

# Human Rights Defenders Alert - India

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**1<sup>st</sup> October 2014**

Dr. K.G.Balakrishnan,  
Hon'ble Chairperson  
National Human Rights Commission,  
Manav Adhikar Bhawan,  
Block-C, GPO Complex, INA,  
New Delhi – 110 023  
Email: [covdnhrc@nic.in](mailto:covdnhrc@nic.in)

Dear Sir,

***Sub: HRD Alert - India - Urgent Appeal for Action – Tamil Nadu: Brutal assault, torture and filing of false cases on Human Rights Defender for interventions against sand mining and caste atrocities – Regarding***

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 over the brutal assault on human rights defender Poovarasam by Kaveripakkam police that has resulted in fractures and other serious injuries and the false cases foisted on him for the human rights work that he undertakes.

## **Source of Information on the Incident:**

- A communication dated 28 September 2014 from Makkal Mandram, a human rights organization active in the northern districts of Tamil Nadu, but particularly in the districts of Kancheepuram and Vellore.

## **About the Human Rights Defender under attack:**

Makkal Mandram is a mass organization working on human rights issues of people of Kancheepuram District in Tamilnadu. Their work also takes them across borders

to the neighbouring districts. Their work focuses specially on marginalized sections of people, the tribals (Irulars), dalits, women, and rural and urban poor in more than 50 villages of Kancheepuram district. Makkal Mandram is an autonomous organization which is not affiliated to any political party or group. Many Irulars from villages where Makkal Mandram is active are members of the organization.

Over the past several years, their work has included, among other things, liberating bonded Irular labourers from a nearby rice mill, and rehabilitating them with the help of previous district administrations, and enabling them to assert their rights, access basic services and Government schemes for Scheduled Tribes.

Mr. Poovarasam, S/o Chidambaram, a 28 year old Dalit youth from Athipattu Village, Kaveripakkam Post, Arakkonam Taluk, Vellore District, Tamil Nadu is a member of Makkal Mandram who has been actively working against caste atrocities and sand mining in the vicinity of Athipattu which irked some corrupt policemen, especially the perpetrators in this case, who were involved in a nexus with the illegal sand mining mafia. He is also the person responsible for Makkal Mandram in his village

#### **The Perpetrators:**

- The Kaveripakkam Police Station :
  - The Inspector of Police Mr. Kandiban
  - And the Special Sub Inspector Mr. Mohan
  - Sundar Constable (SB),
  - Kadiresan Writer, and the
  - Inspector's driver whose name is not known as well as other policemen who can be visually identified by the human rights defender

#### **Date and time of Incident:**

From 23rd September 2014, at around 11.30 pm

#### **Place of Incident:**

Athipattu Village, Vellore District, located at a distance of 35 KM from the district headquarters. It falls in Arakkonam Taluk and is near Kaveripakkam town. Kaveripakkam has a large presence of Vanniyar community people leading to their domination in the social, economic and political spheres. There are two major interrelated issues in Athipattu that are a source of the problems here – caste oppression of Dalits by the Vanniyar community and sand mining.

## **Incident**

According to sources, on the night of 23rd September 2014, at around 11.30 PM, Poovarasan was woken up by a team of 5 policemen and taken to the Kaveripakkam Police Station. This team of five police men consisted of Kandiban Inspector (SHO), Mohan Special Sub Inspector, Sundar Constable (SB), Kadiresan Writer, and the Inspector's driver. At the Station, they stripped him naked, tied his hands behind his back, and all five of them proceeded to beat him black and blue with their batons. After some time, a baton was inserted under one arm and pushed underneath the other arm so that he was raised high in the air by two policemen while Mohan SI beat him severely on the soles of his feet and shins with a baton. Then he was ordered to keep his hands open in front, and Kandiban brutally caned both his palms till these became swollen and numb due to lack of circulation. Then they made him jump up and down or shake his hands vigorously to bring back the blood circulation, and the police again started the process of beating him black and blue. Two policemen held him down forcefully by standing atop him with their boots; meanwhile, a third policeman thrashed him on the buttocks and waist. Two batons were forcibly thrust into his mouth; one was twisted into the jaw bone and the other was pressed against the roof of his mouth. They also kicked him in the chest, thighs, and back with their booted feet. In between these beatings, he was given several jars of pain relief balm to apply on palms and soles. The moment the pain reduced a bit, the brutal beatings would start again. All the time, he was continuously abused by filthy language with caste derogatory curses. The inspector Mr. Kandiban demanded to know 'do you think you are such a big shot that you will stop sand mining'. This vicious treatment went on from 2.00 am till 6.00 am. All five of them took turns assaulting him brutally for the entirety of these hours. By this time, he was no longer in a position to sit or stand and was barely conscious. But Poovarasan was chained to a table with an iron chain and left in that position till the next morning.

At 7.00 AM the next morning (24-9-14), Poovarasan's father accompanied by a lawyer and some relatives reached the police station. The lawyer and others noticed that his left hand and both feet had swollen conspicuously. His right jaw bone had a guava-sized bulge. His buttocks and waist were puffy and thoroughly bruised. He could neither stand up straight nor take a step. He could not even sit up. When they helped him up, he coughed up blood. The lawyer protested to this treatment but they did not release him from his chains till 11.00 am.

At 11.30 am, Poovarasan was sent to the District Munsif cum Judicial Magistrate – I Court for remand under the charge of a Head Constable. Before leaving the station, he was threatened not to reveal anything about the abuse he had suffered to the court. There was no complaint against him. The Inspector had booked a case against him under Sections 294 (A) (using abusive language) and Section 506 (I) (criminal intimidation). The Judicial Magistrate Ms. Gayathri Devi took one look at him and asked him what had happened. He narrated the entire episode of police brutality in custody. She returned the remand by asking the police constable to take the prisoner to Wallajahpet Government Hospital for medical examination and come back with the doctor's opinion as there were many visible injuries on his person. At the hospital, Dr. Suganya, duty doctor in the emergency ward, only made a cursory examination of the victim and did not make the mandatory Accident Register (AR) entry. It appeared that the Kaveripakkam police had already contacted her. By this time, a team of lawyers from Makkal Mandram had reached the hospital. They insisted that the AR entry should be made properly. She rudely told them to leave the place and said she would make the entries later. The team of lawyers met the Medical Superintendent of the Hospital immediately and insisted that the mandatory medico-legal procedure be followed with due care so that an accurate and genuine medical record can be made available to the court. The Medical Superintendent immediately called up Dr. Sukanya and reprimanded her for not doing her duty properly and instructed her to record an entry in the AR at once. It was only after this laborious insistence that the incident information—names and details of assaulters, details of injuries, locations, as well as other facts—was recorded in the hospital records. There appeared to be at least four fractures apart from multiple other injuries.

Back in court, as he was not in a condition to walk, Poovarasan was left lying in the ambulance with his father by his side, while two constables guarded it outside. A few policemen and Makkal Mandram's team of lawyers went back into the court. The Judicial Magistrate was looking at the remand papers once again. Meanwhile, the Inspector of Kaveripakkam Station arrived along with a few constables, boarded the ambulance and unlawfully ordered the driver of the ambulance to take it away. The driver drove it out of the court premises at considerable speed. Inside it, the Inspector threatened Poovarasan and his father that he would destroy their entire

family if Poovarasan did not retract his statement to the court. Poovarasan's father called Makkal Mandram's advocate on his cell phone immediately and Poovarasan cried out into the phone, 'sir please save me, I don't know where they are taking me. The inspector is threatening me with dire consequences.' The advocate switched on the loudspeaker in his cell phone so that the Judicial Magistrate's clerk could hear it as well. On being informed, the Judicial Magistrate got infuriated and ordered the court police to call all their departmental officers back into court at once with the ambulance or else she would take strict action against them. She also rang up the Superintendent of Police Vellore and gave him a telephonic report about the abduction of Poovarasan by Kaveripakkam police from the court premises. As there were no options for further intimidation left, the ambulance was forced to return to the court. The Judicial Magistrate admonished the Inspector of Kaveripakkam PS and gave him a stern warning in open court. The DSP Arakkonam rushed to the spot and tried to mediate a compromise. Poovarasan, his family and Makkal Mandram refused it and instead demanded justice for him and punishment for the guilty officers. The Judicial Magistrate released Poovarasan on bail by mentioning in the order 'apart from the merits of the case, the court is inclined to enlarge the accused on bail considering his injuries and treatment'. The Judicial Magistrate also recorded this incident in writing and forwarded it to the higher authorities.

Poovarasan was admitted to the Govt. District Headquarters Hospital at Addukkamparai in Vellore in the evening of 24th September. The next day morning, he was sent for X-ray tests. The duty doctor treated him in a very casual manner. The orthopaedic surgeon visited the ward at around 1.30 in the afternoon, looked at the x-ray reports and informed that there were no fractures. Makkal Mandram staff informed the doctor that Poovarasan complained of persistent pain in the right foot which was still swollen and that he was unable to put it down or stand on it. The doctor stood by his statement that there were no fractures. Just an hour before, another doctor who had come to examine Poovarasan had said that there was a fracture in his right foot. During lunchtime, when Makkal Mandram staff had gone out for just one hour, some policemen came in civil dress to meet Poovarasan in the ward and tried to talk to him but he refused and they left before the Makkal Mandram team returned.

After lot of deliberations with hospital authorities who were reluctant to discharge him --despite saying that Poovarasan had to be taken from there for safety reasons--it was only at around 8.30 pm that he was allowed be taken. The doctor refused to let them mention that they were taking the patient because they were not satisfied with the security and treatment at the hospital. Moreover, according to the hospital authorities, since this was not a discharge by the doctor, the patient is not entitled to a discharge summary, scan or x-ray reports or any other medical documents pertaining to his own self, body and health. So Poovarasan had to leave the hospital without any medical record of his injury or treatment given at this hospital. The next day viz. 26th September 2014, Poovarasan was admitted to a private medical hospital in another town, to keep him safe and out of reach of Kaveripakkam police. Another series of X-Rays were done. The orthopaedic doctor there confirmed that there is indeed a fracture in his foot. Poovarasan also complained of chest pain and vomited several times that day. The nerves and muscles on both his hands and feet have been crushed. There are lacerations in his mouth and severe contusions on his buttocks.

**Appeal:**

We, therefore urge you to immediately take necessary steps to ensure that the Director General of Police Tamilnadu immediately takes personal note of this case and informs not only the Inspector General of Police [ North], the Deputy Inspector General of Police , Vellore as well as the Superintendent of Police, Vellore and personally

- Orders an immediate, thorough, transparent, effective and impartial investigation led by a Special Investigation Team [SIT] led by a team of senior police officers from the Crime Branch CID in Chennai led by an officer not less than that of a Superintendent of Police into the above-mentioned events and brings the Policemen to book under relevant provisions of the Indian Penal Code as well as the SC/ST POA and any other law that may be applicable in this case;
- Order that the said enquiry by the SIT also specifically look into whether all the provisions of the amended Criminal Procedure Code as per Sections 41A, 41B, 41C, 41D, 50A, 55A, 56, 60A have been adhered to in this specific case and also to find out if the same have also been followed in all cases of arrest

undertaken in Vellore district of Tamilnadu from 01. 08.2014 till 31.08.2014, including the establishment of a control room as envisaged under Sec 41 C of the Cr.P.C.;

- Ensure the immediate withdrawal of the false charges filed against Poovarasan with immediate effect given the fact that there is no complaint in this case;
- Give an assurance urgently to the NHRC that no one from the village of the human rights defender or anyone in his family or member of Makkal Manram will be in any manner, directly or indirectly threatened, coerced or in any manner be attempted to be won over to refrain them from deposing in this enquiry by using the services of serving or retired police personnel or those of the intelligence services of the Tamilnadu police; this ,
- Along with the District Collector that the Superintendent of Police of Vellore guarantees in all circumstances the physical and psychological integrity of Mr. Poovarasan and his family members as they continue to be under risk of further attacks by the perpetrators and give this assurance to the NHRC of India in writing immediately and urgently;
- Along with the District Collector that the Superintendent of Police of Vellore puts an end to all acts of harassment against all human rights defenders in general and particular those belonging to the Makkal Manram to ensure that in all circumstances they carry out their legitimate activities without any hindrances;
- Along with the District Collector that the Superintendent of Police of Vellore ensure that they engage the voluntary services of Human Rights Alert – India [ HRDA] after paying their travel expenses and other costs to handle a one day sensitization session within three months from the date of the order, in the presence of both the District Collector as well as the District Superintendent of Police for all district / Taluk, block level officers of all departments, including all the Public Prosecutors on the UN Declaration on the Rights of Human Rights Defenders, as well as the duties of the state officers towards such human rights defenders;

We, further urge you to immediately take necessary steps to ensure that the District Collector of Vellore immediately intervenes in this case to ensure that the human rights defender Poovarasan is rushed immediately using the services of the 108 ambulance to the Christian Mission Hospital Vellore [popularly known as the CMC hospital Vellore] or in case they find that they cannot for some reason handle the case to rush the HRD in the said 108 ambulance to the Multi Super Speciality Hospital, Omandurar Government Estate, Chennai for immediate specialised medical care and attention at total state costs with the Medical Superintendent of the said hospital personally reporting both orally and in writing to the NHRC on the first day after admission of the human rights defender and thereafter on a weekly basis in writing and that he be discharged only upon specific orders from the NHRC in this regard; that further that the family members of the human rights defender are also paid their daily costs for staying with him in the hospital as long as he is admitted there and compensated at the prevailing rates for daily wages for daily laborers under the Minimum Wages act in Vellore;

We, further urge you to immediately take necessary steps to simultaneously ask the investigation wing of the NHRC along with the Special Rapporteur of the NHRC based in Chennai to also investigate this case independently meeting not only all the police men, but the Judicial Magistrate, the doctors in all hospitals, the concerned lawyers and send a detailed report after informing HRDA of the investigation so that we may be able to line up all the required witnesses on our side in this case;

- We, further urge you to immediately take steps to ensure that sufficient directions are sent to the Chief Secretary of the State of Tamilnadu as well as the Director General of Police of Tamilnadu to ensure they engage the voluntary services of Human Rights Alert – India [HRDA] after paying their travel expenses and other costs to handle a one day sensitization session in the six different regions of the state, at least one in Chennai, one in Vellore, one in Coimbatore, one in Trichirapalli, one in Madurai and one in Tirunelveli within three months from the date of the order of the NHRC, and in the presense of the NHRC's own focal point on HRDs and in the presence of both the Chief Secretary and the DGP for all District Collectors, all District SPs and all District / Divisional level officers [such as DSPs, DROs, RDO, Thasildars] responsible for different departments including the police and prosecution on the UN Declaration on the Rights of Human Rights Defenders as well as the duties of the state officers towards such human rights defenders;

Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially:

- 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”
- Article 12.2, which provides 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”;
- More generally, ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with the Universal Declaration of Human Rights and with international human rights instruments ratified by India is strictly adhered to in Vellore.

Looking forward to your immediate action in this regard,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath.

**(Henri Tiphagne)**

Honorary National Working Secretary