

KARNATAKA STATE HUMAN RIGHTS COMMISSION

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

H.R.C. No: 1937/10/6/2020

PRESENT

Date: 11-03-2022

Justice D.H. Waghela
Chairperson

Shri K.B. Changappa
Member

Shri R K Dutta
Member

Informant: Superintendent,
District Prison,
Chikkamagaluru

OPINION, REPORT AND RECOMMENDATIONS

1. The complaint is registered on the basis of g-mail intimation dated 18.08.2020 of the Superintendent of District Prison, Chikkamagaluru. It is reported that Shri Binu alias Kutta, U.T.P. No. 6454, S/o Vargees, aged about 46 years and R/o K Kelaguru, Mudigere Taluk, Chikkamagaluru District was remanded to judicial custody in Cr. No. 49/2019, under section 379 of I.P.C., and section 11(1)(d) of Prevention of Cruelty to Animal Act, 1960 and section 9, 11 of Karnataka Prevention of Cow Slaughter and Cattle Prevention Act, 1964 by the Hon'ble CJ and JMFC, Chikkamagaluru on 18.11.2019. It is further reported that the aforesaid prisoner suddenly collapsed complaining of chest pain on 15.07.2020 at 5:30 p.m and was declared 'brought dead' at Government Hospital, Chikkamagaluru at 5:48 p.m on the same day.

2. The inquest was conducted by Hon'ble II Addl. Civil Judge & JMFC, Chikkamagaluru. It is reported that statement of one Johny was recorded who identified the dead body of Binu. All efforts were made to call upon the blood relatives of the said deceased prisoner, but no information was secured about the relatives.
3. The post-mortem report submitted by District Hospital, Chikkamagaluru, magisterial enquiry in U.D.R No: 13/2020 u/s 176 (1-A) of Code of Criminal Procedure Code, 1973 and the final opinion of I.G.P of the Commission state that "death was due to cardio-respiratory failure as result of severe Myocardial Infarction".
4. Considering the material placed on record, it appears that the procedure required to be followed in handling the case was not strictly followed as per the guidelines issued by the National Human Rights Commission and full video recording of the post mortem was not supplied. Therefore, the Dy.S.P Shri Keshav, under the supervision of learned A.D.G.P was directed and authorized to carry out necessary investigation and collect copy of the original C.D on which entire post mortem was recorded, alongwith other material. Accordingly report dated 24.02.2020 was submitted by Dy.S.P Shri Keshav which *inter alia* stated as under:

“..... As per the orders of the Hon'ble Commission, the records pertaining to UTP No. 654, Sri Binu @Kutta has been obtained from the SHO of Kalasa police station. The report shows that on 08-11-2019, Sri. Vishwanath filed a complaint accusing Binu of robbing his bull and with an intention to sell meat, he had caused harm to the bull's leg and back subjecting it to severe

cruelty.....

..... During enquiry the PSI of Basavenahalli PS Sri. B.R.Ravishankar, who registered the case regarding the death of the deceased Binu @ Kutta in which, based on the complaint filed by Sri. Rakesh Kamble, S.P. Prisions, Chikkamagaluru, on 15.07.2020 at 5.30 P.M, the UTP 6454, Binu @ Kutta collapsed due to chest pain, and when he was taken to the hospital, the doctors declared he died on the way to the hospital and requested for further action.....

..... Though attempt was made to trace the relatives of deceased, none of them could be traced. The Hon'ble 2nd ACJ and JMFC Magistrate conducted the inquest on 16.07.2020 and the P.M was conducted at Government hospital, Chikkamagaluru. Since the camera of the station was under repair at the time of P.M, they borrowed camera from traffic P.S and the recording was done, but due to some technical error they could not complete the full video recording. After completing the inquest the dead body was handed over to Shri Jony P.P who knew the deceased and on the same day in association with the Christian Development Organization, his last rites (but it is mentioned as rights) was performed at Christian graveyard at Adhishaktinagar, Chikkamagaluru. Later with the help of P.P. Jony they tried to trace his relatives on 03/11/2020 they personally went to his address at Eshwara temple, Matanchari town, Ernakulam, Kerala District. Though the local police helped him to track his relatives they failed in finding anyone. The RFSL Report Mangalore and Hassan and the final opinion from the Doctors States **“I am of the opinion that cause of death was Cardio-Respiratory failure as a result severe**

myocardial infarction”.....

.....
Shri. Jony P.P., a known person to the deceased Binu @ Kutta stated during the enquiry that a week prior to being arrested by the Kalasa P.S he joined work as a coolie in his farm. He worked from 08-00 A.M. to 4-00 P.M evening, and after collecting his wages for the day he returned back to Balehole. He slept at the bus stand and was always heavily drunk.....

Prior to his work in this farm, he worked at any place which offered daily wages, drank heavily with the money earned, and slept at the bus stand. He was homeless. On 07-11-2019 while at work at our farm, cows belonging to Vishwanth had entered their cattle shed and when Binu @ Kutta tried to drive them out from the shed, one bull went to harm him so he chased and injured its back and leg with the knife. So a case was registered at Kalasa P.S, for which police arrested and sent him to jail. After he was sent the jail, Jonny went to Binus village in Kerala which was near Eshwara temple, Mattancheri town post, Ernakulam, and enquired about his relatives but could not find anyone..... On

24/01/2022, the investigation wing KSHRC sent a letter to, Matanchari P.S along with his Photograph address and names of his family members through e-mail requesting to co-operative in finding the relatives of Binu @ Kutty. The Station House officer replied through e-mail no fruitful information could be received about Binu.

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S.P presence, Chikkamagaluru submitted a report that at time of admission, doctors mentioned that the deceased was healthy and did not have any health issues prior to his

death, neither did he complaint of any health issues to the doctors when they visited the jail for general health check-up. Since there were no treatments given to him at jail there are no documents regarding his treatment.”

5. At the end of scrutiny of material coming on record, no definite conclusion could be drawn as regards the cause of the death of the accused Binu @ Kutta or the circumstances surrounding it. However, a conclusion can definitely be drawn that the guidelines regarding videography of the post mortem have been violated, and not complied with.

6. Therefore, it is recommended that-

(a) The Department of Home should issue a circular to all the police officers, down to the rank of police officers in charge of police station or sub-inspector to scrupulously follow and abide by the guidelines issued by the National Human Rights Commission in the matter of recording, preserving and providing full and proper videography of the whole post mortem upon death of any person in judicial custody, police custody, in prison or in any encounter. It needs to be made absolutely clear that any lapse of any police officer in this regard with or without excuses of any technical glitch or operational failure of any equipment shall not be acceptable and making any such excuse shall be treated as a serious misconduct attracting major punishment and, in a fit case, prosecution for destruction/loss of evidence.

(b) It is recommended that the recent guidelines finalised by the Hon'ble Supreme Court in Criminal Trials Guidelines Regarding Inadequacies and Deficiencies, In Re vs. State of Andhra Pradesh and Others [2021 (10) SCC 598], as far as

they apply to investigation and collection and preservation of evidence is concerned, should be circulated alongwith the circular as aforesaid, in due reference to binding mandate of the Supreme Court.

7. 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 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 this Commission is received, it may be considered by the Commission for appropriate order.
8. A copy of this Opinion, Report and Recommendations shall be sent to the informant forthwith.

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

Sd/-
(K.B. Changappa)
Member

Sd/-
(R.K. Dutta)
Member