

KARNATAKA STATE HUMAN RIGHTS COMMISSION

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

H.R.C. No. 475/10/31/2021-JCD

Date: 25.08.2022

PRESENT

Justice D. H. Waghela
Chairperson

Shri K. B. Changappa
Member

Shri R. K. Dutta
Member

Informant: Chief Superintendent
Central Prison
Bengaluru

V.

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

OPINION,REPORT AND RECOMMENDATIONS

- 1) This case is initiated upon the report from the Chief Superintendent of Central Prison, Bengaluru that U.T.P. No. 851/18, Aravinda Kumar S/o Srirama Reddy, aged 21 years, who was accused in Spl.C.C. No. 290/18,

under section 363 and 376 of I.P.C. and Section 4, 6 and 16 of Protection of Children from Sexual Offences Act, 2012 on the file of LIVth Additional City Civil and Sessions Court, Bengaluru, had died due to illness on 04.02.2021 at 4.15 p.m. in Bowring and Lady Curzon Hospital, Bengaluru. Upon issuing notice, the post mortem report, video recording of inquest and magisterial enquiry reports pertaining to the aforesaid deceased prisoner have been received. And upon examination of the record it appeared that the cause of death of the deceased was found and certified as “Death is due to respiratory failure consequent upon disease of lungs”. It is recorded in the report under section 176 (1-A) of Cr. P. C., that the death was not surrounded with any suspicious circumstance.

- 2) Upon reference to the A.D.G.P., attached to this Commission, for his opinion, it is stated as under:

“In the statement of witnesses in the inquest column No. 09, they state that the deceased was in love with a minor girl, her parents

registered a case against him at Rajajinagar police station and so the Rajajinagar police arrested the deceased was sent to Bangalore Central Prison in 2018. They frequently visited Bangalore Central Prison and met him. The jail officers informed over phone about the ill health of the deceased from the past 3-4 months and about his treatment at Bowring hospital and Rajiv Gandhi hospital. They visited the hospital and found the deceased taking treatment. The doctor informed that the deceased was suffering disease related to Kidney and T.B. On January 05, 2021 the jail officers informed over phone that the deceased was admitted at Bowring hospital and they visited the hospital. Since his health was bad his mother stayed back at the hospital and took care of him. He died on 04.02.2021 at 4.30 p.m. and on 05.02.2021 at 1-35pm they identified the body in Bowring hospital mortuary in the presence of Magistrate

and did not find any wound marks on the dead body also stated that they did not suspect anyone for his death and requested the dead body to their custody for final rights after legal formalities are completed”.

- 3) As summarised above, while the deceased was admitted into prison on 26.01.2018 as U.T.P., within 3 years he was found to have suffered diseases related to kidney and tuberculosis. Therefore, by issuance of fresh notice to the Chief Superintendent of Central Prison, Bengaluru he was called personally with the records pertaining to the deceased prisoner. Upon his attendance on 21.06.2022, during the hearing before the Commission, the following proceedings have been recorded in the order dated 21.06.2022:

“Having regard to the papers coming on record, the Chief Superintendent of Central Prison, Parappana Agrahara, Bengaluru, was called to remain personally present with all

records pertaining to the deceased prisoner Aravinda Kumar, U.T.P No. 851/2018.

“Today, he has remained present and placed papers of medical records of the deceased and that is taken on record. It appears therefrom that, the prisoner was diagnosed with Tuberculosis on 14.10.2020 and then treated intermittently outside the prison. Therefore, the Jail Superintendent, Shri Ranganath, present today, was asked to produce the record of treatment in the Jail Hospital, and he has stated after checking with the jail records that there is no entry or evidence in the jail records or its dispensary regarding any check-up, treatment, diagnosis, and during the stay of the deceased in the prison from January-2018, there is no evidence of any medical check-up or health care in respect of the deceased.

“It was specifically put to the officer, if there is any evidence or availability of any material

which could explain, how the deceased caught serious disease like Tuberculosis or disease related to Kidney and he has answered in the negative. Referring to the documents produced today before this Commission, he confirmed that he was not found to have any disease at the time of his first admission into the prison in January 2018. He was asked whether any compensation as mandatory by the Prison Department or under an order of the Court is paid to the next of kin of the deceased. And he has replied that proposal for such compensation is not moved because of the pendency of this proceeding before this Commission. He has voluntarily stated that the proposal shall now be moved for such compensation and if the case is falling in the category of eligible case, then the payment may be made within 03 months.

“There is no dispute about the fact that, since the entry of the deceased in the prison on

26.01.2018, till he was diagnosed of Tuberculosis on 14.10.2020, there was no health check-up, treatment or medical record of any treatment in the jail and there is no explanation as to how he could have contracted the diseases. The average population of prisoners in the Parappana Agrahara jail is around 5000 inmates.

“Recording the above statement, the matter is kept for further consideration and report of payment of any amount of compensation, if made”.

- 4) It is clear from the above that the young deceased prisoner was first diagnosed with tuberculosis on 14.10.2020 and then treated outside the prison. However, there is no entry or evidence in the jail records or in the dispensary records about any check-up, treatment or diagnosis.

5) It can be inferred from the said facts that deceased might have contracted the diseases during his incarceration and timely diagnosis and proper treatment might have saved the life of the deceased. While the deceased was yet to be tried, he is presumed to be innocent and the protection of his right to life was the responsibility of the prison authorities. It is not and it cannot be claimed that the death of the deceased was natural.

6) This Commission has, in a number of cases made detailed recommendations in respect of the general conditions prevailing in the prisons in the State and in particular the issues of over-crowding has persisted.

7) Recently in HRC No. 3798/10/20/2017, the following **recommendations** have been made on 17.08.2022,

(a) All Superintendents/Officers of all the prisons in Karnataka should be directed to arrange periodical health check-ups of inmates of the jail by Medical

Officers of the nearest civil/ Government Hospitals so as to diagnose illness among prisoners and to take measures to provide treatment to the prisoners at initial stage of any ailment.

(b) *The Government should consider preparation and maintenance of health card of each prisoner with monthly/periodical entries to be made by the medical officer of jail and/or visiting medical officer from the Civil/Government Hospital recording the complaints and health parameters of the prisoners upon check-up by the qualified and duly authorised medical officer who may add remarks and recommendation from time to time so as to prevent any deterioration in the physical condition of the prisoner and prevent premature death by preventable complications. Similarly, psychiatric consultation and counselling should be provided on regular basis and their general and specific recommendations should be, as far as practicable and permissible under the law and prison rules, accepted and implemented for maintaining mental health of the prisoners. In particular, for the mental*

health of the prisoners and to prevent alienation and stress, positive physical and mental activity, recreational facility, writing and reading material as also some games and sports in the open, outside the barracks, should be planned and provided so as to engage and encourage the prisoners to pass their time with positive thinking and meaningful activities. Some sessions per week should be arranged for yoga and yogic exercises for all the prisoners and they should be encouraged to participate for their own good health.

- 8) Considering the particular facts of the present case in which an accused prisoner had undergone 3 years of incarceration before trial, contracted serious diseases and died before being proved to be guilty of any offence, it is clearly the loss of a young man to the society and his family with all the concomitant grief, bereavement and loss of his potential and loss of his possible future income.

9) Therefore, it is recommended that,

a) The recommendations made in HRC No. 3798/10/20/2017 as mentioned herein above should be immediately implemented and incorporated in the policy and circulars of the State Government, in its Department of prisons.

b) That the parents of the deceased, jointly or the survivor among them, if one of the parent has passed away, should be paid, by way of interim compensation, the sum of rupees of Rs. 10,00,000/- (Rupees Ten lakhs only) by account payee cheque in their name.

10) 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.

- 11) A copy of this Opinion, Report and Recommendations shall be sent to the informant, the parents of the deceased and the respondent, forthwith.

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

Sd/-
(K. B. Changappa)
Member

Sd/-
(R. K. Dutta)
Member

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