4 SET - VI

SECRET



தமிழ்நாடு சட்டமன்றப் பேரவை
முன்வைக்கப்பட்ட நாள்
27 ஆவ 1998



REPORT OF JUSTICE THIRU M. MARUTHAMUTHU COMMISSION OF INQUIRY

TO INQUIRE INTO THE ALLEGED MYSTERIOUS DEATH OF THIRU RAMESH, SON OF THIRU RAJARATHNAVARAN, WHILE UNDER CUSTODY ON 12TH APRIL 1997 AND SUBSEQUENT LAW AND ORDER DISTURBANCES ON 13TH APRIL 1997.

Report of

JUSTICE THIRU M. MARUTHAMUTHU

Commission of Inquiry


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMILNADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

STATEMENT SHOWING THE REASONS FOR THE DELAY IN PLACING THE REPORT OF THIRU M. MARUTHAMUTHU COMMISSION OF INQUIRY ON THE TABLE OF THE HOUSE.

The report of *Thiru M. Maruthamuthu Commission of Inquiry*, which inquired into the alleged mysterious death of Thiru Ramesh, son of Thiru Kabaleeswaran at E-1 Mylapore Police Station, Chennai on 12th April 1997 and subsequent law and order disturbances on 13th April 1997 was received by the Government on 31st March 1998. It could not be placed on the Table of the Tamil Nadu Legislative Assembly before the expiry of six months' period on 30th September 1998 due to administrative reasons.

A. P. MUTHUSWAMI,
Chief Secretary.


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
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REPORT OF
JUSTICE THIRU M. MARUTHAMUTHU COMMISSION OF INQUIRY

TAMIL NADU LEGISLATIVE ASSEMBLY
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82/13—A


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
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Acknowledgement.

1. The Commission of Inquiry which commenced its work on 15th April 1997 completed its work on 31st March 1998. I received effective co-operation in the conduct of the Inquiry from the Government of Tamil Nadu, to which my thanks are due.

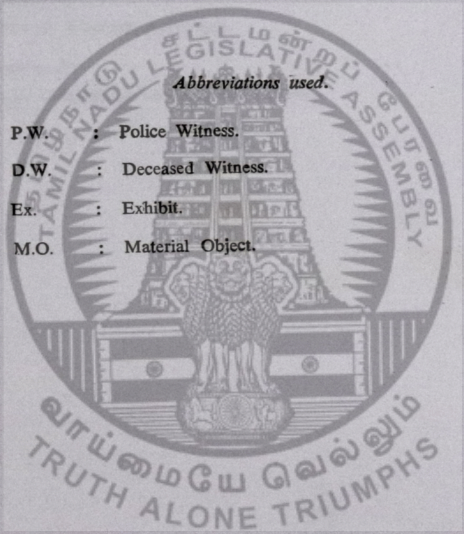
2. I place on record my appreciation of the earnest and devoted work done throughout by Thiru S. Kaliaperumal, the Secretary to the Commission and Thiru M. S. Chandrasekaran, Personal Assistant and other members of the staff who enabled me to carry out the work successfully.

3. Thiruvalargal S. Srinivasan, Advocate for the Commission appointed by the Government, V. R. Venkatasamy, Advocate for the Police and A. Isaiah, Advocate for the Deceased contributed immense co-operation to me in this regard, for which I am thankful to them also.

(JUSTICE M. MARUTHAMUTHU)

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தமிழ்நாடு சட்டமன்றப் பேரவை
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Abbreviations used.

P.W. : Police Witness.

D.W. : Deceased Witness.

Ex. : Exhibit.

M.O. : Material Object.


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தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
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BEFORE

JUSTICE THIRU M. MARUTHAMUTHU COMMISSION OF INQUIRY

E.V.K. Sampath Maaligai, IV Floor, College Road,

Chennai–600 006.

PRESENT :

JUSTICE THIRU M. MARUTHAMUTHU,

Retired Judge, High Court, Madras.

REPORT OF THE COMMISSION OF INQUIRY.

1. The facts and circumstances which led to the appointment of this Commission of Inquiry by the Government of Tamil Nadu are as follows :—

(i) Thiru K. Kabaleeswaran (D.W. 1) is residing at 95, Madhava Rao Garden, II Street, Pallakkumaniam, Chennai, with his two wives, by name, Thirumathi Latha and Thirumathi Sundari and two daughters and a son. Another son Thiru Ramesh Raja [hereinafter mentioned as Ramesh (since deceased)] was also living with D.W. 1 and was being employed in Messrs. Madharsha Textiles Godown in Mandavelli. D.W. 1 is working in Messrs. Sundaram Clayton Limited of T.V.S. Group at Padi, for the past 18 years. On 12th April 1997, the Founders' Day of Messrs. Sundaram Clayton Limited was celebrated for which D.W. 1 received an invitation card (Exhibit D-1) and attended the function with his first wife Thirumathi Latha, son Ramesh and two daughters. They went in an autorickshaw driven by Thiru Panneerselvam (D.W. 2). After the function was over at about 7-30 p.m. D.W. 1 and his family members returned home in the same autorickshaw at about 8-30 p.m. D.W. 1 paid auto fare to D.W. 2. But Ramesh went with D.W. 2 in the same autorickshaw telling D.W. 1 that he would give some refreshment to D.W. 2 and send off. Thiru Stalin (D.W. 3) a friend and neighbour of Ramesh, also joined Ramesh and D.W. 2. After parking the autorickshaw in the auto stand at Luz Church Road, Ramesh, D.W. 2 and D.W. 3 proceeded towards City Snacks Bar which is situate in the corner of Kutchery Road and Ramakrishna Mutt Road (R.K. Mutt Road). They had to cross R.K. Mutt Road from Nehru News Mart shop which is situate on the western side of that road to go to City Snacks Bar.

(ii) Luz Corner is a junction of four roads, i.e., Kutchery Road running East-West, R.K. Mutt Road running South-North, Luz Church Road running East-West and Royapettah High Road running South-North.

There is a traffic umbrella at the centre of the Luz Corner from where the traffic is regulated by the Traffic Police.

Thiru R. Garudapathy (P.W. 4) is the Inspector of Police, Traffic Wing, E-1 Mylapore Police Station since 4th July 1994. He has got jurisdiction over the traffic wings attached to the Police Stations of Pattinapakkam and Abhiramapuram also. Thiru G. Velayutham (P.W. 1), a Grade I Police Constable, Thiru J. Issac Devaraj (P.W. 5), Thiru S. Krishnan (P.W. 2), Police Constables and Police jeep driver Thiru E. Rajendran (P.W. 3) are all attached to E-1 Mylapore Police Station, Traffic Wing.

(iii) On 12th April 1997, P.W. 5 was on duty at the Traffic Signal at Luz Corner from 6-00 p.m. to 10-00 p.m. and P.W. 2 was on duty in the "no parking area" near Hotel Picnic which is on the R.K. Mutt Road from 7-00 p.m. to 9-00 p.m. P.W. 4 left E-1 Mylapore Police Station at 4-00 p.m. on 12th April 1997 in the Police jeep TSP 8453, driven by P.W. 3, on patrol duty accompanied by P.W. 1 who was also on propaganda duty. After supervising certain areas in his limits, P.W. 4 reached Luz Corner at 8-15 p.m. accompanied by P.W. 1 and got his jeep parked in front of Kerala Fashion Jewellery in the corner of Kutchery Road. He directed P.W. 1 to bring P.W. 2 who was on duty in "No Parking Area" near Hotel Picnic to give him instructions, as he was new to the traffic wing. Accordingly, P.W. 1 proceeded to the spot to get P.W. 2. At that time, there was green signal for the vehicles to pass from R.K. Mutt Road to Royapettah High Road, Luz Church Road and Kutchery Road. While so, some six or seven persons were attempting to cross R.K. Mutt Road from the west, i.e., from Nehru News Mart towards east. P.W. 1 asked them not to cross the road as the green signal was there and vehicles were passing in that road, and advised them to wait. But, one among of those six or seven persons remarked at P.W. 1 'சனியன்டா காலயபய மவபயா'. But, when P.W.1 looked at that person, who made that remark, the latter submissively said "சனிகாலம்மோ" Again P.W. 1 advised those persons to cross the road when the red signal would be on. At that time, the same person who made the abusive remark earlier at P.W. 1, uttered some filthy words (they are not reproduced hear), but appeared to be a submissive person when P.W. 1 looked at him. While so, the persons along with the said person laughed at P.W. 1. After the red signal was on, P.W. 1 went near Nehru News Mart which is situate on the west of R.K. Mutt Road and asked that person what he uttered, for which that person made a threat saying that P.W. 1 might not know what sort of person he was and that P.W. 1 would be damned and finished, if P.W. 1 would near him. At that time P.W. 2 who remained near Hotel Picnic also came near Nehru News Mart and advised that person not to quarrel with P.W. 1 who was on duty. On seeing the happening near Nehru News Mart, P.W. 4 asked P.W. 1 and P.W. 2 to bring the persons to him. Accordingly, P.W. 1 and P.W. 2 and the person who quarrelled with P.W. 1 accompanied by another person came to P.W. 4 who was standing near the jeep opposite to Kerala Fashion Jewellery. P.W. 4 enquired P.W. 1 what had happened near Nehru News Mart. P.W. 1 reported that two persons had attempted to cross R.K. Mutt Road while the green signal was on for the passing of the vehicles and that his advice to them to cross the road after the red signal was on, was not heeded by them and that instead, one person abused P.W. 1 in filthy language. P.W. 4 saw that person who appeared to be decent and well dressed. P.W. 4 questioned that person why he appearing to be decent should abuse a Police Constable on duty, for which that person was silent. Thereupon, P.W. 4 instructed P.W. 1 to take that person in his jeep to Mylapore Police Station and hand over him to Law and Order Wing for necessary action. Thiru Issac Devaraj (P.W. 5) who was on traffic regulation duty in Traffic Umbrella, Luz Corner also saw that incident opposite to Nehru News Mart and the person who quarrelled with P.W. 1 being taken in the jeep on the instructions of P.W. 4.

(iv) The jeep was driven by P.W. 3. After the jeep left the place, P.W. 2 was asked to go to the same spot where he was originally assigned duty. One other person who came with the person who quarrelled with P.W. 1, was sent away on the report of P.W. 2 that he did nothing. While the jeep was proceeding from Luz Corner towards Mylapore Police Station, i.e., from west to east, P.W. 1 was seated in one long side-seat behind the driver and the person who was taken from Luz Corner was seated in the other long side-seat

opposite to P.W. 1. No one was seated by the side of P.W. 3 in the front seat. When the jeep was proceeding opposite to Raja Kalyanamandapam, beyond the Canal Bridge, one State Transport bus of Route No. 12–B proceeded from east towards Luz Corner, with the result there was traffic congestion and the vehicles including the Police jeep had to pass slowly. When the jeep was proceeding slowly, P.W. 1 inquisitively peeped forward from his seat to see why the flow of traffic was slow. At that time, the person who was taken in the jeep had suddenly jumped out and ran towards Luz Corner, i.e., towards west and then towards north along Kalviroyan Street. P.W. 1 got down from the jeep and saw that person running, but he did not try to chase and catch him, as the vehicles were passing along the road and the person was running desperately helter and skelter and he might be hit by the passing vehicles. On seeing that incident, some two passers-by on the road asked P.W. 1 why he was standing as an onlooker when a person had jumped out and was running to escape. P.W. 1 told that the person who was running for his escape, would get himself involved in an accident, and so he did not attempt to catch him. Thirumathi Kala (P.W. 6) who used to assist her elder sister Thirumathi Rajammal in selling flowers in the road platform opposite to Raja Kalyanamandapam also saw the person jumping out of the jeep, running along the Canal Bridge and Kalviroyan Street also known as Kallukaran Street which is situate on the western side of the canal. P.W. 1 then got into the jeep and returned to Luz Corner where P.W. 4 was remaining, and reported to P.W. 4 about the escape of the person taken by him opposite to Raja Kalyanamandapam. P.W. 4 got angry and chided P.W. 1 for his negligence. P.W. 4 with P.W. 1 continued to stay at Luz Corner till 9-00 p.m.

(v) Buckingham Canal runs north-south along the bund of which Metropolitan Transport Project (Railways) (M.T.P.) has been introduced. Big concrete pillars have been erected along the canal bund for laying of railway track thereon. Since the canal bund had to be dugged up in depth for erection of pillars, the excavated earth had fallen into the canal to the extent of the canal being filled with mud and slush. Consequently, there was no free flow of drainage water into the canal resulting in blockage of drainage water in Mylapore area. On the complaint of the public, the Government of Tamil Nadu by its order G.O. Ms. No. 580, Public Works Department, dated 21st August 1996 (Exhibit P-15) ordered the silting and removing of the slush from the canal in three phases upto Pallikaranai. The said work was commenced in August 1996 and completed in March 1997. While the silting work was done by the Department, the canal had to be dugged up to the depth of ten feet. Even now, the canal will have a depth of ten feet. Since the rain water and the sewerage water are allowed to flow into this canal from the Mylapore area even after the silting work, the canal remains with water and slush. P.W. 14 has given a report (Exhibit P-16) to the Mylapore Police Inspector in this regard on 25th June 1997. Before excavation was made for the erection of pillars for M.T.P. (Railways) the canal was not deep and so people could easily walk across the canal to reach either side.

(vi) Thiru Murthy (P.W. 7) was a night watchman between 8-00 p.m. and 8-00 a.m. under the contractor Messrs. Parook and Company which was doing the construction work of M.T.P. (Railways) and his duty extended from the M.T.P. (Railways) bridge near Mylapore Mundakanniamman Koil upto Kutchery Road side M.T.P. (Railways) bridge. He was on night duty on 12th April 1997. One Kannappan (P.W. 11) lives at Door No. 50, Pattunoolkaran VI Street also known as Ramakrishnapuram, Mylapore, Chennai which is situte on the eastern side of the canal. Thirumathi Maheswari (P.W. 10) lives just 25 feet away from the residence of P.W. 11. On 12th April 1997 (Satur-

day) when P.W. 10 was witnessing the T.V. in the residence of P.W. 11 as usual at about 9-00 p.m. she and P.W. 11 heard alarm from outside "ஐயோ காப்பாத்துங்க, காப்பாத்துங்க" P.W. 7 also heard such noise when he was on duty in Kalviroyan Street just on the opposite side of the residence of P.Ws. 10 and 11. The street where P.Ws. 10 and 11 are living and the place where P.W. 7 was on duty as watchman are just separated by the canal. Some men who were working in the mechanic shed at Door No. 5, Kalviroyan Street ran towards the canal, and P.W. 7 followed them. Some crowd gathered on both sides of the canal. At that time, some ladies shouted that a boy had fallen into the canal and that he should be saved. Some tried to trace that boy, but he could not be seen. At about 10-00 p.m. some one rang up to Mylapore Police Station and informed that a person had fallen into the canal just opposite to Door No. 5, Kalviroyan Street. Thiru P. Balakrishnan, Head Constable No. 3347 (P.W. 16) immediately went to the spot where some 25 to 30 persons were gathering. One person in the crowd showed to P.W. 16 a particular spot opposite to No. 5, Kalviroyan Street and informed that it was the place where the person had fallen. P.W. 16 could not find any traces when he went around the place. Thiru M. Kumar (P.W. 8) who is Mylapore Division Secretary, Dravida Munnetra Kazhagam Party and who lives in Pattunoolkaran Street on the opposite side of Kalviroyan Street and whose wife is the Corporation Councillor (D.M.K. Party) for 144 Division, heard that a person had fallen into the canal and went to the spot accompanied by some more persons. He was also shown a place where the person was said to have fallen and he could not see any one. He immediately rang up to Fire Service for rescue. Thiru Ganesh (P.W. 9) a Leading Fire Serviceman in Mylapore First Service Station, received a phone call at 10-25 p.m. from Fire Service Control Room at Egmore, about the fall of a person in Buckingham Canal beneath M.T.P. (Railways) bridge. He proceeded to the spot in lorry No. TN 01 G 0597 accompanied by his men Veeraraghavan and Mathivanan. He was shown a place in the canal where the person had fallen. P.W. 9 tied a rope around his waist as held by his men Mathivanan and Veeraraghavan from the canal bund, stepped into the canal. But, since the canal was full of slush, he could not venture further and he had to be lifted up by his men. Then, he gave a wireless message to the Fire Service Control Room to send Emergency Rescue Tender and Anchor with multiple hooks. Accordingly, the Fire Service personnel arrived with the said equipments and they lifted the body of a person by using the Anchor with multiple hooks from inside the canal. The body of a person aged about 25 was placed on the floor. The deceased was found to be wearing black pant, striped shirt and black shoes. P.W. 9 handed over the body to P.W. 16 who was present during the operation. None in the crowd could identify the body. P.W. 16 obtained a complaint from P.W. 7 at about 11-30 p.m. (Exhibit P-25) and registered a case in Crime No. 918 of 1997, under section 174, Cr.P.C. Exhibit P-20 is the carbon copy of the F.I.R. prepared by P.W. 16. Copies of Exhibit P-20 were submitted to the higher Police officials for action. P.W. 16 entrusted the body of the person with the Police Constables Kalaivanan and Wilson (P.W. 17).

(vii) Thiru S. Pandian, Sub-Inspector of Police, Law and Order, Mylapore Police Station (P.W. 41) returned to the Police Station at 12-15 a.m. (midnight of 12th April 1997) after his bandobust duty and he was informed by P.W. 16 about the lifting of the body of a person by Fire Service personnel from inside the canal, who fell down accidentally opposite to Door No. 5, Kalviroyan Street. P.W. 41 took up the investigation of the case and went to the place where the body was lying. He also noticed the body wearing black pant, striped shirt and black shoes. The Fire Service personnel and the public were present there. P.W. 41 asked the persons in the crowd whether they could

identify the body but none could do so. P.W. 7 who gave complaint (Exhibit P-15) also expressed his inability in this regard. P.W. 41 tried to get the body photographed with the Police photographers and published so that it could be identified. But, he could not do so as it was an odd hour in the night. He proceeded to "Dinakaran" daily newspaper office near Raja Kalyanamandapam and enquired with Thiru Muthiah, Reporter (P.W. 22) whether there was any photographer in his office to take the photograph of the body of a person who died by drowning into the canal. P.W. 22 deputed Thiru Xavier (P.W. 12) to accompany P.W. 41 and take necessary photographs. P.W. 12 took photographs of the body (M.O. 1 and M.O. 2 with corresponding negatives). The body of the person appearing with half size was published in Dinakaran newspaper of the following morning (13th April 1997). M.O. 3 is the publication of the news item with the body of the deceased. The other photo of the deceased appearing full was not published in the newspaper. P.W. 22 also went to the spot and saw that the body of which photographs were taken by P.W. 12, was lying. Since there was no sufficient light and it was mid-night, P.W. 41 could not conduct the inquest on the spot. The body of the deceased was sent through P.W. 17 to Government Royapettah Hospital for post-mortem examination. P.W. 41 examined P.W. 7 and 12 others at the spot and returned to the Police Station at 4-00 a.m. on 13th April 1997 and left for his residence. When he returned to the Police Station for duty at 7-00 a.m. on 13th April 1997, he was informed by the Police Station Writer Thiru Natarajan that the body of the deceased taken out from the canal was that of one Ramesh of Pallakkumaniam (Madhava Rao Garden) and that a huge crowd was indulging in violence as a protest near Luz Corner. P.W. 41 proceeded to Luz Corner for bandobust duty.

(viii) In the meantime at about 9-00 p.m. on previous night P.W. 4 with P.W. 1 returned to Mylapore Police Station in his jeep driven by P.W. 3 after his duty was over at Luz Corner. When he went there, the entire campus of Mylapore Police Station was dark as the electric lights were not burning. P.W. 4 parked his jeep near the traffic wing office and was standing, while P.W. 1 was at some distance. At that time, one person approached P.W. 4 and mentioned to him that the boy who was taken in his jeep was his boy for which P.W. 4 remarked that the boy appeared to be decent and well dressed, but was talking to the Police Constable indecently and vulgarly and stated that the boy had jumped out of the jeep on the way of his being taken to Police Station and ran away and he would have reached his home by that time. He also suggested that he must be properly advised and brought the next day. Believing what P.W. 4 stated as true, the said person went away. D.W. 1 says in his evidence that it was he who went to the Police Station on information from Panneerselvam (D.W. 2) and Stalin (D.W. 3) that the Traffic Police of Mylapore had detained his son Ramesh on some wordy quarrel at Luz Corner. Since the Traffic Police and Ramesh were not in Luz Corner at about 9-10 p.m. D.W. 1 went to the Police Station. to make enquiry about his son Ramesh. P.W. 4 has made entries in his Personal Diary, dated 12th April 1997 of which Exhibit P-97 is the carbon copy and Exhibit P-99 is the original sent to Thiru Sevugan, Assistant Commissioner of Police, Traffic (P.W. 46) about the taking of that person in the jeep towards Police Station and his escape on the way. Thiru Venugopal (P.W. 15) working as Wireman in Mandavalli–Foreshore Estate Section of Tamil Nadu Electricity Board received a call from Mylapore Police Station at 1-35 a.m. (12th April 1997 midnight) stating that there was electricity failure. He received similar calls from other places, in respect of which he has made entries in the Fuse Call Register (Exhibit P-18) signed by

Thiru Chidambarathanu, Assistant Engineer. P.W. 15 went to Mylapore Police Station with his Assistant found the wires in the cut out melted and so restored the electricity supply by direct connection.

(ix) Next day morning (13th April 1997) D.W. 1 made enquiries to an autorickshaw driver Viji at Pallakkumaniam who in turn took D.W. 1 to one Soundariya, a flower vendor. D.W. 1 mentioned the identification of his son Ramesh to Soundariya and stated that he was in possession of cash of Rs. 1,250, a pen and AIADMK Membership Card. Soundariya was sorry to say that the body of D.W. 1's son Ramesh was taken out from the Buckingham Canal during the previous night between 11-30 p.m. and 12-00 a.m. by the Fire Service personnel as if Ramesh jumped into the canal and died. On hearing this news, D.W. 1 and his wife Latha were shocked and grieved and they proceeded towards Luz Corner. On the way, they met one Muthuraju who showed "Dinakaran" newspaper of 13th April 1997 morning and asked D.W. 1 whether the photograph and the news published under the title "மயிலாப்பூர் கூவத்தில் விழுந்தவர் சாவு" relate to his son Ramesh. D.W. 1 saw the news item and the photograph and was shocked. He went to Mylapore Police Station and shouted "What did they do with his son Ramesh and why they killed him"? A crowd gathered in front of the Police Station.

(x) At about 7-00 a.m. when Thiru Srinivasan (P.W. 13), Sub-Editor of Dinakaran newspaper was in the office, a crowd of about 100, armed with soda bottles, casuarina sticks and stones entered into the office of Dinakaran newspaper and questioned those in the office as to how they could publish the news item "கூவத்தில் விழுந்தவர் யாரென்று தெரியவில்லை" and how they could know it was accidental fall of the person into the canal. The crowd shouted that the Police had tortured him and killed him and threw the body into the canal. They questioned why Dinakaran should publish such false news. P.W. 13 and others explained to the crowd that they published the news item and the photograph on the basis of the information they obtained The crowd became violent and assaulted the watchmen Sudalai and Kombaiah and threw pelmel Dinakaran Tamil New Year Malar to be released on the next day, i.e., 14th April 1997. They also tried to burn some books and attacked the door and window panes with stones. The office van Swaraj Mazda which was laden with Tamil New Year Malar books was also attacked and damaged by the crowd. The crowd took away some book bundles. P.W. 13 with the help of some ten persons in his office tried to prevent them from committing more violence, and in that process some seven or eight persons of his office got injured. P.W. 13 sustained injury on his lower lip and lower jaw due to hit with glass pieces and he got treatment in a private nursing home. Thiru Palavesham (P.W. 18), Machine Foreman of "Dinakaran" sustained injury on his leg and got treatment in a private nursing home. Thiru Isaki Durai (P.W. 21), office boy of "Dinakaran" sustained injury on his head due to hit with soda bottle and got treatment in Devaki Hospital for 10 days as per Exhibit P-44 series. On hearing that a violent crowd proceeded from Mylapore Police Station towards "Dinakaran" office and from there to Luz Corner, Thiru Krishnamurthy (P.W. 44), Inspector of Police, Law and Order, Mylapore Police Station proceeded to Luz Corner. He saw there a crowd of about 200 persons. Thiru K. Kothandaraman, Assistant Commissioner of Police, Law and Order, Mylapore Police Station (P.W. 43), on the instructions of Thiru V. K. Rajagopalan, I.P.S. (P.W. 45), Commissioner of Police, Chennai, also arrived at the Luz Corner and saw a crowd of about 500 persons at Luz Corner to be obstructing the traffic on all sides. He made arrangements for bandobust on all sides of the road, and asked the crowd to disperse, but they did not do so.

(xi) At about 9-00 a.m. Thiru N. P. Ramajeyam (P.W. 42), M.L.A. of Mylapore Constituency arrived there and he received a complaint (Exhibit P-20) from D.W. 1, the father of Ramesh and, P.W. 42 in turn handed over the same to P.W. 43 for necessary action. P.W. 42 told the crowd that the Collector of Chennai was due to come to the spot and that action under P.S.O. 145 may be taken by the Government and so the crowd may disperse peacefully. P.W. 43 and other Police officers also made similar advice to the crowd, but in vain. The crowd became restive and abused P.W. 42 and the Police officials. At about 10-30 a.m. a section of the crowd pelted stones at the sign boards and towards Police, in which Delta Van No. 29 and the Ambassador car of Joint Commissioner of Police (South) were damaged. The name boards of the shops in that area, the traffic umbrella in Luz Corner and Sodium Vapour lights were also damaged due to hit with stones, soda bottles and sticks. The Police personnel on duty on the spot also sustained injuries. P.W. 43 warned the crowd which was indulging in violence to disperse peacefully. But, the crowd did not pay heed and they advanced forcibly towards Police giving out that they should attack Mylapore Police Station. P.W. 43 again warned them not to indulge in violence, but in vain. At about 10-45 a.m., P.W. 43 ordered P.W. 35 (Thiru Seetharaman, P.C. 2863) to throw tear gas shell at the crowd. Even then, the crowd did not move at all. Again, three tear gas shells were thrown on the orders of P.W. 43. Then, the crowd dispersed into three sections, and one section ran towards R.K. Mutt Road, another section towards Luz Church Road, Madhava Rao Garden Street, opposite to Kamadhenu Cinema Theatre and near Nageswara Park. Even then, the crowd was hitting and damaging the vehicles and transport buses. At about 11-45 a.m., P.W. 45, the Commissioner of Police, saw in Luz Church Road near Madhava Rao Garden. II Street about 500 people regrouping and committing rioting by throwing stones and soda bottles and shouting that the Police should be attacked and killed. Some of the persons were on the top of the tenaments and pelting stones. P.W. 45 and other Police officers sustained injuries due to stone throwing. The injury sustained by P.W. 45 was at the outer aspect of left palm. He directed P.W. 43 to order the crowd to disperse lest they will be declared as unlawful assembly. The mob did not heed the warning, but continued to pelt stones. In order to save the lives of Police personnel and public, and in order to save further damage to the public and private properties being caused, he directed P.W. 43 to give warning that tear gas would be used for dispersing the mob. This warning did not have any effect and the crowd continued to pelt stones against the Police causing injuries to them. At about 11-50 a.m., Police Constable Periasamy (P.W. 36), Delta Van 4 threw three tear gas shells. Even then, the mob did not disperse and they continued to pelt stones. To disperse the mob, P.W. 36 again threw three more tear gas shells at the mob. Even then the crowd did not disperse. The Police party moved inside the street towards the mob and then only the mob ran in different directions towards the tenaments. In that context, one person among the crowd was found to have sustained injuries on his head, due to stone throwing and he was sent to hospital for treatment. P.W. 45 took the appropriate and immediate action to bring back normalcy in the area after assessing the situation. After making arrangements for posting pickets and patroling at Luz Corner area, P.W. 45 got treatment for his injury in St. Isabel Hospital, a private nursing home. Exhibit P-95 is the copy of the Accident Register issued to P.W. 45 by that hospital. Likewise, other injured Police officials were sent for treatment.

(xii) On 13th April 1997 afternoon, Dr. A. N. Shanmugam, Casualty Medical Officer (P.W. 39), Government Royapettah Hospital, Chennai examined the following persons for the injuries said to have been caused to each of them due to stone throwing in the forenoon in Luz Corner area :—

Thiru R. Selvaraj, Inspector of Police (P.W. 38) had the following injuries :—

(1) Laceration 0·5 x 0·5 cm. – Bone deep over the back of the left hand.

(2) Abrasion 2 x 1 cm. on front of the left leg.

(3) Abrasion 2 x 1 cm. over the Outer aspect of right leg.

In the opinion of P.W. 39, the injury No. (1) was grievous in nature while the other two injuries were simple. Exhibit P-72 is the copy of Accident Register issued to P.W. 38.

Thiru Venkatachalam, Sub-Inspector of Police (P.W. 28) had a Contusion 2 x 1 x 0·5 cm. over the scalp. The injury was simple. Exhibit P-72 is the copy of the Accident Register issued to P.W. 28.

Thiru Vajiravelu, Police Constable 1598 (P.W. 31) had an Abrasion 2 x 0·5 cm. on front of left leg. The injury was simple. Exhibit P-74 is the copy of the Accident Register issued to P.W. 31.

Thiru B. Tamil Kumaran, Police Constable 2042, T.S.P. II Battalion, Egmore at 12-30 p.m. had sustained a laceration 4 x 0·5 cm. muscle deep over the left side of scalp. The injury was simple. Exhibit P-75 is the copy of the Accident Register issued to Thiru Tamil Kumaran, Police Constable 2042.

Thiru P. Shanmugaraj, Police Constable 862 (P.W. 29) was found to have a laceration 3 x 0·5 cm. x Bone deep over the left eye brow. The injury was simple. Exhibit P-76 is the copy of the Accident Register issued to P.W. 29.

Thiru Ajaykumar, Police Constable 2796 of Delva 29 Vehicle T.S.P. VIII Battalion, E Company had a laceration 2 x 0·5 cm. x bone deep over the right side of scalp. The injury was simple. Exhibit P-77 is the copy of the Accident Register issued to Thiru Ajaykumar.

Thiru Mohanraj, residing at No. 115, Madhava Rao Garden Street, Mylapore, Chennai, who sustained injury during the violence committed by the mob had a laceration 4 x 0·5 cm. x bone deep over the back of scalp. The injury was simple. Exhibit P-78 is the copy of the Accident Register issued to Thiru Mohanraj.

P.W. 39 was of the opinion that the injuries to the above persons could have been caused in the manner and time alleged.

(xiii) Dr. P. Periyasamy, Medical Officer (P.W. 40) in D.A.S. Ward of Government Royapettah Hospital examined the following persons for the injuries alleged to have been caused due to stone throwing in the forenoon :—

Thiru Subramani, Grade I Police Constable 11905, Armed Reserve (P.W. 34) had a contusion with abrasion over the right greater tuberacity of the Tibia. Exhibit P-80 is the copy of the Accident Register issued to P.W. 34.

Thiru Edwin, Police Constable, Grade I 14312, Armed Reserve had sustained – (1) a contusion with abrasion one inch circular over the left patella and (2) complaint of pain all over the left chest wall and right shoulder. The injuries were simple. Exhibit P-81 is the copy of the Accident Register issued to Thiru Edwin.

Thiru Janarthanam, Head Constable 9959, Armed Reserve (P.W. 30) had on him the following two injuries :—

(1) Swelling over the base of the left big toe.

(2) Abrasion over the back of the left fore arm.

The injuries were simple. Exhibit P-82 is the copy of the Accident Register issued to Thiru Janarthanam.

Thiru Kuppuswamy, Grade I 2761 Armed Reserve had an abrasion one inch circular medical side of the right knee and complaint of pain over the left chest. Exhibit P-83 is the copy of the Accident Register issued to Thiru Kuppuswamy.

Thiru Sathiyanathan, Police Constable 2673, VIII Battalion, E Company, Egmore had a small punctured wound $\frac{1}{4} \times \frac{1}{4}$ cm. over the left leg. The injury was simple. Exhibit P-84 is the copy of the Accident Register issued to Thiru Sathiyanathan.

Thiru B. Venkatesan, Police Constable 3034, T.S.P. II Battalion, C Company had an abrasion with contusion $\frac{1}{2} \times \frac{1}{2}$ cm. over the greater Tubiacity of the left leg and abrasion over the left palm. The injuries were simple. Exhibit P-85 is the copy of the Accident Register issued to Thiru B. Venkatesan.

Thiru Karthikeyan, Nayak 2206 T.S.P. II Battalion, A Company had on him a contusion with Hematoma over right ankle. The injury was simple. Exhibit P-86 is the copy of the Accident Register issued to Thiru Karthikeyan.

Thiru Alagesan, Police Constable 1569 (P.W. 33), T.S.P. VIII Battalion, B Company had an abrasion $\frac{1}{4} \times \frac{1}{4}$ cm. over the lateral aspect of the right fore arm. The injury was simple. Exhibit P-87 is the copy of the Accident Register issued to P.W. 33.

Thiru Muthaiaya, Police Constable 2219, T.S.P. (P.W. 32), V Battalion, D Company had on him—

(1) Contusion with abrasion one inch circular over the right fore head.

(2) Tenderness over the left chest.

The injuries were simple. Exhibit P-88 is the copy of the Accident Register issued to Thiru Muthaiaya.

Thiru Mani, Police Constable 1294, T.S.P. V Battalion, D Company had on him two abrasions in front of the right shin each $\frac{1}{4}$ cm. and they were simple in nature. Exhibit P-89 is the copy of the Accident Register issued to Thiru Mani.

Thiru Velu, Police Constable 1870, V Battalion, D Company had (1) Complaint of pain over the Scrotem and (2) Complaint of pain over the left back. The injuries were simple. Exhibit P-90 is the copy of the Accident Register issued to Thiru Velu.

Thiru Palanisamy, Inspector of Police, Royapettah Police Station, Chennai (P.W. 37) had a swelling 2″ x 2″ with a small abrasion over the right dorsum of hand. The injury was simple. Exhibit P-91 is the copy of the Accident Register issued to Thiru Palanisamy.

P.W. 40 was of the opinion that the injuries to the above persons could have been caused in the manner and time alleged.

Though P.W. 38 was treated in Government Royapettah Hospital, the fracture in his left index finger could not be set right as normal and so he got treatment in a private nursing home later at his own expense of Rs. 17,000.

(xiv) Thiru P. A. Sundaram (P.W. 20), Manager, "Dinakaran" went to his office at 8-30 a.m. on 13th April 1997 on coming to know from his office employees that his office was being attacked by a violent mob. He found the doors and windows being damaged and the Tamil New Year Malar books to be released on the next day (14th April 1997), were pelmel and damaged and a portion of that issue was taken away by the mob. He also saw his office van damaged due to the attack by the mob. M.O. 4, M.O. 5 and M.O. 6 series are the photographs with negatives showing the abovesaid damage. He gave complaint to the Mylapore Police Station and copy of the F.I.R. is Exhibit P-43. His office had incurred an expenditure of Rs. 82,875 to rectify the damage and Rs. 16,281 towards medical expenses for the injured employees as per Exhibit P-44.

At about 8-30 a.m., Thiru Radhakrishnan (P.W. 23), Receptionist in Hotel Picnic Plaza in the eastern side of R.K. Mutt Road, saw some 400 to 500 persons in a crowd obstructing the traffic on all sides of Luz Corner and Policemen advising the persons to remain peacefully. At about 10-00 a.m., he saw some 100 persons in crowd coming from Pallakkumaniam Slum Clearance Board armed with stones, casuarina sticks and soda bottles shouting at the shop-keepers to close the shops. They also attacked the shops causing damage. Since the crowd became violent inspite of the warning given by the Police, tear gas shells were burst and the crowd attacked the glass doors and window panes of the Hotel Picnic Plaza causing damage. Exhibit P-46 is the copy of the F.I.R. of the complaint given by the Manager, Hotel Picnic Plaza. He estimated the damage caused to the hotel at Rs. 1,07,500 as per Exhibit P-48.

Thiru Narayanan (P.W. 24) is running a bakery shop named "New Sowmiya Bakery", Luz Church Road opposite to Kamadhenu Theatre. At about 8-00 a.m. he witnessed a crowd of 500 persons obstructing the traffic from all sides in Luz Corner area. They were armed with casuarina sticks, soda bottles and stones. They refused to disperse inspite of the advice and warning given by the Police. About 100 persons attacked his shop and other shops nearby, in which name boards were damaged. The violence continued till 11-00 a.m. and the area was in tense. P.W. 24 closed his shop. He estimated the damage to his shop at Rs. 7,900 as per Exhibit P-51. He lodged a complaint with Mylapore Police Station. Exhibit P-49 is the copy of the F.I.R. of the complaint.

At about 10-30 a.m., Thiru Kanniappan (P.W. 26), Driver, Route No. 5D of Tamil Nadu State Transport bus (Registration No. TN 01 N 2423) and Thiru B. Vaitheeswaran (P.W. 27), Conductor of Route No. 12 L, Tamil Nadu State Transport bus (Registration No. TN 01 N 1131) also witnessed in R. K. Mutt Road, 50 persons armed with stones and soda bottles attacking the Government buses which were being parked in that area. The mob had broken the glasses and damaged the buses. They also attacked and damaged the name boards and doors of shops in that area. P.W. 26 and P.W. 27 lodged complaints in Mylapore Police Station about the incident.

(xv) Thiru V. Krishnamurthy (P.W. 44), Inspector of Police, Law and Order, Mylapore Police Station who received the complaint (Exhibit P-26) of D.W. 1, father of Ramesh from Assistant Commissioner of Police, Law and

Order, Mylapore (P.W. 43), prepared a report under P.S.O. 145 and forwarded Exhibit P-26 and Exhibit P-24 with a request (Exhibit P-27) to Thiru Abraham (P.W. 19), Personal Assistant (General) to the Collector of Chennai, for necessary action. The F.I.R. was being registered already under Section 174 of Cr.P.C. on the complaint of P.W. 7. But, as the cause of death of Ramesh was attributed to the Police in the complaint (Exhibit P-26) of D.W. 1, P.W. 44 submitted all the papers to P.W. 19 for necessary action.

(xvi) Thiru Abraham (P.W. 19), Personal Assistant (General) to the Collector of Chennai on receipt of Exhibit P-27 along with Exhibits P-24 and 26 conducted necessary enquiry. He visited Government Royapettah Hospital and conducted inquest on the body of the deceased Ramesh between 12-00 and 2-15 p.m. on 13th April 1997 in the presence of D.W. 1. The body was in-charge of P.W. 17. P.W. 19 recorded the statements of the Panchayathars, Thiruvalargal Nagappan, T. K. Rajan. T. N. Loganathan, M. P. Shanmugasundaram and K. Gopal during the inquest and prepared an Inquest Report (Exhibit P-28). P.W. 19 gave a requisition (Exhibit P-52) to the Professor Head and Police Surgeon, Department of Forensic Medicine, Government Royapettah Hospital, to conduct post-mortem examination of the body of the deceased.

(xvii) Dr. K. Ravindran (P.W. 25), Professor and Head of the Department of Forensic Medicine, Government Royapettah Hospital, Chennai, received a requisition (Exhibit P-52) from the Additional District Magistrate/Personal Assistant (General) to the Collector of Chennai (P.W. 19) and commenced post-mortem examination of the body which was in-charge of P.W. 17 at 3-15 p.m. on 13th April 1997. The condition of the body was as follows :—

Rigor mortis was present throughout the body. The body was well nourished body of a male. All over the body, dried sand and mud particles were sticking. Blood stained frothy fluid was oozing out from the mouth and nostrils of the body. Intense congestion of both eyes were seen. Finger and toe nails showed intense bluish discolouration. Soddening of the palmar and plantar skin were seen (washer woman's hand and feet). Seminal emission was seen.

The following injuries were seen in the body :—

(1) Abrasion over the right side of forehead above the orbit 3·5 x 1·5 cm.

(2) Abrasion over the right zygomatic region below the eye 1 x 0·5 cm. Both the abrasions are reddish brown in colour and scab not formed.

There were no other external, internal or bony injuries anywhere in the body. On dissection, the following were found :—

Heart.—Chambers contained clotted blood, valves normal, Coronaries patent.

Lungs.—Lungs are crepitant, voluminous, markedly oedematous and intensely cyanotic, multiple petichiae seen over the pleural surfaces. Cut section intensely congested and copious blood stained frothy fluid is pouring out.

Larynx and Trachea.—Filled with blood stained frothy fluid and few blackish brown mud particles. Mucosa congested.

Hyoid bone.—Intact.

Thyroid.—Intact.

Stomach.—Contained 280 gms. of brownish yellow semi solid partly digested cooked food particles without any specific smell. Mucosa congested.

Bladder.—Empty.

Brain.—Oedematous Hyperaemic and its surface vessels are congested. Cut section shows numerous petichiae.

All other internal organs of the body were found congested. The Viscera was preserved and sent for chemical analysis. The opinion of P.W. 25 as to the cause of death was reserved pending report of chemical analysis. The post-mortem certificate issued by P.W. 25 is Exhibit P-29. P.W. 25 received the chemical analysis report on 23rd April 1997 (Exhibit P-31) and it did not reveal any poison or alcohol in the Viscera. P.W. 25 was of the opinion that the deceased would appear to have died of Asphyxia due to drowning (Exhibit P-30). Exhibit P-30 is the report of P.W. 25 on the basis of the chemical analysis.

P.W. 25 was also of the opinion that the deceased would have died about 12 to 24 hours prior to his post-mortem examination. The injuries 1 and 2 were external and ante-mortem and it was possible that those injuries might have been caused by the deceased person coming into contact with any rough surface. The mud particles in Larynx and Trachea showed the deceased was alive at the time of drowning and water with mud particles, went inside. As the body was in contact with water for a couple of hours, the symptom of soddening of the palmar and plantar skin were seen. The seminal emission might be due to the person struggling for breath and it was a feature of terminal anoxia.

(xviii) P.W. 19 enquired D.W. 1, P.W. 7 and P.W. 10 and recorded their statements and they are Exhibits P-32, P-33 and P-34 respectively. He prepared and sent a report (Exhibit P-35) on the basis of his enquiry, to the Collector of Chennai on 14th April 1997 who passed an order (Exhibit P-36) directing P.W. 19 to conduct an enquiry under P.S.O. 145 and report as to the real cause of death. On 17th April 1997, P.W. 19 enquired P.W. 41 and P.Ws. 1 to 4 and recorded their statements which are Exhibits P-37, P-38, P-39, P-40 and P-41 respectively.

On 15th April 1997 the Government of Tamil Nadu by its order in G.O. Ms. No. 423, Public (Law and Order-F) Department, dated 15th April 1997, appointed this Commission to enquire into the matter which was received by P.W. 19 on 17th April 1997. As such, P.W. 19 did not proceed further with his enquiry.

(xix) The terms of reference of the Commission of Inquiry as contained in the above Government Order are :

(*i*) To inquire into the facts and circumstances leading to the arrest of Thiru Ramesh, son of Thiru Kabaleeswaran, residing at No. 94, Madhava Rao Garden Street, Mylapore, Chennai-4, by Thiru Garudapathy, Traffic Inspector and the circumstances under which the said Thiru Ramesh escaped from custody while being taken to the Mylapore Police Station in jeep No. 8453 accompanied by Thiru Velayutham, Grade I Police Constable and efforts taken to rearrest him ;

(*ii*) To inquire into the facts and circumstances leading to the mysterious death of Thiru Ramesh ;

(*iii*) To inquire into and report whether the allegation that the said Thiru Ramesh was done to death while in custody and that the body was thrown into Buckingham Canal is true ;

(*iv*) To inquire into whether there was any Police excess in dealing with Thiru Ramesh, and if so, to identify the Police personnel responsible for the same and suggest appropriate action to be taken against the Police personnel responsible ;

(*v*) To inquire into the causes and circumstances that lead to the subsequent violent incidents on 13th April 1997 in Mylapore area leading to damage to public and private properties ;

(*vi*) To inquire and report whether there were any excesses on the part of Police in dealing with the violent situation ; and

(*vii*) To suggest necessary measures to ensure that such untoward incidents do not recur.

The Government Order further stated that the Commission will complete its Inquiry and submit its report to the State Government within a period of three months from the date of the publication of the Notification in the *Tamil Nadu Government Gazette*. But, the term was extended periodically upto 31st March 1998 for valid reasons.

(xx) I assumed office as the Commission of Inquiry on 15th April 1997. On 28th May 1997, the Commission published Notification in English and Tamil dailies inviting persons acquainted with the subject matter of Inquiry to furnish to the Commission of Inquiry Affidavits, fixing the last date for receipt of such Affidavits as 5-30 p.m. on 27th June 1997. The Commission received only 21 Affidavits, of which 17 Affidavits from Police side and four Affidavits from deceased side. The Commission considered it necessary to extend the time for submitting Affidavits upto 5-30 p.m. on 27th July 1997 and so another publication was made in the dailies on 28th June 1997. The Commission received 47 more Affidavits from the Police side.

Thiru S. Srinivasan, Advocate, Chennai was appointed as Counsel to assist the Commission by issuance of G.O. 2 (D) No. 9, Public (Law and Order-F) Department, dated 9th July 1997. On 22nd August 1997, the Commission of Inquiry conducted spot inspection of the relevant places in the presence of Messrs. S. Srinivasan, Counsel for the Commission, V. R. Venkatasamy, Counsel for Police and A. Isaiah, Counsel for the Deceased, prepared an Inspection

Report (Annexure–I) and furnished copies thereof to all the Counsels. The Commission commenced enquiry and examination of witnesses on 9th September 1997. On the Police side, 46 witnesses (P.Ws. 1 to 46), and on the deceased side, three witnesses (D.Ws. 1 to 3) were examined and the respective affidavits filed by them were also marked as Exhibits. That apart, 58 documents were marked as Exhibits and five documents as Exhibits D-1 to D-5. So far as Material Objects are concerned, they were seven in number marked as M.Os. 1 to 7 (Annexure–IV).

(2) Now, I shall proceed to discuss the material terms of references. Term No. (*i*) relates to the question whether Ramesh was arrested by P.W. 4, the Inspector of Police (Traffic) and taken to Mylapore Police Station accompanied by P.W. 1 and whether he escaped on the way.

Term Nos. (*ii*), (*iii*) and (*iv*) relate to the question whether Ramesh died of drowning in Buckingham Canal accidentally or whether he was done to death and killed and the body was thrown into the canal and whether there was Police excess in dealing with Ramesh and if so, who are the delinquents.

All these four terms will relate to the incident that took place on 12th April 1997 night and so they may be discussed together.

Terms (*v*) and (*vi*) relate to the violent incidents that took place on 13th April 1997. This Commission has to find out what are the causes and circumstances leading to damage to public and private properties and whether there was any Police excess in dealing with the violent situation.

As regards Term (*vii*), this Commission is called upon to suggest what are the necessary measures to ensure that such untoward incidents do not recur.

The Commission will give its finds for the Terms of Reference accordingly.

Term of Reference (i)—Arrest and Escape.

It is not in dispute that Ramesh also known as Ramesh Raja, son of Kabaleeswaran (D.W. 1) was residing at Pallakkumaniam, Madhavarao Garden Street, situate south of Luz Church Road in Mylapore area is the person who died and whose body was recovered from the Buckingham Canal (hereinafter mentioned as the canal) which is also called by the local people as Coovum Canal, on 12th April 1997 night. Though the identity of the person Ramesh could not be made out on 12th April 1997 night, it has been established beyond doubt by evidence and circumstance on the next day (13th April 1997) that he was Ramesh, who was sent by P.W. 4 in the Police jeep along with P.W. 1 to E-1 Mylapore Police Station at about 8-45 p.m. on 12th April 1997 from Luz Corner. The photo of Ramesh published in the Daily "Dinakaran" on the morning of 13th April 1997 under the title "மைலாப்பூர் கூவத்தில் விழுந்தவர் சாவு" (M.O. 3) and the inquest conducted by P.W. 19 in the presence of Panchayatdars on 13th April 1997 afternoon, have made it clear that it was Ramesh who was taken by Police to the Police Station at about 8-45 p.m. on the previous night.

(3) The case put forward by the Police is that at about 8-30 p.m. on 12th April 1997 when P.W. 1 was on traffic duty with P.W. 4 at Luz Corner after parking the Police jeep in front of Kerala Fashion Jewellery on Kutchery Road and very close to Luz Corner junction, Ramesh and some others tried to cross R.K. Mutt Road from Nehru News Mart side on the west towards east at the time when green signal was on for the passing of the vehicles along that road, that P.W. 1 objected to Ramesh and others crossing the road at that time

and advised them to do so after the red signal was on, that Ramesh heckled at P.W. 1 and abused him in filthy language and that after noticing the wordy altercation between P.W. 1 and Ramesh, P.W. 4 directed P.W. 1 to bring to him, those who quarrelled with P.W. 1. It is also stated that at the time when P.W. 1 and Ramesh were having wordy altercation and when Ramesh had abused P.W. 1, P.W. 2 who was on duty in "No Parking Area", near Hotel Picnic in R.K. Mutt Road, joined P.W. 1 and that both P.W. 1 and P.W. 2 brought Ramesh to the place where P.W. 4 was available. It is further stated that P.W. 4, after hearing, the report of P.W. 1, remarked at Ramesh that he who was appearing to be a decent man, should not behave in a disorderly and indecent manner with the traffic Police on duty and that however, P.W. 4 directed P.W. 1 to take Ramesh to E-1 Mylapore Police Station for charging him under Section 75 of Madras City Police Act which comes under Law and Order branch, in as much as Ramesh was alleged to have abused P.W. 1 in filthy language. P.W. 4 felt that charging Ramesh for traffic regulation violation was not necessary. It is also added that when Ramesh was taken in the jeep as driven by P.W. 3 from near Kerala Fashion Jewellery shop towards east where E-1 Mylapore Police Station is situate, and when the jeep was passing along Kutchery Road opposite to Raja Kalyanamandapam beyond the canal bridge, Ramesh jumped out of the jeep through the rear side and ran towards west, i.e., Luz Corner to make good his escape and that P.W. 1 did not try to catch him. The explanation offered by the Police in this context is that a State Transport bus was coming from the opposite side in the east which resulted in congestion of traffic and the slowing down of the jeep, that P.W. 1 peeped forward from his seat to see why the jeep was slowed down by P.W. 3 and taking advantage of that situation, Ramesh jumped out of the jeep through the rear side and ran away in the opposite direction. The reason why P.W. 1 did not make an attempt to chase and catch hold of Ramesh is that Ramesh ran helter and skelter endangering his life and likely to be hit by the passing vehicles and that Ramesh who ran for his escape, had attempted to cross the canal opposite to the building bearing Door No. 5, Kalviroyan Street and go to the other side for his safety got drowned in the canal and that his body was removed by Fire Service personnel at about 11-30 p.m. on the same night. It is also the case of the Police that the body could not be identified as that of Ramesh in spite of the enquiries at the spot and that it came to be known as the body of Ramesh only on the morning of 13th April 1997 through the publication of his photo in "Dinakaran" newspaper. According to the Police, they did no harm to Ramesh except that he was taken in the Police jeep towards Mylapore Police Station for booking a case against him under Section 75 of the Madras City Police Act for his disorderly and indecent behaviour and as such, the Police would deny any responsibility or liability for the death of Ramesh and assert that it is not the case of death of Ramesh in Police custody.

(4) The allegation on the side of Police is stoutly denied on the side of the deceased Ramesh, by contending that Ramesh was taken by the Traffic Police who were on duty at Luz Corner on 12th April 1997 night at about 8-45 p.m. and that Ramesh was tortured and killed at Mylapore Police Station and that thereafter the body of Ramesh was thrown by the Police in the canal. Now, we have to consider which of the claims and contentions of the parties are probable and true.

(5) Before entering into further discussion on the subject, we have to find out what was the nature of the offence or violation alleged to have been committed by Ramesh at Luz Corner on the particular night, i.e., whether Ramesh had committed a violation of the Traffic Regulations or an offence under Section 75 of the Madras City Police Act, considering the nature of the evidence adduced before this Commission. The evidence of P.W. 1 is that Ramesh with some

others tried to cross the R.K. Mutt Road from Nehru News Mart side towards east and that Ramesh who not only ignored the objections and advice of P.W. 1 but also mocked at him and abused him in filthy language and consequently, he had to be taken to P.W. 4 for report, and P.W. 4 in turn had to send him to Mylapore Police Station to be handed over to Law and Order branch. According to P.W. 1, Ramesh did not actually cross any part of the road but only tried to cross and that the offence committed by him was actually one coming under Law and Order as he behaved in an indecent and disorderly manner and abused P.W. 1 in public place. But P.W. 2's evidence is contradictory to P.W. 1 as P.W. 2 says that Ramesh with some others had come to the centre of R.K. Mutt Road and was having wordy altercation with P.W. 1 and that what Ramesh had actually committed was an offence under the Traffic Regulations but no action was taken against Ramesh under the said provision. Even P.W. 1 would say for a moment in the course of his evidence that though Ramesh had committed an offence under Traffic Rules, he was to be charged for an offence under Section 75 of the Madras City Police Act. So far as P.W. 4 is concerned, his view is that Ramesh was to be charged only for an offence under Section 75 of the Madras City Police Act for behaving in a disorderly and indecent manner in a public place. P.W. 4 therefore, did not contemplate charging Ramesh for the violation of any Traffic Rules and Regulations but decided to charge him only under Section 75, Madras City Police Act. The reason why P.W. 4 avoided charging Ramesh under Traffic Rules and Regulations is obvious and acceptable. P.W. 1 says that a person who commits breach of the Traffic Rules and Regulations during day time, such as "jay walking" and "Foot Board Travel" in public transport buses would be produced before the Mobile Court Magistrate with the charge-sheet put up by the Head Constable of the concerned Police Station, and he would be sentenced to pay a fine, if the offence is admitted and that if the case is contested, the case will go before the regular Magistrate Court for trial and disposal. Though P.W. 1 or P.W. 4 does not say anything about the action to be taken during night when the traffic offence is committed, Thiru V. R. Venkatasamy, Counsel for Police, convinced me saying that normally, no person is charged after setting of darkness for the reason that Mobile Court will not function then, and the offender will be allowed to go with a warning. Of course, no provision of law or instruction or circular issued by the Police Department, has been produced for perusal. But, this position appears to be correct and is normally followed by Traffic Police. Probably, Ramesh was condoned for the traffic offence in the circumstance as the incident happened at about 8-30 p.m.

(6) The question arises here is whether Ramesh was arrested for the offence under Section 75 of the Madras City Police Act and taken to Police Station. The evidence of both P.W. 1 and P.W. 2 clearly shows that Ramesh was not arrested at Luz Corner on 12th April 1997 night, but merely taken to the Mylapore Police Station to be handed over to Law and Order branch. Their uniform evidence is that each of them held the hands of Ramesh and led him from Nehru News Mart side to P.W. 4, when P.W. 4 asked P.W. 1 to bring Ramesh to his place. It may be immediately pointed out here that though "arrest" consists of touching a person's body, it ought to be made with a view to his detention. At the time of leading Ramesh by P.Ws. 1 and 2 with their hands, the idea of detaining or arresting Ramesh did not at all arise and it was only after Ramesh was brought to P.W. 4 and P.W. 1 complained to P.W. 4 of the disorderly and indecent behaviour of Ramesh against P.W. 1, P.W. 4 decides that Ramesh had committed an offence under Section 75 of the Madras City Police Act and directs P.W. 1 to take him to Law and Order branch of E-1 Police Station. Therefore, the question of detention or arrest of Ramesh by P.W. 1 or P.W. 4 did not arise when Ramesh was taken from Nehru News Mart side to Kerala Fashion Jewellery shop where P.W. 4 was available.

(7) Again, on the question whether Ramesh was arrested when he was taken in the jeep towards Police Station, the Police side would contend that Ramesh was not arrested but was simply taken to the Police Station to be handed over to the Law and Order branch for charging him under Section 75 of the Madras City Police Act. Section 23 of the Madras City Police Act, 1888 which defines the duties of the Police Officers says that every Police Officer shall, for the purposes of this Act, be considered to be always on duty and it shall be his duty to use his best endeavours and ability to prevent offences and public nuisances ; to preserve the peace ; apprehend disorderly and suspicious characters ; to detect and bring offences to justice.

Section 75 (1) (*c*) of the Madras City Police Act says that who ever in any public place is found behaving in a violent or boisterous or disorderly or riotous or indecent manner or using any threatening, abusive or insulting words which causes or is likely to cause a breach of public peace, shall be liable on conviction to imprisonment not exceeding six months or fine not exceeding one thousand rupees.

Section 41, Cr.P.C. says that any Police Officer may without an order from a Magistrate and without a warrant, arrest any person :

(*a*) who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists, of his having been so concerned.

(8) The above provisions of law will show that though Ramesh could be arrested, he was not arrested by P.W. 1 and P.W. 4 on 12th April 1997 at Luz Corner area. The first and foremost reason stated by the Police side for not arresting Ramesh is that P.Ws. 1 and 4 were functioning in the Traffic Branch and that they do not normally arrest even the offenders of Traffic Rules. They state that the offenders are produced before the Mobile Magistrate Court, if it is available during day time and that if the offence is committed after sunset and if Mobile Magistrate Court is not available, the offenders are handed over at the Police Station concerned so that they can be proceeded against according to law. This only shows that the Traffic Police are not normally arresting the offenders of Traffic Rules and Regulations. In the present case, where Ramesh was directed to be charged for an offence under Section 75 of the Madras City Police Act, it clearly appears to me that Ramesh was not arrested by P.W. 1 or P.W. 4. Though Section 41, Cr.P.C. gives very wide powers to the Police, it ought to be rigorously construed. The powers under this section being discretionary, should not be exercised in petty cases. In such cases, it can be exercised only when there is sufficient reason for the arrest, e.g., likelihood of the person absconding or the risk of committing some future offence, if let at large. Evidently, the offence for which Ramesh was to be charged was only Section 75 of the Madras City Police Act which is a petty offence and he was safely taken in the jeep to be handed over at the Police Station. In the circumstance, the necessity for the Police to arrest Ramesh did not arise. If Ramesh was taken into custody in the jeep, it should not be construed as arrest. None of P.Ws. 1 and 4 mentioned to Ramesh that he was under arrest at any stage. The concept of being " in custody " cannot be equated with the concept of a formal arrest, there being differences between the two.

(9) The next vital question is whether Ramesh who was taken by P.W. 1 in the Police jeep, had escaped on the way by jumping from out of the jeep. To substantiate this point, the evidence of P.Ws. 1, 3 and 6 have been adduced

on the side of the Police. They, of course, would speak uniformly that when the Police jeep was proceeding opposite to Raja Kalyanamandapam after crossing the canal bridge, a State Transport city bus was coming from the opposite side and that there was congestion of traffic on the road with the result, the jeep was slowed down by P.W. 3 and that taking advantage of that situation, Ramesh had jumped out of the jeep through the rear side where only a half-door exists, and made good his escape. They depose that Ramesh ran towards Luz Corner in the west. P.W. 6 in particular says that Ramesh who crossed the canal bridge ran along Kalviroyan Street which is situate north-south on the west of the canal and the Metropolitan Transport Project (Railways) bridge. A careful scrutiny of their evidence shows that there could be nothing improbable or impossible in the escape of Ramesh on the way to Police Station. There is nothing to discredit the evidence of P.Ws. 1 and 3 who state that there was slow moving of vehicles and congestion of traffic and the consequent slowing down of the jeep by P.W. 3 and Ramesh jumping out through the rear side of the jeep and running away for his escape. The fact that a State Transport bus was proceeding from the opposite direction (east) at the time of congestion and when the jeep was proceeding from west is not disputed. The road opposite to Raja Kalyanamandayam measures only 30 feet wide and it is less as 25 feet wide in the canal bridge, west of that Kalyanamandapam. It is but natural in the circumstance that the jeep was slowed down by P.W. 3. It also looks probable when P.W. 1 says that he peeped forward by the side of P.W. 3's seat to see why the jeep was slowed down and that knowing at that moment P.W. 1's attention was elsewhere, Ramesh jumped out suddenly through the rear side of the jeep and ran away. Undeniably, the rear side door was only half of the usual door in height and so Ramesh could have easily jumped out of the jeep. Further, P.W. 1 was seated in the long seat opposite to the other long seat in which Ramesh was seated. Ramesh was not seated by the side of P.W. 1 in one and the same long seat to enable P.W. 1 to catch Ramesh even when Ramesh started jumping out. It is possible that by the time when the jeep was stopped by P.W. 3 and P.W. 1 got down from the jeep, Ramesh would have run fast in the opposite direction (west) making it difficult for P.W. 1 to catch hold of Ramesh.

(10) The reason stated by P..W 1 for not trying to chase and catch hold of Ramesh is also convincing. P.Ws. 1 and 3 state that Ramesh was running helter and skelter in the midst of the moving vehicles which were likely to hit Ramesh and endanger his life and that therefore, he (P.W. 1) did not try to chase and catch Ramesh. If P.W. 1 did not shout and alert the passersby in the road to catch hold of Ramesh who was running, it must also be for the same reason. Since the purpose of taking Ramesh in the jeep was after all for a petty offence and P.W. 1 was more concerned with the safety to the life of Ramesh. P.W. 1 did not take the escape of Ramesh as serious and he had preferred not to catch hold of Ramesh. P.W. 4 of course, had chided P.W. 1 for his negligence in having allowed Ramesh to escape but he did not choose to take action against P.W. 1 for his negligence in discharge of his duty or against Ramesh to have him arrested. P.W. 6 is a flower vendor opposite to Raja Kalyanamandapam while her husband is driving a cycle-rickshaw and her sister Rajammal is a vessels cleaner in that Kalyanamandapam. It is, therefore, likely that she witnessed the incident of Ramesh jumping out of the jeep and running along Kutchery Road to some distance and then along Kalviroyan Street which is west of the canal. It does not appear to me that she has come forward to depose as an obliging witness to Police. Her residence is in Ramakrishnapuram which is just east of the canal and is near Raja Kalyanamandapam. The circumstance in which she is said to have seen the incident of Ramesh jumping out and running away from the jeep opposite to Raja Kalyanamandayam is quite convincing.

(11) Further, the fact that Ramesh had made good his escape on the way to Police Station has been duly reported by P.W. 1 to P.W. 4 who was in Luz Corner, and P.W. 4 has reprimanded P.W. 1 for his dereliction of duty. As a matter of record, P.W. 4 has made entry (Exhibit P-97) in his Personal Diary, dated 12th April 1997 mentioning what all happened on that night concerning Ramesh. Of course, Exhibit P-97 is said to have come into existance on 12th April 1997 night itself and its original (Exhibit P-99) received by P.W. 46, the Assistant Commissioner of Police (Traffic) on 15th April 1997. Even P.W. 4 has deposed in his evidence in the initial stage of the enquiry on 3rd October 1997 that he has made entry in his Personal Diary about the incident that took place on 12th April 1997 night. I must point out here, that P.W. 4 ought to have produced Exhibit P-97 even on 3rd October 1997 and not belatedly on 4th February 1998 giving room to doubt the veracity of this document. Anyway, Exhibit P-97 must have come into existence prior to 15th April 1997 as the original was received by P.W. 46 on that day. P.W. 4's explanation is that though Exhibit P-97 with Exhibit P-99 was written by P.W. 4 even on 12th April 1997 night, Exhibit P-99 could be sent to P.W. 46 only on 15th April 1997 along with the personal diaries of 13th and 15th April 1997 as P.W. 4 had to participate in the enquiry conducted by P.W. 19 on 13th April 1997 and he could not attend to his routine work for one or two days after 12th April 1997. As such, the evidence of P.Ws. 1, 3 and 6 with Exhibit P-97 greatly shows that Ramesh had made good his escape when he was taken by P.W. 1 in the jeep opposite to Raja Kalyanamandapam on 12th April 1997 night between 8-45 and 9-00 p.m. Here I would like to point out that if only P.W. 1 or P.W. 4 had made a report at the Law and Order branch of the Mylapore Police Station about the contemplated action under Section 75 of the Madras City Police Act against Ramesh and his escape on the way and the efforts to be taken for his arrest even on 12th April 1997 night and had caused an entry made in the General Diary of the Mylapore Police Station, it would have been on a still more better footing. But this has not been done. The explanation on the side of the Police that P.Ws. 1 and 4 did not worry about the escape of Ramesh as the act for which he was to be charged amounted only to a petty offence, is not acceptable to me. P.Ws. 1 and 4 should have been diligent enough to adopt the due procedure enjoined on them and as this has not been done by them, it has given rise to the question whether Ramesh had really escaped from the custody of P.W. 1 on 12th April 1997 night. It will be just and proper, if the Government takes suitable action for dereliction of duty against (1) P.W. 1 for having allowed Ramesh to escape and (2) against both P.Ws. 1 and 4 for not lodging a complaint at the Law and Order branch against Ramesh to make him answerable for a charge under Section 75 of the Madras City Police Act, before a Court of Law.

Term of Reference Nos. (ii), (iii) and (iv)—Death by drowning in canal or death in Police custody.

(12) The next vital question to be considered is whether Ramesh died by drowning in his attempt to go across the canal from Kalviroyan Street side near M.T.P. (Railways) Pillar No. 3860·50 M to Ramakrishnapuram which looks as a slum in the east of the canal and where P.Ws. 6, 8, 10 and 11 reside, or whether Ramesh was tortured and killed at the Police Station after Ramesh was taken and kept in the custody of Police and then the body of Ramesh was thrown in the canal. It is not in dispute that the body of Ramesh was recovered from deep inside the canal by P.W. 9 and his party of Fire Service personnel at about 11-30 p.m., on the information received by them on phone at about 10-25 p.m. on 12th April 1997 night. The author of the phone message is none else than P.W. 8. P.W. 8 who is running a printing press in Triplicane

and residing at Pattunoolkaran Street (Ramakrishnapuram) in the east of the canal, is said to have seen a crowd of men and women opposite to Door No. 5, Kalviroyan Street, talking that a person got drowned there in the canal and that his body could not be seen, and phoned up to Fire Service personnel at about 10-25 p.m. from a house nearby. On the Police side, it has been made probable that Ramesh had escaped by jumping through the rear door of the jeep on the way, when he was taken by P.W. 1 to E-1 Mylapore Police Station and ran along Kalviroyan Street after passing the canal bridge. The time of escape of Ramesh as such must be a few minutes after 8-45 p.m. but before 9-00 p.m. There is no direct evidence of any person to show that he saw Ramesh drowning in the canal when he attempted to cross it. All that we find from the evidence of P.Ws. 7, 10 and 11 is that at about 9-00 p.m. people who were gathering in Kalviroyan Street opposite to Door No. 5, as well as in Ramakrishnapuram which is situate east of the canal, were raising alarm that a person who got drowned in the canal should be rescued.

(13) According to P.W. 7 some men who were working in the Auto Mechanic Shop at Door No. 5, Kalviroyan Street ran towards the canal on hearing the alarm of the people from the eastern side of the canal, probably of P.Ws. 10, 11 and others. It is not definitely known who saw Ramesh falling and drowning into the canal between 8-45 p.m. and 9-00 p.m. So far as P.Ws. 10 and 11 are concerned, they confess that they did not actually see a person falling into the canal. Nor they are able to saw who particularly saw the person falling into the canal. Therefore, the evidence of P.Ws. 7, 10 and 11 will be relevant only on the point that they heard the alarm at about 9-00 p.m. that a person got drowned and that they witnessed the recovery of the body of Ramesh by P.W. 9 and his men from the canal between 10-30 p.m. and 11-30 p.m. Even P.W. 16, the Head Constable of Mylapore Police Station has received the message about the drowning and death of a person into the canal only at 10-00 p.m. and he has proceeded to the spot thereafter, and he could not get any useful information about the witness who saw the person drowning in the canal. Probably, he has gone to the spot much later, viz., after 9-00 p.m. The only thing which P.W 16 did is that he obtains a report (Exhibit P-27) from P.W. 7 and registers a case in Crime No. 918 of 1997, under Section 174, Cr.P.C. at 12 midnight to be investigated by P.W. 41, the Sub-Inspector of Police. He has also been present when the body of Ramesh was recovered from the canal by P.W. 9 and his party. It appears to me that someone might have noticed Ramesh getting himself drowned in the canal and shouted when he attempted to cross it, but none has come forward to depose as eye witness. Otherwise, the persons who were working in the Auto Mechanic Workshop at Door No. 5, Kalviroyan Street and P.Ws. 10 and 11 residing in the street east of the canal would not have run towards the canal, if the alarm of drowning of a person was not heard. P.W. 16 who went to the spot on receipt of the message of the drowning of a person in the canal says that none in the crowd could identify the body after removed from the canal by the Fire Service personnel.

(14) The argument that Ramesh would not have tried to cross the canal opposite to Door No. 5, Kalviroyan Street to reach the other side for his safety after slipping from the custody of P.W. 1, is not sustainable. The Police version is that Ramesh who jumped out of the jeep ran towards west along Kutchery Road and the canal bridge and then towards north along Kalviroyan Street and got himself drowned in the canal near M.T.P. (Railways) Pillar bearing No. 3860·50 M in his attempt to cross the canal and reach the otherside for his safety. The distance between the canal bridge on Kutchery Road and the scene of incident in question is 600 feet. It might be that Ramesh who slipped from the custody of P.W. 1 in the jeep opposite to Raja Kalyanamandapam, took a diversion to his right along Kalviroyan Street after running to some

distance in Kutchery Road. He might have been under the apprehension that P.W. 1 could follow him in order to take him again to his custody and that therefore he thought of going across the canal and reaching the other side which is Ramakrishnapuram, a slum area just in the east of the canal to conceal himself and escape. The other route which lies along the western bund of the canal and south of the canal bridge, was not preferred by Ramesh probably because that was not safe for him. It is stated that if Ramesh would take that route he has to go some distance along the canal bund and cross R.K. Mutt Road to reach his residencce at Pallakkumaniam (Madhavarao Garden). Certainly, Ramesh would not have entertained the idea of going back to his residence at once as it was not safe for him. He might have had the apprehension that P.W. 2, who was on duty at "No Parking Area" in Kutchery Road where Ramesh would have to cross to reach his residence, might catch hold of him and therefore, he did not choose that route.

(15) So far as Ramesh is concerned, he might not have known that the canal was so deep to the extent of 10 feet and that too with the mixture of sewerage water and rain water and was slushy. To his appearance the canal was not deep which he could easily walk through and so he might have attempted to go across the canal and reach Ramakrishnapuram. The evidence of P.Ws. 11 and 14 will enlighten this point. It is well known that the construction of the Metropolitan Transport Project (Railways) is going on for a number of years in the City for which big concrete pillars have been erected by the side of the canal. P.W. 14, the Assistant Engineer (P.W.D.) says that the earth excavated from the pits for erection of concrete pillars, got silted in the canal and that in course of time when the sewerage water and rain water in the City had to pass through the canal, the canal became slushy and the course of drainage got blocked. Since this situation was dangerous and unhealthy, the Government of Tamil Nadu, on the representation of the public, ordered clearance of the slush by Government Order, dated 21st August 1996 (Exhibit P-15) and that accordingly the silted slush from the origin of Coovum river and Napier Bridge to Mylapore R.K. Mutt Road was removed. P.W. 14 adds that as a consequence of such clearance, the canal has become 10 feet deep. He specifically says that because the rain water and sewerage water are allowed to pass in the canal even after clearance of the silted earth, the sewerage water will form the surface under which water will remain. The clearance work was done from August 1996 to March 1997. It means that the depth of the canal east of Kalviroyan Street has been 10 feet, subsequent to March 1997, particularly on 12th April 1997 when this tragic incident had happened. For Ramesh, he might not have been aware that the canal at this place was a death trap. He might have thought that he could easily walk across the canal and reach the other side of the canal, as it was done before. P.W. 11's evidence will add much support to this view as he says that prior to the excavation of earth and erection of concrete pillars for Metropolitan Transport Project (Railways), people could easily walk across the canal. It must be remembered that P.W. 11 lives in Ramakrishnapuram just east of the canal. This gives sufficient strength to the point that Ramesh who was unaware of the depth of the canal and its danger, had tried to cross the canal and got himself drowned in his desperate bid to escape. During spot inspection on 22nd August 1997, this Commission found the depth of the canal as 10 feet 5 inches on measurement with a long bamboo pole.

(16) Here, it will be relevant to point out that the Inquest Report and Post-mortem Certificate substantiated by the evidence of P.W. 19 and 25 are also greatly in support of the view that Ramesh should have died by drowning

in the canal. The body which was removed from the canal at about 11-30 p.m. on the same night (12th April 1997) was not identified by any one as that of Ramesh at the spot and so it was sent to the mortuary of Government Royapettah Hospital. But, in the following morning (13th April 1997) D.W. 1 had identified the photo published in the morning edition of "Dinakaran" as that of his son Ramesh, who was taken into custody by the Traffic Police at Luz Corner on the previous night. On 13th April 1997, P.W. 19 had conducted Inquest on the dead body of Ramesh in Government Royapettah Hospital between 12-00 noon and 2-15 p.m. on receipt of the F.I.R. (Exhibit P-24) which was based on the report of P.W. 7 (Exhibit P-25), the complaint of D.W. 1 (Exhibit P-26) given to the Assistant Commissioner of Police (P.W. 43) on 13th April 1997 at Luz Corner and the request of the Inspector of Police (Exhibit P-27) to conduct enquiry under Order No. 145 of Police Standing Orders in view of the fact that D.W. 1 had alleged in Exhibit P-26 that his son Ramesh was beaten and done to death in Mylapore Police Station after he was taken there in the jeep from Luz Corner on the previous night. Though the Panchayatdars to the Inquest had stated that there was a contused wound above the right eyebrow and another injury on the back of the head of the deceased in their statements, P.W. 19 has stated in column 7 of his report that no injuries could be seen on the body. This column 7 is in relation to the question whether there were injuries in the body of the deceased and if so, the details of the injuries should be stated. Evidently, P.W. 19 who conducted Inquest in the presence of the Panchayatdars has answered this column in the negative. It may be noted here that even P.W. 25 who conducted post-mortem examination in the body of the deceased Ramesh did not see any injury on the back of the head though the Panchayatdars to Inquest had stated so. P.W. 25 is positive that there was no injury in the back of the head. One significant point is that the Learned Counsel for the Deceased did not put any suggestion to P.W. 19 that there was an injury in the back of the head of the deceased which P.W. 19 failed to mention in column 7 of Exhibit P-28.

(17) P.W. 25, on the basis of his post-mortem examination and report (Exhibit P-31) of the Chemical Analysis, opines that the deceased Ramesh would appear to have died of asphyxia due to drowning. The reasoning given by P.W. 25 is that he detected mud particles in Larynx and Trachea which showed that the deceased was alive at the time of drowning and water with mud particles going inside. He also says that the soddening of the palmar and plantar skin indicated that the body was in contact with water for a couple of hours. He denies that the presence of blood stained frothy fluid in Larynx and Trachea must be due to external violence caused to the deceased before his death and asserts that it is a normal finding in most of the cases of drowning. He has also noticed seminal emission by the deceased which might be due to the deceased struggling for breath and saw some fluid in the lower part of intestine. If the brain on dissection was found with Oedematous Hyperaemic, and its surface vessels are congested and the out section showed numerous petichiae, it was not due to beating on the head of the deceased according to P.W. 25. P.W. 25 asserts that this symptom in the brain might be due to respiratory distress and not due to violence on the head. P.W. 25 explains what will be the reaction of the person normally if he get himself drowned in water. He says that if a person gets himself drowned in water normally, he will try to come up. But, it will depend on four factors, viz., (1) the person's own effort, (2) natural buoyancy of the body, (3) the air trapped between the cloth and the body and (4) the opposite force exhibited by water. It cannot be argued that these factors apply to the present case and that the deceased Ramesh would have come up alive if he had fallen and got drowned in the canal. In this case, the canal which is about 10 feet deep, remained not with ordinary water and it was slushy due to the flow of sewerage and rain water and their mixture with mud in the canal.

(18) During the local inspection of the spot, this Commission found the canal to be a mixture of water and slush and no clear water could be seen on the surface. P.W. 14's evidence is that even after the desilting of the earth in the canal, the sewerage water and rain water flow into the canal with the result, the surface of the canal will appear to be "குழம்பாக" while water may form the level beneath the said surface. He has not stated specifically what will be the depth of the mixture of sewerage water and rain water. It is common knowledge that along with sewerage water and rain water, mud also could get mixed and flow into the canal. That is why the surface of the canal appears to be குழம்பாக (slushy). If the surface of the canal was slushy குழம்பாக and the water contents are below that slushy level, the possibility of Ramesh trying to come up to the surface will be remote especially when it was about ten feet deep. There was no clear water to the whole level of the canal to enable Ramesh to come up. Further, Ramesh was wearing shoes in both his legs as an impediment. Undoubtedly, Ramesh who stepped into this canal of peculiar nature, in his anxiety to go cross the canal, got drowned deep inside, unable to come up and that he met his end as such. It must be remembered here that P.W. 9, the Leading Fire Serviceman first tried to recover the body by tying a rope around his waist while two men held the rope from the bund and stepping into the canal but as the canal was watery and slushy he could not venture further and he had to be lifted back to the bund. Ultimately, P.W. 9 and his men were able to lift the body from deep inside the canal by using "Anchor with multiple hooks". The recovery of the body of Ramesh as worn with pant shirt and shoes in fact is also an indication that Ramesh would have got drowned in the canal in the same physical condition in which he was running and trying to go across the canal for his escape.

(19) As regards the two abrasions which were found almost above and below the right eye of Ramesh, the opinion of P.W. 25 is that those injuries could be caused by the person coming into contact with any rough surface. If it is so, it is possible that when Ramesh was running desperately to escape, he might have fallen on the canal bund and slightly bruised himself with the stones that were lying here and there by the side of the concrete pillars. In any event, there is no evidence to show that they were serious injuries and that too on the vital parts of the body of Ramesh so as to infer that he would have been beaten and killed at the hands of the Police. If we hold that Ramesh might have brought about his own end by drowning in the canal on 12th April 1997 night, the other question whether Ramesh would have been tortured and killed in the Police custody, falls to the ground.

(20) However, it is seen in the instant case, that there are no strong circumstances warranting the Police, particularly P.W. 1 to the extent of torturing and killing Ramesh in their custody. What happened before Nehru News Mart in R.K. Mutt Road and before Kerala Fashion Jewellery shop in Luz Corner area, appears to be exaggerated and the degree of exaggeration is more on the side of the deceased. It cannot be disputed that there was a wordy altercation between P.W. 1 and Ramesh opposite to Nehru News Mart at about 8-30 p.m. on 12th April 1997. P.W. 1's evidence is that when Ramesh was trying to cross R.K. Mutt Road from opposite to Nehru News Mart when the green signal was on for the passing of vehicles on that road, P.W. 1 objected to it and advised Ramesh not to do so at that time but to cross it when the red signal was on for which Ramesh heckled at P.W. 1 and abused him as the son of a prostitute. P.W. 2, while corroborating the evidence of P.W. 1, goes to the extent of saying that Ramesh had come crossing half of the road, when P.W. 1 objected to it. This is, however, denied on the side of the deceased stating that even while Ramesh was standing at the edge of the road, P.W. 1

asked him to move away with the remark that Ramesh was the son of a prostitute. D.Ws. 2 and 3 would give evidence in this aspect. When this Commission ascertained from these witnesses themselves, the purport of the remark made against each other was that one wanted to call the other as the son of a prostitute.

(21) I am not prepared to believe for a moment that P.W. 1 abused Ramesh in a filthy language or that Ramesh on his part did similarly. Evidently, Ramesh appeared to be a decent man well dressed. He has studied upto XII Standard and was being employed in a Textile shop godown. If Ramesh had just tried to cross the road or had crossed the road to some distance in the circumstance, P.W. 1 would not have gone to the extreme of using the vulgar words against Ramesh. The evidence of D.Ws. 2 and 3 who claim to have been present with Ramesh and witnessed the abuse of Ramesh by P.W. 1 in vulgar language, is not reliable. We shudder for a moment to think whether D.Ws. 2 and 3 would have been present with Ramesh at all during the relevant time. D.W. 1 who gave the report (Exhibit P-26) at about 9-00 a.m. on the next day (13th April 1997) to Thiru N. P. Ramajeyam, M.L.A. (P.W. 42) and which was handed over to P.W. 43, the Assistant Commissioner of Police at Luz Corner, is completely silent about D.Ws. 2 and 3, though they were said to have been in the company of Ramesh at the relevant time on the previous night (12th April 1997), and D.W. 1 is said to have received the information of the taking of Ramesh by the Traffic Police from Luz Corner through D.W. 2 only, and D.W. 3 is said to be a neighbour of D.W. 1. D.W. 1 simply says in Exhibit P-26 that he got the information of the taking of Ramesh by Traffic Police, Mylapore. In another statement (Exhibit P-32) given by D.W. 1 to P.W. 19 on 13th April 1997 afternoon, the name of the informant is differently stated. D.W. 1 states in Exhibit P-32 that a flower vendor by name Maheswari rushed to his house and furnished the information about the taking of Ramesh by Traffic Police. But, the said Maheswari has not come forward to offer her evidence. Instead, D.Ws. 2 and 3 would figure as eye witnesses to the whole incident that took place in Luz Corner on 12th April 1997 night and the taking of Ramesh in a Police jeep from Luz Corner towards Police Station. I have no hesitation to hold that D.Ws. 2 and 3 are got up witnesses for the occasion and their testimony does not deserve credence.

(22) Even otherwise, the evidence of D.Ws. 2 and 3 is found to be inconsistant to each other. D.W. 3 says that P.W. 1 held the shirt of Ramesh and pushed him forcibly before Nehru News Mart and that after taking Ramesh to P.W. 4 who remained near Kerala Fashion Jewellery shop, two Policemen pushed Ramesh inside the jeep and kicked him. But, D.W. 2 speaks only about the pushing and kicking of Ramesh into the jeep near Kerala Fashion Jewellery and not about the pushing of Ramesh by P.W. 1 near Nehru News Mart.

D.W. 1 forgetting and exaggerating what he has stated at the earliest in Exhibits P-26 and P-32, deposes now that he received information from D.W. 2 about the taking of Ramesh by Traffic Police and makes no mention of D.W. 3. So far as D.W. 1 is concerned, he had no personal knowledge of any violence caused to Ramesh at the hands of Traffic Police at Luz Corner before he was taken to Police Station. Even otherwise, it is quite improbable to allege that Ramesh was assaulted as such in a public place. The suggestion of D.W. 1 is that Ramesh was beaten and killed in the jeep itself and the body was thrown in the canal. It will not therefore, be out of place, if we characterise the evidence adduced on the side of D.W. 1 as exaggeration and afterthought. When evidently D.W. 1 himself says in his evidence that there was only a

"small wordy" quarrel between P.W. 1 and Ramesh at Luz Corner, there could be nothing to cause grave provocation. It is not possible to presume that Ramesh was taken to Police Station with the deliberate motive of beating and killing him over a wordy quarrel. If we exclude the version that Ramesh was assaulted and treated with violence at Luz Corner, there remains only the wordy quarrel or wordy altercation between P.W. 1 and Ramesh.

(23) To presume what could be the nature of wordy quarrel or wordy altercation, there remains only the evidence of P.Ws. 1, 2 and 4 who were undeniably present at the spot. Admittedly, D.W. 1 was not present at the scene and D.Ws. 2 and 3 could not have been present and witnessed the incident as disclosed from their evidence and the documentary evidence in Exhibits P-26 and P-32. Therefore, the wordy quarrel must be in relation to the crossing of the road by Ramesh in violation of the Traffic signal, the objection raised by P.W. 1 thereto and the quarrel started by Ramesh. A careful scrutiny of the evidence of P.Ws. 1, 2 and 4 reveals that Ramesh might have quarrelled with P.W. 1 and behaved in a disorderly manner in R.K. Mutt Road. It might be that when Ramesh tried to cross or had crossed R.K. Mutt Road to some extent, P.W. 1 should have objected to it and warned Ramesh not to do so as there was green signal for the passing of vehicles. Ramesh should have contended that there was no harm in crossing the road and should have said something questioning the authority and conduct of P.W. 1 for which P.W. 1 might have objected and that all such quarrel started by Ramesh had culminated in his disorderly behaviour at the public place. Therefore, P.W. 4 had deemed it fit to charge Ramesh under Section 75 of the Madras City Police Act and sent him to Police Station, Law and Order branch. The evidence of P.W. 1 that Ramesh used vulgar language and threatened to damn and finish him seems to be an exaggeration. In the circumstance, our presumption is that Ramesh might not have done anything grave and provocative to the extent of his being tortured and killed at the Police Station. P.W. 1's evidence is that though he got angry with the behaviour of Ramesh before Nehru News Mart, he controlled himself and took Ramesh to P.W. 4.

(24) If D.W. 1 was informed by P.W. 4 at the Police Station premises about 9-00 p.m. that Ramesh had escaped from the custody of Traffic Police on the way of his being taken in the jeep and that D.W. 1 would better advise the boy who appeared to be decent, to behave properly with the Police, and that D.W. 1 also returned home with the belief that his son Ramesh would come home safely, there is nothing to view the statement of P.W. 4 with suspicion. P.W. 4 had already come to know from P.Ws. 1 and 3 at Luz Corner, that Ramesh had made good his escape on the way of his being taken to Police Station. Normally, if a person commits a wrong in the presence of a Police Constable or Police Officer, he would interrogate who is he, what is he, where he resides, etc. But, in the instant case, there could be nothing unusual if P.W. 1 or P.W. 4 did not ascertain the name and address of Ramesh from him at Luz Corner before Ramesh was taken in the jeep towards Police Station and it was probably because Ramesh was in the custody of P.W. 1, and neither P.W. 1 nor P.W. 4 would have thought that Ramesh would escape on the way. Another circumstance pointed out on the side of the deceased is that the entire premises of the Police Station including the portion where the Traffic Police office is functioning , was dark without the burning of electric lights and that this was done by the Police of Mylapore Police Station purposely in order that the torture and murder of Ramesh at the Police Station should not be known to outside. Of course, there is the evidence of P.Ws. 1, 3 and 4 who say that there was darkness in the Police Station premises as the electric lights were not

burning at 9-00 p.m. on 12th April 1997. P.W. 15, the Wireman in Tamil Nadu Electricity Board says that he received a call from Mylapore Police Station 1-35 a.m. (12th April 1997 midnight) regarding electricity failure, besides such failure in some other places in Mandavelli area and he restored the supply to Mylapore Police Station and other places. According to him, the wires in the cut-out carriers of the board at Mylapore Police Station were being melted and there could be no electricity supply and no burning of lights. He states that he removed the melted cut-out and gave direct electricity supply by connecting the wires to the Main. The explanation offered on the side of Police as to why the " fuse off call " was made to P.W. 15 only at 1-35 a.m. and not earlier is that it happened during night when there was not much work and that because fault in the cut-out carrier was a major one, they, on their part, could not do anything immediately for restoration of the electricity supply. Any way, the circumstance, namely the absence of burning of electricity lights at 9-00 p.m. cannot be taken as adverse to the Police and to suspect their conduct. It is not known at what time the electricity failure had occurred actually.

(25) The definite evidence of P.Ws. 1, 3 and 4 is that Ramesh who quarrelled with P.W. 1 at about 8-30 p.m. near Nehru News Mart, was sent in the Police jeep at 8-45 p.m. and that Ramesh escaped on the way, opposite to Raja Kalyanamandapam, P.Ws. 7, 10 and 11 state that at about 9-00 p.m. alarm was raised by the people on the eastern bund and western bund of the canal that a person had got drowned in the particular spot of the canal, P.Ws. 1 and 3 returned to Luz Corner and reported to P.W. 4 about the escape of Ramesh on the way and then all of them went to the Police Station at 9-00 p.m. from Luz Corner after their duty was over. D.W. 1 says that he got information about the detention of Ramesh by Traffic Police at 9-00 p.m. went to Luz Corner at 9-10 p.m. where none was present, and then proceeded to Police Station and enquired P.W. 4 about Ramesh. When evidently P.Ws. 1 and 3 had returned to Luz Corner after the escape of Ramesh on the way and when they were remaining with P.W. 4 at Luz Corner till about 9-00 p.m. and the time of drowning of Ramesh is said to be at about 9-00 p.m., it is not possible to presume that Ramesh might have been detained at the Police Station and tortured to death. Further, there is the evidence of P.Ws. 1, 3 and 4 who state that all of them had returned to their respective houses soon after D.W. 1 met P.W. 4 at the Police Station. In the circumstance, P.W. 4 cannot be said to be incorrect, if he told D.W. 1 that Ramesh had already escaped on the way, and he would return his home. As already observed, the overwhelming and unassailable evidence of P.Ws. 19 and 25 clearly negatives the possibility of the detention of Ramesh and torture at the Police Station.

Term of References (v) and (vi)—Violent incident on 13th April 1997.

(26) What happened on the following morning, viz., on 13th April 1997 after the death of Ramesh by drowning in the canal on the previous night and what was the impact of the happenings are also relevant for consideration in view of the reference made to this Commission. D.W. 1 the father of Ramesh who met P.W. 4 at the Police Station and enquired about Ramesh was hoping against hope that Ramesh would come back to his house somehow during the night of 12th April 1997 became anxious as Ramesh did not return. He began to make enquiries about Ramesh since the morning of 13th April 1997. D.W. 1 is said to have enquired one flower vendor by name Soundariya and when she in turn had mentioned about the death of a person in the canal and removal of the body by Fire Service personnel on the previous night, D.W. 1 doubted whether it was the body of his son Ramesh. The doubt of D.W. 1 was cleared

soon on seeing the newspaper "Dinakaran", published on 13th April 1997 morning with a half size photo of Ramesh under the title "மைலாப்பூர் கூவத்தில் விழுந்தவர் சாவு". The photo that was being published in the M.O. 3 was taken by P.W. 12 at the instance of P.W. 41. It is but natural that D.W. 1 was shocked and grieved and he entertained a suspicion whether his son Ramesh was done to death by the Police after Ramesh was taken by Police from Luz Corner on the previous night and whether the body of Ramesh thrown in the canal. D.W. 1 with a crowd had immediately gone to the Mylapore Police Station and shouted that his son Ramesh was tortured and killed by the Police and accused that the Police were responsible for the death of Ramesh. It is stated that by that time, a crowd of about 100 strong armed with soda bottles, sticks and stones, entered and attacked "Dinakaran" office questioning the veracity of the news published about Ramesh and contending that it was not a case of death by accidental drowning in the canal, and furiously attacked the watchmen, Sudalai, Kombaiah and P.Ws. 13, 18 and 21 and some eight others in that office and caused injuries to them. In addition, the crowd had also caused damage to the Dinakaran office building and the office van. The injury sustained by P.W. 21 on his head was serious as he had to undergo treatment as in-patient in a private nursing home (Exhibit P-44 series) for a number of days. Then the attention of the crowd which swelled large turned towards Luz Corner which is a junction of four roads and they began to obstruct and paralyse the traffic on all the roads. The evidence of P.Ws. 13, 18 and 21 provides clear proof of the violent incidents that took place in "Dinakaran" newspaper premises between 7-00 a.m. and 7-30 a.m.

(27) The evidence shows that the crowd of about 100 persons who targeted and attacked "Dinakaran" newspaper office and its employees between 7-00 a.m. and 7-30 a.m., had proceeded to Luz Corner at about 7-50 a.m. continued indulgence in acts of violence not only in Luz Corner proper but also in the contiguous area between 7-50 a.m. and 12-00 p.m. The evidence also indicates that the crowd which was about 100 in number grew into about 500 strong in Luz Corner area and that the Police had to find a tough time to get them moved and clear the scene. The testimony of Thiru N. P. Ramajeyam, M.L.A. (P.W. 42), Thiruvalargal Kothandaraman, Assistant Commissioner of Police (P.W. 43), Krishnamurthy, Inspector of Police (P.W. 44), Venkatachalam, Sub-Inspector of Police (P.W. 28), Palanisamy, Inspector of Police (P.W. 37), Selvaraj, Inspector of Police (P.W. 38) and V. K. Rajagopalan, Commissioner of Police (P.W. 45) and the Armed Reserve Police Constables P.W. 29 to P.W. 36, the Receptionist of Hotel Picnic Plaza (P.W. 23) in R.K. Mutt Road, the owner of Sowmiya Bakery in Luz Church Road (P.W. 24), Thiru Kanniappan, Driver, 5D Route, Tamil Nadu State Transport bus (P.W. 26) and Thiru B. Vaitheeswaran, Conductor, Route No. 12L, Tamil Nadu State Transport bus (P.W. 27) will be relevant for consideration in this aspect. P.Ws. 43, 44, 28, 37 and 38 had been at the spot, namely Luz Corner since about 8-00 a.m. on the direction of P.W. 45, on information that a huge militant crowd was obstructing the traffic in all roads of Luz Corner and were causing inconvenience to the public.

(28) The evidence shows that the advice of the Police Officers to the crowd not to indulge in violence but to disperse peacefully became in vain. Thiru N. P. Ramajeyam, M.L.A. of Mylapore Constituency who arrived at the spot at 9-00 a.m. had given similar advice to the crowd and his assurance that the Collector of Chennai may take action and order enquiry under P.S.O. 145 and that therefore, there need be no violence in the area, failed to convince the crowd. It is stated that the crowd which ignored the advice and warnings of the Police Officers had started pelting of stones and soda bottles towards Police and sign boards of the shops in the area, which resulted in damage to Delta

Van 29 which carried tear gas shells and the Ambassador car of the Joint Commissioner of Police (South). Further, the crowd which became violent more and more is said to have attempted to advance towards Mylapore Police Station with the idea of attacking it and the Police. Since the crowd became about 500 strong and they continued committing rioting by throwing stones, soda bottles and shouting that the Police should be attacked and killed and the repeated warning of the Police Officers had no effect, four tear gas shells had to be used to disperse the crowd at Luz Corner and six tear gas shells at the entrance of Madhavarao Garden Street, opposite to Kamadhenu Theatre. P.W. 45 who came to the spot and was watchful of the happenings in Luz Corner area and at the entrance of Madhavarao Garden Street sustained injury in the outer aspect of his left palm due to stone throwing. Due to the pelting of stones and soda bottles by the crowd, P.Ws. 38, 28, 31, 29, 34, 30, 33, 32 and 37 and other Police Constables on duty, namely Thiruvalargal B. Tamil Kumaran, Ajaykumar Edwin, Kuppusamy, Sathiyanathan, B. Venkatesan, Karthikeyan, Mani and Velu sustained injuries. The injury sustained by P.W. 38 is one of fracture of his left Index finger. A section of the crowd had also attacked the Hotel Picnic Plaza in R.K. Mutt Road and caused damage to the tune of Rs. 1,07,500 (Exhibit P-48) and attacked the name board of New Sowmiya Bakery of P.W. 24 at Luz Church Road and caused damage to the value of Rs. 7,900 (Exhibit P-51). Further, the crowd had also attacked and damaged the sign boards of the shops, sodium vapour lamps and traffic umbrella in Luz Corner area. The Tamil Nadu State Transport buses parked in R.K. Mutt Road, Route No. 5D and 12L were also attacked and damaged, besides the name boards and doors of the shops in R.K. Mutt Road. During the violence, not only Police Officers and Police personnel from Armed Reserve, but also a member of public had sustained a head injury due to stone throwing by the crowd.

(29) The testimony of P.W. 45 and other Police Officers who were on duty at Luz Corner area will be enough to hold what was the nature of violence that took place and how the Police Officers were able to contain the violence. Their evidence needs no repetition here. P.W. 45 was monitoring the situation from 7-50 a.m. and had been on the spot to give suitable directions and instructions to the Police Officers and it was only when the crowd refused to budge and disperse and indulged in violence, and when the situation warranted the use of tear gas shells, it was done so. When the crowd did not disperse, the Police party had to advance towards the crowd which ran in different directions and went upto some tenements and pelted stones. It is significant to note that none of the Police party resorted to lathi-charge even in those tense moments and minimum action only was taken to bring back normalcy in the area by arranging the posting of pickets and patrols at strategic points. If at all, the Police must be blamed for their delay and tolerance shown by them at that time. They should not have waited till the crowd swelled into 500 strong. The crowd was only of about 100 persons when they engaged in the attack on "Dinakaran" office and staff at about 7-30 a.m. and they are said to have proceeded to Luz Corner. The Police of the area should have been intelligent, alert and watchful as the disturbance started even at about 6-30 a.m. when D.W. 1, the father of Ramesh with a crowd made a burst of his anger at Mylapore Police Station and this should have been taken note of seriously and planned further action swiftly to avert any contingency that might aggravate. If only timely action had been taken by the Police to disperse the crowd without allowing too much of time to pass at Luz Corner, the damage to the public and private properties in the area and the sustaining of injuries by the Police personnel might have been minimum. Here, the advice and warnings to the crowd by the Police is said to have lasted for about two and a half hours from 8-00 a.m. and it was only at about 10-45 a.m., the use of tear gas shells had

been started to disperse the crowd. Anyway, I find that the action of the Police was justified in the circumstance and that there was nothing such as excess on the part of the Police in discharging their duties at the spot.

Term of Reference (vii)—Suggestions of the Commission.

(30) There can be no doubt that every peace loving citizen in this country will feel sorry to see what happened at "Dinakaran" office and Luz Corner area on 13th April 1997 forenoon. So much of crowd armed with stones, soda bottles and sticks had assembled there at about 7-00 a.m. and indulged in committing acts of violence, resulting in danger to the life of persons and damage to public and private properties. They have also paralysed the public traffic system causing inconvenience to the general public for about four hours from 8-00 a.m. As already observed, Luz Corner is a junction of four important roads and it is a strategic and vulnerable point. The crowd had chosen this place as the target of attack and had certainly caused inconvenience and hardship to the innocent public as they should have been prevented from moving that way. Law does not permit anyone to take the law into his own hands and indulge in acts of vandalism in seeking his remedy. Even if D.W. 1 had entertained doubt over the death of his son Ramesh and felt that Ramesh should have been tortured and killed by Police in their custody, he should have followed only the due procedure prescribed by law. P.W. 42, a Member of Legislative Assembly of Mylapore area had assured D.W. 1 that the District Collector was due to come to the Luz Corner to take necessary action on the complaint of D.W. 1 but the same was not acceptable to D.W. 1 and the crowd. Already a case was being registered in Mylapore Police Station under Section 174, Cr.P.C. and it was placed for enquiry by the Personal Assistant (General) to the Collector of Chennai/Additional District Magistrate. Attacking Police, the public transport vehicles and public properties and paralysing the system had been thought of by D.W. 1 and others as a remedy and this is absolutely wrong. If this sort of situation is allowed to continue, our democracy will be at peril. In my view, it may not be inappropriate, if the Police would take action against those who indulged in acts of violence and bring them to book. I feel that the unwary public should be educated and made to realise through the media such as Newspapers, Radio and Television, that to resort to violence and causing danger to life and damage to public properties is no remedy for one's complaint or grievance and that if this is done, it is a sad loss to the State in which he is also a citizen. Social Welfare Organisations may also take up this cause. Sometimes, situations arise where unsocial elements, miscreants and strangers quite unconnected with the issue meddle and make things worse. In the present case, the suggestion put to D.Ws. 2 and 3 is that they are members of one association by name "Democratic Youth Federation of India" and that the members of this Association were behind the mischief at Luz Corner on 13th April 1997. Another suggestion is that the neighbouring slum dwellers also had joined the crowd. Otherwise, there could not be a crowd of 500 persons at the spot. It is possible when a mob indulges in violence and that too when incited and encouraged by the people from within the mob, it becomes mobocracy. Every citizen of this country should feel that he should do no harm to anyone at any time. To quote Thirukkural :

"எனைத்தானும் எஞ்ஞான்றும் யார்க்கும் மனத்தானாம்
மானாசெய் யாமை தலை."

(Any, anywhere injure not

At any time even in thought.)

(31) *Findings.*—In the earlier paragraphs in the course of my discussion, I have recorded my findings on the subject matter of my enquiry. However,

to be specific I shall record my findings seriatum on the terms of reference contained in paragraph 3 of the Government Order, Ms. No. 423, Public (Law and Order-F) Department, dated 15th April 1997.

(31.1) The first Term of Reference—

" (*i*) To inquire into the facts and circumstances leading to the arrest of Thiru Ramesh, son of Thiru Kabaleeswaran, residing at No. 94, Madhavarao Garden Street, Mylapore, Chennai-4 by Thiru Garudapathy, Traffic Inspector and the circumstances under which the said Thiru Ramesh escaped from custody while being taken to the Mylapore Police Station in jeep No. 8453 accompanied by Thiru Velayutham, Grade I Police Constable and efforts taken to rearrest him ".

On the basis of the evidence, the circumstance and the materials available, I have found that on 12th April 1997 at about 8-30 p.m., Ramesh, son of Thiru Kabaleeswaran had tried or had crossed a part of R.K. Mutt Road when the green signal was on for passing of the vehicles on that road, that Thiru G. Velayutham, Grade I Police Constable objected to it, that in that context a wordy altercation took place between the two and that Ramesh behaved in a disorderly manner. I have also found that Ramesh was taken into custody by Thiru G. Velayutham, Grade I Police Constable (P.W. 1), Mylapore Police Station, Traffic Wing on the direction of Thiru R. Garudapathy, Inspector of Police (P.W. 4), Traffic Wing, Mylapore Police Station, to be handed over to the Law and Order branch of Mylapore Police Station, for charging him under Section 75 of the Madras City Police Act and that the said Ramesh had escaped near Raja Kalyanamandapam on the Kutchery Road while he was being taken to the Police Station in Police jeep No. TSP 8453. I have held that Ramesh was not arrested but was simply taken into custody and therefore there is no question of rearrest of Ramesh.

(31.2) The second, third and fourth Reference—

" (*ii*) To inquire into the facts and circumstances leading to the mysterious death of Thiru Ramesh ;

(*iii*) To inquire into and report whether the allegation that the said Thiru Ramesh was done to death while in custody and that the body was thrown into Buckingham Canal is true ;

(*iv*) To inquire into whether there was any Police excess in dealing with Thiru Ramesh, and if so, to identify the Police personnel responsible for the same and suggest appropriate action to be taken against the Police personnel responsible ".

In considering the question whether the said Ramesh died under mysterious circumstances, the points that arise for consideration are whether Ramesh got himself drowned in the canal in his attempt to escape from the custody of P.W. 1 or Ramesh was kept in Police custody, tortured and killed and his body was thrown in the canal. I have discussed these points in detail in paragraphs 12 to 25. There is proof that Ramesh who escaped from the custody of P.W. 1 while taken in the jeep, ran along Kalviroyan Street which is west of the canal and Metropolitan Transport Project (Railways) bridge and tried to go across the canal between 8-45 p.m. and 9-00 p.m. and reach the slum area situated on the east of the canal for his safety and that when he stepped into the canal he got himself completely drowned and died in the canal which is about 10 feet deep and slushy with sewerage, rain water and mud and that his body was removed by P.W. 9 and other Fire Service personnel at about

11-30 p.m. There is also the evidence of P.W. 11, a resident in the east of the canal to show that the canal was not deep earlier and that residents in that area could easily walk across the canal. The change in the condition of the canal is said to have taken place as the result of the construction of Metropolitan Transport Project (Railways) bridge. The evidence of P.W. 14 shows that the mud excavated for the construction of big concrete pillars for the Railway bridge by the side of the canal, got silted in the canal itself with the result there was blockage of drainage system in that area and that Public Works Department had undertaken the work of desilting the canal between August 1996 and March 1997 and that in that process, the canal became about 10 feet deep. P.W. 14 has specifically stated that even after the desilting work which was completed in March 1997, the sewerage water and rain water were allowed to flow into the canal resulting in the sewerage water to form the surface and the water underneath. The medical evidence of P.W. 25 confirms the view that Ramesh would appear to have died of Asphyxia due to drowning. He has expressed his opinion after making note of all the symptoms which he found in the body of Ramesh during post-mortem examination. He has found Larynx and Traches filled with blood stained frothy fluid and few blackish brown mud particles which is an indication that the deceased was alive at the time of drowning and water with mud particles going inside. He has also noticed some fluid in the lower part of the intestine.

On the point whether Ramesh was done to death at the hands of Police in their custody, I have found it in the negative. I have based my finding mainly on the evidence of P.W. 19 who conducted the Inquest on the body of Ramesh on 13th April 1997 and the evidence of P.W. 25, who conducted post-mortem examination on the body of the deceased Ramesh. P.W. 19 has stated in his report (Exhibit P-28) that he found no injuries on the body of Ramesh. P.W. 25 has stated that except two small abrasions which were found just above and below the right eye, there were no other external or internal injuries. He has not noticed any fatal injuries to have been caused on any vital parts of the body of the deceased. With regard to the abrasions mentioned above, P.W. 25 opines that the deceased might have sustained these injuries by coming into contact with any rough surface. In the course of my inspection, I have noted that there were stones here and there by the side of the canal bund and by the side of the concrete pillars and that the deceased Ramesh might have fallen and sustained those injuries while he was running in his desperate bid to escape. I have found that Ramesh was not done to death while in Police custody and his body was not thrown in the canal, that there was no Police excess in dealing with Ramesh and that he died of Asphyxia due to drowning in the canal.

I have suggested in paragraph 11 above, that the Government may take suitable action for dereliction of duty against (1) P.W. 1 for having allowed Ramesh to escape and (2) against both P.Ws. 1 and 4 for not lodging a complaint at the Law and Order branch against Ramesh to make him answerable for a charge under Section 75 of the Madras City Police Act.

(31.3) The fifth and sixth Reference—

"(*v*) To inquire into the causes and circumstances that led to the subsequent violent incidents on 13th April 1997 at Mylapore area leading to damage to public and private properties.

(*vi*) To inquire and report whether there were any excesses on the part of Police in dealing with the violent situation".

Thiru Kabaleeswaran (D.W. 1), on coming to know that his son Ramesh was taken by the Mylapore Traffic Police from Luz Corner to Mylapore Police Station on 12th April 1997 at about 9-00 p.m., had met P.W. 4 at the Police

Station, who informed that Ramesh had escaped from the jeep on the way of his being taken to the Police Station and that he would return home. D.W. 1 who returned home but whose son Ramesh did not return was feeling anxiety. On the following morning D.W. 1 had developed a suspicion on seeing the news item published in Dinakaran newspaper with the photo of Ramesh under the title ' மைலாப்பூர் கூவத்தில் விழுந்தவர் சாவு ' that, his son Ramesh who was taken by the Police on the previous night was done to death by the Police and his body thrown in the canal. He with a crowd had gone to the Mylapore Police Station and created a scene. Between 7-00 a.m. and 7-30 a.m. the crowd of about 100 men and women armed with soda bottles, stones and sticks had attacked the office of Dinakaran newspaper and caused damage to the properties therein and injuries to P.Ws. 13, 18, 21 and seven other employees. That apart, violent incidents have taken place in Luz Corner and the surrounding area between 8-00 a.m. and 12-00 noon when a mob of about 500 persons armed with soda bottles, stones and sticks have obstructed the traffic and paralysed the system of movement and caused injuries to P.Ws. 28, 29, 30, 31, 32, 33, 34, 37 and 38 and also nine other Police personnel who were on duty at the spot, by pelting stones. Besides the above, P.W. 45, the Commissioner of Police, Chennai, who was on the spot giving directions and instructions to the Police personnel had sustained injury on the outer aspect of his left palm due to stone hit. The Delta Van of tear gas party, the Ambassador car of Joint Commissioner of Police (South), the front portion of Hotel Picnic Plaza, Sowmya Bakery, name boards of the shops in that area, the Traffic Signal Umbrella at Luz Corner, sodium vapour lamps and Government Transport buses were also subjected to attack and damage by the militant mob. The evidence shows that the advice given by the local M.L.A. (P.W. 42) and other Police Officers to the mob to disperse peacefully was not heeded by the mob. Even the repeated warnings given by the Police had no effect. It was only in that circumstance, the Police had to use tear gas shells to disperse the mob. The evidence shows that there was tense situation in that area between 8-00 a.m. and 12-00 Noon and it was only after 12-00 Noon, normalcy had come to be restored. I have found that the action of Police in dealing with the situation on 13th April 1997 at Luz Corner and adjoining area was justified and that there was nothing such as excess on the part of the Police in discharging their duties.

(31.4) The seventh Reference—

" (*vii*) To suggest necessary measures to ensure that such untoward incidents do not recur ".

Law does not permit anyone to take law into his own hands and indulge in acts of violence in seeking his remedy. Attacking the Police, the public transport vehicles and other public and private properties and paralysing the normal system, should not be thought of by anyone at any time and if this sort of situation is allowed to continue, our democracy will be at peril. The offenders, as such, should not be allowed to go scot free and due action must be taken against them. The unwary public should be educated through the media such as Newspaper, Social Welfare Organisations, Radio and Television, and made to realise that causing harm to the persons and damage to the public and private properties should be stopped at all levels and at all times.

(31.5) I have found that in this enquiry that Ramesh, son of Thiru Kabaleeswaran (D.W. 1) had escaped from the custody of P.W. 1 and met his death in his attempt to go across the canal and save himself. If Ramesh was not allowed to escape and was taken to the Police Station safely, the

chance of Ramesh getting himself drowned in the canal and meeting his death might not have taken place. I am informed by D.W. 1 during the enquiry that the Government was pleased to grant an ex-gratia payment of a sum of Rs. 50,000 to D.W. 1. Now, considering the fact that the deceased Ramesh was aged about 22 and was an earning member to the family at that time, and that the family is bereft of the income as well as the life of the person, the Government may consider granting a further sum, to the family as it would deem fit and proper.

JUSTICE M. MARUTHAMUTHU
Commission of Inquiry.

Chennai–600 006,
31st March 1998.




தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
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ANNEXURES.


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

ANNEXURE–I.

REPORT OF THE COMMISSION ON THE SPOT INSPECTION.

Today (22nd August 1997) at about 11-00 a.m. Thiruvalargal V. R. Venkatasamy, Counsel for Police and S. Srinivasan, Counsel for the Commission were present in the Office of the Commission pursuant to the Letter No. 84/MMC/97–1, dated 11th August 1997 issued by the Commission regarding the inspection of the spot. We all proceeded to the spot at 11-30 a.m. Thiru A. Isaiah, Counsel for the Deceased was present at Luz Corner as conveyed by him already over phone. Thiru K. Periaiah, Assistant Commissioner of Police, Mylapore and Thiru V. Krishnamurthy, Inspector, Law and Order, E-1, Mylapore Police Station with some Police Constables were also present at Luz Corner. Thiru S. Kaliaperumal, Secretary to the Commission, Thiru M. S. Chandrasekaran, Personal Assistant to the Commission and Thiru A. Chandrasekaran, Section Officer of the Commission were also present.

2. I commenced inspection of the spot at 11-30 a.m. in the presence of all mentioned above. Luz Corner is a junction of four roads, namely Royapettah High Road from the north, Kutchery Road from the east, Ramakrishna Mutt Road (R.K. Mutt Road) from the south and Luz Church Road from the west. Photographs of the relevant places were taken for purpose of identification. The Police traffic signal is at the centre of the junction of the four roads from where Traffic Police regulates the traffic. I noticed pedestrian crossings with zebra marks in all the four roads. The pedestrian crossing in R.K. Mutt Road lies between Nehru News Mart on the west and Jayaram Seeval Corner on the east. The length of the pedestrian crossing there is 58 feet 9 inches while its width is 5 feet 6 inches. The pedestrian crossing in Kutchery Road lies between Bar Code Data on the north and Jayaram Seeval Corner on the south. The City Snacks stall is by the side of the said Seeval Corner. This pedestrian crossing measures 79 feet length and 6 feet width. The dimension of the pedestrian crossings in the other two roads, namely Luz Church Road and Royapettah High Road are not noted as they were considered not relevant to the subject. The Central Traffic Signal in the Luz Corner situates at a distance of 54 feet from Nehru News Mart which is on the west of R.K. Mutt Road and it is 59 feet from Kerala Fashion Jewellery. The distance between Kerala Fashion Jewellery and Nehru News Mart is 113 feet. There are platforms for use by the pedestrians on all the four roads. The distance between Kerala Fashion Jewellery and the pedestrian crossing in Kutchery Road is 23 feet. The distance between Kerala Fashion Jewellery and Shanmugam Metal Stores which are situate on the north of Kutchery Road, measures 52 feet.

3. After noting the above features, I proceeded to east to note certain other relevant details. Raja Kalyanamandapam is situate on the southern side of Kutchery Road and the width of the road of that point is 30 feet. Buckingham Canal runs north-south cutting Kutchery Road, Raja Kalyanamandapam is east of the canal. The "Dinakaran" Tamil Daily office is situate east of Raja Kalyanamandapam. The length of the canal bridge is 99 feet. The width of the road at the bridge is 25 feet and the pedestrian platforms on either side of the bridge measure 4 feet 6 inches.

4. The distance between the canal bridge and the pillar No. 3860-50 m. of Mass Rapid Transit System of Railways in Kalvivaru Street, also known as Kalviroyan Street measures 600 feet. The said street is situate on the west

of canal and north of the canal bridge. Raja Kalyanamandapam near where the deceased Ramesh is said to have jumped out of the Police jeep to escape, is at a distance of 402 feet from E-1 Mylapore Police Station in Kutchery Road itself. The Police Station is further east on the opposite row of Raja Kalyanamandapam.

5. The depth of the canal at pillar No. 3860·50 m. from where the body of the deceased was said to be recovered by the Fire Service personnel is 10 feet 5 inches as measured by us with a long bamboo pole. The canal which runs north-south was found to be full of slush and no clear water could be seen on the surface. There are some huts and tiled tenements on the east of the canal at that point. Before I could take the measurement of the depth of the canal at pillar No. 3860·50 m. one person whose identity was not known to us and who was found amongst us, suddenly without anybody's instance, stepped into the canal to show the depth of the canal and to the shock and surprise of everyone there, this person got himself drowned completely and he had to be lifted and rescued immediately by the Police who were present there. He was warned and sent away.

6. I noted some huts and other tenements on the eastern side of the canal, south of the bridge. On the western side of the canal bund, there is a path way leading from the bridge towards south. Thiru A. Isaiah, Counsel for the Deceased stated that, if one goes along the said western side bund of the canal from the bridge, he will reach Pallakkumaniam, of course, after passing some distance and crossing another bridge of the same canal situate on the R.K. Mutt Road.

7. The distance between Traffic Signal in Luz Corner and the entrance of Madhava Rao Garden II Street which lies west of the traffic signal and south of Luz Church Road is 250 feet. The house of the deceased Ramesh is said to be at Pallakkumaniam and I was told that one has to enter Madhava Rao Garden II Street to reach Pallakkumaniam.

The inspection was concluded at about 1-30 p.m. A rough sketch of the scene is appended to the report.

JUSTICE M. MARUTHAMUTHU.

TRUTH ALONE TRIUMPHS

ANNEXURE–II.

LIST OF PERSONS WHO FILED AFFIDAVITS

Thiruvalargal—

1 G. Velayutham, Grade I Police Constable No. 7024, E-1, Mylapore Police Station (Traffic), Chennai-4.

2 S. Krishnan, Police Constable No. 10028, E-1, Mylapore Police Station (Traffic), Chennai-4.

3 E. Rajendran, Police Constable No. 10540, E-1, Mylapore Police Station, Chennai-4.

4 R. Garudapathy, Inspector of Police (Traffic), E-1, Mylapore Police Station, Chennai-4.

5 J. Isac Devaraj, Grade I Police Constable No. 6691 (Traffic), E-1, Mylapore Police Station, Chennai-4.

6 Mrs. Kala, wife of Mohan, No. 45, Ramakrishnapuram, Canal Bank Road, 5th Street, Mylapore, Chennai-4.

7 B. Moorthy, son of Balasundaram Lakeside, Velachery, Chennai-42.

8 M. Kumar, son of Munusami, No. 25, Pattunoolkaran Thottam, 3rd Street, Mylapore, Chennai-4.

9 K. Ganesh, Fire Service Officer, Fire Service Office, Mylapore, Chennai-4.

10 Mrs. Maheswari, wife of Venkatesan, No. 1, 5th Street, Ramakrishnapuram, Mylapore, Chennai-4.

11 S. Kannappan, son of Subbarayan, No. 50, 6th Street, Canalside, Pattunoolkaran Thottam, Mylapore, Chennai-4.

12 S. Xavier, Photographer, Dinakaran Office, Chennai-4.

13 N. Srinivasan, Assistant Editor, Dinakaran, Chennai-4.

14 M. Sabeer Mohamed, Junior Engineer, Public Works Department, B. Canal Branch, Chennai-21.

15 C. Venugopal, Wireman, Mandaveli Section, Chennai Electricity Board, Santhome, Chennai-28.

16 A. Balakrishnan, Head Constable No. 3347, E-1, Mylapore Police Station, Chennai-4.

17 R. Wilson, Grade I Police Constable No. 3287, E-1, Mylapore Police Station (Law and Order), Chennai-4.

18 C. Palavesam, Machine Foreman, Dinakaran, Chennai-4.

19 B. A. Sundaram, Manager, Dinakaran, Chennai-4.

20 C. Esakidorai, Office boy, Dinakaran, Chennai-4.

21 V. Radhakrishnan, Receptionist, Picnic Plaza Hotel, Mylapore, Chennai-4.

22 K. Narayanan, New Sowmiya Bakery shop owner, Mylapore, Chennai-4.

23 Dr. K. Ravindran, M.D., Professor, Head and Police Surgeon, Department of Forensic Medicine, Government Royapettah Hospital, Chennai-14.

24 S. Kanniappan, Driver, No. 9347, State Transport Corporation, Mandaveli Depot, Chennai-28.

25 B. Vaitheeswaran, Bus Conductor, No. 10662, State Transport Corporation, Vadapalani Depot, Chennai-26.

26 A. Venkatachalam, Sub-Inspector of Police, E-3, Teynampet Police Station, Chennai-18.

27 P. Shanmugaraj, Armed Reserve Police No. 862, "E" Company, Police Control Room, Egmore, Chennai.

28 S. Janardanam, Armed Reserve Head Constable No. 9757, Pudupet, Chennai-2.

29 P. Vajravelu, Tamil Nadu Special Police No. 1598, "T" Company, Police Control Room, Egmore, Chennai.

30 N. Muthaiah, Tamil Nadu Special Police No. 2219, "T" Company, Police Control Room, Egmore, Chennai.

31 A. Alagesan, Tamil Nadu Special Police No. 1569, "T" Company, Police Control Room, Egmore, Chennai.

32 P. Subramaniam, Grade I Police Constable No. 11905, Armed Reserve "E" Company, Pudupet, Chennai-2.

33 G. Seetharaman, Police Constable No. 2863, Police Control Room, Egmore, Chennai.

34 P. Periasamy, Police Constable No. 11235, Police Control Room, Egmore, Chennai.

35 Ko. Palanisamy, Inspector of Police, E-2, Royapettah Police Station, Chennai-14.

36 R. Selvaraj, Inspector of Police (Law and Order), T-5, Marina Police Station, Chennai.

37 Dr. A. N. Shanmugam, Casualty Medical Officer, Government Royapettah Hospital, Chennai-14.

38 Dr. Periasamy, DAS Ward, Government Royapettah Hospital, Chennai-14.

39 K. Kothandaraman, Assistant Commissioner of Police (Law and Order), Mylapore, Chennai-4.

40 V. K. Rajagopalan, I.P.S., Commissioner of Police, Chennai.

41 K. Kabaleeswaran, father of the deceased Ramesh, No. 95, Pallakkumanyam, Madhava Rao Garden, Mylapore, Chennai-4.

42 J. Panneerselvam, Auto Driver, No. 2, Amman Koil Street, M. H. Colony, Chennai-29.

43 M. Stalin, No. 226, Madhava Rao Garden, Canal Bank Road, Mylapore, Chennai-4.

44 M. Mani, son of Masanamuthu Nadar, Machine Foreman, Dinakaran, Chennai-4.

45 V. Kombia, son of Vellaithurai Devar, Watchman, Dinakaran, Chennai-4.

46 S. Sudalai, son of Sivanandaperumal, Watchman, Dinakaran, Chennai-4.

47 Mrs. Kalyani, wife of Rajendran, No. 46, 6th Street, Pattunoolkaran Garden, Mylapore, Chennai-4.

48 N. Sathianathan, Police Constable No. 2673, Tamil Nadu Special Police, VIII Battalion, "E" Company, Chennai.

49 C. Velu, Police Constable No. 1870, Tamil Nadu Special Police, V Battalion, "T" Company, Police Control Room, Egmore, Chennai.

50 R. Mani, Nayak 1294, V Battalion, "T" Company, Police Control Room, Egmore, Chennai.

51 V. Karthikeyan, Nayak 2206, II Battalion, "A" Company, Police Control Room, Egmore, Chennai-8.

52 R. Jayaseelan, son of Raju, No. 5, Second Trust Main Road, Mandavelipakkam, Chennai-28.

53 C. Murali, son of Sami Ayyah, Chinna Odinapuram, Gummidipoondi, Bus Driver No. 12554, State Transport Corporation, Vadapalani Depot, Chennai-26.

54 M. Boobalan, son of K. Munusamy, No. 91, Sivasami Salai, Mylapore, Chennai-4.

55 Mrs. Krishnaveni, wife of Madasami, No. 204, Slatterpuram, Mylapore, Chennai-4.

56 Mrs. Rajambal, wife of Ramalingam, No. 45, Ramakrishnapuram, 5th Street, Mylapore, Chennai-4.

57 L. Edwin, Police Constable 4312, Armed Reserve, Pudupet, Chennai.

58 Ka. Thennerasu, No. 220, Canal Bank Road, Mylapore, Chennai-4.

59 K. Balan, No. 31/1, Apparsamy Koil Street, Mylapore, Chennai-4.

60 R. Ravichandran, No. 29, Kamarajar Street, Teynampet, Chennai-18.

61 N. Raghavendra Rao, No. 7, Sarathi Street, Thiyagarayanagar, Chennai-17.

62 V. R. Pattabiraman, No. 25, 2nd Street, Nehru Nagar, Perungalathur, Chennai-63.

63 T. Munusamy, No. 35, 4th Street, Mangalapuram, Chetpet, Chennai-38.

64 Mrs. R. Marimuthu, No. 61, Nallam Street, Vannia Teynampet, Chennai-87.

65 K. Jeevanlal, No. 10, B.B.V. Koil Street, Mylapore, Chennai-4.

66 C. Thiruppathi, No. 12, Luz Church Road, New Sowmiya Bakery, Mylapore, Chennai-4.

67 K. Chokkalingam, Chief Doctor, Devaki Hospital, No. 148, Luz Church Road, Mylapore, Chennai-4.

68 Mrs. Latha, wife of K. Kabaleeswaran, Pallakkumanagar, Madhava Rao Garden, Mylapore, Chennai-4.


தமிழ்நாடு சட்டமன்றப் பேரவை
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TRUTH ALONE TRIUMPHS

ANNEXURE–III.

LIST OF WITNESSES.

I. *Witnesses examined on the Police side—*

P.W. 1 G. Velayutham, Grade I Police Constable, E-1, Mylapore Police Station.

P.W. 2 S. Krishnan, Police Constable, E-1, Mylapore Police Station.

P.W. 3 E. Rajendran, Police Constable, E-1, Mylapore Police Station.

P.W. 4 R. Garudapathy, Inspector of Police, E-1, Mylapore Police Station.

P.W. 5 J. Isac Devaraj, Grade I Police Constable, E-1, Mylapore Police Station.

P.W. 6 Mrs. Kala, wife of Mohan, Flower Vendor, Mylapore.

P.W. 7 B. Moorthy, Night Watchman, Berook Company, Mylapore.

P.W. 8 M. Kumar, son of Munusamy, Mylapore.

P.W. 9 K. Ganesh, Fire Service Officer, Mylapore.

P.W. 10 Mrs. Maheswari, wife of Venkatesan, Mylapore.

P.W. 11 S. Kannappan, son of Subarayan, Mylapore.

P.W. 12 S. Xavier, Photographer, Dinakaran Newspaper, Mylapore.

P.W. 13 R. Srinivasan, Assistant Editor, Dinakaran, Mylapore.

P.W. 14 M. Sabeer Mohamed, Junior Engineer, Public Works Department, Chennai-21.

P.W. 15 G. Venugopal, Wireman, Chennai Electricity Board.

P.W. 16 P. Balakrishnan, Head Constable, E-1, Mylapore Police Station.

P.W. 17 R. Wilson, Head Constable, E-1, Mylapore Police Station.

P.W. 18 C. Palavesam, Machine Foreman, Dinakaran.

P.W. 19 T. Abraham, former Personal Assistant (General), Collectorate, Chennai.

P.W. 20 P. A. Sundaram, Manager, Dinakaran.

P.W. 21 C. Esakidurai, Office boy, Dinakaran.

P.W. 22 V. Muthaiah, Reporter, Dinakaran.

P.W. 23 V. Radhakrishnan, Receptionist, Picnic Plaza Hotel, Mylapore.

P.W. 24 K. Narayanan, New Sowmiya Bakery, Mylapore.

P.W. 25 Dr. K. Ravindran, M.D., Professor, Government Royapettah Hospital.

P.W. 26 S. Kanniappan, Driver, State Transport Corporation, Mandaveli Depot.

P.W. 27 B. Vaitheeswaran, Bus Conductor, State Transport Corporation, Vadapalani Depot.

P.W. 28 A. Venkatachalam, Sub-Inspector of Police, E-3, Teynampet Police Station.

P.W. 29 P. Shanmugaraj, Armed Reserve Police, Police Control Room, Egmore.

P.W. 30 S. Janardanam, Head Constable, Armed Reserve, Pudupet.

P.W. 31 P. Vajravelu, Tamil Nadu Special Police, V Battalion.

P.W. 32 N. Muthaiah, Tamil Nadu Special Police, V Battalion.

P.W. 33 A. Alagesan, Tamil Nadu Special Police, V Battalion.

P.W. 34 P. Subramaniam, Grade I Police Constable, Armed Reserve, Pudupet.

P.W. 35 G. Seetharaman, Police Constable, Egmore.

P.W. 36 P. Periyasamy, Police Constable, Egmore.

P.W. 37 Ko. Palanisamy, Inspector of Police, E-2, Royapettah Police Station.

P.W. 38 R. Selvaraj, Inspector of Police, Marina Police Station.

P.W. 39 Dr. A. N. Shanmugam, Government Royapettah Hospital.

P.W. 40 A. Periyasamy, Doctor, DAS Ward, Government Royapettah Hospital.

P.W. 41 S. Pandian, Sub-Inspector of Police, E-1, Mylapore Police Station.

P.W. 42 N. P. Ramajeyam, M.L.A., Mylapore Constituency.

P.W. 43 K. Kothandaraman, Assistant Commissioner of Police, Mylapore.

P.W. 44 V. Krishnamurthy, Inspector of Police, E-1, Mylapore Police Station.

P.W. 45 V. K. Rajagopalan, I.P.S., Commissioner of Police, Chennai.

P.W. 46 M. Sevugan, Assistant Commissioner of Police (Traffic), Chennai-4.

II. *Witnesses examined on the Deceased side*—

D.W. 1 K. Kabaleeswaran, father of the deceased Ramesh.

D.W. 2 J. Panneerselvam, Auto Driver, Aminjikarai.

D.W. 3 M. Stalin, son of Moorthy, Mylapore.

ANNEXURE – IV.

LIST OF EXHIBITS MARKED ON THE SIDE OF POLICE.

Exhibit number with date of marking. (1)	*Description.* (2)
P-1, dated 16th September 1997	Affidavit of G. Velayutham, Grade I Police Constable (P.W. 1)
P-2, dated 17th September 1997	Affidavit of S. Krishnan, Police Constable (P.W. 2)
P-3, dated 22nd September 1997	Affidavit of E. Rajendran, Police Constable (P.W. 3)
P-4, dated 23rd September 1997	Affidavit of R. Garudapathy, Inspector of Police (Traffic) (P.W. 4)
P-5, dated 8th October 1997	Affidavit of J. Isac Devaraj, Police Constable (P.W. 5)
P-6, dated 9th October 1997	Affidavit of Thirumathi Kala (P.W. 6)
P-7, dated 14th October 1997	Affidavit of B. Murthy (P.W. 7)
P-8, dated 21st October 1997	Affidavit of M. Kumar (P.W. 8)
P-9, dated 21st October 1997	Affidavit of K. Ganesh, Fire Service Officer (P.W. 9)
P-10, dated 22nd October 1997	Fire Service Report, marked through P.W. 9
P-11, dated 22nd October 1997	Affidavit of Thirumathi Maheswari (P.W. 10)
P-12, dated 22nd October 1997	Affidavit of S. Kannappan (P.W. 11)
P-13, dated 23rd October 1997	Affidavit of S. Xavier, Photographer, Dinakaran (P.W. 12)
P-14, dated 23rd October 1997	Affidavit of R. Srinivasan, Sub-Editor, Dinakaran (P.W. 13)
P-15. dated 27th October 1997	True copy of G.O. Ms. No. 580, Public Works (W) Department, dated 21st August 1996 marked through P.W. 14
P-16, dated 27th October 1997	Letter from M. Sabeer Mohammed, Junior Engineer, P.W.D. (P.W. 14)
P-17, dated 27th October 1997	Affidavit of M. Sabeer Mohammed, Junior Engineer, P.W.D. (P.W. 14)
P-18, dated 27th October 1997	Electricity Board Fuse Call Register, Mandavelli Section, marked through P.W. 16
P-19, dated 27th October 1997	Affidavit of C. Venugopal, Wireman (P.W. 15)
P-20, dated 27th October 1997	Copy of First Information Report, marked through P.W. 16

Exhibit number with date of marking.	*Description.*
(1)	(2)
P-21, dated 27th October 1997	Affidavit of A. Balakrishnan, Head Constable (P.W. 16)
P-22, dated 27th October 1997	Affidavit of R. Wilson, Police Constable (P.W. 17)
P-23, dated 3rd November 1997	Affidavit of C. Palavesam, Machine Foreman, Dinakaran (P.W. 18)
P-24, dated 4th November 1997	First Information Report registered on Exhibit P-25, the report of P.W. 7
P-25, dated 4th November 1997	Complaint of B. Murthy, Night Watchman (P.W. 7)
P-26, dated 4th November 1997	Complaint of K. Kabaleeswaran (D.W. 1) given to P.W. 42 and addressed to P.W. 43
P-27, dated 4th November 1997	Requisition by the Inspector of Police (P.W. 44) to P.W. 19
P-28, dated 4th November 1997	Inquest Report of P.W. 19
P-29, dated 4th November 1997	Post-mortem Certificate issued by Dr. K. Ravindran (P.W. 25)
P-30, dated 4th November 1997	Opinion of P.W. 25 as to the cause of death.
P-31, dated 4th November 1997	Chemical Analysis Report of Forensic Sciences Department
P-32, dated 4th November 1997	Statement of D.W. 1 marked through P.W. 19
P-33, dated 4th November 1997	Statement of B. Murthy (P.W. 7) marked through P.W. 19
P-34, dated 4th November 1997	Statement of Thirumathi Maheswari (P.W. 10) marked through P.W. 19
P-35, dated 4th November 1997	Interim Report of Thiru Abraham, P.A. (General) to the Collector (P.W. 19) of Chennai
P-36, dated 4th November 1997	Orders of Collector of Chennai marked through P.W. 19
P-37, dated 4th November 1997	Statement of S. Pandian, Sub-Inspector of Police (P.W. 41)
P-38, dated 4th November 1997	Statement of R. Garudapathy, Inspector of Police (P.W. 4)
P-39, dated 4th November 1997	Statement of G. Velayutham, Grade I Police Constable (P.W. 1)
P-40, dated 4th November 1997	Statement of S. Krishnan, Police Constable (P.W. 2)
P-41, dated 4th November 1997	Statement of E. Rajendran, Police Constable (P.W. 3)

Exhibit number with date of marking. (1)	*Description.* (2)
P-42, dated 5th November 1997	Affidavit of P. A. Sundaram, Manager, Dinakaran (P.W. 20)
P-43, dated 5th November 1997	Copy of the First Information Report marked through P.W. 20
P-44, dated 5th November 1997	Bills for damages and the medical expenses marked through P.W. 20
P-45, dated 5th November 1997	Affidavit of C. Esakidurai, Office boy, Dinakaran (P.W. 21)
P-46, dated 11th November 1997	First Information Report copy marked by V. Radhakrishnan (P.W. 23) of Hotel Picnic Plaza
P-47, dated 11th November 1997	Affidavit of V. Radhakrishnan (P.W. 23)
P-48, dated 11th November 1997	Letter of Hotel Picnic Plaza regarding damage marked through P.W. 23
P-49, dated 12th November 1997	First Information Report copy marked by K. Narayanan (P.W. 24) of Sowmiya Bakery
P-50, dated 12th November 1997	Affidavit of K. Narayanan (P.W. 24)
P-51, dated 12th November 1997	Statement of damages of New Sowmiya Bakery, marked through P.W. 24
P-52, dated 13th November 1997	Requisition letter of P.W. 19 to Dr. K. Ravindran (P.W. 25) for conducting post-mortem
P-53, dated 13th November 1997	Affidavit of Dr. K. Ravindran (P.W. 25)
P-54, dated 13th November 1997	Post-mortem examination rough notes marked through P.W. 25
P-55, dated 20th November 1997	Affidavit of S. Kanniappan (P.W. 26), Driver of Bus Route No. 5D
P-56, dated 20th November 1997	Affidavit of B. Vaitheeswaran (P.W. 27), Conductor of Bus Route No. 12L
P-57, dated 21st November 1997	Affidavit of A. Venkatachalam, Sub-Inspector of Police (P.W. 28)
P-58, dated 24th November 1997	Affidavit of P. Shanmugaraj, Police Constable (P.W. 29)
P-59, dated 24th November 1997	Affidavit of S. Janardhanam, Head Constable (P.W. 30)
P-60, dated 25th November 1997	Affidavit of P. Vajravelu, Police Constable (P.W. 31)
P-61, dated 25th November 1997	Affidavit of N. Muthaiah, Police Constable (P.W. 32)
P-62, dated 25th November 1997	Affidavit of A. Alagesan, Police Constable (P.W. 33)

Exhibit number with date of marking.	*Description.*
(1)	(2)
P-63, dated 26th November 1997	Affidavit of P. Subramaniam, Police Constable (P.W. 34)
P-64, dated 26th November 1997	Xerox copy of the Duty Register of Tear Gas Party marked through P.W. 35
P-65 and P-68, dated 26th November 1997	Xerox copy of the General Diary marked through P.W. 35
P-66, dated 26th November 1997	Affidavit of G. Seetharaman (P.W. 35)
P-67, dated 26th November 1997	Xerox copy of the Tear Gas Register marked through P. Periasamy (P.W. 36)
P-69, dated 26th November 1997	Affidavit of P. Periasamy, Police Constable (P.W. 36)
P-70, dated 27th November 1997	Affidavit of Ko. Palanisamy, Inspector of Police (P.W. 37)
P-71, dated 27th November 1997	Affidavit of R. Selvaraj, Inspector of Police (P.W. 38)
P-72, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 38
P-73, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 28
P-74, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 31
P-75, dated 2nd December 1997	Duplicate copy of Accident Register relating to B. Tamil Kumaran, Police Constable
P-76, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 29
P-77, dated 2nd December 1997	Duplicate copy of Accident Register relating to Ajay Kumar, Police Constable
P-78, dated 2nd December 1997	Duplicate copy of Accident Register relating to Mohan Raj marked through P.W. 39
P-79, dated 2nd December 1997	Affidavit of Dr. A. N. Shanmugam (P.W. 39)
P-80, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 34
P-81, dated 2nd December 1997	Duplicate copy of Accident Register relating to Edwin, Police Constable
P-82, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 39
P-83, dated 2nd December 1997	Duplicate copy of Accident Register relating to Kuppuswamy, Police Constable

Exhibit number with date of marking.	*Description.*
(1)	(2)
P-84, dated 2nd December 1997	Duplicate copy of Accident Register relating to Sathianathan, Police Constable
P-85, dated 2nd December 1997	Duplicate copy of Accident Register relating to B. Venkatesan, Police Constable
P-86, dated 2nd December 1997	Duplicate copy of Accident Register relating to Karthikeyan, Nayak
P-87, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 33
P-88, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 32
P-89, dated 2nd December 1997	Duplicate copy of Accident Register relating to Mani, Police Constable
P-90, dated 2nd December 1997	Duplicate copy of Accident Register relating to Velu, Police Constable
P-91, dated 2nd December 1997	Duplicate copy of Accident Register relating to P.W. 37
P-92, dated 2nd December 1997	Affidavit of Dr. A. Periasamy (P.W. 40)
P-93, dated 4th December 1997	Affidavit of K. Kothandaraman, Assistant Commissioner of Police (Law and Order), Mylapore (P.W. 43)
P-94, dated 4th December 1997	Typed copy of First Information Report marked through P.W. 44
P-95, dated 16th December 1997	Duplicate copy of Accident Register issued to P.W. 45
P-96, dated 16th December 1997	Affidavit of V. K. Rajagopalan, I.P.S., Commissioner of Police (P.W. 45)
P-97, dated 4th February 1998	Carbon copy of the Daily Diary of P.W. 4, dated 12th April 1997
P-98, dated 4th February 1998	Carbon copy of the Daily Diary of P.W. 4, dated 13th April 1997
P-99, dated 4th February 1998	Original of Exhibit P-97
P-100, dated 4th February 1998	Original of Exhibit P-98
P-101, dated 4th February 1998	Original Daily Diary of P.W. 4, dated 14th April 1997

LIST OF EXHIBITS MARKED ON THE SIDE OF THE DECEASED.

D-1, dated 23rd December 1997	Invitation of Messrs. Sundaram Clayton Limited Founder's Day celebration on 12th April 1997 marked through K. Kabaleeswaran (D.W. 1)
D-2, dated 23rd December 1997	"The Hindu" Newspaper cutting, dated 14th April 1997 marked through D.W. 1
D-3, dated 23rd December 1997	Affidavit of K. Kabaleeswaran (D.W. 1)
D-4, dated 2nd January 1998	Affidavit of J. Panneerselvam (D.W. 2)
D-5, dated 2nd January 1998	Affidavit of M. Stalin (D.W. 3)

LIST OF MATERIAL OBJECTS.

M.O. 1, dated 23rd October 1997	Photo of the deceased Ramesh with negative marked through P.W. 12
M.O. 2, dated 23rd October 1997	Photo of the deceased Ramesh with negative marked through P.W. 12
M.O. 3, dated 23rd October 1997	Dinakaran Newspaper, dated 13th April 1997 cutting containing the photo of the deceased Ramesh published marked through P.W. 13
M.O. 4, dated 5th November 1997	Photo of Van Registration No. TN 07 D 7373 with negative marked by P. A. Sundaram (P.W. 20) of Dinakaran office
M.O. 5, dated 5th November 1997	Photo with negative showing the damage caused to Dinakaran office name board marked through P.W. 20
M.O. 6, dated 5th November 1997 (Series 1 to 7)	Photos with negatives showing the damage caused to the windows and doors of Dinakaran Newspaper office marked through P.W. 20
M.O. 7, dated 26th November 1997	Dinakaran Newspaper, dated 14th April 1997 marked through P.W. 12

JUSTICE M. MARUTHAMUTHU
Commission of Inquiry.

ROUGH SKETCH OF THE SCENE

1. N.N.M. = Nehru News Mart
2. J.S.C. = Jayaram Seeval Corner
3. K.P.J. = Kerala Fashion Jewellery
4. B.C.D. = Bar Code Data
5. R.K.M. = Raja Kalyana Mandapam
6. D.O. = Dinakaran Office

TAMIL NADU LEGISLATIVE ASSEMBLY
TRUTH ALONE TRIUMPHS

E1/28


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

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GOVERNMENT OF TAMIL NADU
1998

CONFIDENTIAL

PUBLIC (S.C.) DEPARTMENT.

G.O. No. SS. II/143-9/98, dated 21st July 1998.

LAW AND ORDER—Commission of Inquiry to inquire into the alleged mysterious death of Thiru Ramesh, son of Thiru Kabaleeswaran while under custody at Mylapore Police Station, Chennai on 12th April 1997 and subsequent Law and Order disturbances on 13th April 1997—Inquiry under the Commission of Inquiry Act, 1952 (Central Act LX of 1952)—Report of Thiru M. Maruthamuthu Commission of Inquiry—Findings accepted—Orders issued.

READ—the following papers :—

G.O. Ms. No. 423, *Public (Law and Order-F) Department, dated 15th April* 1997.

Order—No. SS. II/143-9/98, Public (S.C.) Department, dated 21st July 1998.

In the Government Order read above, Thiru M. Maruthamuthu, retired Judge, High Court, Chennai, was appointed as Commission of Inquiry under the Commissions of Inquiry Act, 1952 (Central Act LX of 1952) to inquire into the alleged mysterious death of Thiru Ramesh, son of Thiru Kabaleeswaran while under custody at Mylapore Police Station, Chennai on 12th April 1997 and subsequent law and order disturbances on 13th April 1997. The terms of reference of the Commission of Inquiry were :—

(i) To inquire into the facts and circumstances leading to the arrest of Thiru Ramesh, son of Thiru Kabaleeswaran, residing at No. 94, Madhavarao Garden Street, Mylapore, Chennai by Thiru Garudapathy, Traffic Inspector and the circumstances under which the said Thiru Ramesh escaped from custody while being taken to the Mylapore Police Station in Jeep No. 8453 accompanied by Thiru Velayutham, Grade–I Police Constable and efforts taken to re-arrest him ;

(ii) To inquire into the facts and circumstances leading to the mysterious death of Thiru Ramesh ;

(iii) To inquire into and report whether the allegation that the said Thiru Ramesh was done to death while in custody and that the body was thrown into Buckingham Canal is true ;

(iv) To inquire into whether there was any police excess in dealing with Thiru Ramesh, and if so, to identify the police personnel responsible for the same and suggest appropriate action to be taken against the police personnel responsible ;

(v) To inquire into the causes and circumstances that led to the subsequent violent incidents on 13th April 1997 in Mylapore area leading to damage to public and private properties ;

(vi) To inquire into and report whether there were any excesses on the part of police in dealing with the violent situation ; and

(vii) To suggest necessary measures to ensure that such untoward incidents do not recur.

2. The Commission of Inquiry after analysing the deposition of witnesses and documents produced before the Commission has given its findings on the terms of reference as follows :—

Terms of reference (*i*)—

(*i*) To inquire into the facts and circumstances leading to the arrest of Thiru Ramesh, son of Thiru Kabaleeswaran, residing at No. 94, Madhavarao Garden Street, Mylapore, Chennai by Thiru Garudapathy, Traffic Inspector and the circumstances under which the said Thiru Ramesh escaped from custody while being taken to the Mylapore Police Station in Jeep No. 8453 accompanied by Thiru Velayutham, Grade–I Police Constable and efforts taken to re-arrest him.

Findings.—On the basis of the evidence, the circumstances and material available, the Commission of Inquiry has found that on 12th April 1997 at about 8-30 p.m. Ramesh, son of Thiru Kabaleeswaran had tried or had crossed a part of R. K. Mutt Road at Luz Corner, Mylapore, Chennai, when the green signal was on for passing of the vehicles on that road, that Thiru G. Velayutham, Grade–I Police Constable (P.W. 1) objected to it, that in that context a wordy altercation took place between the two and that Ramesh behaved in a disorderly manner. The Commission has also found that Ramesh was taken into custody by Thiru G. Velayutham, Grade–I Police Constable (P.W. 1) of Mylapore Police Station, Traffic Wing on the direction of Thiru R. Garudapathy, Inspector of Police (P.W. 4), Traffic Wing of Mylapore Police Station, to be handed over to the law and order branch of Mylapore Police Station for charging him under section 75 of the Madras City Police Act and that the said Ramesh had escaped near Raja Kalyana Mandapam on the Kutchery Road while he was being taken to the Police Station in Police Jeep TSP No. 8453. It is also further held that Ramesh was not arrested but was simply taken into custody and therefore, there is no question of re-arrest of Ramesh.

The Commission of Inquiry has observed that the fact that Ramesh had made good his escape on the way to Police Station has been duly reported by P.W. 1 Thiru G. Velayutham, Grade–I Police Constable to P.W. 4 Thiru R. Garudapathy, Inspector of Police, who was in Luz Corner and P.W. 4 has reprimanded P.W. 1 for his dereliction of duty. The evidence of P.Ws. 1, 3 and 6 with Exhibit P-97 greatly shows that Ramesh had made good his escape when he was taken by P.W. 1 in the Jeep opposite to Raja Kalyana Mandapam on 12th April 1997 night between 8-45 p.m. and 9-00 p.m. If only P.W. 1 or P.W. 4 had made a report at the Law and Order Branch of the Mylapore Police Station about the contemplated action under section 75 of the Madras City Police Act against Ramesh and his escape on the way and the efforts to be taken for his arrest even on 12th April 1997 night and had caused an entry made in the General Diary of the Mylapore Police Station, it would have been

on a still more better footing. But, this has not been done. The explanation on the side of the police that P.Ws. 1 and 4 did not worry about the escape of Ramesh as the act for which he was to be charged amounted only to a petty offence, is not acceptable. P.Ws. 1 and 4 should have been diligent enough to adopt the due procedure enjoined on them.

Terms of reference (ii), (iii) and (iv)—

(*ii*) To inquire into the facts and circumstances leading to the mysterious death of Ramesh ;

(*iii*) To inquire into and report whether the allegation that the said Ramesh was done to death while in custody and that the body was thrown into Buckingham Canal is true ;

(*iv*) To inquire into whether there was any police excess in dealing with Ramesh, and if so, to identify the Police personnel responsible for the same and suggest appropriate action to be taken against the police personnel responsible.

Findings.—With reference to the terms of reference (*ii*) the points that arise for consideration are whether Ramesh got himself drowned in the canal in his attempt to escape from the custody of P.W. 1 or Ramesh was kept in police custody, tortured and killed and his body was thrown in the canal. There is proof that Ramesh who escaped from the custody of P.W. 1 while taken in the Jeep, ran along Kalvirayan Street which is west of the canal and Metropolitan Transport Project (Railways) bridge and tried to go across the canal between 8-45 p.m. and 9-00 p.m. and reach the slum area situated on the east of the canal for his safety and that when he stepped into the canal he got himself completely drowned and died in the canal which is about 10 feet deep and slushy with sewerage, rain water and mud and that his body was removed by P.W. 9, Thiru K. Ganesh, Fire Service Officer, Mylapore and other Fire Service personnel at about 11-30 p.m. The medical evidence of P.W. 25, Dr. K. Ravindran, M.D., Professor, Government Royapettah Hospital confirms the view that Ramesh would appear to have died of Asphyxia due to drowning. He has expressed his opinion after making note of all the symptoms which he found in the body of Ramesh during post-mortem examination. He has also found Larynx and Traches filled with blood stained frothy fluid and few blackish brown mud particles which is an indication that the deceased was alive at the time of drowning and water with mud particles going inside. He has also further noticed some fluid in the lower part of the intestine.

With reference to the terms of reference (*iii*) and (*iv*), i.e., on the point whether Ramesh was done to death at the hands of police in their custody, etc., the Commission of Inquiry has found it in negative. The Commission of Inquiry has based its findings, mainly on the evidence of P.W. 19, Thiru A. Abraham, former Personal Assistant (General), Collectorate, Chennai, who conducted the inquest on the body of Ramesh on 13th April 1997 and the evidence of P.W. 25, Dr. K. Ravindran, Professor, Government Royapettah Hospital, who conducted post-mortem examination on the body of the deceased Ramesh. P.W. 19 has stated in his report (Exhibit P-28) that he found no injuries on the body of Ramesh. P.W. 25, Dr. K. Ravindran has stated that except two small abrasions which were found just above and below the right eye, there were no other external injuries. He has not noticed any fatal injuries to have been caused on any vital parts of the body of the deceased. With regard to abrasion mentioned above P.W. 25, opines that the deceased might have sustained those injuries by

coming into contact with any rough surface. The Commission of Inquiry during the course of inspection have noticed that there were stones by the side of the canal bund and by the side of the concrete pillars and that the deceased Ramesh might have fallen and sustained those injuries while he was running in his desperate bid to escape. The Commission of Inquiry has found that Ramesh was not done to death while in police custody and his body was not thrown in the canal, that there was no police excess in dealing with Ramesh and that he died of Asphyxia due to drowning in the canal.

The Commission of Inquiry have suggested that the Government may take suitable action for dereliction of duty against P.W. 1, Thiru G. Velayutham, Grade-I Police Constable, E-1, Mylapore Police Station for having allowed Ramesh to escape and against both P.W. 1, Thiru G. Velayutham and P.W. 4, Thiru R. Garudapathy, Inspector of Police (Traffic), E-1, Mylapore Police Station for not lodging a complaint at the law and order branch against Ramesh to make him answerable for a charge under section 75 of the Madras City Police Act, before a Court of Law.

Terms of references (*v*) and (*vi*)—

(*v*) To inquire into the causes and circumstances that led to the subsequent violent incidents on 13th April 1997 at Mylapore area leading to damage to public and private properties.

(*vi*) To inquire into and report whether there were any excesses on the part of police in dealing with the violent situation.

Findings.—The Commission of Inquiry has stated that Thiru Kabaleeswaran (D.W. 1) on coming to know that his son Ramesh was taken by the Mylapore Traffic Police from Luz Corner to Mylapore Police Station on 12th April 1997 at about 9-00 p.m. had met P.W. 4 Thiru R. Garudapathy, Inspector of Police (Traffic), E-1, Mylapore Police Station at the Police Station, who informed that Ramesh had escaped from the jeep on the way of his being taken to the Police Station and that he would return home. D.W. 1, Thiru Kabaleeswaran who returned home but whose son Ramesh did not return was feeling anxiety. On the following morning, D.W. 1 had developed a suspicion on seeing the news item published in Dinakaran newspaper with the photo of Ramesh under the title "காவல்துறை விபரீதகளம்" that his son Ramesh who was taken by the police on the previous night was done to death by the police and his body thrown in the canal. He with a crowd had gone to the Mylapore Police Station and created a scene. Between 7-00 a.m. and 7-30 a.m. the crowd of about 100 men and women armed with soda bottles, stones and sticks had attacked the office of Dinakaran newspaper questioning the veracity of the news published about Ramesh and contending that it was not a case of death by accidental drowning in the canal and caused damage to the properties therein and injuries to P.W. 13, Thiru R. Srinivasan, Assistant Editor, "Dinakaran", P.W. 18, Thiru C. Palavesam, Machine Foreman, "Dinakaran", P.W. 21, Thiru C. Esakidurai, Office boy, "Dinakaran" and seven other employees. That apart, violent incidents have taken place in Luz Corner and the surrounding area between 8-00 a.m. and 12-00 noon when a mob of about 500 persons armed with soda bottles, stones and sticks have obstructed the traffic and paralysed the system of movement and caused injuries to 18 police personnel. Besides the above, P.W. 45, Thiru V. K. Rajagopalan, I.P.S., the then Commissioner of Police, Chennai had sustained injury on the outer aspect of his left palm due to stone hit. The Delta Van of tear gas party, the Ambassador car of Joint Commissioner of Police (South), the front portion of Hotel Picnic Plaza,

Sowmyia Bakery, name boards of the shops in that area, the traffic signal Umbrella at Luz Corner, sodium vapour lamps and Government Transport buses were also subjected to attack and damage, by the militant mob. The evidence shows that the advice given by the local M.L.A., Thiru P. Ramajayam (P.W. 42) and other police officers to the mob to disperse peacefully was not heeded by the mob. Even the repeated warnings given by the police had no effect. It was only in that circumstance, the police had to use tear gas shells to disperse mob. The evidence shows that there was tense situation in that area between 8-00 a.m. and 12-00 noon and it was only after 12-00 noon, normalcy had come to be resorted. *The Commission of Inquiry has come to the conclusion that the action of police in dealing with the situation on 13th April 1997 at Luz Corner and adjoining area was justified and that there was nothing such as excess on the part of the police in discharging their duties.*

The Commission of Inquiry has also observed that the police of the area should have been intelligent, alert and watchful as the disturbance started even at about 6-30 a.m. when D.W. 1, the father of Ramesh with a crowd made a burst of his anger at Mylapore Police Station and this should have been taken note of seriously and planned further action swiftly to avert any contingency that might aggravate. If only timely action had been taken by the police to disperse the crowd without allowing too much of time to pass at Luz Corner, the damage to the public and private properties in the areas and the sustaining of injuries by the police personnel might have been minimum.

Terms of reference (*vii*)—

(*vii*) To suggest necessary measures to ensure that such untoward incidents do not recur.

Findings/Suggestions.—The Commission of Inquiry has stated that law does not permit anyone to take law into his own hand and indulge in acts of violence in seeking his remedy. It has suggested—

(*i*) The offenders, as such, should not be allowed to go scot free and due action must be taken against them.

(*ii*) The unwary public should be educated through the media such as Newspaper, Social Welfare Organisations, Radio and Television and made to realise that causing harm to the persons and damage to the public and private properties should be stopped at all levels and at all times.

Recommendation.—The Commission of Inquiry has found that if Ramesh was not allowed to escape and was taken to the Police Station safely, the chance of Ramesh getting himself drowned in the canal and meeting his death, might not have taken place. The Commission of Inquiry has also stated that it has been informed by D.W. 1 (Thiru Kabaleeswaran) during the inquiry that the Government was pleased to grant an Ex-gratia payment of a sum of Rs. 50,000 to D.W. 1. *Considering the fact that the deceased Ramesh was aged about 22 and was an earning member to the family at that time and that the family is bereft of the income as well as the life of the person, the Commission of Inquiry has suggested that the Government may consider granting a further sum to the family as it would deem fit and proper.*

3. The Government have accepted the findings of the Commission of Inquiry.

4. In respect of the suggestion of the Commission of Inquiry for taking suitable action against the police personnel, i.e., P.W. 1, Thiru G. Velayutham, Grade–I Police Constable and P.W. 4, Thiru R. Garudapathy, Inspector of Police, Traffic Wing of E-1, Mylapore Police Station for their dereliction in duty are brought to the notice of Home Department for taking suitable action.

5. In respect of the suggestions made by the Commission of Inquiry with regard to terms of reference (*vii*) to prevent such untoward incidents do not occur in future are brought to the notice of the concerned departments for further detailed examination and necessary action.

6. The Government have also accepted the recommendation of the Commission of Inquiry regarding granting a further sum to the deceased family as it would deem fit and proper and have decided to pay a further Ex-gratia amount of Rs. 50,000 to the family of the deceased Thiru Ramesh, in addition to Rs. 50,000 already paid, though the death is not due to police torture.

(By order of the Governor.)

A. P. MUTHUSWAMI,
Chief Secretary.

To the Secretary to Government, Public (Law and Order-F) Department, Chennai-9.
„ the Secretary to Government, Home Department, Chennai-9.
„ the Secretary to Government, Finance Department, Chennai-9.
„ the Secretary to Governor, Chennai-32.
„ the Collector, Chennai.
„ the Director-General of Police, Chennai-2.
„ the Inspector-General of Police, Intelligence, Chennai-2.
„ the Commissioner of Police, Chennai.
„ the Secretary to Government of India, Ministry of Home Affairs, New Delhi.
„ the Secretary to Chief Minister, Chennai-9.

ERRATA

Page No.	*Para No./ Line.*	*Existing.*	*To be read as*
3	vi / 8	Situte	Situate
6	x / 10	Obtained	Obtained.
7	xi / 29	Tenaments	Tenements
7	xi / 44	Tenaments	Tenements
9	xii / 38	Scrotem	Scrotum
18	9 / 19	Kalyanamandayam	Kalyanamandapam
23	18 / 16	Cross	Across
24	22 / 2	Inconsistant	Inconsistent
		G.O.	
3	Findings/18	Traches	Trachea

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