

A REVIEW ON LEGAL PROCEDURE – INQUEST

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ABSTRACT

An inquest is one of the legal procedure. It is also known as inquiry or investigation. It is conducted in case of unnatural or unknown death to determine the cause of death and manner of death. There are mainly five types Police, Magistrate, Coroner's, Medical examiner system and Procurator fiscal. Among them medical examiner system is superior. In India Only Police Inquest (as per Sec.174 CrPC) and Magistrate Inquest (as per Sec.176 CrPC) are conducted. The main aim of an inquest is to identify the unknown death body and to try to find out how, when and where the person died. In case of no foul play, the body is handed over to the relatives for the disposal of the body as per their rituals. But in case of unnatural or suspicious death, the body is sent to the authorized doctor for post-mortem examination. Inquest is very necessary and it is the first most important way to identify the unknown dead body. This is very helpful to the family or relatives. This article is mainly based on an inquest and their procedure.

Keywords Inquiry, Police Inquest, Magistrate Inquest, Death, Forensic Medicine.

INTRODUCTION: An inquest literally means investigation or inquiry. Acc. to Forensic Medicine and Law, The word inquest is defined as judicial or legal inquiry into the cause of death, where the death is not due to natural causes. Death can be either natural or unnatural, In case of natural death (diseases like heart attack, swine flu, liver failure, cancer etc.), an inquiry is not required thus the dead body is handed over to the relatives for the disposal of body as per the religious customs. In case of unnatural death (suicide, homicide, accident), an inquiry is most important to find out the cause of death, time since death, manner of death. Investigation is also conducted in sudden and suspicious deaths¹.

INDICATIONS^[2]: - It is done in case of:

- i. Sudden death.

- ii. Suicide, Homicide and Infanticide.
- iii. Death from accident, poisoning, drug mishap or machinery.
- iv. Unexplained death or death from burns or fall from height.
- v. Death under anaesthesia.
- vi. Death due to alleged medical negligence.
- vii. Death of a convict in jail, police custody.
- viii. Dowry death in India.
- ix. Death due to industrial disease.

TYPES OF INQUEST^[3] – There are:-

1. Police inquest
2. Magistrate inquest
3. Coroner's inquest
4. Medical examiner's system
5. Procurator fiscal

In India only Police and Magistrate Inquests are conducted.

1. POLICE INQUEST^[4,5,6]

This inquest is conducted as per section 174 CrPC. It is commonest Inquest conducted in India by the police officer not below the rank of police sub-inspector. The police officer who is conducting the inquest is called as “investigating officer” (IO).

Procedure

- On receipt of information of unnatural death of any person, the investigation officer forwards the information to the nearest Executive Magistrate and himself proceeds to the place where the dead body is lying.
- Then at that place, investigation officer in presence with the help of two or more local responsible witnesses (panchas) makes an investigation and prepares inquest report known as **Panchnama**. In case of female dead body, there should be female panch.
- The panchnama is a hand written document and it is prepared in two copies. One copy is in ink and other copy is in carbon copy.
- If there is no foul play is suspected, the dead body is handed over to the relatives for the disposal of the body as per their rituals.
- If there is any suspicious cases, the Investigation officer sent the body for post-mortem examination to the nearest authorized doctor with a requisition and a copy of Inquest report.
- In such condition, where there is no permission for transportation of the dead body, he can request to **spot P.M.** and also can request to Medical officer to preserve the garments, articles and viscera.
- Then the report is forwarded to the District Magistrate or SDM.

[As per Sec.175 CrPC – The person who knows the facts of the case, for him the Officer can send summon and bound to attend and answer questions can put to him.

As per Sec.179 IPC – If he refuses to answer questions may punishable under this Sec. with imprisonment upto 6 months and / or fine of Rs.1000.]

2. MAGISTRATE INQUEST^[7,8]

This inquest is conducted as per Sec.176 CrPC by District Magistrate, Judicial Magistrate, SDM or Executive Magistrate (Tahsildar) empowered by State Govt.

Magistrate Inquest is considered to be superior to Police Inquest. It is practiced all over India.

Such circumstances (Indications) where Magistrate Inquest is done:

- Death in police custody
- Death during police interrogation
- Death in Jail
- Death due to police firing
- Exhumation cases
- Rape committed on any woman in police custody
- Dowry death (death of woman within 7 yrs of marriage)
- Admission of mental ill person in psychiatric hospital under certain provision of Mental Health Care Act 2017.

The Magistrate has right to hold an Inquest in any other case of death which he deems fit.

In cases of custodial death/Rape where there is suspicion of foul play, Inquiry is mandatory by Judicial Magistrate or Metropolitan Magistrate and in all other cases, an Executive Magistrate can be done.

After inquest the body is forward for examination by the civil surgeon or any

other doctor authorized by State Govt. within 24 hrs of death.

Purpose

The main intension behind the magistrate Inquest is to ensure that:

- No person is unjustly deprived of his liberty and his rights as citizen.

- No person, who is deprived of his liberty, can die as a result of neglect or brutality of the people who are in charge of him.

- In case of buried body, there is no doubt with regards to identity, cause of death or manner of death.

- The death is not a dowry death.

Table No. 01: Differences between Magistrate Inquest and Police Inquest^[9]

| S.No. | Feature | Magistrate Inquest | Police Inquest |
|-------|-------------------------------------|---|---|
| 1. | Investigating officer | Inquest conducted by DM, SDM or Magistrate who is qualified and experienced | Conducted by police officer who is not qualified in law or medicine |
| 2. | Section under which conducted | Sec. 176 CrPC | Sec. 174 CrPC |
| 3. | Informing Magistrate | Need not inform anyone | Needs to inform the Magistrate of the area |
| 4. | Types of cases handled | Can hold inquest in all cases of suspicious death | Cannot hold inquest in cases of death in custody, jail, police encounter or dowry death |
| 5. | Witnesses | Police helps the Magistrate. Does not require signature of the witnesses | Panchas help, who are chosen at random to sign the report |
| 6. | Value of statements made by witness | Valuable and admissible in court | No value, not admissible in court |
| 7. | Warrant for arrest | Can issue arrest warrant of the accused | Cannot issue warrant, but can arrest an accused in cognizable offence |
| 8. | Exhumation | Can order a body to be exhumed | Cannot order |
| 9. | Autopsy | Does not send dead bodies for autopsy indiscriminately | Send dead bodies for autopsy indiscriminately |
| 10. | Analysis of viscera | Can order chemical analysis of viscera | Cannot order |
| 11. | Quality of investigation | Superior to police inquest | Inferior to Magistrate inquest |

3 CORONER'S INQUEST^[10,11]

- This inquest is carried out by the coroner, usually they are advocate or 1st class magistrate with 5 yrs of experience

or Metropolitan Magistrate appointed by State Govt.

- It is not held in India, but currently held in US, Australia, Canada, UK, New

Zealand, Hong Kong, Japan and some other countries.

Power

- Coroner's can carry out Inquest.
- They can view the dead body in mortuary and can decide the death is natural or unnatural.
- If natural, they handed over the body to the family for disposal and in case of unnatural, the body is send to the authorized doctor or civil surgeon for post mortem examination.
- In case of buried, he can order exhumation.
- He cannot order any punishment to guilty, because he cannot try the case.

4 MEDICAL EXAMINER SYSTEM^[12,13]

This type of Inquest is conducted by the medical people who are a forensic pathologist.

This type of investigation is considered to be superior to all other type of Inquest.

Power

- He visits the scene of crime to gather first hand evidence and to obtain information regarding circumstances of death by interview people.
- After that he performs autopsy and correlates autopsy finding with evidence and then determines the cause and manner of death.
- He does not have judicial power.
- He cannot examine witness under oath.
- He cannot arrest of any person.

Table No. 02: Difference between Coroner's Court and Magistrate's Court^[14]

| S.No. | Feature | Coroner's court | Magistrate's court |
|-------|-------------------|---|---|
| 1. | Type of court | Court of inquiry | Court of trial |
| 2. | Accused | Need not be present during trial | Should be present during the trial |
| 3. | Punishment | No power to impose fine/punish | Can impose fine and punishment |
| 4. | Contempt of court | Can punish a person for contempt, if committed within the permission of his court | Can punish whether offence is committed within or outside the premises of court |
| 5. | Status in India | Not followed | Followed |

5 PROCURATOR FISCAL^[15]

- This is a public procurator in Scotland.
- It has the power of investigation in criminal matters.
- He investigates in case of sudden, unexplained or suspicious deaths including fatal accidents.
- He can request an autopsy by forensic pathologist and presents cases for the prosecution in the court.

DISCUSSION AND CONCLUSION

An Inquest is carried out throughout the countries. The scene of crime is very common in present days. Due to many

reasons the rate of various circumstances of crime i.e. accidental, homicidal, suicidal, sudden, unnatural, unknown, unexplained deaths are high. The legal inquiry requires only when the deaths are sudden, unnatural, suspicious and unexplained. It is the first step in criminal cases. In India, mainly Police Inquest and Magistrate Inquest are conducted. The main purpose of an investigation is to determine the exact cause of person's death, to try to find out how, where and when the person died. Once the legal procedure followed with proper manner it

can help family, friends and relatives to identify the deceased body, cause of death and manner of death and also can provide the important information to prevent future risks of life. By the proper medical and legal investigation the real culprits get punished and the victims get justice. So Inquest (legal investigation) is very necessary and it is one of the most important procedures in criminal cases.

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