

IN THE RESIDENT MAGISTRATE'S COURT
AT NADI
INQUEST JURISDICTION

Inquest: 1 of 2014

Inquest into the death of
FINAU LESIVOU NATARAKU

Before : **NILMINI FERDINANDEZ**
RESIDENT MAGISTRATE

Date of Ruling : **18th day of February, 2022**

Counsels:

For Prosecution: **Ms. Lee** for the Attorney General's Office

For the Estate of the Deceased: **Mr. Tunidau**

Ruling

1. This is the report of the magistrate after **inquest** that was held into the cause of and the circumstances connected with the death of **Finau Lesivou Nataraku**, pursuant to the **Inquests Act, Cap 46**.

The Background of the case

2. The deceased **Finau Lesivou Nataraku**, a child aged 6 years has died on the 26th November 2012. She has complained of a pain in her left thigh after a fall in

school on the 22nd of November. Her parents have taken her to Nadi hospital on the next day where she has been examined physically and through Xray and has been prescribed with Panadol and Ibrufen.

3. On the next day she has vomited and complained of a stomach pain. She has also developed body rashes and her parents have rushed her to Nadi hospital again. That evening she has been rushed from Nadi hospital to the Children's ward in Lautoka Hospital in an ambulance and at the Lautoka hospital she has been fixed to machines to help her with breathing and heartbeat. However, she has died on the 26th of November 2012.
4. A postmortem examination has been held on the 30th November 2012.
5. An inquest has been held on 2nd February 2015 and 23rd July 2015 before RM Siromi Turaga and the findings of court have been due since then.
6. Mr. Turaga has ordered the secretary to prepare the transcripts of the inquest on the 28th March 2019 and the case record has been with him for the preparation of the report. On the 4th of October 2021 when this case was called before me, since the ruling has not been delivered yet, the parties have agreed for the present RM to prepare the Ruling based on the evidence of the inquest that had been conducted before Mr. Turaga.
7. Accordingly, I have studied the transcripts of the inquest and my findings of the inquest would be as followed.

Relevant Provisions of the Law

8. The **Inquests Act**, Cap 46 outlines the procedures for the holding on **inquests** and matters related to it.
9. The powers and duties of a Magistrate are laid out in the **Inquests Act, Cap 46**.
Section 7 of the Act states that

- (1) *If, upon receiving all necessary reports, a magistrate shall be satisfied, without holding an **inquest**, as to the cause of death, he shall report to the Attorney-General the cause of death as ascertained to his satisfaction.*
- (2) *A magistrate may hold an **inquest** if there is no body available, in any of the circumstances referred to in section 3.*
- (3) *A magistrate shall not hold any **inquest** under this Act if he has reason to believe that criminal proceedings against any person for having caused the death of the deceased have been, or are about to be, commenced.*
- (4) *In all other cases, the magistrate shall proceed as soon as possible to hold an **inquest** but may adjourn the **inquest** sine die if any such criminal-proceedings as aforesaid are commenced.*

10. Section 9 (1) of the **Inquest Act** provides that “a magistrate holding an **inquest** shall have all the powers exercisable by a magistrate in holding a criminal trial under the provisions of the Criminal Procedure Code and shall give at least fourteen days notice of his intention to hold any **inquest** by the insertion of a notice in the Gazette and a notice, in such languages, as he considers desirable, in such editions of a newspaper published and circulating in Fiji or some part thereof, as he shall think fit.”

11. Section 9 (2) states that “a magistrate holding an **inquest**, if he considers it expedient that the body of the deceased person should be examined by a medical officer in order to discover the cause of death, may, whether a post-mortem examination has been performed under the provisions of section 5 or not, issue an order to a medical officer to perform a post-mortem examination of such body, and may, for such purpose, order it to be exhumed.”

12. The Examination of witnesses and Order of Examination of the witnesses is provided in Section 11 and it provides as follows:

- (1) *Any person who in the opinion of the magistrate is a properly interested person shall be entitled to examine any witness at an **inquest** either in person or by a*

barrister and solicitor: Provided that the magistrate shall disallow any question which in his opinion is not relevant or is vexatious, scandalous or oppressive.

(2) *If the death of the deceased may have been caused by an injury received in the course of his employment or by an industrial disease, any labour officer or any officer of the Ministry of Labour senior to a labour officer or any person appointed by a trade union to which the deceased at the time of his death belonged shall be deemed to be a properly interested person for the purpose of this section.*

(3) *Any person having an insurable interest in relation to the deceased or any representative of an insurance company which has insured the deceased or his property or any property involved in his death shall also be deemed to be a properly interested person.*

13. Section 12 of the **Inquest** Act states that “*unless the magistrate otherwise determines, a witness at an **inquest** shall be examined first by him and if the witness is represented at the **inquest**, lastly by his representative.*”

14. The matters that are to be ascertained at an **inquest** and according to Section 15 (1) of the Act is that “*The proceedings and evidence at an **inquest** shall be directed solely to ascertaining the following matters, and any matters relevant thereto, namely:-*

(a) who the deceased was;

(b) the cause and the date and place of death;

(c) the persons, if any, to be charged with murder, manslaughter, infanticide, causing death by dangerous driving or of being accessories before the fact to such offences, should the magistrate find that the deceased came by his death by murder, manslaughter, infanticide or by dangerous driving;

*(d) the particulars for the time being required under the provisions of the **Births, Deaths and Marriages Registration Act** to be registered concerning the death.”*

15. Section 15 (2) of the **Inquest Act** further states that *“for the purpose of avoiding doubt it is hereby declared that a finding under paragraph (c) of subsection (1) shall not operate as a committal for trial nor shall such proceedings be deemed to be a preliminary inquiry.”*
16. As Per Section 16 of the **Inquest Act**, the Magistrate *shall not express any opinion* on any matters other than those referred to in Section 15, provided that nothing in this section shall preclude the Magistrate from making a recommendation designed to prevent the recurrence of fatalities similar to that in respect of which the **inquest** is being held.
17. The **Inquest Act** in Section 18 provides that the Evidence and findings are to be recorded and it provides that,
*“(1) Each magistrate holding an inquest shall record the substance of the evidence and shall set out his findings thereon in writing and shall forthwith transmit to the Attorney-General and the Chief Registrar of the High Court, copies of his record of such evidence and findings, certified by him as correct.
(2) The original of such record and findings shall be retained by the clerk to the magistrate's court in which the inquest has been held.”*
18. The following witnesses have been examined at the inquest.
 - (1) Adi Mere Radinibau – the mother of the deceased
 - (2) Krishan Kritesh Nand – Trainee Teacher at school
 - (3) Dr. Ravi Krishna Rao - The doctor who examined and prescribed medicine
 - (4) Tuliana Donu -Pharmacist at Nadi Hospital
 - (5) Dr. Avikesh Mate – The doctor who performed the post-mortem

(6) Xavier Riaz Khan – Pharmacist at Namaka Medisure Pharmacy

(7) PC 3217 Binesh – The investigating officer

16. Findings of Court

Upon consideration of the evidence of all the witnesses at the inquest, **the findings of this Court** are as followed:

a) Who the deceased was?

The deceased was **Finau Lesivou Natarakum.**

b) The cause and the date and place of death?

The cause of death is **Septicaemia** due to or as a consequence of **an infection in the blood causing blood poisoning.**

Date of death was **26th November 2012** at **Lautoka Hospital.**

c) The persons, if any, to be charged with murder, manslaughter, infanticide, causing death by dangerous driving or of being accessories before the fact to such offences, should the magistrate find that the deceased came by his death by murder, manslaughter, infanticide or by dangerous driving?

None.

d) The particulars for the time being required under the provisions of the Births, Deaths and Marriages Registration Act to be registered concerning the death?

As per the postmortem report.



Dated 18th day of February, 2022.

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Ms. Nilmini Ferdinandez

Resident Magistrate