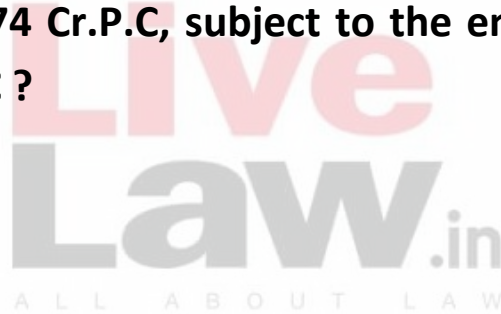


Questions on “I N Q U I R Y” **Including the holding of INQUEST**

- Q.1 What is an inquest ?**
- Q.2 What is an autopsy ?**
- Q.3 Which is the enabling power of an SHO to hold an inquest over a dead body ?**
- Q.4 Should not the SHO obtain the permission of the Executive Magistrate for holding inquest of the dead body of a person believed to have died an unnatural death ?**
- Q.5 What is the purpose of holding an inquest ?**
- Q.6 Has not the SHO the discretion not to send the dead body for post mortem examination in a case where he entertains no doubt regarding the cause of death ?**
- Q.7 Should not the inquest report contain the incident, the manner in which the incident took place, name of the accused etc. ?**
- Q.8 Is it necessary that the inquest should be held at the spot where the dead body is found ?**
- Q.9 Is it correct to say that the FIR loses its authenticity if it is lodged after the inquest is held ?**
- Q.10 Do not discrepancy, over-writing, omission or contradiction in the inquest report, render it liable to be eschewed from consideration ?**
- Q.11 Will interpolation in the inquest report render the prosecution case doubtful ?**

- Q.12** Is it open for the defence to falsify the prosecution version by relying on a document produced by the prosecution but not exhibited or formally proved by the prosecution ?
- Q.13** Is it usual to mention in the inquest report, a gist of the FIR and the cause of death as narrated by the witnesses ?
- Q.14** Is it not correct to say that both the “inquest report” and the “post-mortem report” are substantive evidence ?
- Q.15** Can the SHO who does an official act by preparing the inquest report etc., be guilty of causing disappearance of evidence of offence punishable under Section 201 IPC ?
- Q.16** In spite of a written application to the Police to investigate into the alleged murder of his sister married to one of the accused persons, the Police did not register it as an FIR. From the very beginning the Police were attempting to treat the case as one of suicide. If there are circumstances to justify an investigation into the allegation of suspicious murder, is it permissible for the Court to direct the Police to register the written application as an FIR ?
- Q.17** Are the statements of witnesses given during the “*inquiry*” by the Police under Section 174 Cr.P.C., hit by Section 162 Cr.P.C. ?
- Q.18** What is the probative value of the statement of a witness given to the Judicial Magistrate during an inquiry under Section 176 (1A) Cr.P.C. ?

- Q.19** Are not post-mortem report and inquest report “public documents” and is not the accused entitled to inspect or receive their copies during the stage of investigation?
- Q.20** Are the Police bound to register an FIR as if in a cognizable offence, in the case of a missing person?
- Q.21** Are not the statements in the inquest report as to what the SHO saw and found on the dead body, hit by Section 162 Cr.P.C?
- Q.22** Are the statements of witnesses recorded by a police officer at the time of inquest during an “inquiry” under Section 174 Cr.P.C, subject to the embargo under Section 162 Cr.P.C ?



***Kochi,
12-10-2020***

***Justice V. Ramkumar,
Former Judge,
High Court of Kerala.***

INQUIRY – Including the holding of INQUEST

By the Police (Section 174 Cr.P.C)

① When the **SHO** or some other specially empowered Police Officer, receives **“information”** that a person —

- i) has committed suicide, or
- ii) has been killed by another, or
- iii) has been killed by an animal, or
- iv) has been killed by machinery, or
- v) has been killed by an accident, or
- vi) has died under circumstances

raising a reasonable suspicion that some person has committed an offence,

the **SHO** or the other Police Officer —

- a) shall immediately give **intimation** thereof to the nearest Executive Magistrate empowered (under Section 174 (4) Cr.P.C.) to hold **inquests**,

AND

- b) shall proceed to the place where the body of the deceased person is
- AND
- c) **there**, in the presence of 2 or more respectable inhabitants of the neighborhood,

By the Magistrate (Section 176 Cr.P.C)

① When the case is of the nature covered by clauses (i) or (ii) of Section 174 (3) [which is ③ in column 1 of this table] the **nearest Magistrate** empowered to hold **inquests** u/s 174 (4) Cr.P.C.

(i.e. any District Magistrate, Sub-divisional Magistrate or any other Executive Magistrate specially empowered either by the State Govt. or by the District Magistrate)

and in any other case mentioned in Section 174 (1) [which is ① in column 1 of this table], **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 which he has while holding an inquiry into an offence.

1.A Where, —

- (a) any person **dies** or **disappears**, or
- (b) **rape** is alleged to have been committed on any woman

while such person or woman is **in the custody** of the Police or any other custody authorised by the Magistrate or the Court, under the Cr.P.C., in addition to the inquiry or investigation by the Police, an

- i. shall draw up a **report** of the **apparent cause of death**
- ii. describing such wounds, fractures, bruises and other marks of injury as may be found on the body
AND
- iii. 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 the Police Officer and other persons who concur therein and shall be **forthwith** forwarded to the District Magistrate or Sub-divisional Magistrate.

- ③ When —
- (i) the case involves suicide by a woman within 7 years of her marriage, or
 - (ii) the case relates to the death of a woman within 7 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 7 years of her marriage and any relative of the woman has made a 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

inquiry shall be held by the **judicial Magistrate** or the **Metropolitan Magistrate**, within whose local jurisdiction the offence has been committed. —

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 interred, 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, wherever practicable, inform the relatives of the deceased whose names and addresses are known and shall allow them to remain present at the inquiry.

⑤ The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or Police Officer holding an inquiry or investigation under sub-section (1.A) shall, within 24 hours of the

he shall, subject to any State Govt. Rules, forward the body for examination to the nearest Civil Surgeon or other qualified medical man appointed by the State Govt.—

- if the state of the weather, and
- the distance so admits, without risk of putrefaction on the road rendering such examination useless.

Power of the Police Officer

Section 175 (1) Cr.P.C. clothes the Police Officer proceeding under Section 174 with the power to summon persons for the purpose of his investigation and such 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.

Section 175 (2) enjoins that 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’s Court.

death of a person, forward the body for examination to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Govt., unless it is not possible to do so for examination to the nearest Civil Surgeon or other qualified medical person appointed by the State for reasons to be recorded in writing.

Explanation- In this Section, the expression “*relative*” means parents, children, brothers, sisters and spouse.