

WEST BENGAL HUMAN RIGHTS COMMISSION
BHABANI BHAVAN, ALIPORE, KOLKATA-27

File No. 776/WBHRC/COM/2010-11

P r e s e n t

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|-----------------------------------|---------------|
| 1. Mr. Justice Asok Kumar Ganguly | - Chairperson |
| 2. Justice N. C. Sil | - Member |
| 4. Shri S. N. Roy | - Member |

A complaint was lodged by one Samsuddin Molla, son of Late Jahangir Molla of Bharkanta, PS. Mohammadbazar, Dist. Birbhum alleging that his son Jamirul Molla was murdered and over the said incident Md. Bazar P.S. Case No. 36/10 dated 25.04.2010 under Sections 147/148/149/436/427/302 IPC was registered against one Sunil Soren, son of Bibekananda Soren and 7(seven) other F.I.R. named accused persons.

2. In connection with the said case, Investigating Officer collected Post Mortem Report on 31.05.2010 in which Dr. Narayan Karan, Medical Officer of Suri Sadar Hospital opined that the cause of death was due to the effect of head and brain injury which are apparently ante mortem and accidental in nature. Dr. Karan further said that the chemical report was pending.

3. However, in the complaint it has been alleged that in connection with the aforesaid criminal case, the FIR named accused persons were not arrested and they were moving around in the broad day light and the accused No. 1 Sunil Soren was continuing as teacher in Suri Town Benimadhav High School and other accused persons were also moving around freely and were threatening the complainant for filing the said complaint. It was further alleged that the police authority was not taking any step and as such prayer was made for the arrest of the accused persons so that they could be brought to book.

4. On the basis of the said complaint the Commission took cognizance of the matter and called for a report from the Superintendent of Police, Birbhum by an order dated 13.12.2010. Thereupon the status report from the Superintendent of Police, Birbhum dated 02.09.2011 was furnished to the Commission.

From the said status report it appears that the aforesaid criminal case was started against the 8(eight) FIR named accused persons. During course of investigation sufficient evidence could not be found by the I.O. against the FIR named accused persons but the I.O. could find involvement of 19(Nineteen) other accused persons in the case. In the said report the opinion of the Medical Officer Dr. Narayan Karan was considered and it was also mentioned that the chemical examination report was yet to be received from the FSL, Kolkata. In the said report it was also stated that prayer was made before the learned Court for issuance of the Arrest Warrant against the accused persons and that the I.O. had been instructed to execute the Warrant on receipt from the learned Court and to complete the investigation early.

5. Thereafter the Commission issued further order on 23.11.2011 and sent the same to the Superintendent of Police, Birbhum to the effect that the final report of the Autopsy Surgeon after obtaining the chemical examination report of the Viscera be furnished to the Commission.

6. After the said report was furnished to the Commission, the Commission by an order dated 27.03.2012 discussed the said report and upon discussion, the Commission by its order dated 30.04.2012 directed the Autopsy Surgeon who performed the Post Mortem Examination to appear before the Commission.

7. Thereafter the Autopsy Surgeon Dr. Narayan Karan appeared before the Commission on 04.06.2012 and deposed.

8. In his deposition Dr. Narayan Karan, Medical Officer, Suri Sadar Hospital, Birbhum accepted that in his post-mortem examination report there are mention of several injuries including injuries on the chest wall, abdominal wall. Apart from that there are pricking injuries of two arrows around the neck of the victim. Dr. Karan admitted that out of two arrows he sent one arrow for chemical examination. Before receiving the report of the chemical examination he gave his opinion about the cause of death. Dr. Karan gave the opinion that the injuries were ante mortem and accidental in nature. He accepted that he gave opinion out of his lack of knowledge. However, he admitted that he had eleven years experience and had been performing post mortem examination for the last eight years. Ultimately he admitted before the Commission that the injury on the occipital region might have been caused by lathi blow or might have been caused by striking by any hard substance and in that case injuries can be called homicidal in nature.

9. It is clear from the evidence of the post-mortem doctor that after conducting the post mortem examination he gave his opinion in a casual and careless manner and without consulting all aspects of the matter. It is clear from the deposition of Dr. Narayan Karan that his opinion that the injuries are accidental in nature is not on the basis of a proper and medico logical assessment of the injuries of the victim. It is needless to mention that the opinion of the post mortem doctor is very vital in connection with the trial in a murder case. Before giving his opinion it is expected that doctor will be very careful and give his opinion after objective and in depth consideration of the materials on record.

10. Admittedly in the instant case Dr. Narayan Karan, Medical Officer, Suri Sadar Hospital, who conducted the post mortem examination failed to discharge his duties properly and as expected from a responsible doctor who is conducting post mortem examination for the last eight years.

11. In the aforesaid circumstances the Commission recommends

(a) Suitable departmental proceedings should be initiated against Dr. Narayan Karan, Medical Officer, Suri Sadar Hospital, Birbhum by the State Government within a period of four weeks from the date of communication of this direction.

12. The State Government is requested to inform this Commission about the action taken on the basis of the recommendation within a period of three months from the date of communication.

sd/-
(Shri S. N. Roy)
Member

sd/-
(Justice N. C. Sil)
Member

sd/-
(Justice Asok Kumar Ganguly)
Chairperson

Dated Kolkata, the 26th June, 2012.

Comments of the State Government will be uploaded as and when received.

Sd/- (26/06/2012)
(J.Sundara Sekhar)
Secretary & CEO