



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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15.01.10

Suo-Motu Case No. 1/2009-10 with CD Case no.74/2009-10

(Division Bench) / 36

1. Inspector General of Prision
Pune
2. DIG Prisons, Southern Region
Byculla , Mumbai-400 008.
- 3 The Commissioner Of Police
Navi Mumbai
- 4.The Superintendent
Taloja Central Prison Navi Mumbai
- 5.The Dy. Commissioner of Police
Navi Mumbai
- 6 Shree Vijay kumar Pandye
Yadav Nagar, Ram-Ashish Yadav Nagar
Sevak Nagar O

Date : 05.01.10.

Coram : Justice Kshitij R. Vyas (*Former Chief Justice*), Chairperson.
Shri Subhash Lalla, Former IAS

PROCEEDINGS

Per Justice Kshitij R. Vyas Chairperson

On the basis of news item published in the Mumbai Mirror dated 03.08.09, with the headline 'I WANT TO KNOW HOW MY SON DIED', the commission by exercising it's Suo-Motu ,powers issued notice to the concern respondents with a direction to file reports.

In compliance with the said order dated 04.08.09 the Superintendent Taloja Central Prison filed the report.

As per the news item one Jitendra, the son of Vijay kumar Pande was arrested in connection with the charge of theft. It appears that Jitendra who worked as a helper at the Pvt. Eng. Firm in Airoli was allegedly caught stealing machine components from his company premises on June 24.2009. He was handed from to Rabale Police and was

subsequently granted bail on July 17 by J.M.F.C. Vashi. He was Suppose to mark his presence at the police station once a week as per one of the conditions in the bail order. Accordingly on July 27 2009 Jitendra had gone to the police station but didn't come back to the home after. Vijaykumar Pande, father of Jitendra went to the Rabale Police Station, to enquire about Jitendra, he was informed that Jitendra has been sent to Talaja Central Prison. The father of Jitendra received telegram of July 29th from Talaja Central Jail informing him the death of Jitendra. Vijaykumar went to the jail, where he was informed by the authority that body of his son had been sent to J.J.Hospital for the post mortem. The J.J.Hospital authorities informed Vijaykumar that, his son died from Jaundice. It is the say of Vijaykumar that his son had not seen any symptoms of Jaundice, when he was at home. He was also surprised to find his son died in a day of illness of Jaundice. He has suspected torture in custody and the death is result of it on the next day.

Vijay kumar has requested for pro be into the matter.

In the report submitted by the jail Superintendent, Talaja Central Jail it is admitted that the deceased was admitted in the jail on 27th July ,2009. It t is stated in the report that on 28th July, 2009 he was examined after mandatory checking by the incharge superintendent Shri. **C.S. Awale** and also by medical officer. The medical officer suspected him to be a patient of Jaundice. He was referred to Navi Mumbai Municipal Corporation Hospital, Vashi for further treatment. The Corporation hospital, instead of providing any treatment, referred him to J.J.Hospital. It is clear that the deceased was brought to the hospital dead , and therefore he was not admitted in the hospital.

When the case was put up for hearing before us on August,24th 2009, we found it difficult to believe, the deceased was infact suffering from Jaundice, and that the person can die on the same day of detection of Jaundice that is on 28th July2009, and that too without getting any medical assistance. If deceased was infact suffering from Jaundice why he was sent to jail by S.D.M. instead of hospital on 27th July, especially when he was already released on bail by J.M.F.C. Vashi on 17th July 2009. Since nothing was stated in the report, we were of the opinion that thorough investigation was necessary. We accordingly directed special Inspector General of Police of the commission to personally investigate the case and submit his own report on the next date of hearing. In compliance with said direction special I.G.P. of the commission submitted his report. We have gone through the report and the other documents produced along with a report very carefully. The special I.G.P. after examining P.M. reports and C.A. Report and Histo Pathology report has concluded as under .



1."The post mortem report clearly states that the deceased had not suffered from any external or internal blunt injuries. That means, he was not subjected to any brutality at the hands of police or jail authorities.

2. After comparing Chemical Analysis report and Histopathology report doctors have given **final cause of death as "lobar pneumonia with pulmonary haemorrhage with hepatosplenomegaly with adrenocortical adenoma (natural)"** which means that alongwith pneumonia he was suffering from cancer of glands that controls blood pressure due to failure of those glands there was bleeding in lungs and has caused his death which was natural. While agreeing with the said conclusion we do feel that something has gone wrong somewhere and that has resulted into the untimely death of the deceased Jitendra. When deceased was arrested in on with C.R.No 222/09 for the offence registered under Sec.381 I.P.C. and was released on bail by J.M.F.C. Vashi on 17.07.09 with the condition to report Rabale Police Station every Sunday till filing of the charge sheet, deceased reported to mark his presence on Monday that is on **27.07.09** as he was asked by Police Station to come instead of Sunday. We fail to understand where was the need for P.S.I Mohan Katkar of Rabale Police Station to arrest him when he was about to enter the Police Station, and that too under **Section 41** of Cr.P.C. prima facie it appears that arresting deceased near the railway station at 11.00 a.m. as his movement was found in suspicious is nothing but a story created by police. Even that was not sufficient for him, he has made a proposal to initiate the proceeding **U/S. (110) Cr.P.C.** against the deceased and he was sent to Special Executive Magistrate and A.C.P.Vashi Division for approval. When diseased had gone to attend the Police Station to mark his presence, to initiate the above proceeding is totally uncalled for P.S.I. Mohan Katkar in our opinion clearly exceeded his powers by making the proposal to initiate preventive action, with the result the deceased had to remain in the jail The Special I.G.P. in his statement before us has stated that neither P.S.I. Shri. Mohan Katkar nor the Taloja Jail Superintendent has informed the relatives of the deceased regarding his arrest/detention in prison. This in our opinion is in clear violation of the guide lines rendered by Hon'ble The Supreme Court in the case of **D.K.Basu V/s. State of W.B.[AIR1997 SC 610]** Investigation carried out by Special I.G.P. of the Commission, in his report has rightly observed the "the claim of P.S.I. Katkar that, he arrested Jitendra from outside the Rabale Railway Station is not beyond suspicion".

Vashi hospital examined the deceased and notice yellow eyes and skin, which was also confirmed by Dr. Sundeep Güthe, they recommended to take him for further treatment to Thane Civil Hospital or J.J.Hospital as they did not have prisoner ward. Instead of following doctors recommendations surprisingly the diseased was brought back to Taloja jail. It is only after the instruction from jail officer Ajit Tikar the deceased was sent to J.J.Hospital at about 17hrs. However the deceased died before he was admitted to J.J.Hospital. At 19.40 hrs. H.C.Sonavne who had taken the deceased to the J.J.Hospital informed jail officer Shri.A.Tikar that the prisoner had died. Thereafter, postmortem was carried out at J.J.Hospital. It is thus clear that for the entire day of 28 July right from morning till the postmortem was carried out, the jail Suprintendent Shri.Awale did not care to inform the relatives regarding the condition of Jitendra. He could have obtained information regarding medical history of the deceased from his relatives. The conduct of jail Suprintendent not to inform the relatives of deteriorating conditions of the deceased in the jail was highly deplorable. It was expected from the jail Superintendent to inform his relatives on 28.07.09 in order save the life of Jitendra. It is only after the death he send the routine telegram and that too on 29.07.09 to the relatives of Jitendra informing them about his death, which was received on 30 July 2009 at 12.45p.m.. This shows the total carelessness and casual approach on the part of jail superintendent.

While recording above findings, against P.S.I. Katkar of Rabale Police Station, A.C.P. Karad Vashi Division and the Superintendent Jail Awale of Taloja Central Prison, we may clarify that these findings are prima-facie in nature, lead to suggest that these officers are prima-facie responsible for the untimely death of Jitendra. With their proper care and timely action they could have saved the life of the deceased. In our opinion for their act and

omissions, and our aforesaid findings enquiry is required to be conducted against them by their appointing authorities.

We accordingly recommend the appointing authorities to initiate enquiries as per procedure, against them, and submit finding \action taken against them before the commission within 3 months from the date of the receipt of this order. On the findings by the concerned authorities we will pass appropriate recommendatory directions to award compensation, to the family of deceased, if necessary.

The complaint is accordingly disposed off.



(Subhash Lalla)
Member



(Justice Kshitij R. Vyas)
Chairperson

Mumbai; 05January, 2010.