

KARNATAKA STATE HUMAN RIGHTS COMMISSION

1-4th Floor, M.S Building, 5th Stage, Bengaluru-560001

H.R.C. No:1156/10/31/2021-JCD

Date: 23/03/2022

PRESENT

Justice D.H. Waghela
Chairperson

Shri K.B. Changappa
Member

Informant: Chief Superintendent,
Central Prison,
Bengaluru.

V.

Respondent: Addl. Chief Secretary,
Department of Home,
Govt. of Karnataka.
Bengaluru.

OPINION, REPORT AND RECOMMENDATIONS

- 1) This proceeding was initiated upon intimation dated 30.03.2021 about the death of U.T.P No. 11748/16, Shri Ramesh S/o late Munishamappa, aged 51 years, resident of Kittaganuru Village, Bidarahalli Hobli, Bengaluru who was an accused in S.C.No.83/17 pending before the I Additional District and Session Court, Bengaluru Rural. Upon issuance

of notice, the post mortem report, magisterial enquiry report, video recording of the post mortem and hospital records of the deceased are received. Upon reference of the material for an opinion, ADGP, Karnataka State Human Rights Commission has submitted report dated 23.11.2021 of which material part reads as under:

“The S.P, Prisons, Bangalore reported the death, a case was registered at Parappana Agrahara P.S, in UDR No:35/2021 U/s 176 (1A) Cr.P.C on 19-04-2021. The inquest was conducted by the Honorable 38th ACMM Magistrate, Bangalore on 31-03-2021 as per 176 (1A) Cr.P.C.

“Documents examined

1. Inquest Report;
2. Post Mortem Report;
3. MER Report;

“Discrepancies found

“There are no discrepancies found in the documents.

Witnesses examined

1. Sri. Bharath, son of the deceased;

2. Sri. Prakash, relative to the deceased;
3. Sri. Pradeep, relative to the deceased;

“The above witnesses in their statements have stated that, the deceased was under treatment for the issues related to heart for the past 4 year and was healthy and did not have any diseases. They also state that, they want information about the treatment given to the deceased and the reason for the death.

“Findings

“The following documents are unavailable in the file.

1. FIR
2. Requisition to the Honorable Magistrate to conduct inquest by the police,
3. Final Report submitted to the court by the police.

“Opinion

“The inquest by the Honorable Magistrate mention the wound marks onthe deceased body in the inquest column no. 07 as 25 cm to 30 cm length and 12 cm to 15 cm width crape bandage pasted on the left side of the deceased stomach

and a square crape bandage plaster on the deceased left palm. It must have happened while conducting medical operation when the deceased was alive and the MER report submitted based on the inquest report witnesses statement and P.M report have opined "Death is due to Septicemia as a result of Acute Intestinal obstruction".

*"The P.M report by the doctors of Victoria hospital, Bangalore mention wound marks in the external injuries column as **1) Vertically placed surgically sutured incision present over front of abdomen measuring 23 cm in length. 2) Surgically placed abdominal drain wound present over left side of the abdomen measuring 2cm x 2cm with sutures insets and have opined for the cause of death as "Death is due to Septicemia as a result of Acute Intestinal Obstruction".***

- 2)** In view of the certain suspicious circumstances found in the material placed on record it was considered to be necessary to record first hand evidence of the doctors who treated and

conducted post mortem of the deceased prisoner. Dr. Manjunath who lastly treated the patient at Victoria Hospital, stated on oath in his deposition as under:

“I am an Associate Professor since 2009 in Victoria Hospital Bengaluru. I have brought the relevant papers of deceased Ramesh, s/o Munishamappa. On 29.03.2021 Ramesh was seen by me. He was found to (have) Acute Intestinal Obstruction. He had come on history of pain in the abdomen from 12 days. The record of jail dispensary, placed on the record of this case is seen by me and it appears from that record, that (sent) from 15.03.2021 (to) the deceased Ramesh was undergoing treatment for vomiting and nausea. There is no indication and no treatment of deceased and renal function test appears to been carried out on 19.03.2021. There were indication of the levels of blood, urea and creatinine were abnormal. On 25.03.2021 the patient was referred to Victoria Hospital and Blood Pressure was recorded to be normal.

“It is not clear from the record as to where the deceased was placed and what he was treated for during 25.03.2021 till 29.03.2021. First, I examined the patient on 29.03.2021 when he came with the history of abdomen pain and he was diagnosed for Acute Intestinal Obstruction. I advised the surgery and surgery was carried out by Dr. Akhila and Dr Suraj during early morning hours on 30.03.2021. I had immediately started IV fluids after the admission on 29.03.2021 and administered antibiotics. The patient had acute pain and we suspected septicemia. The septicemia could have set in the last two or three days but not earlier. The Intestinal Obstruction infection spread through blood to other organs of the body. The last 5 days before his admission to the hospital on 29.03.2021 were critical for his chance of survival by proper medical treatment. The patient was operated upon by the team of surgeons of which I was not a member. According to me the operation was successful but patient died because of medical condition of the patient at that time. In this case heavy dose of the

antibiotics could have damaged kidney. It is correct to say that if the patient had been brought only 2-3 days earlier his chances of survival would have been better. The doctors treating the disease earlier from 25.03.2021 to 29.03.2021 could have referred him earlier to this department for timely treatment in the condition in which the patient was. For the record of treatment from 25.03.2021 till 29.03.2021 the Institute of Nephro Urology (I.N.U) is part of Bengaluru Medical College in the premises of Victoria Hospital.”

- 3)** Dr. C. N. Sumangala, who conducted the post mortem of the deceased stated on oath as under:

“I have conducted the post mortem of deceased Ramesh, s/o Munishamappa on 31/03/2021 at the request of Hon'ble 38th Additional Chief Metropolitan Magistrate, Bengaluru between 2.00pm to 3.00pm at Victoria Hospital. I have papers of post mortem report and reading them I state that, as stated in the post mortem report deceased had undergone surgery over the abdomen with surgical wound in

situ. The sutures were fresh and the sutured wound measures 23cm in length over front of abdomen and there are two drainage wound over left of abdomen measuring 2cmx2cm. Death was due to septicemia as result of Acute intestinal obstruction. These were wound caused by an operation in the hospital. The description of medical procedure under gone by the deceased is as given in post mortem report (page no.5). That operation appears to have been because of intestinal obstruction. Amongst many reasons the intestinal obstruction could have been due to infection, cancer of colon, or any abnormal pathology of intestine, Intussusception, any inflammatory condition or tuberculosis of Intestine, or postsurgical Hernia.

“According to the jail records, shown to me, the deceased had the onset of kidney failure from 19/03/2021. The jail record of that period does not show the treatment part. The developing kidney failure could not have caused any intestinal obstruction. At the time of post mortem septicemia (pus) spread in the abdomen and

lungs. It may indicate that the pus or infection had started much earlier before the surgery.”

- 4)** In view of the apparent lapses in the treatment given to the deceased in prison, the medical officer at Central Prison, Bengaluru was called upon to make her statement on oath before this Commission. She stated as under:

“Deceased Ramesh was treated in the Jail Hospital from 15.03.2021 to 23.03.2021 in the jail dispensary. And he was shifted to Institute of Nephro Urology on 25.03.2021. On 23.03.2021 and 24.03.2021 deceased Ramesh was administered only Pan-D tablets one tablet once in a day. On 23.03.2021 the treatment of Ofloxacin was continued. Before that on 19.03.2021 two tablets of Dulcolax was given to him. The patient was complaining of nausea and reduced appetite. His Blood Pressure recorded 108/60 on 23.03.2021 and it is not recorded till 25.03.2021.

“I have brought the record of treatment of deceased Ramesh from the date of admission till 15.03.2021 but actually there is no record of

ailment or treatment till 15.03.2021. That means, that before 15.03.2021 the deceased Ramesh had no complaint about any ailment or disease which had (to) be medically treated. It is recorded in the jail dispensary that referred to Institute of Nephro Urology for Ultrasound and Pelvis scheduled on 09.04.2021. After that appointment he was brought back to jail on same date: 25.03.2021. And he was in jail dispensary up to 29.03.2021.

“The record does not show the treatment given between 25.03.2021 to 29.03.2021. However, there is remark by treating Dr. Pramila, he was kept in jail hospital ward under observation and he was stable on symptomatic treatment. That Dr. Pramila is presently on unauthorized leave and hence could not be present today. She is on unauthorized leave from 1st February 2022. I am the head of the jail dispensary. It was also conveyed to Dr. Pramila to remain present in this proceeding by serving the order of this Commission, as deceased Ramesh was treated by her. I am informed and I have understood that

the other qualified doctors have already opined on oath that the serious situation of Intestinal Obstruction had developed in the deceased prisoner during the period of 25.03.2021 to 29.03.2021. During that time he was in jail dispensary and no treatment worth the name was given to him. That has resulted into more serious condition of septicemia and failure of surgical procedure in Victoria Hospital. The jail dispensary is responsible and the negligence or incompetence of the jail dispensary cannot be explained or justified.”

- 5)** Dr. Uma having second thoughts about her statement recorded on 16.02.2022, she has given another written statement of her own on 16.03.2022, which reads as under:

“With reference to the treatment and management of the deceased Ramesh S/o Muniswamappa (UTP-No-11748/2016), the case was primarily handled and managed by Dr. Pramila, Senior Medical Officer and the concerned OPD book of records regarding his treatment at Central Prison

Hospital between 25-03-2021 till 29-03-2021 is also with Dr. Pramila.

“Further, with reference to the treatment given by me, Dr. Uma M for the deceased Ramesh S/o Muniswamappa (UTP-No- 11748/2016), I hereby state that, I had seen the deceased on 15-03-2021 post laboratory investigation at the end of the day (Since Dr. Pramila had already left the Hospital for the day) and had treated him as per his symptoms (nausea and reduced appetite) and laboratory reports with IV Fluids/IV antacids and oral antibiotics and oral antacids and requested for further laboratory reports pertaining to his kidneys (Renal Function Tests) and liver (Liver Function Tests) the next day i.e., on 16 03-2021. The lab reports were normal and hence his treatment which was prescribed on 15-03-2021 was continued.

“Further his follow up was done by Dr. Pramila, when she had ordered for some laboratory investigations of RBS (Random Blood Sugar), Urea, Creatinine and Urine routine on 19-03-

2021. Again, in the evening, as a follow up (Since Dr. Pramila had already left the Hospital for the day) of the Laboratory report, I treated him with a probable diagnosis of Urinary Tract Infection (based on Urine routine report) with IV fluids and initiated him on Inj. Ofloxacin twice a day for five days.

“Further, his treatment was followed up by Dr. Pramila till the end.

“I was the head of the jail dispensary; however, I do not continue to be the head anymore.

“I wish to state that treatment has been provided by Dr. Pramila between 25-03-2021 till 29-03-2021 as the case was managed by her and the Central Prison Hospital book is with Dr. Pramila. 28-03-2021 was a Sunday and Dr. Pramila was the doctor on duty on that day and she has attended to the deceased Ramesh on that day (attendance copy enclosed). Other relevant medical documents have already been submitted to the Hon'ble Chair Person KSHRC.”

6) The above material of evidence clearly suggests that deceased U.T.P Ramesh had died because of diseases and not a natural death. It is also apparent and can easily be concluded on basis of statement and admission on oath of the head of the medical facility in the prison that the deceased had not been duly treated during critical period between 25.03.2021 to 29.03.2021. "That has resulted into more serious condition of septicemia and failure of surgical procedure in Victoria Hospital. The jail dispensary is responsible and the negligence or incompetence of the jail dispensary cannot be explained or justified". Even as Dr. Uma has subsequently sought to explain away the deficiency in treatment in jail by filing a written statement and tried to shift responsibility on another doctor i.e., Dr. Pramila, the fact remains that according to the opinion of the forensic expert death of the deceased was precipitated by negligence and failure of the health care facilities provided in the largest Central Jail in Karnataka. Although, the deceased prisoner was yet to face the trial and hence, not convicted of any offence his right to life was required by law to be duly protected, particularly when he and his family members were helpless about providing proper medical care to the patient.

7) Therefore, in the above facts and circumstances the State of Karnataka is required to be held responsible for failure of protecting the right of life of under trial prisoner. It is indeed a matter of grave concern that, as noted in many other cases dealt with by this Commission, that the medical and health care facilities in the other district and central jails are in pathetic condition. A number of prisoners are dying every year for want of proper medical care and health care facilities in the generally overcrowded jails. It is high time and absolutely necessary that the department of prisons in consultation with the department of Health and Family Welfare devise a system in which regular and adequate medical care is provided to thousands of prisoners (majority of them being under trial prisoners), with access to competent and specialist doctors/hospital for checkup and follow up treatment and regular visits of the jail by medical officers under the State Government.

8) Having regard to the peculiar facts of this case it is recommended that

a) The son of deceased Shri Bharath should be paid, by way of interim compensation the sum of Rs.3,00,000/- by a demand draft or account payee cheque in his name, by the

Additional Chief Secretary, Department of Home,
Government of Karnataka, Bengaluru.

- b) The Additional Chief Secretary of the departments concerned of the Government of Karnataka should look into the issues involved in generally pathetic health care conditions in the prisons across the State, so as to improve the standard of medical care in prisons and improve the system so as to provide regular, adequate and emergency medical help to all the prisoners as, where and when required.
- c) The amount of interim compensation as recommended herein above may be recovered from such prison officials as may be found to be remiss in discharge of their duties by holding departmental enquiry in accordance with law.
- 9)** It may be appropriate to point out at the end that under the provisions of Sections 18 (e) of the Protection of Human Rights Act, 1993, the State Government or the authority concerned is duty bound to forward within a month, its comments on this report and also report the action taken or proposed to be taken. It is hereby brought to kind notice of the authorities concerned that, under the provisions of Regulation 22 of the Karnataka State Human Rights

Commission (Procedure) Regulations 2020, if any application seeking modification or review of order or proceeding passed by the Commission for appropriate order.

- 10)** A copy of this Opinion, Report and Recommendations shall be sent by e-mail to the informant and respondent forthwith.

Sd/-
(Justice D. H. Waghela)
Chairperson

Sd/-
(K.B. Changappa)
Member

PSD