

KARNATAKA STATE HUMAN RIGHTS COMMISSION

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

H.R.C. No:1874/10/31/2016 c/w
1960/10/31/2016,
2375/10/31/2016,
1971/10/31/2016
and 3591/10/31/2016

Date: 23-02-2022

PRESENT

Justice D.H. Waghela
Chairperson

Shri K.B. Changappa
Member

Shri R K Dutta
Member

Informant: Deputy Commissioner of Police,
East Division,
Bengaluru.

ORDER

- 1) HRC No. 1874/10/31/2016 was registered on 20.03.2016 on the basis of copy of letter dated: 20.03.2016 from Deputy Commissioner of Police, East Division, Bengaluru City, addressed to the Secretary General, National Human Rights Commission, New Delhi. The brief facts of the case are that on 19.03.2016 one person by name Shri Purohith, resident of HAL 3rd stage, Bengaluru had given complaint against his servant named Shri Mahendra Rathore suspecting that Shri

Mahendra Rathore had stolen Rs. 3,60,000/- from his house. On such complaint a case was registered in Jeevan bhima Nagar Police station, East division, Bengaluru in crime no. 89/2016 under section 381 of I.P.C. On the same date, in the evening suspect Shri Mahendra Rathore was secured and brought to Jeevan bhima Nagar Police station for enquiry. During enquiry, at about 7.30pm the suspect developed breathlessness and he was given first Aid and shifted to CMH Hospital. At the hospital, Shri Mahendra Rathore was declared as "brought dead" and his body was later shifted to Bowring Hospital for autopsy. A case under section 174(c) Cr.P.C was registered in Jeevan bhima Nagar Police Station in UDR No. 12/2016 and further investigation was taken up.

- 2) On the above facts HRC No. 1960/10/31/2016 on the complainant of Shri T Narasimha Murthy, HRC No. 2375/10/31/2016 on the complainant of Shri Mathew Thomas, HRC No. 1971/10/31/2016 on the complainant of Shri Shiddalingegowda and HRC No. 3591/10/31/2016 on the complaint of Shri K. S Anil were also registered and connected with HRC No. 1874/10/31/2016.
- 3) After registration of HRC No. 1874/10/31/2016, report of autopsy of Shri Mahendra Rathore was called from Medical Superintendent, Bowring Hospital, Bengaluru. Meanwhile, the case in Jeevanbhima Nagar Police Station in UDR No. 12/2016 under section 174(c) was taken over by CID. The CID had also taken over the investigation of the case in Jeevanbhima Nagar Police Station registered as Crime no.

89/2016 under section 381 of Cr.P.C. Report was called from DGP, CID on this case. The DGP, CID by letter dated 24.05.2017, informed that as they have taken up investigation of Jeevanbhima Nagar Police Station UDR No. 12/2016 under section 174(c) of Cr.P.C and on the basis of investigation conducted in this UDR a case is registered in Jeevanbhima Nagar Police Station Crime No. 65/2017 under section 304, 324, 326 r/w 34 IPC and that investigation report and chargesheet filed in Crime No. 89/2016 would be furnished after completion of investigation in Jeevanbhima Nagar Police Station Crime No 65/2017.

- 4) As per letter dated: 27.08.2016 the opinion on cause of death, MER, Inquest report and Statements recorded in respect of Shri Mahendra Rathore were sent to Karnataka State Human Rights Commission by Medical Superintendent, Bowring and Lady Curzon Hospital. The opinion regarding cause of death by Department of Forensic Medicine, Bowring and Lady Curzon Hospital was: "On perusal of all the stated above, we are of the opinion that death due to vaso-occlusive crisis in brain, kidney, heart and lung following physical exertion cannot be ruled out, associated with ante-mortem soft tissue injuries and fracture Right Fifth Metatarsal bone".
- 5) In the enquiry report dated: 28.08.2020 submitted by DGP, CID, it is ascertained that Police personnel of Jeevanbhima Nagar Police Station namely 1) Shri Ejaz Khan, CHC No. 6794 (2) Shri Keshavamurthy, C.P.C 11630 (3) Shri Mohan Ram, C.P.C 8858 (4) Shri Siddappa Bommanahalli, C.P.C 12509

have physically assaulted the suspected person Mahendra Rathore, which lead to his death. Further the enquiry officer who conducted the inquiry has opined that “The reason for the death remains same vaso-occlusive crisis consequent upon Sickle cell trait / Sickle cell disease cannot be ruledout. However, associated assaulted injuries mentioned can cause physical exertion leading to hypoxemia and metabolic acidosis triggering sickling crisis in a person who has trait”.

- 6) DGP, CID therefore concluded that based on documents which are collected during the time of enquiry which was conducted incase no. 89/2016 which lead to his death, the case in Crime No. 65/2017 under section 304, 324, 326 330 r/w 34 I.P.C was taken up against Police personnel namely 1) Shri Ejaz Khan, CHC No. 6794 (2) Shri Keshavamurthy, C.P.C 11630 (3) Shri Mohan Ram, C.P.C 8858 (4) Shri Siddappa Bommanahalli, C.P.C12509. After receiving approval of the Government for trial ofaforesaid accused Police personnel, C.C No. 19485/2019 under section 304, 326, 330 r/w 34 of I.P.C has been filed on 18.07.2020before the 1st A.C.M.M Court and the trial is under process.
- 7) The Commission has therefore, passed order dated 18.09.2020 that there is a prima facie case of serious violation of human rights deserving suo motu cognizance, inquiry and intervention by the Commission.
- 8) Hence, at this stage, issue notice to the additional Chief Secretary, Department of Home of the State Government to:

- a. Inform the Commission as to whether the criminal case in respect of death of the deceased Mahendra Rathore is committed to a court of session specified to be the Human Rights Court u/s 30 of The Protection of Human Rights Act, 1993.
- b. Inform the Commission as to whether a special public prosecutor is appointed to conduct the said case as required u/s 31 of The Protection of Human Rights Act, 1993.
- c. To show cause as to why this Commission should not, as envisaged in Section 12 of The Protection of Human Rights Act, 1993, intervene in the proceeding before the Sessions Court designated as aforesaid.
- d. To inform the Commission as to whether any departmental/disciplinary proceedings are initiated against the police officers concerned and accused in the criminal case in C.C No. 19485/2019.
- e. To cause an enquiry into and inform the Commission about the next of kin/heirs of the deceased Mahendra Rathore and about their whereabouts and permanent and current address; and
- f. To show cause and give reasons as to why an appropriate amount of compensation should not be awarded to the legal

heirs of the deceased and should not be paid by the State Government in the first instance.

9) The report dated: 23.08.2021 is received from Addl. Chief Secretary, Home Department enclosing parawise reply of the Commissioner of Police, Bengaluru. The Commissioner of Police has, in his reply stated as under

a. “Inform the Commission as to whether the criminal case in respect of death of the deceased Mahendra Rathore is committed to a court of session specified to be the Human Rights Court u/s 30 of the Protection of Human Rights Act, 1993.

J .B Nagar Police station Cr. No. 65/2017 u/s 304, 324, 330, 34 IPC has been investigated by Shri S.T Chandrashekar, Dy.S.P, H& B, CID, Bengaluru and filed chargesheet in court. The case is pending trial before the CCH-52 in SC No. 1723/2019. This Court is authorized by the Govt of Karnataka to try the cases investigated by CID unit.

b. Inform the Commission as to whether a special public prosecutor is appointed to conduct the said case as required u/s 31 of the Protection of Human Rights Act, 1993.

Smt. Krishna Veni, Special Public Prosecutor is appointed to conduct the said case.

c. To show cause as to why this Commission should not, as envisaged in Section 12 of the Protection of Human

Rights Act, 1993, intervene in the proceeding before the sessions court designated as aforesaid.

NA

d.To inform the Commission as to whether any departmental/disciplinary proceedings are initiated against the police officers concerned and accused in the criminal case in C.C No. 19485/2019

The Police officers and staff involved in the incident were suspended as per KSPDP Rule 6. Now the officials are released from suspension and are on duty. No disciplinary proceedings are initiated against them as the criminal case is pending trial before the Hon'ble Session Court.

e.To cause an enquiry into and inform the Commission about the next of kin/heirs of the deceased MahendraRathore and about their whereabouts and permanent and current address; and

Smt. Hemanthi Devi W/o Srinath Singh 59 years, elder sister of deceased Mahendra Rathore residing at Kundeshwara village, Shahapura Taluk, Bhojpura District, Bihar State.

Sri Srinath Singh S/o Late Chandradeep Sing, 75 years, husband of Smt. Hemanthi Devi, residing at Kundeshwara village, Shahapura Taluk, Bhojpura District, Bihar State.

f. To show cause and give reasons as to why an appropriate amount of compensation should not be awarded to the legal heirs of the deceased and should be paid by the State Government in the first instance.

The Hon'ble Commission or the Government of Karnataka may take appropriate decision.”

- 10) In view of the criminal case already before the court, no discussion of the evidence and material brought before this Commission is advisable or required. An appropriate decision may be taken by the Commission as regards intervention in the judicial proceedings, at appropriate stage.
- 11) The Commission is, after due consideration of the reply received from Addl. Chief Secretary, Home Department, constrained to make following recommendation:
 - a. Having regard to the above facts and circumstances the Government of Karnataka, through the Additional Chief Secretary, Department of Home, should pay to the next of kin (of deceased Mahendra Rathore) Smt. Hemanthi Devi w/o Srinath Singh, residing at Kundeshwara Village, Shahapura Taluk, Bhojpura District, Bihar, the sum of rupees five lakhs by way of interim compensation, by Demand Draft in her name and send it by registered post acknowledgement due and submit copy of acknowledgement and receipt to this Commission latest by 31.03.2022.
- 12) It may be appropriate to point out at the end that under the provisions of Section 18(e) of The Protection of Human Rights Act, 1993, the State Government or the authority concerned is duty bound to forward within 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 authority concerned that, under the provision of Regulation 22 of the Karnataka State Human Rights Commission (procedure) Regulations 2007, if any application seeking modification or review of order or proceeding passed by this Commission is received, it may be considered by the Commission for appropriate order.

- 13) A copy of this Opinion, Report and Recommendations shall be sent to the informant and respondents forthwith.

List on 31.03.2022 for receipt of action taken report.

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

Sd/-
(K.B. Changappa)
Member

Sd/-
(Shri R. K. Dutta)
Member

PSD