



Human Rights Defenders Alert - India

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Shri A. K. Parashar

National Focal Point - Human Rights Defenders & Joint Registrar

National Human Rights Commission

Manav Adhikar Bhawan,

Block-C, GPO Complex, INA,

New Delhi – 110 023

Email: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Tamil Nadu: Illegal arrest and detention under sedition charges of folk singer and member of the cultural wing of Makkal Kalai Ilakkiya Kazhagam, a performing arts group of Trichy Mr. S Kovan, for the songs he had penned criticising the liquor policies of the Government of Tamil Nadu and Chief Minister Ms. J Jayalalithaa - 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 regarding the Illegal arrest and detention under sedition charges of Tamil folk singer and member of the cultural wing of Makkal Kalai Ilakkiya Kazhagam or People's Art and Literary Association, Mr. S Kovan by Tamil Nadu police from his house at Maruthanda Kurichi near Tiruchi at 2 AM on Friday 30 October, 2015. Mr. S Kovan, a 45-year-old folk singer was arrested for the lyrics of two songs he had penned in the last few months for making direct remarks on the Chief Minister of Tamil Nadu Ms. J Jayalalithaa on her party and its liquor policies.

Status of the Human Rights Defender

Mr. S Kovan, a 45-year-old Tamil folk singer, hails and lives at Maruthanda Kurichi, Oraiur in Trichy city of the Indian state of Tamil Nadu. He is leading the cultural wing of Makkal Kalai Ilakkiya Kazhagam or People's Art and Literary Association which is a 30-year old movement working for the weaker sections of the society with an active cultural wing that performs folk songs and street plays on socio-economic-cultural issue. Mr. S Kovan has been critical against the government in many of his songs. Kovan also targeted the government on other issues like rising food prices and education system in the state. HRDA states categorically that not only Kovan but his organization **the 'Makkal Kalai Ilakkiya Kazhagam or People's Art and Literary Association'** is a human rights defender as per Art 1 of the UN Declaration on Human Rights Defenders and as long as they work as per Sec 12 of the Declaration they will continue to be HRDs. .

Mr. S Kovan is being targeted for the lyrics of two songs he had penned against the government and Chief Minister of Tamil Nadu Ms. J Jayalalithaa, criticising her liquor policies. While the lyrics of 'Moodu TASMAL Moodu' appeals the ruling party to close liquor shops as it has already spoiled the state, 'Ooruku oru Sarayam' reportedly put Kovalan in trouble as it had direct remarks on Jayalalithaa and her party. The songs have gone viral on social media. Mr. S Kovan has been charged for 124A (Sedition), 153A (Promoting enmity between different social groups and doing acts prejudicial to maintenance of harmony) and 505/1 (Criminal intimidation, insult and annoyance) of IPC.

Source of Information on the Incident:

- The regional Coordinator for the South of HRDA India
- Media Reports

Date of Incident:

30 October 2015

Place of Incident:

Folk artist and activist Mr.S. Kovan's house at Oraiur in Trichy, Tamil Nadu

The Perpetrators:

Chennai City Crime Branch police, Chennai, Tamil Nadu

The Commissioners of Police, Trichirapalli and the Commissioner of Police Chennai who refuse to adhere to the human rights norms relating to arrest now incorporated in the Cr.P.C. under Sec 41 .

Incident detail:

According to sources, Mr. Kovan, a Folk artist, activist and also a member of the Makkal Kalai Ilakkiya Kazhagam (B,C, & D MKIK) performing arts group based in Trichy was arrested by Chennai police for criticising the government and Chief Minister J Jayalalithaa in Tamil Nadu.

On October 30 at 2 AM, folk artist and activist Mr. Kovan was picked up by the police officers of the Chennai police who arrived at his house at Oraiyur in Trichy and detained him. Later Mr. Kovan was brought to the DGP's office in Chennai on Friday morning.

While reports state that, a senior police officer confirmed that Kovan was brought to Chennai early morning and is being held in the DGP office, But Kovan's lawyer, Mr. Gym Milton has said he was denied permission to meet the singer and states that they have no clue about his whereabouts and has filed a Habeas Corpus petition in the Madras High Court.

Mr. Kovan is stated to have been arrested under 124A (sedition), 153 (attempt to create enmity between social groups) and 502/1 (sale of any printed or engraved substance containing defamatory matter) by the Chennai city crime branch police.

When Mr. Kovan was 'arrested' in Tiruchirapalli, the procedures under Sec 41 of the Cr. P.C. were not adhered to and no arrest memo was issued stating the reasons for his arrest as mandated under Sec 41 B. While being taken to Chennai later the provisions of sec 41D of the accused meeting his layer were not adhered to at all. Both in Trichirapalli and in Chennai the provisions of Sec 41 D of the Cr.P.C. were not adhered to not only in this case but in all cases making a mockery of the law of arrest which is the basic human rights of any individual, leave alone that of a human rights defender. The practice of having a control; room where every arrest is recorded in a notice board outside the control room is not followed in the Offices of the Police Commissionerate and District Superintendent of Police Trichirapalli as well as the Office of the Police Commissioner in Chennai and the office of the DGP in Chennai.

Mr. Kovan was arrested after he had recently released two of his songs, 'Moodu TASMAL Moodu' and 'Ooruku oru Sarayam'. These songs are on the subject of alcoholism in the State and blame the Jayalalithaa government for the same. While the lyrics of 'Moodu TASMAL Moodu' appeals to the ruling party to close liquor shops as it has already spoiled the state, the other song 'Othe cause ofhis arrest. oruku oru Sarayam' reportedly put Mr. Kovan in trouble as it had direct remarks on Ms. Jayalalithaa and her party and the song claims she is rejoicing at the 'Poes' (her residence in Poes Garden), while people are dying due to liquor consumption. It also discusses the contradicting social situations in the state where one gets an Idli for Re 1 but have to spend several lakhs of rupees for education. In further lines it also blames that the main source of liquor shops in Tamil Nadu is 'Midas,' (a distilleries company with alleged links with Ms. Jayalalithaa's close aide Sasikala) and that their future will be at risk if the liquor shops are closed.

The songs also talk about increasing prices of education and food, and say that, if people don't cry out that she (Jayalalithaa) is their saviour, they would be killed.

Sources in the police have said there was pressure to take strong action as both songs had been going viral in the social media networks for the past few weeks after it was originally uploaded on Tamil website – vinavu.com and went viral on YouTube.

Appeal:

We, therefore urge you to immediately -

- Order an immediate, thorough, transparent, effective, independent and impartial investigation into the above-mentioned incident of illegal arrest and detention of folk artist and activist Mr. Kovan by the NHRC's investigation wing since no wing of the state police in Tamilnadu can be expected to undertake an independent investigation in this matter ;
- Take immediate action on the perpetrators in this case the Commissioners of police of Chennai and Trichirapalli, the Chennai Crime Branch City Police for the illegal arrest, detention and harassment of folk artist and activist Mr. Kovan; and use all provisions of law to ensure that the human rights defender is immediately released on bail and not harassed, ill treated and falsely implicated by the police in future;

- Ensure immediate appointment of a competent senior lawyer practicing on the criminal side in Chennai, Tamil Nadu to defend the HRD in all the criminal cases registered against him at State cost and with the counsel so appointed reporting to this Hon'ble Commission at periodic intervals as determined by the Hon'ble Commission on the development in these cases;
- Ensure provision of reparation, compensation, apology to the human rights defender for the physical and psychological suffering he underwent because of the harassment and provides a re-assurance of not engaging in such acts against HRDs;
- Put an end to all acts of harassment against all human rights defenders including cultural artists like Mr. Kovan as well as others in the State of Tamil Nadu to ensure that in all circumstances they carry out their activities as human rights defenders 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";
 - Article 8.2 provides that human rights defenders have the ' right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.".

- Recommend urgently and speedily during the pendency of this complaint the SHRC in Tamil Nadu to also take necessary steps to establish a state focal point for HRDs in order that HRDs have a new protection mechanism in their own state;
- Recommend urgently and speedily during the pendency of this complaint that the SHRC in Tamil Nadu convenes a meeting of all state human rights institutions in the state [women, minorities, right to information, disability, children etc.] to ensure that a co-ordinated strategy is developed within the State of Tamil Nadu for the protection of the rights of human rights defenders;
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Tamil Nadu in collaboration with the SHRC Tamil Nadu 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);
- More generally, ensures 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 the state of Tamil Nadu.

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