



## Human Rights Defenders Alert - India

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**March 15<sup>th</sup> 2015**

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: Senior Social Activist – Mr. traffic Ramasamy - hospitalized a day after being arrested on false charges – Regarding***

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a Forum of Human Rights Defenders for Human Rights Defenders. It endeavors 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 arrest and remand of senior social Activist Mr. 'Traffic' Ramaswamy, aged 81 on the 12<sup>th</sup> of March 2015 by City Police in Chennai. He was hospitalized a day later.

**Source of Information on the Incident:**

- Media reports

**The Human Rights Defender:**

Mr. K R Ramaswamy popularly known as Traffic Ramaswamy is an 82-year-old former mill worker, a founder member of Tamil Nadu's Home Guard, and a self-appointed traffic policeman, public interest litigator and social activist from Chennai. He has filed several hundreds of public interest litigations before the Madras High

Court and ensured the Madras High Court's intervention in several important public interest matters.

Much of his activism relates to regulating traffic in Chennai. Initially, he started unofficially directing traffic at the city's busy Parrys Corner. The local police were pleased with his efforts and provided him with an official identity card. He acquired the nickname '*Traffic Ramaswamy*' after that. He has filed many public interest lawsuits in the Madras High Court. In 2007, he was attacked by his opponents' lawyers on the steps of the courthouse. This was not the first time, he has been attacked: in 2002, he was assaulted by fish sellers, after he obtained a ban on the use of motorised fish carts, damaging his sight and his family has disowned him. He has also had his office ransacked and papers were stolen. His activism has resulted in the demolition of some illegally constructed buildings in Chennai, restrictions on motorised fish carts, de-congestion of major bus routes by banning auto rickshaws from them, and a review of lavish state funding for a feature film (arguing the money could be more properly used for development work). He is now accompanied day and night by an armed police bodyguard.

On October 2013 he filed a PIL against the Chief Minister of the state of Tamil Nadu Jayalalithaa seeking for the removal of name Amma from the Government schemes. Jayalalithaa is called as Amma by her followers.

#### **The Perpetrators:**

- Unknown persons who assaulted the HRD while removing flex boards / posters at Purasawalkam
- One Veeramani who made the false complaint based on which the arrest was carried out
- The concerned Inspector of Police and all senior police officers who were in the know of the matter for registering a case under baseless charges and presenting him to the Judicial Magistrate for remand contrary to the Guidelines of the Supreme Court in Arneesh Kumar Vs State of Bihar [July 2014].

- The Concerned Judicial Magistrate who had ordered his remand totally contrary to the Guidelines of the Supreme Court in Arneesh Kumar Vs State of Bihar [July 2014].

**Date of Incident:**

12<sup>th</sup> of March, 2015, Thursday

**Place of Incident:**

A lodge where the HRD was staying in Triplicane in Chennai, the capital city of the Southern Indian State of Tamil Nadu

**Incident detail:**

According to the sources, the 82-year-old activist has been waging a legal battle against illegal flex banners. According to the Defender he was removing posters on Alagappa Road, Purasawalkam, on Wednesday [11<sup>th</sup> March 2015] when some persons came and started arguing with him to stop removing them from the wall. One from the group gave him a blow on the face too. The police claimed he issued death threats to a man, who was driving a car. The activist was subsequently arrested in the wee hours of the following day, the 12<sup>th</sup> of March 2015 from a lodge at Triplicane, where he was staying, and remanded to judicial custody.

His health condition worsened in the prison in the wee hours of the next day, forcing the prison officials to hospitalise him. The activist was admitted around 4.00 a.m. on the 14<sup>th</sup> of March 2015 in an unconscious state. After treatment in the Intensive Medical Care Unit, he was shifted to the convicts' ward in the hospital within a few hours. But the doctors again shifted him to the IMCU, as Mr. Ramasamy complained of abdominal pain.

Meanwhile, the Madras High Court on the 13<sup>th</sup> of March, 2015 held that prima facie it appears that the arrest and taking into custody of social activist 'Traffic' KR Ramaswamy in the small hours of Friday was unjustified. The authorities should justify their action in effecting the arrest at 4 AM and the need for seeking remand etc., Justice TS Sivagnanam said and directed that Ramaswamy be shifted from the Government Royapettah Hospital and treated at the Government Super-Speciality Hospital at the Omadurar estate. The Judge was passing interim orders on a writ

petition from one Mr. G Ravikumar of Pattalam, who claimed himself as a friend of Mr. Ramaswamy.

Mr. Ramaswamy had also lodged a complaint before the Inspector of Police, Vepery station at 10.30 AM, on March 11. It is not known as to why Mr. Ramaswamy's complaint has not been enquired into and no action has been taken, when an FIR was promptly registered on the complaint given against him by one Mr. Veeramani. By applying the guidelines of the Supreme Court in the Lalita Kumari vs. Government of Uttar Pradesh & others case in 2013, action ought to have been taken pursuant to Mr. Ramaswamy's complaint. Therefore, prima facie it appears that the Inspector of Police, Vepery, was selective in registering the case, the Judge said. However, the Judge observed that no conclusion could be drawn at this stage as the authorities were yet to file their counter.

It is also represented that the Police have no authority to present Mr. Ramsamy for remand as per the Guidelines of the Supreme Court in Arneesh Kumar Vs State of Bihar [July 2014] where the police should have placed special reasons in writing before the Judicial Magistrate for the remand of the accused. The Judicial Magistrate also has to ensure that remand in such cases where the offence complained of are for punishments of less than 7 years. The Hon'ble Supreme Court has mandated that in such cases there are contempt proceedings along with disciplinary proceedings initiated against the Police and disciplinary action against the Judicial officers.

**Appeal :**

We, therefore urge you to immediately take necessary steps to ensure that the Commissioner of Police Chennai

- Orders an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned events of the targeting of the human rights defender and drop the baseless charges against him unconditionally and takes steps to release him immediately before the court with special consideration given to his age and health condition
- Take immediate action on the perpetrators for the assault on the elderly Defender

- Initiate departmental action on the police who framed baseless charges on the Defender and did not confirm to the Guidelines of the Supreme Court in Arneesh Kumar Vs State of Bihar [July 2014].
- Place a request to the state head of the police for transferring the investigation in this case to the State Crime Branch CID Police so that the local police who have carried out the arrest in the first place do not get involved in the same investigation;
- Guarantee in all circumstances the physical and psychological integrity of Mr. Ramaswamy
- Ensure provision of reparation, compensation, apology to the defender for the physical and psychological sufferings he underwent because of this assault and charges and provide a re-assurance of not engaging in such acts against HRDs such as Ramaswamy;
- Put an end to all acts of harassment against all human rights defenders in the State of Tamil Nadu to ensure that in all circumstances they carry out their activities without any hindrances;
- Takes steps to conform to 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”;
- Recommend urgently and speedily during the pendency of this complaint the SHRC in Tamilnadu to also take necessary steps to establish a state focal point for HRDs in order that HRDs in the have a new protection mechanism in their own state.

- Recommend urgently and speedily during the pendency of this complaint the SHRC in Tamilnadu to convene a meetings of all state human rights institutions in the state [women, minorities, right to information, children, disability etc] to ensure that a coordinated strategy is developed within the State of Tamilnadu for the protection of the rights of human rights defenders.
- Recommend urgently and speedily during the pendency of this complaint the State Government of Tamilnadu in collaboration with the NHRC Focal Point on HRDs and the SHRC Tamilnadu to provide sensitization training to law enforcement and security forces on the role and activities of human rights defenders as a matter of priority, with technical advice and assistance from relevant United Nations entities, NGOs and other partners.
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Tamilnadu in collaboration with the and the SHRC Tamilnadu to publicly acknowledge the importance and legitimacy of the work of human rights defenders, i.e. anyone who, “individually and in association with others, ... promote[s] and ... strive[s] for the protection and realization of human rights and fundamental freedoms at the national and international levels” (art.1 of the Declaration on Human Rights Defenders). a to convene a meetings of all state human rights institutions in the state [ women, minorities, right to information, disability etc] to ensure that a coordinated strategy is developed within the State of Tamilnadu for the protection of the rights of human rights defenders.
- *That the NHRC also urgent and speedily intervenes in the Madras High Court in the Writ Petition that has been filed and on which orders have been passed by the Hon'ble High Court Judge with the specific permission of the said court as per provisions in Sec 12(b) of the Protection of Human Rights Act 1993 since this clearly pertains to a human rights violation against a human rights defenders, Mr.Ramasamy. It is such pro-active actions that are required in such complaints being preferred to the Hon'ble Commission when HRDs are affected since these are the specific occasions for the Hon'ble Commission to publicly advocate on behalf of HRDs before the Courts of law so that the law on HRDs is furthered through the domestic courts of law. We wish to remind the Hon'ble Commission most respectfully that the Courts of law in this country including the higher judiciary do not have the opportunities that this Hon'ble Commission possesses to be exposed to the developing*

*international jurisprudence on the protection of human rights defenders and it is therefore the responsibility of this Hon'ble Commission to place this newly developing jurisprudence before the domestic courts so that a domestic law develops through judicial pronouncements on human rights defenders and their protection. .*

- *The HRDA further wishes to state that any delay in handling such complaints from HRDs across the country and treating them on par with other complaints will be a loss to the larger human rights community in this country. It is pertinent therefore that this Hon'ble Commission hears this complaint urgently and takes necessary steps to intervene before the Madras High Court with lawyers who are competent in human rights law to represent the Hon'ble Commission. HRDA wishes to also further state at the cost of repetition that delay in action will be construed only as a disservice to the larger HRD community in the country and this cannot be overcome by any number of conferences for HRDs as was recently conducted by the Hon'ble Commission on 19<sup>th</sup> February 2015 in New Delhi.*
- *HRDA is strongly of the opinion that this is an opportunity provided under the statutes and hence the Hon'ble NHRC cannot afford to let this opportunity be missed. Further, the Hon'ble Commission also has its own standards on arrest published in several of NHRC's publications and this is a case where the Supreme Court's guidelines on arrest have also been flouted and need to be pointed out to the court since it is the conscience of the larger human rights defenders' community.*
- More generally, ensures in all circumstances the respect for human rights and fundamental freedoms in accordance with in accordance with the Universal Declaration of Human Rights and with international human rights instruments ratified by India.

Looking forward to your immediate action in this regard,

Yours sincerely,



Henri Tiphagne

Honorary National Working Secretary