

CHAPTER VI

INQUEST

Section 174:— Police to enquire and report on suicide etc.—(1) When the officer-in-charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and unless and otherwise directed by any rule prescribed by the State Government or by any general or special order of the District Magistrate or Sub Divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any) such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or Sub Divisional Magistrate.

(3) When — (Substituted by Act 46 of 1983, S. 3 (with effect from 25-12-1983)

- i) the case involves suicide by a woman within seven years of her marriage; or
- ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or
- iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made request in this behalf; or
- iv) there is any doubt regarding the cause of death; or

- v) the Police Officer for any other reason considers it expedient so to do;

He shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest civil surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would tender such examination useless.

(4) The following Magistrates are empowered to hold inquests, namely any District Magistrate or Sub Divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

Section 174: Primary purpose and object of holding an inquest is to ascertain the cause of death, whether it is ACCIDENTAL, SUICIDAL OR HOMICIDAL. The purpose of holding inquest has a limited scope. It is merely to ascertain whether a person had died under suspicious circumstances or an unnatural death and if so, what is the apparent cause of death. Details regarding the person, who assaulted the deceased, how he was and under what circumstances, he was assaulted are outside the ambit scope of this Section 174.⁷⁶ Names of assailants or names of witnesses need not be mentioned in the inquest report.⁷⁷ The witnesses at inquest may not sign their statement. These statements form part of the investigation or the commission of an offence and therefore, it is covered by Section 162, which enjoins that it shall not be signed by the person making it. Hence the practice of getting eye-witnesses or accused persons to sign on inquest reports is not only unwholesome but also unwarranted.⁷⁸

If police officer records the statement of person, he shall be governed by the general provision contained in Section 162.

Section 162 provides a safeguard in favour of an accused person and against the possibility of misuse of the powers by investigating officers. Based on natural justice, a witness should be free to make any statement he likes at the trial, but if he is made to sign his statement recorded by police, he may be led to feel that he is required to stick to it.⁷⁹ If in an inquest proceeding by a Magistrate, the accused is allowed to appear and be represented by counsel then the proceedings acquire the form of quasi-judicial proceeding. The inquest witness need not be examined as witnesses in the trial unless, there is some special reasons.

76. *Podda Narayana v. State of Andhra Pradesh*, AIR 1975 S.C. 1252 : 1975 Cr.L.J. 1062; *Basit Ali v. State of M.P.*, 1976 M.P.L.J. 149 : 1976 Jab. L.J. 245.

77. *Yogendra Singh v. State of Rajasthan*, 1979 Cr.L.R.(Raj.) 443.

78. *Kuruvila Joseph v. State*, AIR 1952 T.C. 300 at 304.

79. *Chuhar Singh v. State*, AIR 1955 Pepsu 81 at 85, 86.

Section 175:--Power to summon persons:--(1) A Police Officer proceeding under Section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appear to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which Section 170 applies, such persons shall not be required by the Police Officer to attend a Magistrate Court.

Reports to be submitted by the Police Officer:-- When a person is accused and arrested upon an inquest, the police will send 3 reports, possibly to 3 different Magistrates, viz.

- i) the intimation U/S. 174(1) to nearest Executive Magistrate empowered to hold inquest;
- ii) the report U/S. 174(2) to District Magistrate or Sub Divisional Magistrate; and
- iii) the report U/S. 170(1) to the Magistrate empowered to take cognizance of the offence.

Section 176:--Inquiry by Magistrate into cause of death:--(1) (When any person dies while in the custody of the police or when the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of Section 174) the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of Section 174, any Magistrate so empowered may, hold an inquiry into the cause of death either instead of, or in addition to the investigation held by the Police Officer, and, if he does so, he shall have all the power in conducting it which he would have in holding an inquiry into an offence.

(2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already intended, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the Magistrate shall, whenever practicable, inform the relatives of the deceased, whose names and addresses are known, and shall allow them to remain present at the inquiry.

Explanation:— In this section, the expression "relative" - means parents, children, brothers, sisters and spouse.

Object of this proceeding of the Magistrate are intended to discover the cause of death and not to ascertain the names of the assailants, that being the work of police.

The report by Magistrate U/S. 176 is not a judicial proceeding.

A Magistrate holding an enquiry U/S. 176:—Does not constitute a court and the revisional jurisdiction under section 397 cannot be invoked to set aside the finding of the Magistrate.⁸⁰ The recommendations made by the Magistrate were not binding on the Government.

This section 176 has been amended by the Act 46 of 1983, and also by the Criminal Law (2nd amendment) Act, 1983 with effect from 25-12-1983. In certain specified cases, as stated in 176 (1), the Magisterial inquiry is compulsory and in other cases, it is optional e.g. compulsory Magisterial inquiry cases are as follows:--

- i) when any person dies while in the custody of the police
- ii) when the case involves suicide by a woman within seven years of her marriage.
- iii) when the case relates to the death of a woman within seven years of her marriage in any circumstances raising reasonable suspicion that some other person committed an offence in relation to such women.
