

KARATAKA STATE HUMAN RIGHTS COMMISSION

1-4th Floors, 5th Stage, M.S. Building, Bengaluru - 560 001

HRC No.2610/10/14/2018 C/w 2797/10/14/2018,
2950/10/14/2018
& C/w 2774/10/14/2018

Dated this 31st day of March, 2022

PRESENT

Justice D.H. Waghela
Chairperson

Shri K.B. Changappa
Member

Shri R.K. Dutta
Member

COMPLAINANTS:

HRC No.2610/10/14/2018

Suo Motu Case

HRC No.2797/10/14/2018

Sri K.R. Ravindra, S/o Late C. Ramaiah, Shambhavinilaya, M.C. Road, V.V. Nagar, Kallahalli, Mandya - 571 401.

HRC No.2950/10/14/2018

Smt. Pooja, V. SICHREM, 1stFloor, #35,Anjanappa Complex, Hennur Main Road, Lingarajapuram, St. Thomas Town P.O., Bangalore 560 084.

HRC No.2774/10/14/2018

Sri Devaraju& others,
Mandya District, Mandya.

v.

RESPONDENT:

Mandya West Police
State of Karnataka

OPINION, REPORT AND RECOMMENDATION

This proceeding is initiated suo-motu on the basis of newspaper report published in 'Deccan Herald' dated 14-07-2018

under the caption “Custodial death triggers protest in Mandya”. Subsequently other complaints have been filed by Sri K.R. Ravindra, Smt. Pooja, V and Sri Devaraju & others and all the complaints were taken together for orders as they are related to the same incident. It is reported that death of a suspect in a bike theft case in police custody has sparked off a protest by Dalit association in Mandya town on 13-07-2018. It is further reported that Mandya West Police Station had detained one Sri B. Murthy, hailing from Bellaturu village, Madduru Taluk, Mandya District, 3 days ago, but had not produced him before the Magistrate. According to the police, Sri B. Murthy committed suicide by hanging himself inside the cell. Later, the Superintendent of Police, Mandya District has sent a fax message/special report relating to suicide committed by Sri B. Murthy at Mandya West Police Station. It was informed to the Commission that the case was handed over to the CID, Bengaluru. Upon issuance of notice to the Deputy Superintendent of Police, H & B, CID, Inquest Report, P.M. Report, Histopathology Report and final opinion were received on 29-07-2019. Subsequently magisterial enquiry report and final report in UDR No.19/2018 were also received alongwith letter dated 14-11-2019 of DGP, CID.

2. Inquest in UDR 19/2018 was conducted by the Principal Civil Judge & JMFC, Mandya in the presence of male relative of the deceased Alagayya and the magistrate recorded statements of wives of deceased, Smt. Roopashri and Smt. Shivarathnamma. According to the inquest report no external injuries were noted. The post-mortem of dead body of Sri B. Murthy was conducted at Mandya Institute of Medical Sciences on 13-07-2018 between 3.30 p.m. and 6.30 p.m. In the post-mortem report a ligature mark measuring 28 cms x 3 cms around the neck of the deceased is noticed. On the basis of histopathological report, the doctors have opined that the cause of death was Asphyxia as a result of hanging. So, it is clear from the perusal of the record that death of Sri B. Murthy was due to committing suicide inside the cell.

3. The next question is that why proper security was not provided to the person/suspect by the police in their custody and to see whether there is any lapse on the part of police in properly guarding the suspect. On perusal of record, it shows that Sri Vipul Kumar, IPS, Inspector General of Police, South Division, Mysore was appointed as Disciplinary Authority to enquire into this matter and report. After serving notices and giving sufficient opportunities, the disciplinary authority by his order No. Sibbandi(3)/DE/06/2018-19, dated 31-12-2020 and OB

No.116/2020-21 passed the orders holding (1) Sri Anand Kumar, PSI, (2) Sri Madesh CHC 268, Maddur Police Station and (3) Sri Mallikarjuna Chulaki CPC 140 as guilty and exonerated Sri Varadaraju CPC 08 of Koppa Police Station, Mandya District.

4. As the disciplinary authority had framed charges against Sri Anand Kumar, PSI, Sri Madesh, CHC 268, Maddur Police Station and Sri Mallikarjuna Chulaki, CPC 140 of Mandya West Police Station for negligence in discharging their duties and the same have been proved in the departmental enquiry held by IGP, South Zone, Mysore, notices were issued to police officials Sri Anand Kumar, PSI, Sri Madesh, CHC 268, Maddur Police Station and Sri Mallikarjuna Chulaki, CPC 140 and the said police officials have filed their response on 19-2-2021. In the response they only state that the charge made against them is vague and that enquiry held is not proper. But nowhere in their response have they stated that how the charge was vague and how the departmental enquiry was bad. In their response all the three officials have not denied about bringing suspect three days prior to his committing suicide. Further there is no explanation as to why they have not produced him before the magistrate in time as prescribed. The perusal of the response only shows general remarks stating that the enquiry is bad and not on any particular fact. Nowhere in the response is

anything said about the compensation to be paid to the relatives of the victim. Hence the responses are not enough to restrain the Commission from awarding compensation to relatives of the victim.

5. Even as, it is not clear from the record what inspired the deceased to commit suicide, it was undoubtedly the duty of the police officers concerned to ensure the safety and survival of the person in their custody and not to allow premature death of the accused person as observed by the Orrisa High Court in *Satyabhama Das v. State of Orissa* (2011 SCC Online Ori 56)

“It is pertinent to note here that though respondent-authorities stated that they took some steps for treatment of the deceased victim, they have not stated anything as to what special preventive measures were taken by them, to prevent deceased Maheswar Das from committing suicide, who according to them, was a psychiatric patient and earlier on 27.06.1998 the deceased had tried to commit suicide in jail custody, but became unsuccessful. If proper attention has been given, deceased Maheshwar Das could not have committed suicide inside the

jail by hanging himself by means of his daily wearing materials. The Jail Authorities could have provided such daily wearing by means of which he could not have been able to commit suicide. Further, he could have been kept inside a cell where any attempt to commit suicide could have been noticed either by jail inmates or by jail employees. The carelessness of the opposite party-authorities is well evident from Annexure-1 by which the petitioner was intimated about the death of her husband. Annexure-1 through which intimation was given to the petitioner regarding death of her husband contains the following endorsement in Oriya which has been translated into English.”

It is held by the Apex Court in D.K Basu v. State of West Bengal (AIR 1997 SC 610)

“Some punitive provisions are contained in the Penal Code, 1860 which seek to punish violation of right to life. Section 220 provides for punishment to an officer or authority who

detains or keeps a person in confinement with a corrupt or malicious motive. Sections 330 and 331, provide for punishment of those who inflict injury or grievous hurt on a person to extort confession or information in regard to commission of an offence. Illustration (a) and (b) to Section 330 make a police officer guilty of torturing a person in order to induce him to confess the commission of a crime or to induce him to point out places where stolen property is deposited. Section 330, therefore, directly makes torture during interrogation and investigation punishable under the Penal Code, 1860. These statutory provisions are, however, inadequate to repair the wrong done to the citizen. Prosecution of the offender is an obligation of the State in case of every crime but the victim of crime needs to be compensated monetarily also. The Court, where the infringement of the fundamental right is established, therefore, cannot stop by giving a mere declaration. It must proceed further and give compensatory relief, not by way of

damages as in a civil action but by way of compensation under the public law jurisdiction for the wrong done, due to breach of public duty by the State of not protecting the fundamental right to life of the citizen. To repair the wrong done and give judicial redress for legal injury is compulsion of judicial conscience.”

6.In view of the orders in the departmental enquiry against the police officials, further enquiry against the police officials was not called for. However, for the lapses on the part of police officials, the relatives of the deceased have to be compensated by the State. The Commission directed its ADGP to report the details of the deceased's relatives and accordingly the Dy.S.P of the Commission has reported that Smt. Roopashri, C.P. of Belaturu village, Koppa Hobli, Maddur Taluk, Mandya District is the first wife of the deceased and Smt. Shivarathnamma C/o Sri H.B. Nagarajaiah, Harohalli Kote, Kanakapura Taluk, Ramanagar District is the second wife of the deceased. In her statement recorded by the Dy.S.P, KSHRC, Smt. Roopashri has stated that she is the first wife of deceased and has two children by name Manoj and Thejaswini. Smt. Shivarathnamma is the second wife and has two children by

name Harsha and Hari. They have also furnished copies of voter's ID, Ration Card, Family Tree, Income Certificate and pass books. The copy of voter's ID, Ration Card and Family Tree furnished by Smt. Roopashri shows her husband's name as B. Murthy. The ration card and family tree also reflects the names of children of Roopashri and B. Murthy. Similarly, the documents like Aadhar Card, Ration Card and Pass book furnished by Smt. Shivarathnamma shows her husband as B. Murthy and the ration card and family tree shows the names of Shivarathnamma and B. Murthy. So, in view of these copies of documents placed before the Commission, all the dependents of B. Murthy are entitled to be compensated by the State, as there would be adverse financial consequences on them due to death of Sri B. Murthy. As per report dated 06.01.2022 of the Dy.S.P, Karnataka State Human Rights Commission, Bengaluru, both the wives of the deceased have stated that the compensation amounts may be given to both the families. And it appears that they were dependant on the income of the deceased.

7. In the above facts and circumstances and on consideration of the material coming on record and for the reasons recorded herein, the Commission is constrained to make its recommendations as under:

a) The State Government/Additional Chief Secretary, Home Department, Government of Karnataka should pay by way of interim compensation, a total sum of Rs.6,00,000/-, out of which an amount of Rs.3,00,000/- each shall be paid to 1. Smt. Roopashri, for herself and Manoj, Thejaswini and Rs.3,00,000/- to Smt. Shivarathnamma, for herself and Harsha, Hari. The amounts of Rs.3,00,000/- shall be deposited in the joint account of Smt. Roopashri and her children and separately Rs.3,00,000/- shall be deposited in the joint account of Smt. Shivarathnamma and her sons.

b) The State Government may consider recovering the amounts paid as aforesaid from officials who are held guilty in the disciplinary proceedings.

8. It may be appropriate to point out at the end that under the provisions of Sec.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.

9. A copy of this Opinion, Report and Recommendations shall be sent to the complainants and respondent forthwith.

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

Sd/-
(Shri K.B. Changappa)
Member

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

PSD