

Inquest of Inquest Report

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Abstract

The law of crimes requires a case to be built by the prosecution which puts the guilt of the accused beyond reasonable doubt. A number of procedural safeguards, therefore, are inbuilt in the run-up to the trial to ensure that none of the steps leading to determination of guilt of the accused are hushed up and rather the State machinery works in an efficient manner. Preparation of the inquest report is conducted under the CrPC as a record of crime which even though not a substantive piece of evidence, is an important basis for determining the commission of the offence.

The present research work throws light on the provision of Inquest Report as contained in Section 174, CrPC, which guides police to inquire and report in cases of suicide. This is confined to the ascertainment of the apparent cause of death of a person. This article throws light on discovering whether in a given case the death was accidental, suicidal and homicidal or caused by an animal. It is with this limited purpose that persons acquainted with the facts of the case are summoned and examined under Section 175, CrPC. The details of the overt acts are not necessary to be recorded in the inquest report.

Keywords: *Right to know, unnatural deaths, dowry deaths, ratio decidendi, Coroner, extra territorial jurisdiction, Inquest, Panchnama*

I. Introduction

Criminal investigation is a search for truth and anything which aids this, search should be encouraged. The scope of Article 21 of Constitution of India includes the right to know or right to have the correct information and this will also include the right to know the correct cause of death of any person.

Serious concern has been expressed at various quarters on account of recent abnormal spurt in the unnatural deaths, especially at places like hospitals, police firings, police encounters, railways & other vehicles, and even in the house hold by way of dowry deaths. It has also been found that in criminal cases, the divergent post-mortem reports and the statements of the witnesses have lead to an alarming rate of acquittal. Thus, the public interest will be greatly served and the moral fabric of our democratic government would be considerably strengthened, if the correct and true cause of death of any person is known, especially when the death is unnatural or there are surrounding suspicious circumstances. The preparation of 'inquest' report is an important aspect of investigation.

The term inquest means (quas ists, i.e., to seek) legal or judicial inquiry to ascertain the matter of fact. Inquest implies inquiry about case of death, which is apparently not due to natural causes.

Such an inquiry is necessary to apprehend and punish the offender. It is a sort of preliminary inquiry into the cause of a sudden, suspicious and unnatural death, known as inquest. An inquest is a fact finding inquiry, conducted by an appointed authority with or without a jury, to establish reliable answers regarding identity of the deceased, place and time of his death.

According to the Black's Law Dictionary, the word 'inquest' means an inquiry by medical officer or sometimes with the aid of a jury into the manner of death of a person, who has died under suspicious circumstances or who has died in prison. The English Oxford Advance Learners Dictionary defines the word 'inquest' means an official investigation to find out the cause of somebodies death especially when it has not happened naturally.

The village Chowkidar is duty bound to report at the Police Station, the occurrence in or near his village of any sudden or unnatural death under suspicious circumstances or the discovery in or near his village of any corpse or part of a corpse in circumstances which lead to reasonable suspicion that such a death has occurred.

Foreign case of an N.R.I.

Baby Sunaina died in a UK Hospital but her body was kept waiting for more than 7 years in a local mortuary for a dignified cremation. The parents of unfortunate Sunaina, who passed away at a tender age of 5 months in the same hospital where she was born, fought a long and grim battle in the UK to prove their charge that the child died on account of medical negligence of the doctors working in the hospital. The correct cause of death of the child could not be ascertained in England in spite of two reports- one based on post-mortem examination and another by Department of Forensic Medicines and Science, University of Glasgow, England. The parents of Sunaina were not satisfied with the said reports; they could not prove medical negligence of the doctors in the UK, because, according to them, the true cause of death could not be ascertained. After a lapse of long 7 years, the parents brought the body of Sunaina in India in the year 2007.

A Public Interest Litigation was filed in Delhi High Court, Social Jurist, A Civil Rights group and another v. Union of India and others. This writ petition was dismissed. The ratio decidendi of this case was that the death of Sunaina had occurred in England and a post-mortem examination of the dead body of Sunaina cannot be conducted beyond jurisdiction (*de hors*) u/s., 174 of Code of Criminal Procedure, 1973. It was further held by the Delhi High Court that in cases involving offences committed outside India by non-Indian citizens, such jurisdiction is limited and dependent on whether the country of the authority competent in the country where the offence was committed has requested the Indian Government to have the matter investigated u/s 166B of Cr.P.C. There was no such request, hence a police officer in India cannot register a case or investigate the commission of any offence that has taken place outside India.

The parents of Sunaina could not get justice because of above mentioned legal jugglery. The need of the hour is that an independent authority should be constituted to inquire into the true and real cause of death of a person, even if such a person dies outside the territorial limit of India.

¹³⁴Black's Law Dictionary, 7th edition-1999 at Page No. 796.

¹³⁵English Oxford Advance Learners Dictionary at Page 801.

¹³⁶Rule 129 of Police Regulations and Section 40(d) Cr.P.C.

¹³⁷Writ petition no. (C) 6179/2007 decided by Division Bench of Delhi High Court on 12.10.2007.

¹³⁸Hereinafter referred to as Cr.P.C.

¹³⁹For details see Law Commission of India 206th report on enactment of New Coroners Act.

In order to solve the above mentioned legal lacunae, Law Commission of India in its 206th report has recommended The Coroners Bill, 2008 on 10th June, 2008 to cover the cases of unnatural deaths even if they are caused beyond the territorial jurisdiction of India.

II. Brief Summary of Proposed Coroners Act

The term 'Coroner' has originated from English Common Law. Coroner is a person appointed by the State Government to inquire into causes of all unnatural or suspicious deaths. One Coroner shall be appointed for each district of State and Union Territory. One Coroner may be appointed for more than one district by the concerned State Government. Every Coroner shall be a public servant within the meaning of Indian Penal Code, 1860. Whenever, the Coroner is informed that the dead body of the person is lying within his jurisdiction and there is reasonable cause to suspect that such person has died in unnatural and suspicious circumstances or has died a sudden death of which the cause is unknown, the Coroner may proceed to hold a preliminary inquiry on the body. The Coroner will also have extra territorial jurisdiction to take cognizance of dead body, which is found on the road or at any other place lying unattended outside the district, for which he appointed.

For the purpose of inquiry, after receipt of information, the Coroner may proceed to view and examine the body. Such view and examination shall be held in the presence of the police officer to whose jurisdiction the case belongs and, if possible, in the presence of the relations or friends, if any, of the deceased and the Coroner may reduce to writing such observations as appearance of dead body requires. A Coroner will have jurisdiction over a dead body found within his territorial jurisdiction whether the death has occurred in any part of the country or even abroad. Thus, the presence of the body will itself determine the cause of action by a Coroner. Such inquest shall ordinarily be held in the Coroners Court House and every such inquest shall be deemed to be a judicial proceeding within a meaning of Section 193 I.P.C. and Coroner may exercise all the powers of a Criminal Court u/s 340 and 345 Cr.P.C. The Coroner will conduct the inquest himself by calling at least 3 credible witnesses. Normally in Panchnama/inquest, five witnesses are invited.

The Coroner will make a proclamation for the attendance of witnesses, or where the inquiry is conducted in secret, shall call the witnesses separately, who know anything concerning the death. The Coroner shall be deemed a Criminal Court within the meaning of Part IX of the Prisoners Act, 1900 for the purposes of causing prisoners to be brought before him for giving evidence. If it appears to the Coroner that a post-mortem examination of a dead body is necessary to ascertain the cause of death, he may direct such examination to be held by a Civil Surgeon. For the purposes of preservation of safe custody of the dead body, Coroner can order the removal of the body to any place within his jurisdiction. The Coroner shall take evidence on oath. The Coroner shall be deemed to be a Magistrate for the purposes of Section 26 of Indian Evidence Act, 1872.

But, if on an inquest touching a death, the Coroner is informed that Criminal Proceedings have been instituted against some person before a Magistrate in respect of an offence touching the death of the deceased, he may adjourn the inquest and submit his proceedings to the Magistrate.

When all the witnesses have been examined by the Coroner, he shall sum up the evidence and submits his report to the Commissioner of Police. This report will be regarded as material evidence in any court or any other criminal proceedings. When the inquest proceedings are closed, the Coroner shall give his warrant for the disposal of dead body. A person, who is not satisfied with the report of Coroner, may approach respective High Court for appointment of another Coroner.

¹⁴⁰Hereinafter referred to as I.P.C.

A Coroner may appoint any person as Deputy Coroner who will work during the absence of Coroner for any lawful and reasonable cause. Coroners and Deputy Coroners shall be privileged from arrest while engaged in discharge of their official duties.

III. Police to Enquire and Report on Suicide, etc. - Present Indian Law

Cr.P.C. provides that 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 otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District 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 neighborhood, 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.

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 the Sub-divisional Magistrate.

When the case involves suicide by a woman within seven years of her marriage; or 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 the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or there is any doubt regarding the cause of death; or 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 render such examination useless.

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 are empowered to hold inquest.

Law of Inquest keeping pace with Society

Sub-section (3) of Section 174 was added by the Criminal Law (Second Amendment) Act, 1983. This amendment was enacted to deal with the increasing incidents of dowry deaths or cases of cruelty to married women by their in-laws. Provision was made for inquest by Executive Magistrates for post-mortem in all cases where a woman has, within seven years of her marriage committed suicide or died in circumstances raising a reasonable suspicion that some other person has committed an offence u/s. 498-A of the I.P.C.

¹⁴¹See Section 174 (1) Cr.P.C.

¹⁴²This portion was substituted by Act no. 46 of 1983 vide Section 3.

¹⁴³See Section 174 (4) Cr.P.C.

III. Scope of Inquest

The provisions of section 174 and 175 Cr.P.C., afford a complete and autonomous Code in itself for the purposes of inquiries in cases of accidental or suspicious deaths u/s 174. Section 174, 175 and 176 Cr.P.C., deal with inquiries into suicide or inquiries into sudden, violent or unnatural deaths, Section 174 provides for such inquiries by the police: Section 176 provides for inquest by Magistrates. The police-officer making an inquiry under this section cannot order the exhumation of a human body but a Magistrate can do so u/s 175, which should be read in conjunction with S. 174. Enquiry u/s 174 is permissible till inquest is over.

It is the duty of the nearest Magistrate so empowered to hold an enquiry into the cause of death either instead of or in addition to investigation held by the police officer u/s. 174 of Cr.P.C. If after an enquiry under Se. 174 or S. 176 Cr.P.C., during which statements are also to be recorded, if evidence and materials are collected to make it a prima facie case of any offence, a regular investigation was to follow even without any formal complaint from anybody.

Objective of Inquest Proceedings

The objective of the inquest proceedings is merely to ascertain whether a person has died under unnatural circumstances or an unnatural death and if so, what is the cause of death. The question regarding the details as to how the deceased was assaulted or who assaulted him or under what circumstances he was assaulted is foreign to the ambit of scope of the proceedings u/s. 174. The names of the assailants and the manner of assault are not required to be mentioned in the inquest report. The purpose of preparing the inquest report is for making a note in regard to identification marks of the accused.

The purpose of holding an inquest is very limited, viz., to ascertain as to whether 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.

Details of Assault and Assailant - The proceedings under Section 174 relating to inquest report have a very limited scope. The object of the proceedings is to ascertain whether a person had died under the circumstances which were doubtful or an unnatural death and if so what is the cause of death. The questions regarding details such as how the deceased was assaulted or who assaulted him, etc. are beyond the scopes of the proceedings under this section. Details of overt acts in the inquest report are not necessary as the scope of proceeding under this section is very limited.

¹⁴⁴Kishwar Jahan v. State of West Bengal, 2008 Cr.L.J. 1766 at 1769 (Cal).

¹⁴⁵Nidhan Biswas v. State of Tripura, 2006 Cr.L.J. 2429 at 2434.

¹⁴⁶Ibid.

¹⁴⁷Mer Malade Veja v. State of Gujarat, 1998 Cr.L.J. 4412 (Guj-DB); Radha Mohan Singh v. State of U.P., 2006 Cr.L.J. 1121 at 1127; Ravi v. State Rep. by Inspector of Police, 2007 Cr.L.J. 2740 at 2743 (SC); Mahendra Rai v. Mithlesh Rai, (1997) 10 SCC 605; Bhikan Behera v. State of Orissa, 1995 Cr.L.J. 2998 (Ori-DB); Suresh Rai v. State of Bihar, 2000 Cr.L.J. 3457 at 3461; Suresh v. State of U.P., 2000 Cr.L.J. 2792 (All-DB); State v. Satish Shetty, 2008 Cr.L.J. 2490 at 2498.

¹⁴⁸Ravi v. State Rep. by Inspector of Police, 2007 Cr.L.J. 2740 at 2743.

¹⁴⁹Radha Mohan Singh v. State of U.P., 2006 Cr.L.J. 1121 at 1127 & 1128.

¹⁵⁰Amar Singh v. Balvinder Singh, AIR 2003 SC 1161; Radha Mohan Singh v. State of U.P., 2006 Cr.L.J. 1121 at 1127; Basit Ali v. M.P., 1976 Cr.L.J. 776 (MP-DB); Yogendra Singh v. Rajasthan, 1980 Cr.L.J. NOC 113 (Raj); Podda Narayana, AIR 1975 SC 1252; Shukla Khader v. Nausher Gama, AIR 1975 SC 1324; Bhikhari Bahera v. State of Orissa, 1995 Cr.L.J. 2998 (Ori-DB); Khujji @ Surendra Tiwari v. State of M.P., 1991 (3)Crimes 82, 89 (SC).

An inquest report is not substantive evidence. Therefore questions regarding the details as to how the deceased was assaulted or who assaulted him or under what circumstances he was assaulted, are beyond the scope of the report submitted by the police u/s. 174 Cr.P.C.

Details of Injuries of Deceased- The report of inquest is primarily intended at finding out the nature of injuries and the apparent cause of death, while the doctor who holds post-mortem examination examines the body of the deceased from the medico legal point of view and accordingly it is the post-mortem report that is supposed to contain the details of the injuries though scientific examinations.

Absence of names of Witnesses- Mere absence of names of witness of crime in the inquest report does not render the evidence of witnesses doubtful. The evidence of a witness cannot be rejected merely because his name is not mentioned in inquest report. Absence of the name of the eye witness in the inquest report is not a ground to refuse to rely on his evidence. It is not necessary that the names of eye witnesses should be mentioned in the inquest memo. An inquest under this section is concerned with establishing the cause of death. It is not necessary that all witnesses be examined. Absence of the name of a witness in the inquest report does not prove that he was not an eye witness to the occurrence.

Absence of names of Accused- There is no provision in law or practice requiring the police to mention the names of the assailants in the inquest report, omission to do so is not fatal. The names of the accused persons and the weapons possessed by them need not be mentioned in the inquest report. The omission of the name of the accused in the inquest report does not lead to the inference that the name of the accused was not disclosed as murderer till the completion of the inquest report. Where there is no column in inquest report for mentioning the name of the assailants, omission of the names of the assailant in the inquest report is not fatal. The omission of the name of accused in inquisition memo/inquest report is not fatal to prosecution case.

Mention of the name of accused and eye witness in the inquest report is not necessary. Due to non-mentioning the name of the accused in the inquest report, it cannot be inferred that FIR was not in existence at the time of inquest proceedings.

¹⁵¹Pedda Narayana v. State of A.P., 1975Cr.L.J. 1062

¹⁵²Baldeo v. State of U.P., 2004 Cr.L.J. 2686 at 2689 (All-DB)

¹⁵³Sunil Singh v. West Bengal, 2007 Cr.L.J. 516 at 520; Baldeo v. State of U.P., 2004 Cr.L.J. 2686 at 2689; Mafabhai Nagarbhai Raval v. State of Gujarat, AIR 1992 SC 2186.

¹⁵⁴Narpatsingh v. State of Rajasthan, 1990 Cr.L.J. 2720 at 2725; Radha Mohan Singh v. State of U.P., 2006 Cr.L.J. 1121 at 1127 (SC); Rama Shankar v. State of U.P., 2008 Cr.L.J. 129 at 132 (All-DB).

¹⁵⁵Babu Singh v. State of Punjab, AIR 1996 SC 3250; Khujji v. State of M.P. AIR 1991 SC 1853.

¹⁵⁶Khujji v. State of M.P. AIR 1991 SC 1853.

¹⁵⁷Purkha Ram v. State of Rajasthan, 1998 Cr.L.J. 918 (Raj-DB).

¹⁵⁸Shakila Khader v. Nausher Gama, AIR 1975 SC 1324.

¹⁵⁹Amar Singh v. Balwinder Singh, 2003 Cr.L.J. 1283 at 1289 & 1290 (SC); Radha Mohan Singh v. State of U.P., 2006 Cr.L.J. 1121 at 1127 (SC); Mahendra Rai v. Mithilesh Rai, 1997 SCC (Cri) 899; Baleshwar Mandal v. State of Bihar, AIR 1997 SC 3471; Naresh Kumar v. State of Haryana, 1997 Cr.L.J. 2216 (P&H); Siddalingappa v. State by Circle Inspector of Police, 1993 Cr.L.J. 397 (Kant-DB)

¹⁶⁰Murli Chaurasia v. State of U.P., 1995 Cr.L.J. 2782 at 2783 & 2784 (All).

¹⁶¹Shaikh Ayub v. State of Maharastra, AIR 1998 SC 1285; see also Baleshwar Mandal v. State of Bihar, AIR 1997 SC 3471.

¹⁶²Ram Sajiwan Singh v. State of Bihar, AIR 1996 SC 3265.

¹⁶³Shashidhar Singh v. State of M.P., 1998 Cr.L.J. 2676 (M.P.-DB).

Merely because the witnesses on the inquest report who are also eye-witnesses did not give out the name of the accused persons while describing the cause of death in the inquest report does not render the presence of the eye-witness on the spot doubtful.

Omission of accused's weapon- The name of the weapon possessed by the accused need not be mentioned in the inquest report. Non-mentioning of the weapon of assault, is not fatal, because the purpose of inquest report is to record apparent cause of death describing the injuries as may be found on the body of the deceased. The opinion given in the inquest report does not attain finality because the dead body has to be subjected to post-mortem examination, which is done by medical expert and is more authentic. The mention in the inquest report that deceased died of gunshot was held sufficient, omission of the type of the gun was held of no consequence.

Omission of empty cartridges- Non-mentioning in the inquest report of empty cartridges found near the dead body of the deceased does not rule out the presence of empty cartridges on the spot. If the injuries are also not described in details in the inquest report, it is not a circumstance against the prosecution because the investigating officer is not a medical expert.

Omission of crime number- Where the investigating officer has deposed that the omission of the crime number in inquest report is by mistake, the convincing and reliable evidence of eye-witnesses cannot be disbelieved. Where the FIR has been lodged promptly, the omission to mention crime number in the inquest report cannot be attached significance. The inquest report is a document of vital importance and has to be prepared promptly.

Delay in inquest- if the inquest report is unreasonably delayed, then begins the scope for questioning the genuineness of the FIR, its contents and the time of its recording. In case of dowry deaths it would be of considerable assistance if an appropriate high priority is given to the expeditious investigation, if special magisterial machinery is created for prompt investigation and efficient investigative techniques and procedures are followed.

Absence of prescribed form- The form no. 211 prescribed by the U.P., Police Regulations no doubt contains the column relating to the name of the complainant, time of commencement and time of conclusion of the inquest report. They appear to have been prescribed in the form for the purpose of having check on the movement and conduct of the police officials. It cannot give the handle to spoil the prosecution case by merely omitting to mention them in the prescribed form of the inquest report and related papers. Similarly, the complete entries without committing any omission or lapse in preparing the inquest report form, can give any premium to the prosecution case. It has to be

¹⁶⁴Rama Shankar v. State of U.P., 2008 Cr.L.J. 129 at 132 (All-DB); Radha Mohan Singh v. Lal Saheb, AIR 2006 SC 951; Amar Singh v. Balvinder Singh, AIR 2003 SC 1164.

¹⁶⁵Suresh Rai v. State of Bihar, 2000 Cr.L.J. 3457 at 3461; Eqbal Baig v. State of A.P., AIR 1987 SC 923.

¹⁶⁶State of U.P. v. Abdul, AIR 1997 SC 2512; Murli Chaurasia v. State of U.P., 1995 Cr.L.J. 2782 at 2783 & 2784 (All).

¹⁶⁷See Supra note 19.

¹⁶⁸Rajju v. State of U.P., 1994 Cr.L.J. 105 (All-DB).

¹⁶⁹Bhikam Singh v. State, 2004 Cr.L.J. 2120 at 2128 & 2129 (All-DB).

¹⁷⁰See supra note 19 at 2689 (All-DB).

¹⁷¹Krishna Pal Singh v. State of U.P., AIR 1996 SC 733.

¹⁷²Niranjan Shil v. State of Tripura, 1999 Cr.L.J. 4498 (Gau-DB).

¹⁷³Banwari v. State of Rajasthan, 1979 Cr.L.J. 161 at 166 (Raj-DB).

¹⁷⁴Mahabir Singh v. State, AIR 1983 SC 826.

¹⁷⁵Shri Bhagwant Singh v. Commissioner of Police, Delhi, 1983 Cr.L.J. 1081 at 1086 (SC).

judged in each case as to what is the effect of such lapses. It is settled law that taking singly such lapses cannot be sufficient to lead to the conclusion that the investigation was tainted or unfair. Where interpolation has been made in inquest report, prosecution case is rendered doubtful.

Admissibility of statements recorded during inquest- The statement of a witness recorded by the investigators during the inquest would be within the inhibition of S. 162 Cr.P.C. The statement recorded u/s 174 Cr.P.C., cannot be used as a substantive piece of evidence. At the most it can be used only as a previous statement to corroborate or contradict the person making it at the trial. The statements contained in an inquest report, to the extent they relate to what the investigating officer saw and found are admissible, but any statement made therein on the basis of what he heard from others, would be hit by S. 162 Cr.P.C. Where inquest report is signed by witnesses, the statements made in inquest report are hit by S. 162 Cr.P.C., and will, therefore, not be admissible in evidence, if they were not examined as witnesses at trial. However, S. 174 Cr.P.C., does not put embargo on the powers of the police officers from obtaining the signatures of the witnesses on their respective statements.

IV. Evidentiary Value of Inquest Report

The statement made by the investigating officer in inquest report is not a statement made by any witness before the police during investigation but it is a record of what the Investigating Officer himself observed and found, such an evidence is the direct or the primary evidence in the case and is in the eye of law the best evidence. Unless the record is proved to be suspect and unreliable, perfunctory or dishonest, there is no reason to disbelieve such a statement in the inquest report. A statement in inquest report does not fall within the four corners of S. 162. The statement of the Investigating officer in the inquest report is not a statement made by any witness before the police during the investigation.

Inquest report and post-mortem report cannot be termed to be basic or substantive evidence and any discrepancy occurring therein can neither be termed to be fatal nor even a suspicious circumstance which would warrant a benefit to the accused and the resultant dismissal of the prosecution case. The contents of inquest report cannot be treated as evidence, but they can be looked into to test the veracity of the witnesses.

Discrepancy between inquest report and postmortem report- Post-mortem is conducted by an expert; hence opinion expressed by him would carry more weight than the opinion and findings of a layman given in inquest report.

¹⁷⁶Budhish Chandra v. State of U.P., 1991 Cr.L.J. 808 at 818 (All-DB); see also Krishna Pal Singh v. State of U.P., AIR 1996 SC 733.

¹⁷⁷State of Haryana v. Shibu Narain, 2008 AIR SCW 5400 at 5402 & 5403.

¹⁷⁸Razik Ram v. Chouhan, AIR 1975 SC 667 at 684; Harkiat Singh v. State of Punjab, AIR 1997 SC 3231; Santosh v. State of Chhatisgarh, 2001 Cr.L.J. 216; Suresh Rai v. State of Bihar, AIR 2000 SC 2207.

¹⁷⁹George v. State of Kerala, AIR 1998 SC 1376; Malkiat Singh v. State of Punjab, (1991) 4 SCC 341.

¹⁸⁰Nirpal Singh. v. State of Haryana, AIR 1977 SC 1066.

¹⁸¹Santosh v. State of Chattisgarh, 2002 Cr.L.J. 1180 at 1183 (Chattisgarh).

¹⁸²Rameshwar Dayal v. State of U.P., AIR 1978 SC 1558 at 1565.

¹⁸³Ibid at 1567.

¹⁸⁴Harihar Ray v. State of Orissa, 1986 (1) Crimes 657, (Ori-DB).

¹⁸⁵Munshi Prasad v. State of Bihar, 2001 Cr.L.J. 4708 at 4712 (SC); Babu Poojari v. State of Karnataka, 1993 SCC (Cri) 997.

¹⁸⁶Kuldip Singh v. State of Punjab, AIR 1992 SC 1944.

Signature of eye witness- The practice of getting eye-witness sign the inquest report is not only unwholesome but unwarranted.

Condition of body- When the body remained fully exposed to the heat and humidity for over thirty hours and it is not surprising that the rigor mortis had passed off ordinarily. After rigor mortis has passed off, the process of purification sets in but it may set in even earlier during summer depending on the heat and humidity. The body changing colour and emitting foul smell are the two special characteristics of the decomposition process.

Inquest in Presidency Towns- In the Presidency Towns of Bombay and Calcutta the coroner holds inquests, and not the police, under the Coroner's Act (IV of 1871). In Madras the office of Coroner has been abolished by Act V of 1889.

Metropolitan Magistrate can hold inquiry after Coroner's inquest- A Metropolitan Magistrate is not ousted of his jurisdiction because the Coroner has held an inquiry into the cause of death of a person and drawn up an inquisition. He is competent to hold a preliminary inquiry even though the accused has been committed to the High Court by the Coroner. No analogy exists between a Coroner's inquest and inquiry into the cause of death under the Cr.P.C.

Power to summon persons for inquest- A police officer proceeding under section 174 Cr.P.C., may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears 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.

There is no need to examine all the eye witnesses at an inquest. It is not incumbent on the police-officer to record verbatim and separate statements of the persons examined by him under the section . This section empowers him to summon any person who appears to be acquainted with the facts of the case and every person to summoned shall be bound to attend the inquest and answer truly all the 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. The statement made by such person is a "previous statement" with the meaning of S.162 Cr.P.C., and it shall not be signed. So the statement made by such a person to police officer is in the course of the investigation, and when reduce to writing, it shall be used only by the accused to contradict such witness in the manner provided by S.145 of the Evidence Act, 1872 or with the permission of the court the prosecution could use if for re-examination only to explain the matter referred to its cross examination .

The witness must answer all questions. Refusal to answer question is punishable. Again, the person examined at an inquest is bound to answer truly all questions other than questions the answers to which would be incriminating. Section 161 Cr.P.C., also imposes such an obligation to speak the truth. A witness speaking falsely under this section commits the offence of intentionally giving false evidence.

¹⁸⁷Rohit Yadav v. State of Bihar, 2007 Cr.L.J. (NOC) 202 (Pat).

¹⁸⁸Nagaji v. State of Rajasthan, 1988 (1) Crimes 371 (Raj-DB).

¹⁸⁹Daryao Singh v. State of M.P., (1991) 2 SCC 588.

¹⁹⁰In Re. Troylokh Nath Biswas, (1878) 3 Cal 742.

¹⁹¹See Section 175 (1) Cr.P.C..

¹⁹²In Re, Mettu Pentayya, AIR 1960 AP 545.

¹⁹³Malkiat Singh v. State of Punjab, 1991 (2) Crimes 191, 200(SC).

V. Magisterial Inquest

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 powers in conducting it which he would have in holding an inquiry into an offence.

Where any person dies or disappears, or rape is alleged to have been committed on any woman, while such person or woman is in the custody of the police or in any other custody authorized the magistrate or the Court, under Cr.P.C., in addition to the inquiry or investigation held by the police, an enquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be within whose local Jurisdiction the offence has been committed.

The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith according to the circumstances of the case.

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

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

The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or police officer holding an inquiry or investigation, as the case may be, shall, within twenty-four hours of the death of a person, 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, unless it is not possible to do so for reasons to be recorded in writing.

In case of an inquest near relatives of the deceased shall be informed. The Law Commissioners in 37th Report observed as follows:-

“A suggestion to inform the relatives of the person whose dead body in the subject-matter of the inquest under section 176 has been found worth accepting, and we recommend a provision to that effect. ‘Relatives’ in this contest would mean father, mother, son, daughter, wife or husband as far as can be ascertained. The obligation will be to inform them, as far as practicable.”

¹⁹⁴See Section 179 I.P.C.

¹⁹⁵See Section 193 I.P.C.

¹⁹⁶See Section 176 (1) Cr.P.C..

¹⁹⁷Inserted by the Cr.P.C. (Amendment) Act, 2005 (25 of 2005), S. 18. Enforced w.e.f., 23.06.2006 vide Notification No. S.O. 923(E), dt. 21.06.2006.

¹⁹⁸See Section 176 (2) Cr.P.C.

¹⁹⁹See Section 176 (3) Cr.P.C.

²⁰⁰See Section 176 (4) Cr.P.C.

²⁰¹Section 176(5) Cr.P.C. was inserted by the Cr.P.C. (Amendment) Act, 2005 (25 of 2005), S. 18. Enforced w.e.f. 23.06.2006 vide Notification No. S.O. 923(E), dt. 21.06.2006.

S.176 Cr.P.C. was amended to provide that in the case of death or disappearance of a person or rape of a woman while in the custody of a police, there shall be a mandatory judicial inquiry and in case of death, examination of the dead body shall be conducted within 24 hours of death of the deceased.

Scope of Magisterial Inquest- when any person dies whilst in custody of the police, it is obligatory on the nearest magistrate to hold an inquest. In any other case mentioned in S.174 (1) Cr.P.C., the Magistrate may hold an inquest either instead of, or in addition to, the investigation held by the police office. The relatives of the dead person should, whenever possible, be notified and allowed to be present in the inquiry. Upon a direction by Government the Magistrate holds an inquiry u/s.174 and 176 Cr.P.C., and records evidence and submits a report to the Government; while acting so the Magistrate does not function as a court and no revision against it will lie . Joint inquiry by the police and Magistrate u/s. 176 Cr.P.C., is prohibited. The proceedings u/s 176 Cr.P.C., are judicial proceedings and the High Court can exercise its jurisdiction over such proceedings u/s 397 and 401 or u/s 482 of Cr.P.C.

VI. Conclusion

The entire purpose of preparing an inquest report is to investigate into, and draw up a report of apparent cause of death, describing such wounds as may be found on the body of the deceased and stating, in what manner, or by what weapon or instrument such wounds appear to have been inflicted. The object of inquest is merely to ascertain whether a person died under suspicious or unnatural circumstances and, if so, what was its apparent cause. The question who assaulted him or how he was assaulted or under what circumstances he was assaulted are foreign to the ambit of an inquest. Name of the accused persons need not be mentioned in the inquest because the basic purpose of inquest is to inquire into apparent cause of death, namely, whether it is suicidal, homicidal, or accidental or by some machinery. The inquest report cannot be treated as substantive evidence but may be utilized for contradicting the witnesses of inquest. However, the Law Commission of India in its 206th Report has recommended that inquest report should be regarded as material evidence in any court or other criminal proceedings. The commission has also recommended that the Coroner should have powers to cover the cases of unnatural deaths even if the death is caused beyond the territorial jurisdiction of India.

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²⁰²See Law Commission's 37th report, Page 148, Para 522; See also Law Commission's 41st Report Vol.I, P.82, Para 14.25.

²⁰³Ismat Sara v. State of Karnataka, 1982 Cr.L.J. 1076 (Kant.)

²⁰⁴See Supra note 6.

²⁰⁵Ibid.