

IN THE HIGH COURT OF FIJI AT SUVA
CIVIL JURISDICTION

HBM No. 78 of 2019

IN THE MATTER OF
INQUEST ACT 1967

AND

IN THE MATTER of an
application by the Attorney-
General of Fiji and Minister to
hold an inquest into the cause
of and the circumstances
connected with the death of
PRIYA KUMAR.

DECISION

[Originating Motion seeking an order for Magistrate to hold an Inquest in the cause of death pursuant to section 20(1) OF THE INQUEST Act 1967 and the inherent Jurisdiction of this Court]

BEFORE: Hon. Mr Justice Vishwa Datt Sharma

COUNSELS: Ms. Naigulevu G -for the Applicant.

Date of Decision: 05th June, 2019 @ 9.30 am

INTRODUCTION

- [1] This is an **Originating Motion** filed in by the Attorney General's Chambers seeking for the following Order:
- (i) For an Order directing that a Magistrate hold an inquest into the cause of and the circumstances connected with the death of **PRIYA KUMAR** pursuant to the powers conferred upon him by the virtue of section 20(1) of the Inquests Act 1967.
- [2] The application is made pursuant to **Section 20(1) of the Inquests Act of 1967** and upon the **inherent jurisdiction of the Honourable Court**.
- [3] The Applicant relies upon the grounds contained in the Affidavit of Ajay Singh.

THE LAW

- [4] **Section 20(1) of the inquest Act 1967** provides as follows-

Notwithstanding the provisions of section 7, the Attorney-General may at any time apply to the Supreme Court for an order directing a magistrate to hold an inquest into the cause of and the circumstances connected with, any death occurring in the circumstances specified in section 3 and the magistrate to whom such direction is given shall thereupon proceed to hold an inquest in accordance with the provisions of the order and of this Act.

FACTS OF THE CASE

- [5] Priya Kumar ('**deceased**') was 27 years old at the time of her death and lived in Wailea Settlement, Vatuwaqa, Suva. The Deceased was unemployed and did domestic duties.
- [6] On 21st November 2015, the Deceased was rushed to Colonial war Memorial Hospital ('**Hospital**') because of injuries suffered caused by burns. Later on 12th December 2015, the deceased passed away.
- [7] A post-mortem examination was conducted by Dr Praneel Kumar and e concluded that the cause of death of the Deceased was due to 42% Total Body Surface Area Second Degree Burns.
- [8] As part of its investigations, the Fiji Police recorded the statement of Pradeep Kumar who was the de-facto partner of the Deceased ('**PW1**'). PW1, in his statement, confirmed that on 21 November 2015, he woke up at 0500 hours and woke the Deceased to cook rice. After having his bath, PW1 sat down to eat left over foods from previous night for breakfast.
- [9] Whilst PW1 was having his breakfast, the Deceased went outside and got a white 4 litre gallon containing kerosene which was a quarter filled. PW1 further stated that the Deceased then poured kerosene over her body and lit herself on fire, he tore the Deceased's clothes off and wrapped a blanket around her and then took her to the Hospital. PW1 also stated that his right hand and arm also got burnt in the process of tearing the Deceased's clothes off.

ANALYSIS and DETERMINATION


- [10] The Inquest file surrounding the cause of death of the Deceased Priya Kumar with all documents intact was submitted to the Resident Magistrate in Suva pursuant to the Inquests Act 1967.

- [11] The Resident Magistrate upon the perusal of the Inquest file opined that there was nothing suspicious about the death and that there was no need for an inquest as he was satisfied with the reports and statement as to the cause of death.
- [12] The Inquest file upon return with the Magistrate's endorsed decision was further reviewed by the Honourable Attorney-General and Minister responsible for Justice was of the opinion that this case necessitates an inquest as the following factors needed to be taken into consideration:-
- (a) There is only one recorded statement of PW1 who was the sole witness to the events surrounding the death of the Deceased;
 - (b) No other statements were recorded from neighbours in relation to whether or not they heard anything on 21 November 2015 or further evidence in relation to the relationship of PW1 and the Deceased;
 - (c) The credibility of PW1 cannot be taken at face value since the Deceased and PW1 were in a de-facto relationship; and
 - (d) There is no mention or any reasons provided by PW1 as to why the Deceased committed suicide.
- [13] Given the above circumstances, the Honourable Attorney-General and Minister responsible for Justice, directed that this application be made to the High Court of Fiji, for an order, directing a Magistrate to hold an inquest into the cause of and the circumstances connected with the death of the Deceased occurring in the circumstances above and pursuant to the provisions of section 20(1) of the Inquests Act 1967. The application was filed in court on 28th May 2019 and a returnable date of 05th June 2019 was assigned before me.
- [14] Counsel representing the Applicant made oral submission in reference to the Inquest file and the Affidavit in Support and sought for the orders in the Originating Motion accordingly.
- [15] After hearing the Applicant's Counsel and upon a careful perusal of the application coupled with the Affidavit in Support deposed by Ajay Singh, I am satisfied with the application and the orders sought therein needs to be acceded to by this court.
- [16] Accordingly, I grant the application with the following orders:
- (i) That a Magistrate is hereby directed to hold an Inquest into the cause of and the circumstances connected with the death of Priya Kumar, pursuant to the powers conferred upon me by virtue of section 20(1) of the Inquest act 1967.
 - (ii) The Inquest file is to be submitted to the Senior Court Officer of the Magistrate's Court Suva forthwith with all documents intact to allow a magistrate to assign a hearing date to carry out the Inquest in the matter accordingly.
 - (iii) Orders accordingly.

DATED at SUVA this 05th DAY of JUNE, 2019



cc. Attorney General's Chambers, Suvavou House, Suva


VISHWA DATT SHARMA
JUDGE
SUVA
05th Day of June, 2019