

FILE NO. 1922/4/32/2021-PCD

15-06/16-06-2022

This proceeding was initiated on intimation received from SP Saran that an accused Shailesh Pandey was arrested on 23-02-2021 in connection with Awtar Nagar Police Station case no. 82/2021 dated 23-02-2021. It is also informed that he was brought to the Awtar Nagar Police Station, kept in Police Hazat at 4pm. It is also stated that on 23-02-2021 at 6pm he committed suicide by hanging.

Taking cognizance of the aforesaid information, relevant reports/documents were called for.

On perusal of the record it appears from a letter received from the Assistant Registrar (law) NHRC that a similar proceeding relating to death of accused Shailesh Pandey in Awtar Nagar Police Station Hazat was also initiated by NHRC, on a complain received from one Binay Kumar Pathak in case no. 1053/4/32/2022 AD. However the same has been closed u/s 36(1) of PHR Act 1993, as the State Commission has taken cognizance of the matter prior to taking of cognizance by NHRC.

As per direction of the commission relevant document/reports were made available. Thereafter the proceeding was referred to Investigation Division of the State Commission for the detail inquiry. Report of Investigation Division has been received (Page 175-178/C).

On perusal of the report of Investigation Division it appears that the Joint Committee has examined copy of inquest report, post mortem report, Magisterial Enquiry report, station diary entries of the Awtar Nagar Police Station, FIR of Awtar Nagar copy PS case no 82 of 2021 dated 23/3/2021 under section 302/201 IPC and 37(c) of Bihar Excise Act FIR of Awtar Nagar PS (UD Case no 2/2021 relating to custodial death of the accused, copy of order 24/4/48 of 2021 initiating departmental proceeding against SI Ramchandra Tiwari and ASI Mithlesh Kumar Das and other papers relating to the above inquiry. Investigation Division had also perused order no. 1369/2021 dated 3/6/2021 and order no. 1629/2021 dated 31/7/2021 by which SI Ramchandra

Tiwari and ASI Mithlesh Kumar Das were found innocent and other papers available on the record.

It further appears that from the perusal of report, submitted by the Investigation Division, it also appears that if also recorded statement of the then Officer on Duty ASI Mithlesh Kumar Das and SI Ramchandra Tiwary the then Officer-In-Charge of Awtar Nagar Police Station 6/9 Vinod Kumar Manjhi, Sanjay Manjhi son of Chowkidar 6/3 Ramashray Manjhi, Chandan Manjhi son of Chowkidar 7/3 Ramugray Manjhi. The committee had also been examined; CCTV footage of Awtar Nagar Police Station and CD cassette of video recording of the statement of Renu Devi, wife of the deceased accused before the Judicial Magistrate and Magisterial inquiry report and come to following conclusion:-

The deceased accused Shailesh Tiwari was arrested in connection with case no. 82/21 on the statement of wife of the accused with allegation that her three months daughter was killed, whose body is traceless, he was brought in Police Station and kept in Hazat, during investigation the dead body was not recovered. After investigation charge sheet was submitted against deceased accused Shailesh Tiwari.

Statement of Renu Devi, wife of the deceased accused has been recorded in which she has stated that her husband Shailesh Pandey used to assault her children after taking liquor. She has also stated that after taking liquor her husband used to loss control and behave like insane. He might have committed suicide himself. She raised no suspicion against anyone.

In judicial inquiry also the cause of death of deceased prisoner Shailesh Pandey was found to be hanging. As per report of SP Saran the then Officer Incharge SI Ramchandra Tiwari and Officer on Duty ASI Mithlesh Kumar Das was suspended and a departmental proceeding was initiated against them. They remained suspended for one month. They were found innocent during departmental proceeding. At the time of occurrence Chowkidar 6/9 Vinod Kumar Manjhi was on Hazat duty and a departmental proceeding was also initiated against him.

It is relevant to mention here that it is the duty of the Officer on Duty and the then Officer Incharge to be vigilant about the accused kept in police Hazat.

CCTV camera was also installed and Officer on Duty and the then Officer on duty ought to monitor the CCTV which has not been done. It is also their duty to see that Chowkidar deputed at Hazrat be present, but in spite of that holding, in enquiry the then Officer on Duty ASI Mithlesh Kumar Das and Officer Incharge Ramchandra Tiwari innocent, in spite of above mentioned negligence on their part does not appear to be proper_____”

From the perusal of the report of the Investigation Division it also appears, that content of CCTV footage has been examined by them, which shows that while deceased accused used to sleep, by covering himself with blanket, he used to cut his blanket with teeth and rubbing the blanket with wall and after preparing rope he committed suicide at 17:50 hours. The CCTV footage also disclosed that just 5 minutes prior he was provided drinking water; it further disclosed that 5 minutes after hanging Officer on Duty came inside the room and brought the dead body down from the ventilator.

From the entire discussion made above it is clear that:

1. Accused Shailesh Pandey/ Shailesh Tiwari was arrested on 23-02-2021 in connection with Awtar Nagar Case no. 82/21, brought to the Awtar Nagar Police Station kept in Hazrat at 16:30 hours.
2. Deceased accused Shailesh Pandey/ Shailesh Tiwari found dead in Police Hazrat of Awtar Nagar Police Station at 17:50 hours in the evening by hanging with the ventilator.
3. CCTV footage disclosed that he was preparing a rope by cutting blanket and hanged himself with the rope.
4. It is said that he was kept under observation of Chowkidar 6/9 Vinod Manjhi but he left the place for taking breakfast in the meantime the accused hanged himself.
5. It is said that Chowkidar 6/9 Vinod Manjhi asked Sanjay Manjhi son of Chowkidar 6/3 Ramashray Manjhi to watch the accused.
6. Incident took place at 17:50 hours in the evening of 23-02-2021 which usually is busy hours in the Police Station.

There is nothing available in the record to show that blanket or rope has been seized and produced before the court.

Even according to the FIR, the deceased killed his child and after taking liquor he used to lose his mental balance that clearly suggests that he was in a disturbed state of mind at the time of the arrest and in need of special care and attention by Awtar Nagar Police Officials.

But it appears that the Police Officials present at the Awtar Nagar Police Station has not taken it seriously; put Chowkidar on duty of Hazat who left the place after deputing son of another Chowkidar. CCTV was also installed in Police Station and Hazat but it seems that nobody was watching or monitoring the same. Occurrence took place within one and a half hours of arrest of accused.

An accused/prisoner has also Right to Life as provided under our constitution except according to procedure established by law under Article 21 of the Constitution of India.

Accused was in custody of the police, he was kept in police Hazat, CCTV was installed in Police Station and Hazat. It is the duty of the police officials of Awtar Nagar Police Station to be vigilant and to monitor the activities of the deceased on CCTV as he was not in a fit state of mind.

Departmental Proceedings was also initiated against the then Officer on Duty ASI Mithlesh Kumar Das and Officer Incharge Ramchandra Tiwari of Awtar Nagar Police Station but they were exonerated in the departmental proceedings and Investigation Division of the State Commission is of the view that the action of the higher Police Officials in exonerating ASI Mithlesh Kumar Das and SI Ramchandra Tiwari does not appear to be proper in Departmental Proceeding.

In view of the discussions made above, State Commission is also with of the same view and had the Officer on Duty ASI Mithlesh Kumar Das, Officer Incharge SI Ramchandra Tiwari, Chowkidar Vinod Manjhi more cautious and vigilant and had anyone keep watching the CCTV, the deceased Shailesh Tiwari could not have been succeeded in committing suicide and this mishappening could have been averted. Police Officials were conscious of existing state of mind of deceased accused as such they ought to have been more cautious.

As such the State Commission finds that due to the lapses and negligence on the part of above mentioned police officials, the deceased accused succeeded in committing suicide and thus causing loss of life of a deceased-accused. It is well settled that, howsoever serious allegations is against an accused he had a right to have been tried as per law and face the consequences.

However, considering the fact that this complaint was lodged by the wife of the deceased prisoner with an allegation of killing his own daughter against the deceased accused as such the State Commission refrain from grant of compensation to the next of kin of the deceased accused.

But considering the discussions made above and finding arrived at above the State Commission recommends initiation of fresh departmental proceedings against the then Officer on Duty ASI Mithlesh Kumar Das and the then Officer Incharge Ramchandra Tiwari and Chowkidar 6/9 Vinod Manjhi so that such a mishappening could not go unnoticed and guilty persons be identified and punished.

Let a copy of order be communicated to the Additional Chief Secretary Home and DGP Bihar for information, taking necessary action and submission of compliance report to the State Commission.”

(Justice Vinod Kumar Sinha, Retd.)
Chairperson