Dalam Mahkamah Koroner Di Seremban

Dalam Negeri Sembilan

Inkues No: 65A-1-05/15

In Re Inquest into the Death of Karuna Nithi a/l Palani Velu, Deceased

Verdict after further evidence

Introduction

1. Karuna Nithi a/l Palani Velu, died whilst in police custody on 1.6.2013. An inquest was conducted. After examining 44 witnesses, including Dr. Sharifah Safoora Binti Syed Alwee Al'Aidrus (SI 41), a Forensics Expert and the CCTV recordings from the time Karuna Nithi was detained in the lock-up at the lock-up in Tampin Police District Headquarters, Negeri Sembilan (the lock-up) until he was pronounced dead (Exhibits P3, P13 and P22) my Verdict was as follows:

"Death of Karuna Nithia a/l Palani Valu was caused by—

(a) multiple injuries, (altogether there were 49 injuries), caused by blunt objects including physical assaults, abuses and unlawful acts of persons unknown, inclusive of the police officers and other detainees in the police lock-up where the deceased was detained;

(b) failure or omission to provide the necessary medical care and attention required by the deceased; and

(c) failure of the police officers to stop other detainees from abusing the deceased in the police lock-up."

2. Upon the application of the Deputy Public Prosecutor the inquest that was officially closed on 28.1.2015 was reopened on 13.10.2015. Only one witness was produced and examined. Dr Mohd Shah bin Mahmood, a senior forensic pathologist attached at the Hospital Kuala Lumpur was examined for the purposes of adducing new evidence in this reopened inquest. He produced a report by an Inquiry Committee which comprised of Dr Mohd Shah as the Chairperson and 5 other senior forensic pathologists. The Inquiry Committee had reviewed Dr Sharifah's Autopsy Report and undeniably my Verdict which was delivered on 28.1.2015.

3. Very briefly the cause of death stated by Dr Sharifah in her Autopsy Report was as follows:

(a) It is my opinion that the injuries on the body were inadequate in itself to directly cause death;

(b) The complications of bodily injuries such as fat embolism and rhabdomyolysis were negative;

(c) Fatty change of the liver caused death through hypoglycaemia and/or electrolyte imbalance, both of which cannot be proven post mortem;

(d) This condition is possibly compounded by absence of partially digested food material in the gastric cavity.

4. Having considered the evidence of Dr Sharifah in the inquest after an extensive examination and having considered all the shortcomings in her findings I had decided that she had erroneously arrived at the conclusion that Karuna Nithi's cause of death is simply due to 'Fatty Change of the Liver'. I decided that fatty change of the liver was not the cause of Karuna Nithi's death and I was mindful that hypoglycaemia and/or electrolyte imbalance as mild liver disease with mild fatty liver

would only cause mild symptoms and not severe enough to take a life. I was therefore convinced that the following factors were relevant and had contributed to Karuna Nithi's death:

(a) the 49 external injury marks of trauma found all over Karuna Nithi's body caused by blunt objects, including sticks, stones, hands and feet showed that he was physically abused;

(b) internal examination which revealed subcutaneous bruising from external wounds indicated recent injuries;

(c) Rhabdomyolysis is a likely possibility causing Karuna Nithi's death;

(d) Commotio Cordis is a likely cause of death especially with 5 significant bruises around the chest area which covers the heart region; and

(e) there was absence of any food in Karuna Nithi's stomach.

5. The Inquiry Committee's opinion is as follows:

(a) Review of the post mortem report revealed presence of moderate fatty change and also multiple blunt force traumas on the body;

(b) Despite there were 49 injuries can be found from the post mortem examination, that if it stands alone, are non fatal in nature. Instead we agreed that the trauma has worsened his condition and accelerated his death;

(c) Commotio Cordis should be excluded from a possible cause of death, as the situation does not match with the definition;

(d) However, for Rhabdomyolysis, we can only confirm this after we make a proper histopathologyical examination with special stain (myoglobin);

(e) Dr Sharifah was falsely informed that the deceased had had CPR done on him, which misled her interpretation of the bruises on the chest. The CCTV recordings of the deceased's abnormal behaviour in lockup was also not been made available to her, which is vital information needed to help in giving cause of death;

(f) Dr Sharifah was also being informed by the deceased's brother that the fractured mandible was sustained after a road traffic accident few weeks before his demise;

(g) These factors would have influenced Dr Sharifah in excluding these facts and findings in her opinion to provide the cause of death of the deceased.

6. Having considered Dr Mohd Shah's oral testimony and having perused the Inquiry Committee's Report I am of the opinion that it has not in any way changed the Verdict that I had delivered on 28.1.2015. The Inquiry Committee's Report is based substantially on the evidence that was before me in the inquest. There is no new material evidence produced by Dr Mohd Shah. His evidence was basically an interpretation of the evidence that was before me and my Verdict seen through the eyes of the Inquiry Committee. Be that as it may, I did not find Dr Mohd Shah and the Inquiry Committee's Report reliable or credible. Amongst the flaws and shortcomings of Dr Mohd Shah and the Inquiry Committee very briefly are—

(a) they were not privy to the CCTV recordings which were extensively relied upon in the inquest including during Dr Sharifah's examination. They were also not privy to the transcripts of the inquest proceedings;

(b) the committee had used a different set of photographs from the ones used in the inquest;

(c) they had compromised on their independence by discussing the case with Dr Sharifah before reviewing all the information and material that was before them;

(d) the committee had used a post-mortem request document from the police which had erroneously stated that CPR was done on the deceased when there is not an iota of evidence to suggest that such a CPR was in fact done; and

(e) the committee had used different histopathology slides that were not produced in the inquest.

7. Having heard and considered Dr Mohd Shah's evidence I agree with the learned co-counsel for the deceased family, Dr Dheeraj Bhar that—

(a) jaundice and fatty liver would not have caused the deceased death and that a normal looking liver, seen in the deceased would not have killed the deceased;

(b) the deceased had sustained a fracture of the right mandible whilst in police custody;

(c) Commotio Cordis remains an extremely likely cause of death;

(d) Rhabdomyolysis is a very likely possibility of cause of death;

(e) CPR was used to cover up important findings that lead to the cause of death;

(f) the nutritional status and health of the deceased was relied upon without any basis.

Nutritional status and health of the deceased

8. According to Dr Mohd Shah, based on Dr Sharifah's post mortem report and pictures which showed that the deceased was dehydrated, had sunken eyes, pale and prominent ribs the committee decided that the deceased was not a person of good health. When confronted with Dr Sharifah's sworn testimony that the deceased was fit, healthy and would not die from any medical condition he harboured Dr Mohd Shah was not able to offer any explanation. I agree with Dr Dheeraj that the

committee was erroneously trying to portray that the deceased was systemically ill and as a result succumbed to his death and this would be consistent with death due to moderate fatty liver.

Jaundice and fatty liver

9. Dr Mohd Shah explained that the Committee is of the opinion that the deceased had moderate fatty liver. On the other hand Dr Sharifah who had conducted the post mortem on the deceased very clearly testified that the deceased had very mild form of jaundice. She had also agreed that since the form of jaundice was mild the deceased liver disease was also mild and that the liver was not about to kill him straight away. When confronted with Dr Sharifah's testimony, Dr Mohd Shah could merely say that it is the committee's opinion but he could not explain how the committee came to such findings. In any event, Dr Mohd Shah admitted that the deceased liver looks normal from the picture shown to him and further agreed that the liver does not look like a liver from which someone would die.

Fracture of the right mandible

10. Despite Dr Sharifah refuting repeatedly during her examination that the fracture of the right mandible was recent the Committee has confirmed that the fracture was recent and resulted whilst the deceased was in police custody.

Commotio Cordis and Rhabdomyolysis

11. The Committee excluded Commotio Cordis as a cause of death based on their stringent definition which was acceptable in the 1900's. Dr Dheeraj has however highlighted out that this definition is outdated and no longer holds credence. He argued that since there were 5 bruises over the heart there is a possibility that the deceased died of Commotio Cordis. I agree.

12. Dr Dheeraj also submitted that Rhabdomyolysis can kill patients before kidney symtoms develop through biochemical changes. The presence of occasional casts was seen by the committee even though was earlier missed out by Dr Sharifah. This according to Dr Dheeraj should have raised suspicion and further tests should have been carried out to confirm Rhabdomyolysis. Rhabdomyolysis which means breaking down of muscles can happen from repeated beatings. Dr Mohd Shah agreed that the 49 beatings on the deceased can cause Rhabdomyolysis.

Conclusion

13. Having perused all the evidence before me both in the inquest and further inquest and after a detailed fact finding exercise and I am satisfied that the cause of Karuna Nithi's death remains the same that is, by a combination of unlawful acts and omissions by person or persons unknown. The deceased was a healthy adult male with no life threatening disease when he entered the lock-up but ended up dead 3 days later with 49 external injuries. The reopening of the inquest has to some extent further fortified my findings and opinion. My Verdict remains the same as follows:

"Death of Karuna Nithia a/l Palani Valu was caused by—

(a) multiple injuries, (altogether there were 49 injuries), caused by blunt objects including physical assaults, abuses and unlawful acts of persons unknown, inclusive of the police officers and other detainees in the police lock-up where the deceased was detained;

(b) failure or omission to provide the necessary medical care and attention required by the deceased; and

(c) failure of the police officers to stop other detainees from abusing the deceased in the police lock-up."

14. This inquest is hereby closed for the second time.

Dated: 18.4.2016

Dato' Jagjit Singh a/l Bant Singh
Coroner/Sessions Court Judge
Mahkamah Sesyen Kuala Lumpur

Counsels

Assisting Officer	:	DPP Ahmad Terrirudin Bin Mohd Salleh
Deceased's family	:	Eric Paulsen, Michelle Yesudas and G Sivamalar of Tetuan Daim & Gamany and Dr. Dheeraj Bhar
Deceased's brother	:	S. Paul Krishnaraja and Amy Chong Chai Ling of Paul, Amy Chong & Associates
For the Bar Council	:	Puspanathan a/l Sellam