TN DGP, govt should order FIR on Sathankulam cops in Bennix-Jayaraj case: Retd judges

The govt has repeatedly maintained that FIR will be filed after Kovilpatti magistrate finishes probe.

It has been over four days since Jeyaraj (58) breathed his last at the Kovilpatti government hospital and hours later, his son Bennix succumbed. The father-son duo where in judicial custody at the time of the death and despite many eyewitnesses alleging that they were tortured, no FIR had been filed against the policemen who were on duty in the Sathankulam police station on the fateful night of June 19.

Government and AIADMK spokespersons have told the media repeatedly over the last few days that KTNM spoke to two retired justices of the Madras High Court -- K Chandru and D Hariparanthaman -- and a human rights lawyer and activist Henri Tiphagne about the delay in filing the FIR.

“The Director General of Police (DGP) has every right to order an FIR be filed against the policemen who were at Sathankulam station that night under section 302 (Murder) of the IPC,” Retd Justice D Hariparanthaman told TNM. Pointing out that the inquiry by the judicial Magistrate into custodial deaths is a normal procedure in any death or violence that happens in a police station or prison, justice Hariparanthaman added that the DGP need not wait for the magistrate’s report to direct the police to file an FIR in this case.

Justice K Chandru, speaking to TNM, said that the inquiry into the incident by a magistrate is essentially a recording of statements and talking to people and not an investigation into the case. “Earlier, the revenue officials conducted this inquiry and submitted a report, but now it has been assigned to the magistrate,” he said. He added that an FIR is a tool to investigate the case and find out more about it and not a conviction in itself and hence the DGP should have ordered this immediately after the death of the two men.

“If the DGP didn’t, the Home Secretary should have ordered an FIR to be registered under section 302 against the policemen,” he said.

Both the former judges unanimously agreed that a court inquiry into the incident is independent of a police investigation into the case, and both can happen in parallel.

Human rights activist Henri Tiphagne pointed out that the announcement of a relief amount of Rs 10 lakh each and the promise of a government job to the kin of the deceased itself is a sign of something wrong in the incident.

He also slammed the senior policemen in the district who should have been aware of the happenings in their district. “Where were the Additional Superintendent of Police, Deputy Superintendent of Police etc on that night? Aren’t they supposed to have a track of the happenings in their jurisdiction? Beyond being a situation concerning one station, this is a failure at different levels,” he explained.
K Chandru also expressed his opposition to the High Court's demand that the postmortem report be submitted to the bench in a sealed cover. “When a report is submitted in a sealed cover, only the Dean of the hospital and the court will know what the contents are. Normally the victim’s family has a right to demand a copy of the autopsy report, but when it is in a sealed cover, they will definitely not be given a copy. In such case, the transparency is further clouded around the cause of the death of the victims,” he pointed out.

According to eyewitnesses, Jeyaraj and his son Bennix (31) were tortured by the police in Sathankulam station on the night of June 19 after they were arrested for minor offences. Early on June 20, the Sathankulam police took Bennix and Jeyaraj to the government hospital in the town for medical examination and then went to the Judicial Magistrate in Sathankulam for remand proceedings. Despite many eyewitnesses confirming that both of them were bleeding, the hospital gave a certificate and the magistrate granted remand.

The duo were sent to the Kovilpatti sub-jail on the same day. As per the information recorded by the Madurai bench of the Madras High Court, on June 22, around 7.45 pm, Bennix complained of chest pain and was taken to the Kovilpatti government hospital for treatment where he died around 9 pm. Meanwhile, Jeyaraj was also admitted to the same hospital around 10.30 pm on June 22 and died in the hospital around 5.40 am on June 23.

Kovilpatti magistrate was conducting a probe and the policemen who have been accused of torture can be charged after that.