Selvi d/o Narayanasamy *v* Attorney-General
[2013] SGHC 230

Case Number	: Originating Summons No 753 of 2013
Decision Date	: 01 November 2013
Tribunal/Court	: High Court
Coram	: Tay Yong Kwang J
Counsel Name(s)	: M Ravi (L F Violet Netto) and Eugene Thuraisingam (Eugene Thuraisingam) for the applicant; Tai Wei Shyong, Tan Wen Hsien and Elaine Liew (Attorney-General's Chambers) for the respondent
Parties	: Selvi d/o Narayanasamy — Attorney-General

ADMINISTRATIVE LAW – Judicial Review

1 November 2013

Tay Yong Kwang J:

1 This originating summons concerns an application for leave under O 53 r 1 of the Rules of Court (Cap 322, R 5, 2006 Rev Ed) to apply for:

(a) a mandatory order to compel the Coroner to re-open and continue with the inquiry into the death of Dinesh Raman s/o Chinnaiah ("the Deceased") who died while in lawful custody; and

(b) a declaration that under s 39 of the Coroners Act (Cap 63A, 2012 Rev Ed) ("the Act"), the Coroner has to continue with an inquiry unless a finding has been made by a trial judge as to the cause of death and the circumstances connected with the death of a deceased who died in lawful custody.

2 On 16 Oct 2013, I dismissed the application for leave. On 30 Oct 2013, the applicant filed a notice of appeal against my decision. I now give the reasons for my decision.

The facts

3 The Deceased was an inmate in Changi Prison Complex ("Changi Prison"). The applicant is the Deceased's mother. On 27 September 2010 at about 12 noon, the Deceased was conveyed from Changi Prison to Changi General Hospital ("CGH") in an ambulance. The Deceased was subsequently pronounced dead at about 12.45 pm. At 2.10 pm, a police officer at the CGH police post lodged a first information report about the death.

4 Associate Professor Gilbert Lau ("Professor Lau") performed an autopsy on 28 September 2010 at about 10 am. In his autopsy report dated 30 September 2010, Professor Lau stated that the case of death was "cardiorespiratory failure pending further investigations". In a further report dated 16 November 2010, the cause of death was determined to be "consistent with positional asphyxia", being an unnatural death.

5 On 28 September 2010, the State Coroner ("the Coroner") held a preliminary investigation into the death of the Deceased at the mortuary of the Centre for Forensic Medicine. On 4 November 2012,

the Coroner convened the first pre-inquiry review. Subsequently, further pre-inquiry reviews were held.

6 On 18 March 2013, the Coroner directed the police to prepare a bundle of documents. The bundle of documents, which included the first information report and forensic reports, was tendered to the Coroner and the then counsel for the applicant (as next of kin of the Deceased), Mr Mahendran s/o Mylvaganam ("Mr Mahendran") on 2 April 2013.

7 On 8 April 2013, the Coroner gave further directions with regard to the conditioned statements of the witnesses who would be called to testify at the Coroner's Inquiry. These conditioned statements were tendered to the Coroner and Mr Mahendran on 22 April 2013.

8 During a pre-inquiry review held on 1 July 2013, the Coroner was informed by State Counsel that a criminal charge would be preferred against prison officer DSP Lim Kwo Yin ("DSP Lim"). The Coroner therefore adjourned the Coroner's Inquiry (originally fixed for hearing on 25 and 26 July 2013) to 5 and 6 August 2013. A further pre-inquiry review was also scheduled for 23 July 2013.

9 On 19 July 2013, DSP Lim was charged in the District Court. He pleaded guilty to the following charge:

> You, [DSP Lim], are charged that you, on the morning of 27th day of September 2010, at the Disciplinary Housing Unit cell of the Changi Prison Complex, Cluster A, Singapore, being the Officer in Charge of Cluster A4 Housing Unit 2, and the Senior Prison Officer supervising the operation to restrain [the Deceased], did cause the death of [the Deceased] by doing a negligent act not amounting to culpable homicide, to wit, by failing to exercise adequate supervision in the restraint of [the Deceased] and consequently causing his death from Positional Asphyxia, and you have thereby committed an offence punishable under section 304A(b) of the Penal Code, Chapter 224.

10 DSP Lim, who was represented by counsel, Mr Wendell Wong, admitted the statement of facts and was sentenced to pay a fine of $10,000 (in default, imprisonment for three weeks). He has paid the fine. Neither DSP Lim nor the Public Prosecutor lodged an appeal against the District Court's decision.

11 The pertinent portions of the statement of facts are set out below:

> 1. The accused is one [DSP Lim] male, 36 years old (DOB: 25 January 1977), Singaporean …
>
> 2. The deceased is one Dinesh Raman s/o Chinnaiah, Singaporean male, holder of NRIC No. S8931893/I, date of birth 6 September 1989. The deceased had committed offences of rioting and theft with common intention and was sentenced to Reformative Training on 12 December 2007. He was released from Reformative Training on 6 January 2010 and ordered to be placed on supervision with conditions for compliance. On 26 May 2010, the deceased was recalled to Changi Prison Complex because he failed to comply with the conditions of the supervision order. The deceased was due for release on 11 December 2010.
>
> 3. On 27 September 2010, at about 12.00pm, the deceased was conveyed by ambulance from Changi Prison Complex and was pronounced dead at about 12.45pm at [CGH]. …
>
> 4. Police investigations revealed that the deceased was housed in Cluster A4, Housing Unit 2, Day Room 3, Cell H5-55, located on the 5th floor of the Changi Prison Complex, Cluster A.

5. On 27 September 2010, at about 10.45 a.m., the deceased exited his cell H5-55 and kicked a Prison warder, one Sgt. Lee Fangwei Jonathan, in his abdomen.

6. The deceased was restrained and subsequently brought to the Disciplinary Housing Unit ('DHU') cell by Prison warders. At the DHU cell, the accused failed to adequately supervise the restraint operation that placed the deceased in a prone position on the ground and restricted the respiratory movements of his chest and abdomen. Thereafter, the deceased was left unattended in the DHU cell, whilst unresponsive, in a prone position.

7. Subsequently, at about 11.18am, the accused re-entered the DHU cell to check on the condition of the deceased. He was found to be unresponsive. Medical personnel were then called in to commence emergency medical aid. The deceased did not respond to the emergency medical treatment and was sent by ambulance to hospital. The deceased was pronounced dead at [CGH].

THE AUTOPSY REPORT

8. Associate Professor Gilbert Lau performed the autopsy on the deceased on 28 September 2010. According to the Autopsy Report AZ1051-05247 by A/Prof Gilbert Lau, dated 30 September 2010 [Tab B], the cause of death was "*cardiorespiratory failure pending further investigations*".

9. The Further Report by the said Pathologist dated 16 November 2010 [Tab B1] stated that the cause of death was determined to be "*consistent with Positional Asphyxia*".

The said Further Report at [3] stated that:

> *"It is entirely plausible that the deceased, whilst being placed in such a position, could have experienced substantial restriction or curtailment of the respiratory movements of the chest and abdomen, with resultant asphyxiation."*

10. The said Further Report at [9] also stated that:

> *"In summary, it is likely that the deceased had succumbed to positional asphyxia whilst being physically restrained…"*

CONCLUSION

11. The accused has caused the death of the deceased by doing a negligent act not amounting to culpable homicide by failing to exercise adequate supervision in the restraint of the deceased, thereby allowing the deceased to be held in a manner which consequently caused his death from Positional Asphyxia. The accused is charged accordingly for the offence of Causing Death by a Negligent Act under Section 304(A)(b) of the Penal Code, Chapter 224.

[emphasis in original]

12 At the pre-inquiry review held on 23 July 2013, the Coroner decided not to resume the inquiry into the death of the Deceased. The Coroner's notes of the aforesaid review ("the notes") state:

DPP/IO: Lau Wing Yum/Tan Wen Hsien

Counsel (NOK/Int Party): Mahendran

Brief Facts

L: Prison officer has been convicted. Charged under 304A(b) – fined $10000. He saw the restraint by the other officers – caused death by omission.

C: What should he have done?

L: He should have discovered; should have intervened earlier.

M: Thanks for expediting – concern about the civil case – can move on in that direction.

L: Has the bundle been received by your court?

C: Received Charge and SOF earlier.

L: PP is not appealing,

C: What about him?

L: Unlikely to appeal.

C: Explains section 45 of the Coroner's Act – non admission provision of CI bundle. S39 – no further inquiry in this case in light of the prosecution for the same case.

Certificate B:

Inquiry not resumed under section 39 of the Coroner's Act 2010. Having regard to the result of the Criminal Proceedings in District Court No 2, Singapore (DAC-027799-2013 Defendant: Lim Kwo Yin (Lin Guyun)). I do not propose under section 39 of the Coroners Act 2010 to resume this inquiry.

The Coroner's Certificate stated that the cause of death was "consistent with positional asphyxia".

The conditioned statements

13 On 21 August 2013, the applicant commenced this originating summons. She has also commenced a civil action in the High Court against the government in respect of the death of the Deceased. A very brief Statement pursuant to O 53 r 1(2) of the Rules of Court was filed, stating nothing more than the applicant's particulars and the two prayers sought (set out at [1] above). The applicant affirmed two affidavits, the first on 20 August 2013 and the second on 17 September 2013.

14 In her second affidavit, the applicant exhibited the conditioned statements (mentioned at [7] above) which had been given to her then counsel in the course of the Coroner's Inquiry.

15 The respondent submitted (as a preliminary issue) that the said conditioned statements were not admissible for the purposes of the proceedings before me. The respondent relied on s 45 of the Act which reads:

Admissibility of evidence in subsequent judicial proceedings

45. No oral testimony or conditioned statement admitted under section 33 in the course of an inquiry shall be admissible in any subsequent judicial or disciplinary proceedings as evidence of

any fact stated therein, other than proceedings for an offence under this Act or an offence of giving or fabricating false evidence under any written law.

16 The respondent argued that the purpose of s 45 was to encourage the disclosure of evidence by witnesses to the fullest extent possible. This accorded with the inquiry being inquisitorial in nature and where the Coroner was not permitted to determine any question of criminal, civil or disciplinary liability (see s 27(2) of the Act). If such statements could be used in subsequent legal proceedings, there would be a real danger that Coroner's Inquiries will be compromised by witnesses being less than forthcoming with their evidence.

17 The applicant conceded that the contents of the conditioned statements were inadmissible. She contended that she was exhibiting the conditioned statements merely for the purpose of showing that the Coroner ought to have taken them into account but had failed to do so.

18 I agreed with the respondent's submissions on the issue of admissibility. I was not able to see how this court could make the finding sought in [17] above without referring to the contents of the conditioned statements. In fact, the applicant's first set of submissions had numerous paragraphs setting out "in brief the facts as narrated by the prison officers in their conditioned statements" and remarked that the statement of facts in the criminal proceedings was "a much shorter and sanitised version". Clearly, the conditioned statements were inadmissible for the present proceedings which do not fall within the words "other than proceedings for an offence under this Act or an offence of giving or fabricating false evidence under any written law" in s 45 of the Act. I thus held that the conditioned statements were inadmissible and disregarded their contents altogether in arriving at my decision to deny leave to the applicant.

The respective arguments

19 An applicant seeking judicial review must meet three conditions for leave to be granted (*Jeyaretnam Kenneth Andrew v Attorney-General* [2013] 1 SLR 619 at [5]):

(a) The subject matter must be susceptible to judicial review;

(b) The applicant has sufficient interest (*i.e., locus standi*) in the matter; and

(c) The material before the court discloses an arguable or *prima facie* case of reasonable suspicion in favour of granting the remedies sought by the applicant.

20 There was no dispute that the Coroner's decision is subject to judicial review although there is no express provision in the Act stating this. This was because a Ministerial statement (by the then Senior Minister of State for Law and Home Affairs, Assoc Prof Ho Peng Kee) during the second reading of the Coroners Bill (Bill No 10/2010) declared that the Coroner's findings are not subject to appeal or criminal revision "but a person with sufficient standing, such as an immediate family member, may apply for judicial [re]view" [*sic*] (*Singapore Parliamentary Debates, Official Report* (19 May 2010) vol 87 at col 591). As stated earlier, the applicant is the Deceased's mother.

21 Accordingly, both the applicant and the respondent agreed that conditions (a) and (b) (set out in [19] above) were satisfied on the facts in this case. The arguments therefore centred on whether condition (c) was also met.

22 The applicant took the position that the Coroner's decision not to continue with the inquiry was illegal or procedurally improper and/or irrational. The applicant advanced a two-tiered argument.

Firstly, the Coroner did not have the power to decide not to resume the inquiry; secondly, even if the Coroner had such power, he acted unreasonably in not resuming the inquiry because he did not consider certain matters that he ought to have taken into account.

The issues

23 Accordingly two issues arose for my consideration. The first is whether the Coroner had the power to decide not to resume the inquiry and the second is whether the Coroner acted unreasonably in deciding not to resume the inquiry.

Did the Coroner have the power to decide not to resume the inquiry?

24 Section 50(2) of the Act stipulates that the Act shall apply to any investigation or inquiry into the death of any person conducted on or after 2January 2011 whether the death of the person occurred before, on or after 2 January 2011. The first pre-inquiry review was held on 4 November 2012 and the decision to discontinue the inquiry was made on 23 July 2013. There was no dispute that the Act applied to this inquiry.

25 Section 25 of the Act specifies the circumstances under which an inquiry must be held:

> **Duty of Coroner to hold inquiry**
>
> 25.—(1) A Coroner shall hold an inquiry into any death which occurred in Singapore where —
>
> (*a*) a person dies while in official custody;
>
> …
>
> (2) A Coroner may decide not to hold an inquiry, in any other case in which he has jurisdiction, if he is satisfied that —
>
> (*a*) the death was due to natural causes and it is unnecessary to do so; or
>
> (*b*) in the circumstances, it is not necessary in the public interest to do so.
>
> …

26 There are therefore two categories of cases in s 25. The first relates to the "mandatory inquiry" situations in s 25(1) and the second concerns the "discretionary inquiry" cases in s 25(2). Section 25(3), which sets out the matters which the Coroner may have regard to in deciding whether to hold an inquiry, applies only to the "discretionary inquiry" cases. The present case concerns a person who died while in official custody and an inquiry is therefore mandatory. However, when both criminal proceedings and a Coroner's Inquiry relating to the same death are underway, s 39 becomes relevant. It provides:

> **Adjournment of inquiry when criminal proceedings commenced**
>
> 39.—(1) If, before the conclusion of an inquiry by a Coroner, any person is charged with any offence under —
>
> (*a*) Chapter XVI of the Penal Code (Cap. 224);

…

in relation to an act which caused or could have caused the death which is the subject of the inquiry, the Coroner shall adjourn the inquiry until after the conclusion of the criminal proceedings.

(2) Where a Coroner resumes an inquiry after the conclusion of the criminal proceedings referred to in subsection (1), he shall continue with the inquiry from the stage at which it was adjourned, provided that at the resumed inquiry no finding shall be made which is inconsistent with the result of those criminal proceedings.

(3) If, having regard to the result of the criminal proceedings referred to in subsection (1), there has been a finding in those proceedings as to the cause of and circumstances connected with the death, and the Coroner decides not to resume the inquiry, he shall —

(*a*) endorse his record and the certificate required under section 42 accordingly; and

(*b*) send to the Public Prosecutor and the Commissioner of Police each a copy of the certificate referred to in section 42.

…

(5) In this section, "criminal proceedings" means the proceedings before —

(*a*) a Magistrate at any committal proceeding;

(*b*) any court by which a person is tried; or

(*c*) any court before which an appeal from the decision of the court referred to in paragraph (b) is heard,

and criminal proceedings shall not be deemed to be concluded until no further appeal can be made in the course of them.

The offence in the criminal proceedings did fall within Chapter XVI of the Penal Code.

27 The applicant relied on "tried" in s 39(5)(b) to argue that there is no trial where a person pleads guilty to a set of facts put forward by the prosecution ("a PG situation"). She cited in support of this argument Black's Law Dictionary Free Online Legal Dictionary (2nd ed) (available at <thelawdictionary.org/trial>) which defines "trial" as:

> The examination before a competent tribunal, according to the law of the land, of the facts or law put in issue in a cause, for the purpose of determining such issue. A trial is the judicial examination of the Issues between the parties, whether they be issues of law or of fact.

28 The respondent argued that there is no basis to draw a distinction between a full trial (involving the examination of witnesses) and a PG situation. The respondent has four sub-arguments in this regard. Firstly, the respondent pointed to s 39(2) of the Act, which provides that a Coroner shall not make a finding which is inconsistent with the result of concluded criminal proceedings pertaining to the same death. This discloses the clear policy objective that unnatural deaths are properly dealt with by the Public Prosecutor and if there is a prosecution, the criminal proceedings should have priority.

29 Secondly, "criminal proceedings" must clearly refer to both PG situations and full trials. When an inquiry is adjourned pursuant to s 39(1) of the Act, it is not possible at that point in time to know whether the accused person(s) will claim trial or plead guilty.

30 Thirdly, the respondent referred to s 230 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("the CPC"), which sets out the procedure for all trials under the CPC:

> **Procedure at trial**
>
> 230.—(1) The following procedure must be complied with at the trial in all courts:
>
> (*a*) at the commencement of the trial, the charge must be read and explained to the accused and his plea taken;
>
> (*b*) if the accused pleads guilty to the charge, the court must follow the procedure set out in Division 3 of Part XI;
>
> (*c*) if the accused refuses to plead or does not plead or claims trial, the court must proceed to hear the case;
>
> …
>
> (*g*) the court may alter the charge or frame a new charge before calling on the accused to give his defence and if the court does so, the court must follow the procedure set out in sections 128 to 131
>
> (*h*) if the accused pleads guilty to this altered or new charge, the court must follow the procedure set out in Division 3 of Part XI;
>
> (*i*) if the accused refuses to plead or does not plead or claims trial to the altered or new charge, the court must proceed in accordance with the procedure set out hereinafter;
>
> …
>
> (*n*) after the court has called upon the accused to give his defence, the accused may —
>
> (i) plead guilty to the charge, in which event the court must follow the procedure set out in Division 3 of Part XI; or
>
> (ii) choose to give his defence;
>
> …

Sections 230(1)(*a*) and (*b*) set out the procedure at *trial* where the accused can choose to plead guilty at the outset or to claim trial. An accused may also plead guilty at later stages of the trial, for instance, after the charge has been amended or after the court calls upon the accused to give his defence. Where the concept of "trial" is concerned, no distinction is drawn between a PG situation and a full trial.

31 Fourthly, in other statutes, the word "tried" is used consistently in a wide sense to include PG situations. These statutes include s 3 of the Penal Code (Cap 224, 2008 Rev Ed), s 31 of the

Societies Act (Cap 311, 1985 Rev Ed), s 72 of the Banking Act (Cap 19, 2008 Rev Ed), s 57 of the Chit Funds Act (Cap 39, 1985 Rev Ed) and s 33 of the Tobacco (Control of Advertisements and Sale) Act (Cap 309, 2011 Rev Ed).

32 I agreed with the respondent that s 39 of the Act does not distinguish between full trials and PG situations. S 39(1) makes it clear that, upon a person being charged, an inquiry shall be adjourned until after the conclusion of the criminal proceedings. It is impossible to predict whether an accused, having been charged, will decide to plead guilty or to claim trial or even to change his position during the course of the trial. Therefore the phrase "conclusion of the criminal proceedings" must, as a matter of logic, encompass a situation where the accused decides to plead guilty. It would be illogical for an accused's subsequent decision to plead guilty, which, as we have seen, can occur quite late in the trial, to have the retrospective effect of taking the situation out of the ambit of s 39 of the Act.

33 A fair reading of s 39(2) and (3) of the Act makes it plain that the Coroner has a discretion to decide whether or not to resume adjourned inquiries after criminal proceedings have concluded. If the applicant is right, it follows that the only course of action left is for the Coroner to resume the adjourned inquiry pursuant to s 39(2) but, in doing so, the Coroner is statutorily bound not to make any finding which is inconsistent with the result of concluded criminal proceedings. If the criminal proceedings have ascertained the cause of and circumstances connected with the death, in particular, the identity of the deceased and how, when and where the deceased came by his death (see s 27(1) of the Act set out below at [35]), then the resumed inquiry could only re-affirm these findings of the criminal proceedings. I am unable to see what purpose such an inquiry would serve.

34 The applicant also relied on "finding" to argue that there could be no finding made as to the cause of and circumstances connected with the Deceased's death if no full trial was held. She cited again Black's Law Dictionary Free Online Legal Dictionary (2nd ed) which defines "finding" as:

> A decision upon a question of fact reached as a result of a judicial examination or investigation by a court, jury, referee, coroner, etc.

The applicant further submitted that as there was no full trial, there could not have been any decision made and hence, there could not have been any finding. The Coroner thus could not invoke s 39(3) of the Act.

35 The respondent argued that "finding" must be construed in the light of s 27 of the Act:

> **Purpose of inquiry**
>
> 27.—(1) The purpose of an inquiry into the death of any person is to inquire into the cause of and circumstances connected with the death and, for that purpose, the proceedings and evidence at the inquiry must be directed to ascertaining the following matters in so far as they may be ascertained:
>
> (*a*) the identity of the deceased; and
>
> (*b*) how, when and where the deceased came by his death.
>
> …

According to the respondent, "finding" must relate to the ascertainment of the four matters enumerated in s 27(1)(*a*) and (*b*) – identity, how, when and where.

36 The respondent also cited the case of *Biplob Hossain Younus Akan and others v Public Prosecutor and another matter* [2011] 3 SLR 217 ("*Biblop*") at [8], where V K Rajah JA held that the court presiding over a case where the accused person pleads guilty has a duty to evaluate the statement of facts with fresh lenses and be alert to situations where there is reason to doubt the contents of the statement of facts or if it is incomplete. In such cases, the court may direct that the statement of facts be amended (if both parties agree) or reject the plea of guilt. In a PG situation, the court does not play a merely perfunctory role.

37 The statement of facts (see [11] above) clearly stated the identity of the Deceased and how, when and where the Deceased came by his death. Section 39(3) of the Act does not refer to "finding" in the abstract but to a "finding in those proceedings as to the cause of and circumstances connected with the death", the exact words found in s 27(1).

38 I could not agree with the applicant's argument that no decision is made by the court in PG situations and that therefore there can be no finding made. Findings of fact (and even of law) are frequently made by the court based on admissions or concessions made before or during a trial. A PG situation involves the accused accepting that he is guilty as charged and admitting without qualification all the facts set out in the statement of facts which must support all the elements of the offence in the charge. This was exactly the case in the criminal proceedings involving DSP Lim. The district court certainly decided and found that DSP Lim was guilty as charged and accepted the facts set out as proved because of DSP Lim's unqualified admission. There is no principle that facts can only be found through contention and not consensus. Indeed, the only reason for adducing evidence and for cross-examination is when a party refuses to admit certain facts. Why lead evidence and cross-examine the opposing party when he admits everything that you are seeking to establish in court?

39 I therefore held that the Coroner had the power to decide not to resume the inquiry. There was no illegality and/or procedural impropriety.

Did the Coroner act unreasonably in deciding not to resume the inquiry?

40 The applicant also argued that the Coroner failed to take into consideration matters which he ought to have taken into account (in particular, the conditioned statements) in deciding not to resume the inquiry and thus acted unreasonably (see *Associated Provincial Picture Houses Limited v Wednesbury Corporation* [1948] 1 KB 223, especially at 229). In *Manjit Singh s/o Kirpal Singh and another v Attorney-General* [2013] 2 SLR 1108 (at [127]), the High Court emphasised that the inquiry is not whether the decision made was sensible or reasonable in the colloquial sense but in the strict technical sense of whether a sensible or reasonable decision-maker could have responded in the same way.

41 The applicant's main contention was that the Coroner, at the pre-inquiry review held on 23 July 2013 (see [12] above), should have asked further questions and should not have merely stated that he did not propose to resume the inquiry "having regard to the result of the criminal proceedings" against DSP Lim.

42 The applicant's arguments went this way. She submitted that the Coroner should have asked how the restraint by the other officers caused the death of the Deceased. Instead, he asked cursorily what DSP Lim should have done. This showed that the Coroner had already decided not to resume the inquiry because someone had been convicted. Had the Coroner read the conditioned statements, he would have chosen to resume the inquiry. Furthermore, the notes did not indicate that the Coroner had marked the charge and the statement of facts. There was also no indication that the Coroner had read both those documents because he merely said that he had received them earlier. The

language used — "having regard to the result" — also showed that the Coroner did not consider any findings made in the criminal proceedings.

43 I did not accept the applicant's arguments. The applicant was represented by her then counsel before the Coroner. Nothing was in contention at the review. The notes showed that her then counsel's main concern at that time appeared to be the applicant's civil claim against the Government (which was subsequently commenced on 11 Sep 2013 by her present solicitors). The statement of facts in the criminal proceedings contained ample details about the identity of the Deceased and how, when and where he came by his death. The statement of facts also quoted from one of the autopsy reports (see [11] above). There was no need for the Coroner to ask any questions about how the restraint by the other officers caused the death of the Deceased or any other question.

44 The applicant's submission that the Coroner had not read the charge and the statement of facts when he made his decision not to resume the inquiry was an unkind speculation. Assuming he had not read the charge, the gist thereof was mentioned by the State Counsel at the very start anyway. The Coroner said that he had received the charge and the statement of facts earlier. The natural inference from this is that the Coroner had read the said documents although he did not appear to have marked them. The use of the words "having regard to the result of the criminal proceedings" would indicate that the Coroner had in mind s 39(3) of the Act (which contained these words) and therefore the finding in the criminal proceedings as to the cause of and circumstances connected with the death as spelt out in the statement of facts and admitted by DSP Lim. He would also have known that s 39(2) of the Act constrained him from making any finding of fact which would be inconsistent with the result of the criminal proceedings. The Coroner therefore obviously took into consideration the facts set out in the statement of facts when making his decision not to resume the inquiry. The notes were not the Coroner's grounds of decision and he was not expected to state his detailed reasons in those notes.

45 The applicant was in effect demanding that every circumstance be looked into. However, I reiterate here the purpose of a Coroner's Inquiry as stipulated in s 27(1) of the Act (set out at [35] above). The four matters – identity, how, when and where – have been answered by the criminal proceedings. The applicant is not entitled to take out judicial review proceedings to compel an inquiry to be conducted for the purpose of wanting to know *everything* that happened in the prison (or perhaps even in the ambulance, the hospital and the mortuary). The "circumstances connected with the death" must ultimately relate to the four matters in s 27(1) and "how, when and where" indicate that the circumstances must be relevant and proximate in time and place.

46 The respondent also contended that if the applicant wanted more details about the death of the Deceased, she could probe into these in the pending civil action that she had commenced against the Government. In my view, the existence of a related civil action is irrelevant to the issues raised in this application for judicial review. If the Coroner had acted unlawfully or irrationally in not resuming the inquiry, the fact that there is a pending civil action concerning the same incident would be no answer to an application for judicial review. However, there was absolutely no evidence that the Coroner acted illegally, improperly or irrationally when he invoked s 39 of the Act and decided not to resume the inquiry.

Conclusion and Costs

47 The applicant failed to make out a *prima facie* case for judicial review. The application for leave was therefore denied as the application for the substantive relief was bound to fail.

48 I ordered the applicant to pay costs fixed at $1,000 (inclusive of disbursements) to the

respondent. This was half the amount sought by the respondent. Counsel for the applicant suggested that there be no order as to costs or at most $500 costs (inclusive of disbursements) as the applicant was said to be a litigant of very limited means. I was also informed by her counsel that they are acting *pro bono* for her in this application. In the circumstances of this case, I awarded much lower costs against the applicant than I would otherwise have in an application of this nature.