

Human Rights Defenders Alert - India

National Coordination Office

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Special Rapporteur on the Situation of Human Rights Defenders,

Ms. Margaret Sekaggya

c/o Office of the High Commissioner for Human Rights - Palais Wilson

United Nations Office at Geneva

CH 1211 Geneva 10

Switzerland

Email: urgent-action@ohchr.org

Dear Ma'am,

Sub: *HRD Alert - India - Urgent Appeal for Action - West Bengal /
Murshidabad: Human Rights Defender Falsely Accused of Rape - Reg*

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a Forum of Human Rights Defenders for Human Rights Defenders. It endeavours to initiate actions on behalf of Human Rights Defenders under threat or with security concerns. We are now writing to express our grave concern regarding the situation of Mr. Gopen Chandra Sharma, a renowned human rights defender of Murshidabad district, West Bengal, India that has been falsely charged with rape.

Name of the perpetrators:

- 1) Ms. Fulsura Bibi, wife of Mr. Rabiul Sekh;
- 2) Mr. Sandip Sen, Officer in Charge of Hariharpara, Beldanga, Samshegunj, and Islampur police stations;

- 3) Mr. Maklesur Rahman, lawyer for the complainant;
- 4) Mr. Khalil Malitha and Mr. Buxar Mondal, witnesses for the complainant.

Date and time of incident: The complaint against Mr. Sharma was filed on December 3, 2012

Place of incident: Murshidabad district, West Bengal, India

About the activists:

Mr. Gopen Chandra Sharma is an RTI (Right to Information Act) activist in Murshidabad district, West Bengal, India. He has been fighting for human rights for many years. He has also been a District Human Rights Monitor of the human rights organization Banglar Manabadhikar Surakksha Mancha (MASUM) for Murshidabad district for nearly for a decade

Incident:

According to the information received, Mr. Sharma was working as a District Human Rights Monitor of Banglar Manabadhikar Surakksha Mancha (MASUM) for Murshidabad district for nearly for a decade. He is a resident of Dayarampur village, which falls under Jalangi Police Station of Murshidabad district. A false complaint of rape was filed against him by Ms. Fulsura Bibi, wife of Mr. Rabiul Sekh. The evidence (discussed below) shows that this complaint was made to stop his human rights advocacy. Fabricated charges have been filed against Mr. Sharma on numerous previous occasions too.

First, it is clear that the local police have reason to seek revenge against Mr. Sharma. In the course of his activism, Mr. Sharma has fought against human rights violations by police and Border Security Force personnel. This angered Mr. Sandip Sen, Officer in Charge of Hariharpara, Beldanga, Samshergunj and Islampur Police Stations. Mr. Sharma was instrumental in unearthing several incidents of custodial torture (including a sexual assault) committed

by Mr. Sandip Sen. One such incident led to disciplinary action against Mr. Sandip Sen by the West Bengal Human Rights Commission, and compensation was awarded to the victim which was taken out of Mr. Sandip Sen's salary. Mr. Gopen Chandra Sharma made fact findings regarding the torture, sexual assaults, and illegal arrests perpetrated by Mr. Sandip Sen. Examples include the custodial torture and death of Hayat Sekh, when Mr. Sen was with the Beldanga Police Station; the custodial torture and illegal detention of Mr. Pintu Sekh and others while Sandip Sen was with the Islampur Police Station; and the physical torture and illegal detention of Ms. Jamiran Bibi while Mr. Sen was with the Samshergunj Police Station.

Second, the complaining witness in the false case against Mr. Sharma—Ms. Fulsura Bibi—is hardly credible. Ms. Fulsura Bibi is approximately 35 years old and lives in Islampur market, very close to the local police station. She is a known drug peddler, selling Heroin after receiving it from Bangladesh. According to the information received, prior to this, she was a sex worker. Her first husband was a known criminal involved with undergarment smuggling from Bangladesh, but left the area after quarreling with his associates. Her second husband was a van rickshaw puller who was arrested many times by the Islampur Police for theft and burglary. He left the place under social pressure. The complainant's brother lost a limb while making a crude bomb. The complainant herself has had to maintain a relationship with local police to continue her illegal profession. Also, while, Ms. Fulsura Bibi's complaint states the rape happened on November 20, she did not file complaint until December 2—she waited nearly a fortnight, even though she allegedly has close proximity with the police. In addition, she has not uttered a word whether she has undergone any medical tests.

Third, the lawyer for the complainant, Mr. Maklesur Rahman, apparently has a shady reputation—he runs his office from the police station only and gets clients from the Police Station. Moreover, from 1996 to 1997, a girl from

Daulatabad- Gangaprasad locality was working with his family as domestic help at Bhejalipara. The girl became pregnant by Mr. Rahman and the families settled the issue out of court (no complaint was registered). The victim girl is now leading a married life at Dayarampur village under Jalangi police station.

Fourth, the witnesses named in the complaint also have dubious records. Two out of the three named witnesses – Mr. Khalil Malitha and Mr. Buxar Mondal – were convicted in gruesome murder of a housewife in Dayarampur village in 2005 and another.^[1] The third witness – Mr. Mahi Sarkar – is the brother of another convict in the same case. Mr. Sharma fought for the victim in that case, giving all three witnesses a reason to denounce him.

It is noteworthy that the police have been harassing Mr. Sharma. On December 12, at approximately 4.45 pm, two persons in civil attire (not in uniform) came to Mr. Sharma's residence on a motorcycle. They identified themselves as police to his mother and brother (Mr. Sharma was not present) and asked about his whereabouts. They also asked about how long he had been away and where he was staying. The officers told Mr. Sharma's family to tell him that he should visit Jalangi Police Station, as the Officer in Charge wished to see him.

It appears from the above evidence that the police and local criminals are working together to stop Mr. Sharma's human-rights work. Indeed, this has happened on three consecutive occasions in recent past – i.e., Mr. Ajimuddin Sarkar, Mr. Kanai Mondal, and Mr. Gopen Chandra Sharma.

Appeal:

We therefore urge you to immediately take necessary steps:

1. To locate the perpetrators, including the police, and prosecute them for their actions immediately.

- 2.To take all necessary steps to guarantee the professional and personal freedom of social activist Jarayaram Harapal.
 - 3.To ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by India.
 - 4.To guarantee in all circumstances that all human rights defenders in India are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions, including judicial harassment.
 - 5.Conform to the provisions of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, especially:- its Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”;
 - its Article 6(a), which provides that “everyone has the right, individually and in associations with others, to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms”;
 - and its Article 12.2, which states that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”;
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[1] The case was registered vide Jalangi Police Station (PS) Case 68/95 dated 25.05.95, under sections 498 (A)/ 302/ 34 of Indian Penal Code. The session serial was with number; SSL 33/2 in State Versus Makkar Malitha and others.

Looking forward to your immediate action in this regard,

Yours sincerely,

Henri Tiphagne

Honorary National Working Secretary,

Human Rights Defenders Alert - India