



## Human Rights Defenders Alert – India

National Coordination Office

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**Shri A. K. Parashar**

National Focal Point - Human Rights Defenders & Joint Registrar

National Human Rights Commission

ManavAdhikarBhawan,

Block-C, GPO Complex, INA,

New Delhi – 110 023

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Dear Sir,

**Sub: *HRD Alert - India - Appeal for Action – Tamilnadu: Illegal arrest and foisting false cases against human rights defenders Mr.VinayagaMoorthy, district Secretary of ViduthalaiSiruthaigaikatchi [VCK] and three others - Denial of their rights to assemble peacefully and register their protest, by the police of Karungalpalayam police station, Erode district , Tamilnadu–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 [ HRDs ] under threat or with security concerns.

We are writing to express our grave concern regarding the illegal arrest and filing of false cases against HRDs Mr.Vinayaga Moorthy, District Secretary of Viduthalai Siruthaigal Katchi and three others namely Mr. White Shathik, Mr.Jaffer @ Ali Bai and Mr.Faisil Ahmedby the police of Karungalpalayam police station, district Erode, Tamil Nadu. Mr. Vinyaga Moorthy and other HRDs were denied their democratic right to assemble peacefully and register their protest to express solidarity to the on-going campaign against liquor sale in Tamilnadu.

**Source of Information on the Incident:**

- Letter addressed by Mr.Vinayaga Moorthy to the Executive Director, Peoples Watch
- Related documents received from Mr. Vinayaga Moorthy
- Media reports
- The Regional Coordinator of HRDA for South of India and the Tamilnadu State Focal point for HRDA, Mr. Aseervatham.

**Status of the Human Rights Defender:**

Mr. Vinayaga Moorthy belongs to the Arunthathiar Community of Tamil Nadu which is considered as one of the scheduled caste communities in the state. Mr. Vinayaga Moorthy is the Erode District Secretary of Viduthalai Siruthaigal Katchi [VCK], a registered political party in the State of Tamilnadu. The party is working against caste discrimination and caste-based violence on socially and economically weaker sections of society. It believes in the empowerment of the socially and economically weaker sections of society, bringing equality among Tamil people, and fighting against the caste system. Mr. Vinayaga Moorthy is also a Council Member of Erode Municipal Corporation and has been actively involved in the public life for the last 30 years.

**The Perpetrators:**

1. Mr. K. G. Sivakumar, Inspector of Police, Karungalpalayam police station, Erode District
2. Mr. Tharmaraj, Sub Inspector of Police, Karungalpalayam police station, Erode District
3. Ms. P. Gomathi, Sub-Inspector of Police, Karungalpalayam police station, Erode District
4. Mr. Anbalagan, Spl. Sub Inspector of Police, Karungalpalayam police station, Erode District
5. Mr. Mohanraj, Spl. Sub Inspector of police, Karungalpalayam police station, Erode District
6. Mr. Sasikumar, Head Constable, Karungalpalayam police station, Erode District
7. Mr. MohanaGanabathy, Head Constable, Karungalpalayam police station, Erode District

**Date of Incident:**

3<sup>rd</sup> August 2015

**Details of the incident :**

According to sources, on 3<sup>rd</sup> August, 2015 at around 9 PM while Mr. Vinayaga Moorthy was in his house with his family, Mr. K. G. Sivakumar, Inspector of Police, Karungalpalayam police station, Erode along with Sub Inspector Tharmaraj came to his house. They picked up Mr. Vinayaga Moorthy and took him to the police station for questioning. The provisions of the Criminal Procedure Code. relating to arrest u/s 41 of the Cr.P.C. were not followed.

At the policed station Mr. Vinayaga Moorthy was told that he was taken under precautionary arrest so as to stop him joining the protest against liquor sale which was to be held the next day on 4<sup>th</sup> August, 2015. But even then no custody memo was provided to him upon his arrival at the police station. But on the contrary, the police filed a First Information Report (FIR) in CR.No.443 of 2015 under section 151 Cr.P.C. r/w 7(1)(9) of CLA Act against him. The FIR charged him with committing serious offences and stated that he was involved in conspiracy, acts of damaging government property including rioting. The police also arrested six other persons who were with him.

Mr. Vinayaga Moorthy was subjected to ill treatment and made to suffer a lot while in custody. He is a diabetic and was not allowed to take medicine in time which affected him physically and psychologically. It is alleged that this case has been filed to end his political career and damage his reputation.

On 6<sup>th</sup> August 2015 the advocate for Vinayaga Moorthy and three others namely Mr. White Shathik S/o Shagul Hamed, Mr. Jaffer@Ali Bai s/o Hanifa and Mr. Faisil Ahmed s/o Jaffer Ali filed an application for bail under section 437 of Cr.PC before the Judicial Magistrate 1 Erode. The Magistrate while deciding on the petition heard the lawyer for Mr. Vinayaga Moorthy who submitted to the court that his clients were arrested on 3<sup>rd</sup> August for preventing the agitation on 5<sup>th</sup> of Aug 2015 and that the date has expired now and therefore they were seeking bail. But the public prosecutor on behalf of the police submitted to the court that the petitioners were trying to stage an agitation for closure of TASMAL liquor shops which is widespread in the entire state of Tamilnadu and one more agitation was being planned on the 10<sup>th</sup> of August, 2015 and therefore releasing them on bail would cause hardships, law and order problems and hence sought dismissal of the bail petition.

### **Appeal:**

We, therefore urge you to immediately take necessary steps to ensure that the Commissioner of Police and the District Collector cum District Magistrate of Erode District -

- Order an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incident of illegal arrest and slapping false cases against the HRDs Mr. Vinayaga Moorthy and three others;
- Take immediate action on the perpetrators, in this case police officials of Karungalpalayam police station, district Erode, Tamil Nadu for the illegal arrest, detention and harassment of the HRDs using all provisions of law to ensure that the defenders are not harassed, ill-treated and falsely implicated by the police in future;
- In particular action has to be contemplated against the Inspector of Police of the concerned Karungalpalayam police station for having remanded the accused contrary the judgement of the Supreme Court in Arneskumar Vs State of Bihar and another [ 2<sup>nd</sup> July 2014] for producing the accused for remand without specifying the special reasons to do so as mandated in the aforesaid judgment .
- Guarantee in all circumstances the physical and psychological integrity of the family members of Mr. Vinayaga Moorthy and the three others who still face the risk of further reprisals from the perpetrators;
- Ensure provision of reparation, compensation, apology to all the defenders and their families for the psychological sufferings they are undergoing because of their arrest;
- Put an end to all acts of attack and harassment of all human rights defenders like Mr. Vinayaga Moorthy and three others in the State of Tamilnadu and to ensure that in all circumstances they carry out their activities as defenders of human rights 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 to ensure that HRDs have a new protection mechanism in their own state;
- Recommend disciplinary action as directed by the Supreme Court in this case by the Chief Justice of the Madras High Court against the Judicial Magistrate before whom the HRDs were produced for remand for not having adhered to the directions of the Supreme Court fo India in the case of Arnesh Kumar Vs State of Bihar.
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Tamilnadu to convene a meeting of all state human rights institutions in the state [women, minorities, right to information, disability, children 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 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);
- More generally, ensure in all circumstance 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 Tamilnadu.

Looking forward to your immediate action in this regard,

Yours sincerely,



*(Henri Tiphagne)*

Honorary National Working Secretary