

DEVAN RAMACHANDRAN
&
DR.KAUSER EDAPPAGATH, JJ.

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I.A.NO.10/2023
in
R.P.No.379 of 2021

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Dated this the 10th day of May, 2023

O R D E R

DEVAN RAMACHANDRAN (J)

In a rather shocking turn of events, a young House Surgeon has been killed while on duty, by a person who was presented in the hospital where she was working, for treatment.

2. We must say that what we see now is something that we had always feared and had been cautioning the stake holders persistently and consistently, whenever these matters were considered earlier.

3. The shocking incident may erode faith in the system, particularly for the young students and House Surgeons; and it is our duty now to ensure that this does not happen.

4. The young lady - Vandana Das, was a bright student, on the threshold of a brilliant career as a medical professional. She was serving the Taluk Hospital, Kottarakkara, as a House Surgeon, being part of her curriculum, when the afore incident happened, snuffing her life and the aspirations of her parents forever.

5. We are, like any other right thinking citizen, shocked and distraught by the tragic events and feel helpless for not having been able to ensure that Dr.Vandana Das lived a full life. The least we can do is to place on

record our deep felt condolences to the family, friends, relatives, classmates and colleagues of Dr.Vandana Das and assure them that her sacrifice will not be forgotten easily.

6. Sri.P.Sreekumar - learned Standing Counsel for the University, submitted that he has been constrained to file the afore interim application, because the student community now feel unsure and unsafe to work as Interns and House Surgeons in Government Hospitals. He submitted that, therefore, unless urgent orders are issued by this Court to assuage their apprehensions, things may take a turn for the worse in the days to come, particularly because they are already on a path of strike.

7. Pertinently, the person who is accused of the gruesome act was accompanied by police

men and other persons, including a Home Guard, but none of them could avert the ghastly fate of Dr.Vandana Das. The police could not protect her and the reasons to this will certainly have to be explored and found out. Of course, we are cognizant that police men and others were also injured when the accused attacked them with a surgical knife.

8. Sri.S.Kannan - learned Senior Government Pleader, did not justify the incident in any manner whatsoever, but tried to point out that the established protocols had been followed.

9. We are afraid that we cannot accept this immediately because, as we have already recorded above, when Dr.Vandana Das was killed in such a gruesome manner, it *prima facie*

establishes a breakdown of the protectional system which was expected to take care of her. This is more so because, the incident happened in a Government Hospital, when it was the duty of the persons in charge, particularly the police and security personnel, to ensure that doctors, Health Care Professionals, Nurses and others, are protected to the maximum extent.

10. In the past, when this matter was considered by us, the Government had been promising that they would be considering amendments to the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 ("Act" for short).

11. However, no tangible results have been brought to our notice and we are informed by

the learned counsel appearing for the parties that, though some meetings were scheduled, nothing has evolved out of them.

12. The answer to this by Sri.S.Kannan - learned Senior Government Pleader, is that the Government is actively considering the amendments and that they will be brought into effect at the earliest, *albeit* without mentioning any specific time frame.

13. This Court has been passing orders one after the other in the past, including that any attack - be that minor or major - on any doctor, healthcare professional, nurse or such other, should be taken cognizance of by the Police within a one hour period; as also that the citizens are made aware of the consequences of attack on such personnel through all

methods, including the Media. We are still not aware whether these directions have been fully implemented; but are sure that we have to be told about it without any further delay.

14. Coming back to the incident presently focused on, we deem it necessary to issue certain preliminary directions today itself, so that effective orders can be issued in the days to come.

We thus order that

(a) The CCTV visuals of the rooms/places of occurrence of the incident that led to the unfortunate death of Vandana Das be preserved; and the Superintendent of Taluk Hospital, Kottarakkara, shall personally ensure it.

(b) We direct the Judicial First Class Magistrate-I, Kottarakkara, to forthwith visit

the Taluk Hospital, Kottarakkara, and conduct an inspection of the scene of incident and report to us by tomorrow.

(c) Every order that we have passed in this case, as also the provisions of the aforementioned 'Act', shall apply in its full force and warrant to every Intern, House Surgeon, Post Graduate student and other persons engaged in the Health Science Education, without any reservation; and all our orders shall be implemented in its letter and spirit as far as such sections are also concerned. We, however, leave liberty to Sri.S.Kannan - learned Senior Government Pleader, to seek any modification of this particular direction, if needed in future.

15. Before we close, we had asked Sri.S.Kannan - learned Senior Government Pleader, as to the protocols the police follow in presenting the accused/persons in their custody before learned Magistrates. He submitted that there may be such in force to ensure that Magistrates are not attacked when such persons are presented before them. *Prima facie*, we would assume that such protocols or similar ones will require to be put in place even in the case of production of accused/persons in the custody of the police before doctors, nurses and healthcare professionals; and we, therefore, direct Sri.S.Kannan to obtain instructions in this matter.

16. So as to ensure that the healthcare system is sufficiently assured of being able to work without attacks, we direct the State Police Chief to appear before us online at 10 am tomorrow, when we propose to sit again on a special sitting; and within that time, a report from his side with respect to the incident shall be filed or handed across the Bar, as the case may be.

List on 11.05.2023 at 10 AM.

Sd/-

DEVAN RAMACHANDRAN, JUDGE

Sd/-

DR.KAUSER EDAPPAGATH, JUDGE

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