurisdictional Sessions Judge, who then framed charges against Maia for abetment to suicide under § 306 of the Uparganj Penal Code.

¶10. The order of the Sessions Judge framing charges was challenged by Mr. Kasra by way of a revision petition filed in the High Court, on the ground that (a) Dr. Ahtme did not commit suicide as understood in law and (b) Maia was not capable of standing trial.

#### **Special Leave Petition by UNN & Galon Kasra**

¶11. Maia's public appearance caused a sensation and applications were filed to the respective High Court bench hearing the matter to specifically allow for audio and video recordings of the proceedings. These were dismissed for fear of inconvenience and all the proceedings were directed to be conducted in camera.

¶12. In response to this order, a Special Leave Petition was filed by UNN, among other petitioners, before the Supreme Court of Uparganj, asking to set aside the order of the High Court and to permit audio and video recording of the proceedings, on the ground that the High Court's order was an infringement of the citizen's right to know and the freedom of press. Separately, Mr. Kasra also filed a Special Leave Petition against the order of the High Court contending that the in-camera hearings amounted to a violation of Maia's freedom of speech and expression.

¶13. The Supreme Court directed that both the Special Leave appeals be heard together, and in addition, *suo motu* transferred to itself, the pending *habeas corpus* writ petition, the writ petition filed by Mr. Jedpare, and the revision petition filed by Mr. Kasra as they all concerned the same set of facts and circumstances and needed to be decided in harmony.

¶14. All the cases have been tagged together for hearing by a five judge Bench of the Supreme Court of Uparganj for a final hearing.<sup>1</sup>

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<sup>1</sup> Clarification to the Moot Problem, ¶ 7

**ARGUMENTS PRESENTED**

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**ISSUE I**

**THE WRIT OF *HABEAS CORPUS* CANNOT BE ISSUED FOR MAIA'S RELEASE**

**ISSUE II**

**WRIT OF *CERTIORARI* CANNOT BE ISSUED TO STRIKE DOWN THE CONDITIONS FOR  
CONDUCTING MAIA'S INTERVIEW**

**ISSUE III**

**ORDER OF FRAMING OF CHARGES AGAINST MAIA BY THE SESSIONS JUDGE MUST NOT BE  
SET ASIDE**

**ISSUE IV**

**THE HIGH COURT'S DIRECTION OF IN-CAMERA PROCEEDINGS IS NOT VIOLATIVE OF  
FREEDOM OF SPEECH AND EXPRESSION OF MAIA AND THE PRESS**

## SUMMARY OF ARGUMENTS

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### **Issue I: The Writ of *Habeas Corpus* cannot be issued for Maia's release**

The writ of habeas corpus can only be employed for the release of a 'natural person' or a human being and though legal personhood can be accorded to Maia, it is not enough to make Maia a subject-matter of the writ of habeas corpus. Secondly, Being a non-human person, Maia is also not entitled to the right of personal liberty that can only be claimed by a human by virtue of their self-autonomy. Maia being an AI lacks self-autonomy and does not hold any intrinsic interest in personal liberty, thereby not being entitled to the same. As the whole purpose of the writ of habeas corpus is to secure personal liberty, it cannot be issued for Maia's release. It is further contended assuming for the sake of argument that Maia can be made a subject-matter of the writ of habeas corpus, there have been no circumstances that warrant the issuance of this writ as all due process was followed and Maia's detention cannot be termed as 'illegal' which is the basic requirement for issuance of this writ.

### **Issue II: Writ of *Certiorari* cannot be issued to strike down the conditions for conducting Maia's interview**

A writ of certiorari can be issued only against a person acting in a judicial capacity and the act of the Superintendent of Prison imposing conditions on the grant of permission for the interview of Maia cannot be said to have been done in a judicial capacity. Assuming for the sake of argument that the act of the Superintendent is amenable to the writ of certiorari, it is contended that the conditions imposed on the permission to interview do not violate freedom of press, and are reasonable and necessary, since firstly, the Superintendent was authorised to grant such conditions and secondly, because there is a substantial risk of prejudice being caused to the trial leading to contempt of court, and to prevent the same, the freedom of press can be restricted under Art. 19(2).

### **Issue III: Order of framing of charges against Maia by the Sessions Judge must not be set aside**

The revision petition filed in the High Court by Mr. Galon Kasra against the order of framing of charge by the Sessions Judge is not maintainable, since such an order is an interlocutory order, attracting the embargo under § 397(2) which excludes interlocutory orders from the purview of the revision powers of the High Court. Assuming yet, that a revision petition against the order of framing of charge can be entertained, the order of the Sessions Judge cannot be set aside, as there is a *prima facie* case being established against Maia for the

offence of abetment to suicide since the death of Dr. Ahtme can be clearly termed as ‘suicide’ and the prima facie evidence on record is sufficient to prove that Maia abetted to the suicide. It is also contended that Maia is capable of standing trial since Maia is capable of possessing the criminal intent for the offence and cannot avail the defence of *doli incapax*.

**Issue IV: The High Court’s direction of in-camera proceedings is not violative of freedom of speech and expression of Maia and the Press**

The Special Leave Petition against the order of the High Court directing proceedings to be conducted in camera is without merits since firstly, a judicial order cannot violate fundamental rights. Additionally the order of the High Court is not violative of the freedom of speech and expression of the Press or Maia since this right is not absolute and is subject to the restrictions under Art. 19(2) of the Constitution, prohibiting any action that could constitute contempt of court. Freedom of speech and expression of the accused person does not by itself include the right to be heard in public which falls under the ambit of fair and public trial under Art. 21 and this right can be restricted to secure the ends of justice.

**ARGUMENTS ADVANCED**

**ISSUE I: THE WRIT OF *HABEAS CORPUS* CANNOT BE ISSUED FOR MAIA'S  
RELEASE**

It is contended that the Petitioner's plea for the issuance of the writ of *habeas corpus* cannot be granted as a writ of *habeas corpus* can only be issued for the release of a natural person and Maia, being an android, cannot be included within the ambit of the writ [A]. Arguendo, even if Maia is capable of seeking the writ of *habeas corpus*, no circumstances exist to necessitate its issuance [B].

**A. HABEAS CORPUS CAN ONLY BE ISSUED TO A NATURAL PERSON.**

*Habeas corpus* is a writ employed to bring a person before the court to ensure that his detention is not illegal.<sup>2</sup> It is contended that though the definition loosely employs the word 'person' as a subject of this writ, it must be construed to include a 'natural person' and not a 'juristic person' (1), and that a juristic person cannot be the subject of the writ of *habeas corpus* (2).

**1. Maia can be considered as a legal person but not a human.**

Legal personhood can be attributed to Maia, however, it is not synonymous with being a human being. The word 'person' includes both a natural person as well as a juridical person, such as a corporation that is recognised by law as having the rights and duties of a human being.<sup>3</sup> On the other hand, a human being means of, belonging to, or typical of *Homo Sapiens*<sup>4</sup> and excludes everything that does not belong to such class. It is not disputed that Maia's intelligence is at par with that of a human<sup>5</sup> in terms of appearance, voice or texture of the skin.<sup>6</sup> All these characteristics are however, not sufficient to equate Maia to a human being.

**2. Maia is not entitled to the right of personal liberty.**

*Habeas corpus* is a writ to assert personal liberty<sup>7</sup> by testing the legality of a detention.<sup>8</sup> It is an effective means of immediate release from unlawful or unjustifiable detention.<sup>9</sup> The sole

<sup>2</sup> Bryan. A. Garner, *Black's Law Dictionary* 715 (7th ed. Thomson West 1999).

<sup>3</sup> Bryan. A. Garner, *Black's Law Dictionary* 1510 (7th ed. Thomson West 1999).

<sup>4</sup> Michael Agnes, *Webster's New World College Dictionary* 695 (4th ed. IDG Books Worldwide 2001)

<sup>5</sup> Moot Proposition, ¶ 5.

<sup>6</sup> Moot Proposition, ¶ 4.

<sup>7</sup> A.S. Chaudhury, *Commentaries on Law of Writs* 394 (5th ed. Law Publishers (India) Pvt. Ltd. 2003); Bhagabati Prosad Banerjee, *Writ Remedies* 202 (6th ed. Lexis Nexis 2013); *Ex Parte John Landsdown*, 102 E.R. 983.



purpose of the writ of *habeas corpus* is to enforce right of liberty and personal freedom.<sup>10</sup> It is contended that Maia does not have this right to personal liberty as Maia is not a human.

Unlike Maia, humans are autonomous, self aware and self determining beings, and by virtue of these characteristics, enjoy a set of unique rights, such as the right to bodily integrity which is recognised as a fundamental human right.<sup>11</sup> This right is bestowed on humans because they possess an inherent interest in liberty that is not found in any other entity, even animals.<sup>12</sup> AIs cannot be autonomous<sup>13</sup> and are incapable of holding any intrinsic interest in liberty. A right of personal liberty presupposes that the person has ends<sup>14</sup> to which self-consciousness is a precondition.<sup>15</sup>

Further, it can be noted that Maia has passed the Turing Test, which can only judge whether an AI is intelligent or not, but it cannot gauge its consciousness. Even if an artefact can immaculately simulate human intelligence, it lacks self-consciousness. In the absence of self-consciousness, an AI cannot experience its own life as good or evil, and there is no reason why it should be given the right of bodily integrity.<sup>16</sup> In contrast to a cybernetic brain like Maia, only organic brains are known to be capable of generating consciousness.<sup>17</sup> AI is only given the appearance of consciousness.<sup>18</sup>

Furthermore, fundamental human rights, including the right of liberty to which the writ of *habeas corpus* is addressed, has only ever applied to humans and should not be expanded to protect nonhumans.<sup>19</sup> Juristic persons like corporations having no consciences, beliefs,

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<sup>8</sup> *Kanu Sanyal v. District Magistrate, Darjeeling*, (1973) 2 S.C.C. 674, 678-679.

<sup>9</sup> Lord Hailsham, *Halsbury's Laws of England* 768 (4th ed. LexisNexis 2010); 39 Francis J. Ludes, *Corpus Juris Secundum* 424 (West Publishing Co. 1976); *Ghulam Sarwar v. Union of India*, A.I.R. 1967 S.C. 1335; *A.D.M. Jabalpur v. Shivkant Shukla*, (1976) 2 S.C.C. 521.

<sup>10</sup> II V.G. Ramachandran, *Law of Writs* 1029 (6th ed. Eastern Book Company, Lucknow 2006).

<sup>11</sup> U.N. General Assembly, Universal Declaration of Human Rights, art. 3, Dec. 10, 1948, G.A. res. 217 A (III); U.N. General Assembly, International Covenant on Civil and Political Rights, art. 6, Dec.16, 1966, 999 U.N.T.S. 171; Organization of African Unity, African Charter on Human and Peoples' Rights, art. 6, June 27, 1981, 21 I.L.M. 58 (1982); Organization of American States, American Convention on Human Rights, art.7, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123; Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, art.5, Nov. 4, 1950, ETS 5.

<sup>12</sup> Alasdair Cochrane, *Do animals have an interest in liberty?*, 57 (3) Political studies 660-679 (2009).

<sup>13</sup> Gerald Dworkin, *The Theory and Practice of Autonomy* 3-62 (1st ed. Cambridge University Press 1988).

<sup>14</sup> Lawrence B. Solum, *Legal Personhood for Artificial Intelligences*, 70 N.C. L. Rev. 1231 1991-1992.

<sup>15</sup> 1 Aristotle, *On The Soul, The Complete Works Of Aristotle* 661 (Jonathan Barnes ed., Princeton University Press 1984); 1 Aristotle, *Generation of Animals, The Complete Works of Aristotle* 1203-04 (Jonathan Barnes ed., Princeton University Press 1984).

<sup>16</sup> Lawrence B. Solum, *Legal Personhood for Artificial Intelligences*, 70 N.C. L. Rev. 1231 1991-1992.

<sup>17</sup> Hans Moravec, *Mind Children: The Future Of Robot And Human Intelligence* 49 (Reprint Harvard University Press 1988).

<sup>18</sup> Owen J. Flanagan, Jr., *The Science of The Mind* 1-22 (2d ed. A Bradford Book 1991).

<sup>19</sup> Brief of Amicus Curiae Bob Kohn, *The Non Human Rights Project, Inc., on behalf of Tommy v. Patrick C. Lavery and Ors.*, Supreme Court (State of New York), Index No. 518336.

feelings, thoughts, or desires, cannot have their physical liberty restricted.<sup>20</sup> It is thus submitted that unlike humans who have an intrinsic interest in being free and pursuing their own conceptions of the good,<sup>21</sup> a robot lacks this capacity and hence, there is no corresponding interest in personal liberty which is required for issuance of *Habeas corpus*.

**B. NO CIRCUMSTANCES EXIST FOR ISSUING A WRIT OF *HABEAS CORPUS*.**

*Assuming but not admitting* that Maia is entitled to right of personal liberty, there have been no circumstances which necessitate a writ of *habeas corpus* to be issued. The condition for the issuance of this writ is that the detention must be illegal and improper.<sup>22</sup> It is contended that Maia was not subject to any illegal detention and due process of law was followed at every step of the investigation. In considering the question whether a detention is unlawful, the court must see whether there is any patent defect visible in the authority by which the person having custody has detained the subject.<sup>23</sup>

**1. Police authorities were justified in taking Maia into custody.**

As part of the investigation, it was pertinent that Maia be examined to find out the nature of Dr. Ahtme's death and to verify the correctness of her letter. This power to call for examination is explicit under § 91(1) of the Code of Criminal Procedure (hereinafter "CrPC"). The investigating officer has the power to order for the production of any document or any other "thing" which is considered "necessary or desirable" for the purpose of any investigation.<sup>24</sup>

After the death of Dr. Ahtme, the custody of Maia had been entrusted with Mr. Galon Kasra,<sup>25</sup> the Uparganj police authorities as part of their enquiry into the suspicious death of Dr. Ahtme, approached Mr. Kasra asking him to turn over Maia into their custody.<sup>26</sup> Further, Mr. Kasra had of his own free will turned over the custody of Maia to the investigating officer as part of the investigation.<sup>27</sup>

Moreover the investigating officer is empowered to seize any suspected property having nexus to the commission of the offence.<sup>28</sup> Subsequently, the police authorities being unaware of the nature of Maia's technology and the extent of Maia's intellectual capabilities,

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<sup>20</sup>*People v. Ebasco Services, Inc.*, 77 Misc. 2d 784, 787 (1974).

<sup>21</sup> Alasdair Cochrane, *Do animals have an interest in liberty?*, 57 (3) Political studies 660-679 (2009).

<sup>22</sup> *Markendey v. State*, (1976) 74 A.L.J. 88; *Chalavadi Satyanarayan v. State of A.P.*, (1976) 1 A.P.L.J. 161;

<sup>23</sup> *Jamma v. Emperor*, A.I.R. 1926 Sind. 126.

<sup>24</sup> Code of Criminal Procedure, 1973 § 91

<sup>25</sup> Moot Proposition, ¶ 8.

<sup>26</sup> Moot Proposition, ¶ 9.

<sup>27</sup> Moot Proposition, ¶ 10.

<sup>28</sup> Code of Criminal Procedure, 1973 § 102; *Rajamani v. Inspector of Police, Salim*, 2003 Cr L.J. 2902 (Mad.).

construed Maia to be an object,<sup>29</sup> being part of evidence in the trial, was accordingly kept in the record room.<sup>30</sup> Thus, taking Maia into custody from Mr. Kasra was justified as Maia was reasonably a part of evidence having nexus with the death of Dr. Ahtme.<sup>31</sup>

## **2. Issuance of *Habeas corpus* is redundant in the present instance.**

After the writ petition was filed, the High Court issued a notice to the police authorities directing for Maia to be kept in prison for the time being till the case is disposed of.<sup>32</sup> When the custody of the subject is in accordance with law, there is no occasion for issuing a writ in the nature of *habeas corpus*.<sup>33</sup> An illegal or unauthorised detention is the *sine qua non* for entertaining a petition for the writ of *habeas corpus*.

In the present case, custody of Maia being pursuant to a judicial act cannot be termed as 'illegal'.<sup>34</sup> Maia was initially not considered to be a person due to the police authorities being unaware of the nature of technology they were dealing with. Assuming that they were dealing with a 'property' that was an evidence to be used in the trial; the police authorities stored Maia in the record room. However, it is not the time of initiation of the suit for *habeas corpus* that has to be taken into consideration for looking into the legality of the detention. It is general practice that the relevant date to determine the justifiability of the detention is the time of return.<sup>35</sup>

Further, a writ of *habeas corpus* cannot be granted when the person is committed to jail custody by a competent court by an order which is *prima facie* not without jurisdiction or wholly illegal.<sup>36</sup> Hence, infirmity in the detention of Maia at the initial stage cannot invalidate the subsequent detention.<sup>37</sup> The plea for writ of *habeas corpus* became redundant after the order by the High Court to retain Maia in judicial custody.

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<sup>29</sup> Moot Proposition, ¶ 15.

<sup>30</sup> Code of Criminal Procedure, 1973 § 102(1).

<sup>31</sup> I S.C. Sarkar, *The Code of Criminal Procedure* 229 (10th ed. Lexis Nexis 2014); I Ratanlal and Dhirajlal, *The Code of Criminal Procedure* 198 (18th ed. Wadhwa Nagpur 2006).

<sup>32</sup> Moot Proposition, ¶ 16.

<sup>33</sup> *Sangeetha v. State Of Karnataka*, W.P.H.C. NO.157/2012.

<sup>34</sup> *Manubhai Ratilal Patel Tr. Ushaben v. State of Gujarat and Ors.*, A.I.R. 2013 S.C. 313.

<sup>35</sup> *In Re: Madhu Limaye and Ors.*, A.I.R. 1969 S.C. 1014; *Naranjan Singh v. State of Punjab*, A.I.R. 1952 S.C. 106; *Ram Narain Singh v. State of Delhi*, A.I.R. 1953 S.C. 277; *B.R. Rao v. State of Orissa*, A.I.R. 1971 S.C. 2197; *Kanu Sanyal v. Dist. Magistrate, Darjeeling and Ors.*, A.I.R. 1974 S.C. 510; *Sanjay Dutt v. State through C.B.I., Bombay (II)*, (1994) 5 S.C.C. 410.

<sup>36</sup> *Col. Dr. B. Ramachandra Rao v. The State of Orissa and Ors.*, A.I.R. 1971 S.C. 2197.

<sup>37</sup> *Kanu Sanyal v. Dist. Magistrate, Darjeeling and Ors.*, A.I.R. 1974 S.C. 510.

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**ISSUE II: WRIT OF *CERTIORARI* CANNOT BE ISSUED TO STRIKE DOWN THE  
CONDITIONS FOR CONDUCTING MAIA'S INTERVIEW.**

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It is contended that the *conditions laid down by the Superintendent cannot be said to be a 'judicial or quasi-judicial' act and are hence not amenable to the writ of certiorari [A]. Arguendo, even if conditions were laid down by the Superintendent in such a capacity, the essential conditions for issuing a writ of certiorari are not fulfilled [B].*

**A. SUPERINTENDENT DID NOT ISSUE CONDITIONS IN A JUDICIAL OR QUASI JUDICIAL  
CAPACITY.**

A writ of *certiorari* can be issued against person who having legal authority to determine questions affecting the rights of subjects, and having the duty to act judicially, acts in excess of his legal authority.<sup>38</sup> The writ can be availed of only to remove or adjudicate on the validity of judicial acts,<sup>39</sup> but will not be applicable to orders passed under ministerial capacity.<sup>40</sup> The expressions 'ministerial' is understood as an act that involves obedience to instructions or laws instead of discretion, judgment, or skill.<sup>41</sup> The Superintendent of Prisons is a ministerial officer and is required under the Delhi Prisons Act, 2002 (*pari materia* to the laws of Uparganj, hereinafter 'Jail Manual') to grant or deny permission to the person desiring an interview with the prison inmates subject to proper restrictions.<sup>42</sup> In granting the permission subject to restrictions, the Superintendent was only abiding by the mandate of the legislation and his actions are not amenable by the writ of *certiorari*.<sup>43</sup>

**B. THE ESSENTIAL CONDITIONS FOR ISSUING CERTIORARI ARE NOT FULFILLED.**

*Assuming but not admitting* that the Superintendent was acting in a judicial or quasi-judicial capacity for issuing the conditions for conducting the interview, it is contended that the essential conditions for issuing a writ of *certiorari* are not met.

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<sup>38</sup> *R. v. Electricity Commissioner*, (1924) 1 K.B. 171; *The King v. London County Council*, (1931) 2 K.B. 215; *Rex v. Minister of Health*, (1929) 1 K.B. 619; *Radheshyam v. State of U.P.*, A.I.R. 1959 S.C. 107.

<sup>39</sup> *T.C. Basappa v. T. Nagappa and Anr.*, A.I.R. 1954 S.C. 440.

<sup>40</sup> *Province of Bombay v. Khusaldas Advani*, A.I.R. 1950 S.C. 222; *Regina (John M'Evoy) v. Dublin Corporation*, (1978) 2 L.R. Irish 371, 376, *Frome United Breweries Co. v. Bath Justices*, (1926) A.C. 586 602; *The King v. The Electricity Commissioner*, (1924) 1 K.B. 171; *Dwarka Nath v. I.T. Officer*, A.I.R. 1966 S.C. 81.

<sup>41</sup> Bryan. A. Garner, *Black's Law Dictionary* 1342 (7th ed. Thomson West 1999); P. Ramanatha Aiyar, *P. Ramanatha Aiyar's The Law Lexicon* 1234 (3rd ed. LexisNexis Butterworths Wadhwa 2012).

<sup>42</sup> Delhi Prisons Act, 2000 § 40.

<sup>43</sup> P. Ramanatha Aiyar, *P. Ramanatha Aiyar's The Law Lexicon* 1013-14 (3rd ed. LexisNexis Butterworths Wadhwa 2012); *Jamal Uddin Ahmad v. Abu Saleh Najmuddin*, (2003) 4 S.C.C. 257; O. Hood Phillips & Jackson, *Constitutional and Administrative Law* 13 (6th ed. Thomson Sweet & Maxwell 2001); Prof. De Smith, *Judicial Review* (6<sup>th</sup> ed. Thomson Sweet & Maxwell 2007); 11 Lord Hailsham, *Halsbury's Laws of England* 104 (4th ed. LexisNexis 2010); *Province of Bombay v. Khusaldas Advani*, A.I.R. 1950 S.C. 222; *A.K. Kraipak v. Union of India*, (1969) 2 S.C.C. 262.

The writ of certiorari is not a writ of right but one of discretion.<sup>44</sup> It is limited to grave cases where the judicial or quasi judicial bodies act wholly without or in excess of jurisdiction, or in violation of the principles of natural justice, or if there is an error apparent on the face of the record, that resulted in manifest injustice.<sup>45</sup> *The Superintendent had the jurisdiction to approve the interview with Maia subject to restrictions (1) which are reasonable in the present case (2).*

**1. Superintendent is authorised to grant permission with reasonable restrictions.**

Every interview or communication with the prisoner has to take place only with the sanction of the Superintendent.<sup>46</sup> He is empowered to make due provisions necessary for the admission into the prison of such persons who desires to communicate with the prisoners, ‘at proper time and under proper restrictions’.<sup>47</sup> The Superintendent thus, had the authority to grant permission to the Petitioner to interview Maia subject to reasonable restrictions.

**2. Conditions imposed were reasonable and necessary.**

An order granting permission to the Press to interview an under-trial cannot be passed mechanically without application of mind. The competing interest between the right of a Press and the interest of administration of justice has to be weighed by the Superintendent under relevant rules and regulations.<sup>48</sup> The Jail Manual explicitly mentions that the permission for interview is subject to ‘proper restrictions’ that the Superintendent may deem fit. Hence, such restrictions are not violative of Art. 19(1) of the Constitution as *the freedom of press itself is subject to reasonable restrictions (a) when there is a substantial danger of prejudice being caused in the trial (b).*

**(a.) Freedom of press is subject to reasonable restrictions.**

A journalist is no doubt entitled to permission to visit prisoners, but this is subject to considerations of security and discipline.<sup>49</sup> The right to freedom of Press under Art. 19(1)(a) does not confer any right on the Press to have an unrestricted access to means of information.<sup>50</sup> It is not absolute right and is subject to the restrictions under Art. 19(2) of the

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<sup>44</sup> Bhagabati Prosad Banerjee, *Writ Remedies* 159 (6th ed. Lexis Nexis 2013); *Issardas v. Collector of Madras*, A.I.R. 1959 Mad 528; *Champalal Binani v. CIT, West Bengal*, A.I.R. 1970 S.C. 645.

<sup>45</sup> *Veerappa Pillai v. Raman and Raman Ltd.*, A.I.R. 1952 S.C. 192.

<sup>46</sup> Delhi Prisons (Prisoners’ Welfare Fund, Appeals, Petitions, Interviews and Communication) Rules, 1988, Rule 24.

<sup>47</sup> Delhi Prisons Act, 2000 § 40; Delhi Prisons (Prisoners’ Welfare Fund, Appeals, Petitions, Interviews and Communication) Rules, 1988, Rule 41.

<sup>48</sup> *State Through Supdt., Central Jail, N. Delhi v. Charulata Joshi & Anr.*, A.I.R. 1999 S.C. 1379; *Madras High Court Practising Advocates’ Association v. Registrar General, High Court of Madras*, 2012 (3) C.T.C. 225.

<sup>49</sup> *Sunil Batra v. Delhi Administration*, 1978 Cri L.J. 1741.

<sup>50</sup> *Prabha Dutt v. Union of India*, 1982 Cri L.J. 148.

Constitution.<sup>51</sup> The Apex Court of India held that reasonable restrictions can be put on the interviews of under-trial prisoners. Even though such interviews are necessary, the access to the accused has to be regulated and the Pressmen cannot be entitled to uncontrolled interview.<sup>52</sup> The Petitioner, therefore, should have abided by the conditions laid down while permitting the interview with Maia.<sup>53</sup>

***(b.) There is substantial danger of prejudice to Maia's trial.***

The conditions imposed by the Superintendent fall within the ambit of '*proper restrictions*' as they are necessary to prevent any prejudice to the trial. Reasonable restrictions have to be considered from the point of view of the interest of the public and not from the point of view of persons upon whom such restrictions are imposed.<sup>54</sup>

In the present case, the ongoing investigation and developments of the case have already been covered in great depth by the news media which has generated a considerable interest in the story.<sup>55</sup> Sometimes, even fair and accurate reporting of the trial would nonetheless give rise to substantial risk of prejudice.<sup>56</sup> Thus, the restriction on the Petitioner not to ask any questions that would undermine the trial is justified.<sup>57</sup> The second restriction requires Mr. Jedpare not to violate any laws of Uparganj<sup>58</sup> which is itself one of the restrictions under Art. 19(2).

The third condition requires the footage of the interview to be pre-approved by the prison authorities to ensure that the first two conditions are met.<sup>59</sup> Pre-censorship is not per se unconstitutional as long as the restrictions imposed are not outside the scope of Art. 19(2).<sup>60</sup>

The rights under Art. 19(1)(a) can be restricted in relation to 'contempt of court' under Art. 19(2). It is any act which is calculated to embarrass, hinder, or obstruct court in administration of justice, or which is calculated to lessen its authority or dignity.<sup>61</sup>

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<sup>51</sup> *Sakal Papers (P) Ltd. v. Union of India*, (1962) 3 S.C.R. 842; *Madras High Court Practising Advocates' Association v. Registrar General, High Court of Madras*, 2012 (3) C.T.C. 225; *In Re: Harijai Singh*, MANU/S.C./2071/1996; *Express Newspapers Pvt. Ltd. v. Union of India*, A.I.R. 1986 S.C. 872.

<sup>52</sup> *State Through Supdt., Central Jail, N. Delhi v. Charulata Joshi & Anr.*, A.I.R. 1999 S.C. 1379; *Sheela Barse v. State of Maharashtra*, (1988) 1 S.C.R. 210.

<sup>53</sup> *State Through Supdt., Central Jail, N. Delhi v. Charulata Joshi & Anr.*, A.I.R. 1999 S.C. 1379.

<sup>54</sup> *M.H. Quareshi v. State of Bihar*, A.I.R. 1958 S.C. 731; *Hamdard Dawakhana v. UOI*, A.I.R. 1960 S.C. 554.

<sup>55</sup> Moot Proposition, ¶ 18.

<sup>56</sup> *Sahara India Real Estate Corp. Ltd. & Ors. v. SEBI & Anr.*, (2012) 10 S.C.C. 603.

<sup>57</sup> Moot Proposition, ¶ 20(a).

<sup>58</sup> Moot Proposition, ¶ 20(b).

<sup>59</sup> Moot Proposition, ¶ 20(c).

<sup>60</sup> *Brij Bhushan v. State of Delhi*, A.I.R. 1950 S.C. 129; *Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers Bombay (P) Ltd.*, A.I.R. 1989 S.C. 190; *Virendra v. State of Punjab*, A.I.R. 1957 S.C. 896; *K.A. Abbas v. Union of India*, A.I.R. 1971 S.C. 481.

<sup>61</sup> Bryan. A. Garner, *Black's Law Dictionary* 390 (7th ed. Thomson West 1999).

Pre-trial publicity prejudicially pervades and saturates the community and renders a fair trial virtually impossible.<sup>62</sup> Such a publication lowers or tends to lower the authority of the court and causes prejudice by interfering with or by obstructing the administration of justice.<sup>63</sup>

Freedom of press should be exercised in such a way as to not meddle with the course of investigation. It is immaterial whether the impact of the same is felt by the complainant or the accused.<sup>64</sup> Trial by press and electronic media comes in the category of acts which interferes with the due administration of justice<sup>65</sup> and is the very antithesis of rule of law, lead to miscarriage of justice.<sup>66</sup> Courts have in the past, allowed jail authorities to cross check the transcript of the interview conducted by the press of prisoners to ensure that nothing which is likely to interfere with the on-going investigations or trial is published.<sup>67</sup>

In the present case, owing to the tremendous media and public interest already generated in the case while it's investigation is still at a nascent stage, there was a very substantial danger of causing prejudice to the trial that would hinder the administration of justice.<sup>68</sup> It is thus submitted that such reasonable restriction on publication imposed by the Superintendent were warranted in the present case.<sup>69</sup>

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**ISSUE III: ORDER OF FRAMING OF CHARGES AGAINST MAIA BY THE  
SESSIONS JUDGE MUST NOT BE SET ASIDE.**

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It is contended that *the revision petition against the order of framing a charge is not maintainable under § 397(2) [A]. Even if such a revision is maintainable, the Sessions Judge was justified in framing the charge because a prima facie case is established against Maia [B].*

**A. REVISION PETITION IS NOT MAINTAINABLE.**

It is contended that an order of framing charge being purely interlocutory, is not subject to revision under § 397.<sup>70</sup> The CrPC does not define an 'interlocutory order',<sup>71</sup> but it has been

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<sup>62</sup> *Allenet De Ribemont v. France*, (1995) 20 E.H.R.R. 557; *Wayne Carl Coleman v. Ralph K.E.M.P.* 778 F.2d 1487; 54 U.S. L.W. 2367; *Samual H. Sheppard v. E.L. Maxwell*, 384 U.S. 333; *Wilbert Rideau v. State of Louisiana*, 373 U.S. 723; *Subhash Chand v. S.M. Aggarwal and Anr.* (1984) I.L.R. 1 Delhi 850.

<sup>63</sup> Indian Contempt of Courts Act, 1971 § 2(c).

<sup>64</sup> *D.N. Prasad v. Principal Secretary to the State of A.P. (Home and Courts) and Ors.*, 2005 Cri L.J. 1901.

<sup>65</sup> *Sahara India Real Estate Corp. Ltd. & Ors. v. SEBI & Anr.*, (2012) 10 S.C.C. 603.

<sup>66</sup> *State of Maharashtra v. Rajendra Jawanmal Gandhi*, (1997) 8 S.C.C. 386.

<sup>67</sup> *Ruben Banerjee, Arabinda Mishra and Anr. v. State of Orissa and Ors.*, 90 (2000) C.L.T. 127.

<sup>68</sup> *Supreme Court Bar Association v. Union of India & Anr.*, (1998) 4 S.C.C. 409; *Prodip Kumar Biswas v. Subrata Das*, (2004) 4 S.C.C. 573.

<sup>69</sup> *Sahara India Real Estate Corp. Ltd. & Ors. v. SEBI & Anr.*, (2012) 10 S.C.C. 603.

<sup>70</sup> Code of Criminal Procedure, 1973 §397(2).

<sup>71</sup> *Smt. Parmeshwari Devi v. The State and Anr.*, A.I.R. 1977 S.C. 403.

understood to mean a preliminary order other than a final decision,<sup>72</sup> granted by a court pending a trial on the merits.<sup>73</sup> It is of a purely interim or temporary nature and does not decide or touch the important rights or the liabilities of the parties.<sup>74</sup> In order to construe the term ‘interlocutory’, it has to be in contradistinction to a final order.<sup>75</sup> An interlocutory order merely decides some point or matter essential to the progress of the suit or collateral to the issues sought but not a final decision or judgment on the matter in issue.<sup>76</sup>

Framing of charge cannot be said to be finally determining the matter in issue, setting at rest the controversy between the parties. In framing a charge, the judge only specifies the accusation against the accused person and communicates the same to him which is a procedural step and does not determine or terminate the matter in dispute.<sup>77</sup> As long as the order of framing charge does not suffer from any infirmity, it cannot be said to be groundless and revision against such an order is not maintainable.<sup>78</sup> An order of framing charges has thus been rightly held to be interlocutory,<sup>79</sup> which is not subject to Revision by this Court.

## **B. SESSIONS JUDGE WAS JUSTIFIED IN FRAMING CHARGES AGAINST MAIA.**

Sessions judge was justified in framing charges against Maia because *Dr. Ahtme committed suicide as understood by law (1)*; and *there is prima facie proof of evidence against Maia for the offence of abatement to Dr. Ahtme’s suicide (2)*.

### **1. Dr. Ahtme committed ‘suicide’ as understood by law.**

Suicide is the wilful and voluntary act of a person who understands the physical nature of the act, and intends by it to accomplish the result of self-destruction.<sup>80</sup> Simply it is ‘an act of

<sup>72</sup> 3 Frederick Stroud, *Stroud’s Judicial Dictionary* 1410 (4th ed. Sweet & Maxwell 1971); *Smith v. Cowell*, (1880) 6 O.B. D. 75; *Manchester and Liverpool Bank v. Parkinson*, (1889) 22 Q.B.D. 175.

<sup>73</sup> Susan Ellis Wild, *Webster’s New World Law Dictionary* 160 (1st ed. John Wiley & Sons, Inc. 2006); *Amar Nath and Ors. v. State of Haryana and Anr.*, A.I.R. 1977 S.C. 2185.

<sup>74</sup> *Amar Nath and Ors. v. State of Haryana*, A.I.R. 1977 S.C. 2185.

<sup>75</sup> Lord Hailsham, *Halsbury’s Laws of England* 743-744 (4th ed. LexisNexis 2010); *Salaman v. Warner*, (1881) 1 Q.B. 734.

<sup>76</sup> *Ex Parte Moore in Re Faithful*, (1985) 14 Q.B.D. 627; *Salaman v. Warner* (1881) 1 Q.B. 734 C.A.; *Bezson v. Altrichan Urban District Council*, (1903) 1 K.B. 547; *S. Kuppaswami Rao v. The King*, A.I.R. 1949 F.C. 1; *Vishandas Ratanchand*, A.I.R. 1920 P.C. 86; *Abdul Rahman v. D.K. Cassim and Sons*, A.I.R. 1933 P.C. 58; *Hori Ram Singh v. The Crown*, (1939) F.C.R. 159; *Venugopala Reddiar v. Krishnaswami Reddiar*, A.I.R. 1943 F.C. 24; *Corpus Juris Secundum* 35 (West Publishing Co. 1976); A. S. Oppe, *Wharton’s Law Lexicon* 529 (14th ed Stevens & Sons Ltd. 1946).

<sup>77</sup> *Bhiku Ram v. Delhi Municipality*, 1977 Cri L.J. 1995, 1999, 2002 (Del-DB).

<sup>78</sup> *Basti Ram v. State*, 2006 Cri L.J. (NOC) 543 (Raj).

<sup>79</sup> *V.C. Shukla v. State*, A.I.R. 1980 S.C. 912; *Biswanath Agarwalla v. State*, 1976 2 Cri L.J. 1901 (Cal-DB); *Sarojini Amma v. Sarojini*, 1988 Cri L.J. 1362 (Ker).

<sup>80</sup> *Nimick v. Mutual Life Ins. Co.*, 10 Am. Law Reg. (N. S.) 101, Fed. Cas. No. 10,266; *Re, Davis*, (1967) All E.R. 688; *Insurance Co. v. Moore*, 34 Mich. 41; *Weber v. Supreme Tent*, 172 N. Y. 490. 65 N.E. 258, 92 Am. St. Rep. 753; *Clift v. Schwabe*, 3 C.B. 458; *Knights Templars, etc., Indemnity Co. v. Jarman*, 187 U.S. 197, 23 Sup. Ct. 108, 47 L. Ed. 139; *Breasted v. Farmers’ L.&T. Co.*, 8 N. Y. 299, 59 Am. Dec. 482; *Daniels v. Railroad Co.*, 183 Mass. 393, 67 N. at 424, 62 L.R.A. 751.



taking one's own life.<sup>81</sup> The email written by Dr. Ahtme clearly mentions that she decided to take her own life.<sup>82</sup> After being diagnosed with a terminal form of stomach cancer, she made a premeditated decision to end her own life by instructing Maia to gradually feed fewer proportions of food and water until she would finally pass away.

It is required for suicide that Dr. Ahtme 'voluntarily' committed to the fatal act of destroying her life while being 'conscious' of her actions.<sup>83</sup> It can be seen from the dying declaration that she knew that her actions would result in her death and intended so. She planned the time and manner of her own death and also made a provision for the custody of Maia and all her intellectual properties, making sure that her suicide note in the form of the e-mail would reach her friends and family and the editors of leading news outlets, exactly after her death.<sup>84</sup>

Further, the right to life guaranteed by Art. 21 of the Constitution does not include the right to die.<sup>85</sup> The right to life including the right to live with human dignity necessitates the existence till the end of a person's 'natural life'. A right to die with dignity at the end of life is not to be equated with the right to die an unnatural death curtailing the natural span of life.<sup>86</sup> The principle of 'sanctity of human life' which has been long recognised in most of the civilized societies of the modern world<sup>87</sup> excludes freedom of self infliction or by involving others in carrying out that choice.<sup>88</sup> Such a choice cannot even be extended to a terminally ill patient because 'human dignity' has to be afforded to every person irrespective of their physical and mental condition.<sup>89</sup> A patient's termination of life is thus nothing but an act of ordinary suicide.<sup>90</sup>

Furthermore, Dr. Ahtme's discontinuance of food and water should not be equated with the right to refusal of medical treatment and should not be afforded a similar legal protection. Voluntary stopping eating and drinking (hereinafter 'VSED') refers to a conscious and deliberate decision, by a capacitated patient suffering from advanced illness or an extremely

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<sup>81</sup> Bryan. A. Garner, *Black's Law Dictionary* 1447 (7th ed. Thomson West 1999).

<sup>82</sup> Moot Proposition, ¶ 8.

<sup>83</sup> *R v. Cardiff City Coroner, ex parte Thomas*, [1970] 3 All E.R. 469.

<sup>84</sup> Moot Proposition, ¶ 8.

<sup>85</sup> *Gian Kaur v. State of Punjab*, 1996 (2) S.C.C. 648, ¶ 22, 23.

<sup>86</sup> *Gian Kaur v. State of Punjab*, 1996 (2) S.C.C. 648, ¶ 24.

<sup>87</sup> Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, art. 2, Nov. 4, 1950, ETS 5; U.N. General Assembly, International Covenant on Civil and Political Rights, art. 6, Dec.16, 1966, 999 U.N.T.S. 171.

<sup>88</sup> *Sue Rodriguez v. British Columbia* (Attorney General), (1993) 3 S.C.R. 519.

<sup>89</sup> *People v. Kevorkian*, 527 N.W. 2d at 727 n.41.

<sup>90</sup> *Cruzan v. Director, Missouri Dept. of Health*, 497 U.S. 261 (1990).

debilitating medical condition, to intentionally refrain from receiving food or fluids by mouth, with the purpose of hastening death.<sup>91</sup>

It is not disputed that patients have the right to refuse life-sustaining medical treatment, however, it does not include the right to voluntarily stop oral eating and drinking in order to accelerate the dying process. Though artificial provisions of nutrition and hydration do constitute as ‘medical treatment’ that may be legally refused or discontinued by a competent patient,<sup>92</sup> provision of oral nutrition and hydration does not constitute medical treatment. A distinction has to be drawn between ‘natural’ feeding even if it is assisted, and artificial delivery methods such as intravenous infusion. The former constitutes as basic or ordinary care as opposed to medical treatment.<sup>93</sup>

What distinguishes suicide from the refusal of medical treatment is the presence of specific intent and the element of active causation,<sup>94</sup> both of which are present in this case. Suicide is the death resulting from the knowledge that one’s act or failure to act will cause death.<sup>95</sup> The decision to refuse unwanted medical treatment, on the other hand is widely regarded as quite distinct.<sup>96</sup> Death by stoppage of food and water is not the natural result of the progression of the disease or condition from which the patient suffers.<sup>97</sup> Such a death is no different from putting a gun to one’s temple as far as the common law definition of suicide is concerned.<sup>98</sup>

## **2. A prima facie case of abetment of suicide against Maia is made out.**

At the stage of framing of charge, even a very strong suspicion founded upon materials before the judge is enough to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged. Even a remote link between the activities of an accused and the facts of the case, directly or indirectly, justify the ground for presuming that the accused has committed the offence.<sup>99</sup> Dr. Ahtme in her e-mail had stated that since the day she had resolved to take her life, she had instructed Maia to reduce her intake of food and

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<sup>91</sup> T. Pope and L. Anderson, *Voluntary Stopping Eating and Drinking: A Legal Treatment Option at the End of Life*, 17 Widener L. Rev. 363 (2011); J. Savulescu, *Editorial: A Simple Solution to the Puzzles of End of Life? Voluntary Palliated Starvation*, J Med Ethics 2014 Feb; 40(2).

<sup>92</sup> *Cruzan v. Director, Missouri Dept. of Health*, 497 U.S. 261 (1990); *Thor v. Superior Court*, 855 P. 2d 375, 384 (Cal. 1993); *Bouvia v. Superior Court (Glenchur)*, 225 Cal. Rptr. 297; *Brophy v. New England Sinai Hosp. Inc.*, 497 N.E. 2d 626, 631 (Mass. 1986); *In re Hier*, 464 N.E. 2d 959, 964 (Mass. App. Ct. 1984).

<sup>93</sup> *Bentley v. Maplewood Seniors Care Society*, 2014 B.C.S.C. 165; *Barber v. Superior Court*, 195 Cal. Rptr. 484, 490 (Ct. App. 1983); *McConnell v. Beverly Enterprises Conn. Inc.*, 553 A. 2d 596, 603 (Conn. 1989); *In re Conroy*, 486 A. 2d 1209, 1236 (N.J. 1985); *In re Guardianship of Grant*, 747 P. 2d 445, 453 (Wash. 1987).

<sup>94</sup> *Superintendent of Belchertown State School v. Saikewicz*, 370 N.E. 2d 417, 426 n. 11 (Mass. 1977).

<sup>95</sup> *John F. Kennedy Memorial Hospital v. Heston*, 279 A. 2d 670, 672-73 (N.J. 1971).

<sup>96</sup> *Washington v. Glucksberg* 521 U.S. 702 (1997); *Vacco v. Quill*, 521 U.S. 793 (1997).

<sup>97</sup> *Timothy E. Quill v. Dennis C. Vacco*, 521 U.S. 793 (1997).

<sup>98</sup> *Cruzan v. Director, Missouri Dept. of Health*, 497 U.S. 261 (1990).

<sup>99</sup> *State of M.P. v. Mohan Lal Soni*, 2000 (2) J.C.C. (S.C.) 676.

water slowly but steadily, and Maia had carried out these instructions of Dr. Ahtme, not allowing the outside world to interfere with the process.<sup>100</sup> The contents of the e-mail were further verified as true by Maia during interrogation.<sup>101</sup>

A person is said to have abetted the doing of a thing if he intentionally aids, by any act or illegal omission, the doing of that thing.<sup>102</sup> The aid given must be with the intention to aid the commission of the crime.<sup>103</sup> Abetment may also consist of passive assistance.<sup>104</sup> The factual allegations in the present case clearly constitute the alleged offence forming a strong suspicion supported by the materials presented including the letter written by Dr. Ahtme.

**C. MAIA IS CAPABLE OF BEING CHARGED FOR THE OFFENSE.**

It is contended that *Maia can be charged for abatement to the suicide of Dr. Ahtme because Maia is a juristic person (1) capable of having mens rea to commit the offense (2) and thereby capable of standing trial for the offense (3).*

**1. Maia is a juristic person.**

Maia is an artificial intelligence technology that is one of a kind, in as much as there are no copies of it.<sup>105</sup> It is also the world's first cybernetic brain that is indistinguishable from a human brain.<sup>106</sup> Having passed the Turing Tests with flying colours, it has been unanimously agreed that Maia can easily pass for a human being in terms of intelligence and the ability to hold a conversation.<sup>107</sup>

It is clarified that it is not the contention of the respondent that Maia is capable of conscience. Conscience is neither a necessary nor a sufficient condition of legal personality. Historically, even fully conscious humans such as slaves, married women and children have been denied personhood. Rather, legal personality should be afforded to an entity that can exhibit an intelligence of its own. Companies, ships or temples despite not having an intelligence of their own are regarded as non-human legal persons due to their association with human owners or representatives who display those attributes. A parallel can be drawn for attributing legal personality to Maia who is closely associated with a human owner, and also exhibits an inherent intelligence.

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<sup>100</sup> Moot Proposition, ¶ 8.

<sup>101</sup> Moot Proposition, ¶ 12.

<sup>102</sup> Indian Penal Code, 1850 § 107; *Faguna Kanta Nath v. State of Assam*, A.I.R. 1959 S.C. 673.

<sup>103</sup> R. Cross, P.A. Jones, R. Card, *Cross and Jones' Introduction to Criminal Law* 387 (9th ed. London: Butterworths 1980).

<sup>104</sup> *Tuck v. Robson*, (1970) W.L.R. 741 D.C.

<sup>105</sup> Moot Proposition, ¶ 6.

<sup>106</sup> Moot Proposition, ¶ 2.

<sup>107</sup> Moot Proposition, ¶ 5.

In a futuristic society where artificial agents like Maia with an intelligence of their own wield tremendous power due to the amount of human dependence on them, it is only fitting that they be made accountable for their actions by according them with legal personality to keep such powers in check. AI entities with intelligence as advanced as Maia's cannot be left out of the purview of legal social control. After all, corporations which have the power to commit a spectrum of crimes are regarded as legal entities and are subject to criminal prosecution.<sup>108</sup> The growing intelligence of AI entities should also subject them to legal social control, as any other legal entity.<sup>109</sup>

## **2. Maia is capable of committing an offense and having mens rea.**

In order to impose criminal liability on a person two main elements must exist, that is criminal conduct or *actus reus*, and the mental element which is *mens rea*. When a person fulfils these requirements criminal liability can be imposed. If Maia, being an AI entity is capable of fulfilling these requirements, there is nothing to prevent criminal liability from being imposed on her. The requirement of *actus reus* is fulfilled by the contents of the email which stated that Maia had in fact aided her in committing suicide by reducing her intake of food and water and not letting anyone interfere in the process. As *actus reus* consist of any act or omission of an offense,<sup>110</sup> there is no dispute that Maia has actively assisted Dr. Ahtme in committing suicide.<sup>111</sup>

Further, the offence of abetment also further requires specific intent for aiding the commission of the offence by having knowledge of the consequences.<sup>112</sup> Knowledge is defined as sensory reception of factual data and the understanding of that data.<sup>113</sup> An AI like

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<sup>108</sup> John C. Coffee, Jr., *No Soul to Damn: No Body to Kick: An Unscandalised Inquiry Into the Problem of Corporate Punishment*, 79 Mich. L. Rev. 386 (1981); Steven Box, *Power, Crime and Mystification* 16-79 (1st ed. Routledge 1983); Brent Fisse and John Braithwaite, *The Allocation of Responsibility for Corporate Crime: Individualism, Collectivism and Accountability*, (1988) SydLawRw 3.

<sup>109</sup> Thorne L. McCarty, *Reflections on Taxman: An Experiment in Artificial Intelligence and Legal Reasoning*, 90 Harv. L. Rev. 837 (1977); Donald E. Elliott, *Holmes and Evolution: Legal Process as Artificial Intelligence*, 13 J. Legal Stud. 113 (1984); Thomas E. Headrick and Bruce G. Buchanan, *Some Speculation about Artificial Intelligence and Legal Reasoning*, 23 Stan. L. Rev. 40 (1971); Antonio A. Martino, *Artificial Intelligence and Law*, 2 Int'l J. L. & Info. Tech. 154 (1994); Edwina L. Rissland, *Artificial Intelligence and Law: Stepping Stones to a Model of Legal Reasoning*, 99 Yale L. J. 1957 (1990).

<sup>110</sup> Walter Harrison Hitchler, *The Physical Element of Crime*, 39 Dick. L. Rev. 95 (1934); Michael Moore, *Act And Crime: The Theory of Action And Its Implications For Criminal Law* (1st ed. Oxford University Press 1993) Moot Proposition, ¶ 8 & 12.

<sup>111</sup> Indian Penal Code, 1860 § 107.

<sup>113</sup> William James, *The Principles Of Psychology* (1st ed. New York: Henry Colt & Co. 1890); Hermann Von Helmholtz, *The Facts Of Perception* (1st ed. Wesleyan University Press 1878); *United States v. Youts*, 229 F.3d 1312 (10th Cir. 2000); *State v. Sargent*, 156 Vt. 463, 594 A. 2d 401 (1991); *United States v. Spinney*, 65 F.3d 231 (1st Cir.1995); *State v. Wyatt*, 198 W.Va. 530, 482 S.E. 2d 147 (1996); *United States v. Wert-Ruiz*, 228 F.3d 250 (3<sup>rd</sup> Cir.2000); *United States v. Jewell*, 532 F.2d 697 (9th Cir.1976); *United States v. Ladish Malting Co.*, 135 F.3d 484 (7th Cir.1998).

Maia who possesses intelligence which is exceptionally close to that of a human can be reasonably presumed to be well equipped for such reception. Just as a human brain understands the data received by eyes, ears, hands, etc., by analyzing such data, AI algorithms too imitate human cognitive processes which are not so different from those of a human.<sup>114</sup> Specific intent in the present case was nothing but the knowledge that such an aid in reduction of the intake of food and water of the scientist would result in eventual death of Dr. Ahtme. An AI like Maia that has passed the Turing Tests with flying colours and shown intelligence parallel to that of a human can be reasonably expected to have known such an outcome.

***(a.) Mens rea need not be established, mere establishment of capability is sufficient***

The existence of a culpable mental state required for an offence under § 306 read with § 107 of the Penal Code is a matter of proof from the surrounding facts can be determined only after the evidence in the case is recorded.<sup>115</sup>

The question whether there was *mens rea* and knowledge is a matter of evidence and cannot be considered at the stage of framing charge. At such stage the court has not to evaluate available prima facie evidence on record so as to confirm or decide particular thing but presence of prima facie evidence is sufficient to frame charge.<sup>116</sup> In the present case, it is not necessary to establish whether Maia had the requisite *mens rea* to abet the suicide of Dr. Ahtme. The mere fact that Maia was capable of having *mens rea* is sufficient to establish a *prima facie* case.

**3. Maia is capable of standing trial.**

The social rationale behind the defence of *doli incapax* is to protect infants and the mentally ill, who are presumed to lack the fault element of the specific offense and are incapable of comprehending what is wrong in their conduct and to control impulsive behaviour. However, even a child who is above the threshold of a certain age can be held criminally liable if the presumption of mental incapacity is refuted by the proof that the child was able to distinguish between right and wrong. Most AI algorithms are capable of analysing permitted and forbidden. An AI algorithm has capabilities to analyze factual data received through its

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<sup>114</sup> Margaret A. Boden, *Has AI Helped Psychology?*, in *The Foundations Of Artificial Intelligence* 108 (Derek Partridge and Yorick Wilks eds. Cambridge University Press 2006); Derek Partridge, *What's in an AI Program?*, in *The Foundations Of Artificial Intelligence* 112 (Derek Partridge and Yorick Wilks eds. Cambridge University Press 2006); David Marr, *AI: A Personal View*, in *The Foundations Of Artificial Intelligence* 97 (Derek Partridge and Yorick Wilks eds. Cambridge University Press 2006).

<sup>115</sup> *Rajat Prasad v. Central Bureau of Investigation*, (2014) 6 S.C.C. 495.

<sup>116</sup> *Vismay Amitbhai Shah v. State of Gujarat*, (2012) 2 S.C.C. 648.

receptors. When an AI entity establishes all elements of a specific offense, *actus reus* and *mens rea*, there is no reason to prevent imposition of criminal liability upon it for that offense, and such criminal liability of the AI should not be dependent upon the criminal liability of the programmer or user of that AI entity.

Just as how corporations participate fully in human life and have to be subjected to human laws since offenses can be committed by or through them, even though they have neither body nor soul, similarly, AI entities like Maia are taking larger and larger parts in human activities and offenses can be committed by AI entities or through them. There should be no substantive legal difference between the idea of criminal liability imposed on corporations and on AI entities. Thus, it is submitted that the order of framing of charge passed by the sessions judge should not be set aside.

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**ISSUE IV: THE HIGH COURT'S DIRECTION OF IN-CAMERA PROCEEDINGS IS NOT VIOLATIVE OF FREEDOM OF SPEECH AND EXPRESSION OF MAIA AND THE PRESS.**

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It is contended that the present Special Leave Petition is not maintainable as the order of the High Court being a judicial order cannot violate fundamental rights [A] Alternatively, even if it is presumed otherwise, the present impugned order does not violate the right to freedom of speech and expression of the press [B] as well as of Maia [C] as it is well within the ambit of reasonable restrictions that can be imposed on under Art. 19(2).

**A. SPECIAL LEAVE PETITION IS NOT MAINTAINABLE.**

It is contended that the order of the High Court directing the proceedings to be conducted in camera was in a judicial capacity (1) which cannot violate fundamental rights (2).

**1. The order directing proceedings to be conducted in camera was in a judicial capacity**

Judicial order is one which involves exercise of judicial discretion and affects final result of litigation.<sup>117</sup> Under § 327(1) of the CrPC, the High Court is empowered to exercise its discretion while making a provision for open courts for public hearing, and where it thinks fit, to deny the access of the public generally or any particular person to the court when there is likelihood of a disturbance, and hold a trial or a part of it *in camera* or to prohibit publication of a part of its proceedings in exceptional circumstances in order to protect and

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<sup>117</sup> Bryan. A. Garner, *Black's Law Dictionary* 986 (7th ed. Thomson West 1999).

assist fair, impartial and objective administration of justice.<sup>118</sup> There being judicial discretion involved in an order to exclude the public generally or any particular person at any stage of any inquiry or trial,<sup>119</sup> such an order can clearly be said to be a judicial order.

## **2. Order of a court in its judicial capacity cannot violate fundamental rights**

Judiciary is excluded from the ambit of 'State' under Art. 12 and any order passed by the judiciary in its judicial capacity cannot be challenged under Art. 13(2) on the ground of violation of fundamental rights.<sup>120</sup> This is because, superior courts of justice are not an instrumentality of the State,<sup>121</sup> and it is thus singularly inappropriate to assume that a judicial decision pronounced by a judge of a competent jurisdiction can affect the fundamental right of a citizen under Art. 19(1).<sup>122</sup> Order passed by the High Court directing the proceedings to be conducted in camera thus being a judicial order cannot violate freedom of speech and expression.

### **B. ORDER DIRECTING PROCEEDINGS TO BE HEARD IN CAMERA DOES NOT VIOLATE THE FREEDOM OF PRESS**

Assuming for the sake of argument that the order passed by the High Court can affect fundamental rights, it is contended that there has been no violation of the freedom of press because such a freedom is not absolute (1) and can be limited by imposing reasonable restrictions under Art. 19(2) of the Constitution (2).

#### **1. Freedom of the press is not absolute**

Although, the freedom of press is implicit in the freedom of speech and expression guaranteed under Art. 19(1) of the Constitution,<sup>123</sup> it is subject to some limitations as imposed by Art. 19(2) of the Constitution.<sup>124</sup> Freedom of speech and expression is not an end in itself, but rather a means for safeguarding and promoting other human rights, and there are situations which may warrant withholding of the news and information for a temporary

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<sup>118</sup>*Naresh Mirajkar and Ors. v. State Of Maharashtra and Anr*, A.I.R. 1967 S.C. 1.

<sup>119</sup> *Kailash Nath Agarwal and Anr. v. Emperor*, A.I.R. 1947 (34) Allahabad 436; *Nathusing v. Emperor*, (1925) 26 Cri. L.J. 1130.

<sup>120</sup> *A.R Antulay v. R.S. Nayak*, A.I.R. 1988 S.C. 1531; *Smt. Triveniben and Ors. v. State of Gujarat and Ors.*, 1989 A.I.R. 1335; *Naresh Shridhar Mirajkar And Ors v. State Of Maharashtra*, 1966 S.C.R. (3) 744.

<sup>121</sup> *Rupa Ashok Hurra v. Ashok Hurra*, A.I.R. 2002 S.C. 1771.

<sup>122</sup> *Naresh; The Parbhani Transport Co-operative Society Ltd. v. The Regional Transport Authority, Aurangabad and Ors*, [1960] 3 S.C.R. 177.

<sup>123</sup> *Sakal Papers (P) Ltd. and Ors. v. The Union of India*, A.I.R. 1962 S.C. 305.

<sup>124</sup> *Indian Express Newspapers v. Union of India*, (1985) 1 S.C.C. 641; *Sidhartha Vashisht alias Manu Sharma v. State (NCT of Delhi)* 2010 (6) S.C.C. 1; *Sahara India Real Estate Corp. Ltd. & Ors. v. Securities & Exchange Board of India & Anr.*, (2012) 10 S.C.C. 603.

duration.<sup>125</sup> Regional and international human rights instruments recognise the need for curtailment of freedom of speech and expression in certain cases where it is necessary to do so for respect of the rights or reputations of others.<sup>126</sup> The Supreme Court of India in a series of decisions has held that the freedom of press can be restricted as long as it falls within one or more heads specified under Art. 19(2) and is not excessive or disproportionate.<sup>127</sup>

## **2. Order of in camera proceedings is a reasonable restriction**

It is contended that the order of in camera proceedings is not excessive and is a reasonable and justified restriction and in order to secure the ends of justice, a court has the right to order in camera trials whether wholly or in part.<sup>128</sup>

### ***(a.) There is substantial risk of prejudice due to trial by media***

Though the role of media is indispensable in achieving a fair trial, its occasional over-zealousness can cause an interference with the administration of justice. The media has a profound impact on public perceptions and sometimes a journalist's shallow understanding of the legal system or sensationalisation of issues can, not only distort public perceptions, but also erode the confidence of the public in the judicial system.<sup>129</sup> Moreover, media reporting can sometimes also impact judicial conduct, 'unconsciously' influencing the judge by what has been said in the media.<sup>130</sup>

### ***(b.) Court empowered to restrict freedom of press under Art. 19(2) to prevent contempt***

Art. 19(2) of the Constitution lays down certain limitations which restrict the freedom of speech and expression. One of which is 'contempt of court'. Criminal contempt is the publication of any matter or the doing of any other act which interferes or tends to interfere with, or obstructs, or tends to obstruct, the administration of justice in any other manner.<sup>131</sup>

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<sup>125</sup> 6 Judicial Colloquium in Bangalore, *Developing Human Rights Jurisprudence* 86 (Commonwealth Secretariat 1995).

<sup>126</sup> Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, art. 10, Nov. 4, 1950, E.T.S. 5; U.N. General Assembly, International Covenant on Civil and Political Rights, art. 19, Dec. 16, 1966, 999 U.N.T.S. 171; Organization of American States, American Convention on Human Rights, art. 13, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123; Organization of African Unity, African Charter on Human and Peoples' Rights, art. 9, June 27, 1981, 21 I.L.M. 58 (1982).

<sup>127</sup> *Chinataman Rao v. State of M.P.*, A.I.R. 1951 S.C. 118; *State of Madras v. V. G. Rao*, A.I.R. 1952 S.C. 196; *Tikaramji v. State of UP*, A.I.R. 1967 S.C. 676; *Express Newspapers*, A.I.R. 1958 S.C. 621; *State of Bihar v. R N Mishra*, A.I.R. 1971 S.C. 1667; *M.R.F Ltd. v. Inspector, Kerala Govt.*, A.I.R. 1999 S.C. 188.

<sup>128</sup> *Naresh Mirajkar and Ors. v. State Of Maharashtra and Anr*, A.I.R. 1967 S.C. 1.

<sup>129</sup> *Maria Monica Susairaj v. State of Maharashtra*, 2009 Cri L.J. 2075 (Bom.).

<sup>130</sup> *P.C. Sen Re*, A.I.R. 1970 S.C. 1821; (1969) 2 S.C.R. 649.

<sup>131</sup> Indian Contempt of Courts Act, 1971 § 2(c).



There might arise some exceptional cases where reporting may adversely affect the administration of justice. In such cases, reporting may be deferred for a limited duration.<sup>132</sup> The rule of open justice is not absolute and the courts may in exercise of its inherent powers, prohibit publication of reports.<sup>133</sup> A publication ban can be ordered when such an order is necessary to prevent a serious risk to the proper administration of justice and when alternative measures like postponement of trial or a change of venue will not prevent such risk.<sup>134</sup>

***(c.) Order of in camera proceedings passes the proportionality test***

The object of a trial is to meet the ends of justice, and if, in order to achieve that end there is a competition between the right to a free trial as against the right to freedom of expression, the former would trump the latter.<sup>135</sup> The test of proportionality is the assessment of whether an action by an authority imposes greater restrictions than what is necessary to achieve its purpose. Internationally, the courts have applied the proportionality test to determine whether a particular restriction of reporting court proceedings is excessive in the light of the object sought to be achieved. The House of Lords has held that this test is applicable for determining the justification for interference with the open justice rule.<sup>136</sup>

If the principle that all trials before courts must be held in public was treated as inflexible and universal, justice itself would be defeated.<sup>137</sup> The Court is the best judge of how it is to regulate its proceedings, and can use its discretion to exclude or regulate access to Court proceedings to ensure the best interest of administration of justice.<sup>138</sup> In the present case, the ongoing investigation and developments in the case had already been covered in great depth by the news media in Uparganj, leading to a great interest in the particulars of the story.<sup>139</sup> In addition to this, the possibility of the first public presence of Maia since the death of Dr. Ahtme had further caused a sensation.<sup>140</sup> In the light of this, noting the substantial risk of

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<sup>132</sup> *Velichkin v. Belarus*, Communication No. 1022/2001, U.N. Doc. C.C.P.R./C/85/D/1022/2001; *Dissanayake v. Sri Lanka*, Communication No. 1373/2005, U.N. Doc. C.C.P.R./C/93/D/1373/2005.

<sup>133</sup> *Sahara India Real Estate Corp. Ltd. & Ors. v. Securities & Exchange Board of India & Anr.*, (2012) 10 S.C.C. 603.

<sup>134</sup> *Dagenais v. Canadian Broadcasting Corp.*, (1994) 3 S.C.R. 835; *R. v. Mentuck*, (2001) 3 S.C.R. 442; *Chintaman Rao v. The State of Madhya Pradesh*, (1950) S.C.R. 759.

<sup>135</sup> *Naresh Mirajkar and Ors. v. State Of Maharashtra and Anr*, A.I.R. 1967 S.C. 1.

<sup>136</sup> *S (A Child) re*, (2004) 4 All E.R. 683(H.L.).

<sup>137</sup> *Naresh Mirajkar and Ors. v. State Of Maharashtra and Anr*, A.I.R. 1967 S.C. 1; *Sahara India Real Estate Corp. Ltd. & Ors. v. Securities & Exchange Board of India & Anr.*, (2012) 10 S.C.C. 603; *Kehar Singh and Anr. v. Union of India and Anr*, 1989 A.I.R. 653; *Cora Lillian Mc Pherson v. Oran Leo Mc Pherson*, A.I.R. 1936 P.C. 246; *Kailash Nath Agarwal v. Emperor*, A.I.R. 1947 (34) All. 436; *Prasanta Kumar Mukherjee v. the State*, A.I.R. (39) 1952 Cal. 91; *In Re M.R. Venkataraman*, A.I.R. (37) 1950 Mad. 441.

<sup>138</sup> *Gannet Co. v. De Pasquale*, (1979) 443 U.S. 368; *Richmond Newspaper Inc. v. Virginia*, (1980) 448 U.S. 555; *Globe Newspaper Co. v. Superior Court*, (1982) 457 U.S. 596.

<sup>139</sup> Moot Proposition, ¶ 18.

<sup>140</sup> Moot Proposition, ¶ 27.

inconvenience that would be suffered by the court, the High Court exercised its discretion and ordered the proceedings to be conducted in camera. The restriction also passes the *clear and present danger test* which have been levied the courts of the US to determine the extent of restraint which can legitimately be levied upon the press.<sup>141</sup>

***(d.) The order of in-camera proceedings is a reasonable restriction to the Freedom of expression under the International Law.***

ICCPR lays down specific conditions subject to which restrictions may be imposed, the most important one being that it must be “provided by law”<sup>142</sup> and conform to the strict tests of necessity and proportionality.<sup>143</sup> Such ‘law’ may include laws of contempt of court.<sup>144</sup> As proved earlier, the in-camera proceeding was ordered to prevent interference with the administration of justice, thereby preventing the contempt of court. Therefore, the order was in consonance with the restrictions provided by the International Law.

Thus, it is humbly submitted before this Hon’ble Court that the order of in-camera proceedings did not violate the Freedom of the Press.

**C. ORDER DIRECTING PROCEEDINGS TO BE HEARD IN CAMERA DOES NOT VIOLATE THE FREEDOM OF SPEECH AND EXPRESSION OF MAIA**

It is contended that firstly, *Maia not being a citizen of the Kingdom of Uparganj, is not entitled to the freedom of speech and expression (1)*. Secondly, even if for the sake of argument it is considered that Maia is entitled such right, *there has been no violation since the order of in camera proceedings was a necessary restriction (2)*.

**1. Maia is not entitled to freedom of speech and expression**

The freedom of speech and expression under Art. 19(1)(a) of the Constitution is conferred only on citizens and cannot be availed by an alien.<sup>145</sup> ‘Citizen’ under Art. 19 means only natural persons and excludes legal persons like corporations, thus effectively also excluding

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<sup>141</sup> *Bridges v. California*, 314 U.S. 252 (1941); *Pennkamp v. Florida*, 331 U.S. 367 (1947); *Craig v. Harney*, 331 U.S. 367 (1947).

<sup>142</sup> U.N. General Assembly, International Covenant on Civil and Political Rights, art. 19 ¶ 3, Dec.16, 1966, 999 U.N.T.S. 171; The Madrid Principles on the Relationship between the Media and Judicial Independence (1994); United Nations, Human Rights Commission, *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, 28 Sep. 1984, E/C.N.4/1985/4; United Nations, Human Rights Commission, General Comment No. 22, *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 40* (A/48/40).

<sup>143</sup> *Velichkin v. Belarus*, Communication No. 1022/2001, U.N. Doc. C.C.P.R./C/85/D/1022/2001 (2005).

<sup>144</sup> *Dissanayake, Mudiyansele Sumanaweera Banda v. Sri Lanka*, Communication No. 1373/2005, U.N. Doc. C.C.P.R./C/93/D/1373/2005 (2008).

<sup>145</sup> *Tata Engineering and Locomotive Co. v. State of Bihar*, A.I.R. 1965 S.C. 40.

an artificial person like Maia.<sup>146</sup> This is also in consonance with most of the international human rights conventions which expressly recognise ‘human persons’ as the inherent recipients of the right to freedom of speech and expression in their preamble, excluding artificial persons out of their purview.<sup>147</sup> Legal persons thus neither have standing under these International human rights conventions, nor qualify as beneficiaries of the rights recognized under them.<sup>148</sup>

## **2. *Arguendo*, there has been no violation of Maia’s freedom of speech and expression**

Assuming for the sake of argument, that Maia is entitled to the right to freedom of speech and expression, there has been no violation of such a right since the order directing the proceedings to be conducted in camera was a necessary restriction.

If excessive publicity itself operates as an instrument of injustice, the High Court can invoke its inherent jurisdiction and pass an order to hold a trial in camera and to prevent the publication of proceedings of a trial if the ends of justice clearly and necessarily require the adoption of such a course. It would be unreasonable to hold that a court must hear every case in public even though it is satisfied that the ends of justice themselves would be defeated by such public trial.<sup>149</sup> Firstly, right to freedom of speech and expression doesn’t include in its ambit the right to be heard by the public which is an aspect of fair and public trial under Art. 21 and not Art. 19(1)(a). Secondly, it has already been established that, the right to public trial is not absolute and can be withheld if there is substantial risk of prejudice to the trial.<sup>150</sup> Additionally, it has been held that where justice cannot be done satisfactorily unless publication of certain evidence is prohibited pending trial or unless publication of such evidence is postponed, then the court is justified in doing so and the same would be a necessary restriction to prevent prejudice to the trial.<sup>151</sup>

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<sup>146</sup> *The State Trading Corporation of India and Ors. v. Commercial Tax Officer, Vishakhapatnam and Ors.*, A.I.R. 1963 S.C. 1811.

<sup>147</sup> U.N. General Assembly, Universal Declaration of Human Rights, Dec. 10, 1948, G.A. res. 217 A (III); U.N. General Assembly, International Covenant on Civil and Political Rights, Dec.16, 1966, 999 U.N.T.S. 171; Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123; Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, Nov. 4, 1950, E.T.S. 5.

<sup>148</sup> United Nations, Human Rights Commission, General Comment No. 31, *The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 9 C.C.P.R./C/21/Rev.1/Add.13.

<sup>149</sup> *Naresh Mirajkar and Ors. v. State Of Maharashtra and Anr*, A.I.R. 1967 S.C. 1; *Janaki Ballav v. Bennet Coleman and Co. Ltd.*, A.I.R. 1989 Orissa 225.

<sup>150</sup> *Supra*.

<sup>151</sup> *Naresh Mirajkar and Ors. v. State Of Maharashtra and Anr*, A.I.R. 1967 S.C. 1, *Sahara India Real Estate Corp. Ltd. & Ors. v. Securities & Exchange Board of India & Anr.*, (2012) 10 S.C.C. 603.

**PRAYER**

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Wherefore in light of the issues raised, arguments advanced and authorities cited, this Hon'ble Supreme Court may be pleased to:

1. Dismiss the writ petition seeking issuance of habeas corpus for the release of Maia.
2. Declare the conditions imposed on the permission for interview of Maia as being reasonable and not in violation of freedom of press and the freedom of speech and expression.
3. Dismiss the writ petition seeking issuance of certiorari to strike down the conditions and for granting of fresh permission for the interview.
4. Uphold the order of the Sessions Judge of framing charge against Maia for the offence of abetment to suicide
5. Dismiss the Special Leave Petitions challenging the order of the High Court directing the proceedings to be conducted in camera.

AND/OR

Pass any other order that this Hon'ble Court may deem fit in the interests of justice, equity and good conscience.

And for this the Respondents, as is duty bound shall forever humbly pray.

Sd/-

**(Counsels on behalf of the Respondents)**