



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 6211 of 2024

Jhanvi Singh

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Govt. Of
U.P. Lko And Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Nadeem Murtaza, Devansh Vikram Singh, Harsh Vardhan Kediya
Counsel for Respondent(s)	:	G.A.

Court No. - 9

**HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE RAM MANOHAR NARAYAN MISHRA, J.**

1. Heard Shri Nadeem Murtaza, learned counsel for the petitioner, and Shri Vipul Kumar Singh, learned State Counsel.
2. This Court has passed the order dated 5th August, 2026, which reads as under:

"1. Heard learned counsel for the petitioner and Sri Bipul Kumar Singh, learned State Counsel for the State.

2. On the first date of hearing on admission, this court has passed the order dated 28.08.2024 which reads as under:-

"1. Heard learned counsel for the petitioner and learned A.G.A. for the State.

2. Petitioner has approached this Court for the following main relief:

"(i) issue a writ, order, or direction in the nature of mandamus transfer the investigation of the First Information Report registered by the Petitioner, as Case Crime No.0041 of 2024, under Section 302 IPC at Police Station- Sangipur, District-Pratapgarh on 18.03.2024 (contained in Annexure No.1 to the writ petition), to the Central Bureau of Investigation (CBI) or some other independent agency, for a fair, expeditious, and just investigation.

3. Let opposite party no.3-Superintendent of Police, District Pratapgarh file his personal affidavit by 3.9.2024 with regard to compliance of Section 176(1)(a) of Cr.P.C. in the present matter as the death is alleged to have occurred in police custody.

4. List this case on 3.9.2024 in additional cause list amongst top ten cases.

3. This court has again passed an order dated 19.02.2025 which reads as under:-

"1. Learned A.G.A., on instructions, states that the matter has been sent back to the Superintendent of Police concerned for judicial inquiry also.

2. On his request, list this case after six weeks."

4. Shri Bipul Kumar Singh has filed an instruction letter dated 04.08.2026 provided by one Gaurav Trivedi, SHO of Police Station, Sangipur, District Pratapgarh. The same is taken on record.

5. As per the aforesaid instruction, Final Report No. 40 of 2024 dated 11.11.2024 has been submitted before the court of Chief Judicial Magistrate, Pratapgarh on 02.01.2025 and the date has been fixed before the court concerned on 09.09.2026.

6. As per the aforesaid order dated 19.02.2025, this Court was informed that the matter has been sent back to the Superintendent of Police concerned for judicial inquiry. So it is not clear as to whether any judicial inquiry has been conducted by the Superintendent of Police or not in-as-much as final report dated 11.11.2024 has already been submitted on 02.01.2025 before the court concerned.

7. In view of the aforesaid fact, list this case on 12.08.2026 to enable learned AGA to seek fresh instruction from the Superintendent of Police, Pratapgarh or from the court concerned.

8. This matter may be taken up immediately after lunch."

3. In compliance of the aforesaid order, the reports have been filed by Sri Vipul Kumar Singh, learned State Counsel, which is already on record.

4. There is one report dated 03/04/2025 of Ms. Archana Tiwari-II, Chief Judicial Magistrate, Pratapgarh, wherein it is clear that the judicial inquiry

in terms of Section 176(1)(A) Cr.P.C. has not been conducted in the present matter. In a further report dated 11/12/2025, given by one Ms. Kumud Upadhyay, Chief Judicial Magistrate, Pratapgarh, it has been indicated that no request for judicial inquiry has been prayed by the family members of the deceased, so no such inquiry was conducted. The report further says that the body of the deceased was sent for the post-mortem and the same was conducted and as per antemortem report, the deceased received some injuries.

5. Noticeably, the Sub-Divisional Magistrate, Sadar, Pratapgarh had conducted the inquiry on 16/08/2024, which has been enclosed as Annexure No. P.A.-15 to the counter affidavit of the State. The medical report of the deceased has been referred and as per aforesaid Medical Report, the fact has been admitted that the deceased died when he was under custody of the STF. However, such Magistrate has observed that the death of the deceased appears to be natural as he was a heart patient and died of heart attack.

6. Be that as it may, it would be apt to reproduce Section 176 Cr.P.C. hereinbelow:-

"176. Inquiry by Magistrate into cause of death.—(1) 2[3 when the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of section 174], the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.***

[(1A) Where,—

(a) any person dies or disappears, or

(b) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police or in any other custody authorised by the Magistrate or the Court, under this Code in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within whose local jurisdiction the offence has been committed.]

(2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

3[(5) The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or police officer holding an inquiry or investigation, as the case may be, under sub-section (1A) shall, within twenty-four hours of the death of a person, forward the body with a view to its being examined to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Government, unless it is not possible to do so for reasons to be recorded in writing.]

Explanation.—In this section, the expression “relative” means parents, children, brothers, sisters and spouse.”

7. One report dated 04/09/2020 of National Human Rights Commission, Manav Adhikar Bhawan, INA, New Delhi (Full Commission) has been produced and the relevant paragraphs thereof are being reproduced hereinbelow:

PROCEEDINGS

In case No.41663/24/26/08-09-JCD, the Full Commission while considering an interpretation of Section 176(1)(A) Cr.P.C. on 5.4.2010 has been pleased to observe inter-alia, as

follows:-

"The interpretation of law has to be reasonable. A Judicial Magistrate should be called upon to hold an enquiry into the cases where serious questions of law are likely to arise. It looks incongruous if serious cases like those mentioned in clauses (i) or (ii) of sub-section [3] of Section 174 are to be enquired into by an Executive Magistrate but simple cases of natural death in custody are to be enquired into by a Judicial Magistrate or a Metropolitan Magistrate.

In our opinion, the correct position of law is that an enquiry by Judicial Magistrate or Metropolitan Magistrate is mandatory only in those cases of custodial deaths where there is reasonable suspicion for foul play or well-founded allegation of commission of an offence. All other cases of custodial deaths where the death is natural or caused by disease may be inquired into by an Executive Magistrate.

This clarification be circulated to all the States and Union Territories.

x x x

There is apparent ambiguity in the interpretation of Section 176 (1A) Cr.P.C., circular dated 5.4.2010 issued by the Commission may be withdrawn since in every case falling within the section 176 (1A) shall require a Judicial Magistrate or Metropolitan Magistrate to mandatorily hold inquiry

Accordingly, the circular of the Commission issued on 5.4.2010 in case No. 41663/24/26/08-09-JCD is revoked and withdrawn in reference to the amended provision of the Section 176 (1A) Cr.P.C., which was inserted by an Act of Parliament, 25 of 2005. A notification to that effect may be issued to all the State Governments and Union Territories."

8. After perusing the aforesaid facts and circumstances and noticing the fact that the deceased received antemortem injuries as per post-mortem report and the specific allegation has been levelled by the family members of the deceased that the deceased died within the custody of STF personnel on account of their torturous act, so, the judicial inquiry in terms of Section 176(1-A) Cr.P.C. would be required.

9. Accordingly, the District and Sessions Judge, Pratapgarh is directed to issue necessary direction to the Chief Judicial Magistrate to conduct the judicial inquiry in the present issue in compliance of the provisions of Section 176(1-A) Cr.P.C. Such inquiry shall be conducted and concluded with expedition, preferably within a period of six weeks from the production of a certified copy of the order of this Court and report thereof shall be produced before this Court on the next date within sealed cover.

10. Let a copy of this order be provided to District and Sessions Judge, Pratapgarh by the Registry of this Court within three days for its compliance.

11. List this case on 27.10.2026. The matter may be taken up immediately after lunch.

(Ram Manohar Narayan Mishra,J.) (Rajesh Singh Chauhan,J.)

August 14, 2026

KR