



Human Rights Defenders Alert – India

National Coordination Office

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11th June, 2016

To

Shri Srinivasa Kammath

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: Arrest of Dalit writer and human rights defenders Mr. Durai Guna and Mr. Bhoopathy Karthikeyan in Pudukottai District of Tamil Nadu - 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 writing to express our grave concern regarding the arbitrary arrest and harassment of Mr. DuraiGuna, a Dalit writer on allegedly false charges in Pudukkotai district of Tamil Nadu.

Status of Human Rights Defender:

Mr. Durai Guna is a Dalit writer and was in the news last year when he and his family was subjected to a social boycott by caste Hindus after he penned a novel highlighting the plight of a Dalit couple. Mr. Guna's novel "OorarVarainthaOoviyam" (A picture drawn by villagers) is about the predicament of a Dalit couple who faces problems of untouchability which had angered caste Hindus in his village and as many as eight cases were filed against the author. In January 2015, when he returned to his village he was attacked by a group of villagers. Mr. Guna was forced

to flee his village after the publication of his novel. In 2014 the High Court had told the Inspector of Police to inquire about the attack on Mr. Guna's father to provide security to his family as they had been facing threats after the release of the novel in 2014. Mr. Guna's family also alleged that the local police station has been very hostile throughout and they were waiting for an opportunity to get back him for writing the novel. It is also said that Mr.Guna had supported Dalits in various cases, including inter-caste marriages.

Mr. BhoopathyKarthikeyan is a local human rights activist who has been active in issues of inter-caste marriages by supporting the Dalit community. Mr. Karthikeyan along with Mr. Guna and other members of PeriyarAmbedkar Cultural Centre had been actively protesting against illicit liquor in their neighborhood. They have filed five cases in the Madurai Bench of Madras High Court against Mr. SagayamAnbarasu, Inspector of Karambakudi Police Station on complaints of torture against Dalits during investigation.

Source of Information:

Media Reports

Communication from Coordinator of South – HRDA India

Communication from Mr. Kathir, Executive Director, EVIDENCE & Member of HRDA - India

Date of Incident:

June 10, 2016

Place of Incident:

Karambakudi, Pudukottai District, Tamil Nadu

The Perpetrators:

Inspector, Karambakudi Police Station, Pudukottai District

Superintendent of Police, Pudukottai, Tamil Nadu

Details of the Incident:

Mr. DuraiGuna was arrested along with Mr. BhoopathyKarthikeyanon the early hours of Friday 10 June 2016 on charges of assaulting a Mr. Sivanandham. According to

the police, Mr. Sivanandham had purchased furniture from Mr. Karthikeyan, who is a friend of Mr. DuraiGunain Karambakudi a few months ago for Rs. 50,000 but has paid Rs. 42,000 so far.

It is alleged that Mr. Sivanandham was passing by Mr. Karthikeyan's shop in his motor cycle on the night of 09.06.2016 where he was stopped by Karthikeyan and Guna and that both of them abused Mr. Sivanandham and then Mr. Guna attacked him with a knife and has suffered injuries and is admitted to Thanjavur Government Hospital. Based on the compliant from Mr. Sivanandam, the Karambakudi police registered a case against Mr. DuraiGuna and Mr. Karthikeyan under Sections 341, 294(b), 323, 324, 506(2) of the Indian Penal Code with Cr.No 187/2016.

Ms. Gokila, wife of the arrested writer told the media that the police arrived at their house at around 5.30 AM when they were asleep and Mr. Guna was dragged by the police. She also said that no arrest warrant was shown to them and he was not even allowed to wear his shirt. His wife alleged that the arrest was an effort to punish him for the book against the atrocities of the caste Hindus.

Appeal:

HRDA therefore urge you to immediately take necessary steps to ensure that the Superintendent of Police, the District Collector of Pudukottai:

- Order an immediate, thorough, transparent, effective and impartial investigation, consider to order a judicial enquiry, into the above-mentioned incident of arrest and harassment of the Dalit writer and human rights defender (HRD) Mr. DuraiGuna;
- Take immediate legal action on the perpetrators in this case Tamil Nadu State police for arresting and harassing the HRD and using all provisions of law to ensure that the HRD Mr. DuraiGunais not harassed or attacked or falsely implicated in future by the police;

- Ensure immediate appointment of a competent senior lawyer practicing on the criminal side in Pudukottai District of Tamil Nadu to defend the HRD in all the criminal cases registered against them at state cost with the counsel so appointed reporting to this Hon'ble Commission in periodic intervals;

- Guarantee in all circumstances the physical and psychological integrity of Mr. DuraiGuna and his family 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;

- Ensure provision of reparation, compensation, apology to the defender for the psychological sufferings he is undergoing because of his arrest and provide a re-assurance of not engaging in such acts against HRDs such as Mr. DuraiGuna;

- Put an end to all acts of harassment against all human rights defenders in general in Tamil Nadu to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances;

- Take 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 realization 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,

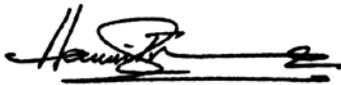
pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”;

- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Tamil Nadu to also take necessary steps to establish a focal point for HRDs in Tamil Nadu in order to ensure that HRDs have a new protection mechanism for them;
- Initiates contempt action against the Station House Office (SHO) of the concerned Karambakudi Police Station for having remanded all accused contrary to the judgment of the Supreme Court in Arnesh Kumar Vs State of Bihar and another [2nd July 2014] for producing the accused for remand without specifying the special reasons to do so as mandated in the aforesaid judgment;
- Recommend urgently and speedily during the pendency of this complaint, the NHRC to convene a meeting of all state human rights institutions in the state [the SHRC, the SCW, the SCPCR, the SCM, the SIC, State Commissioner for PWDs, etc.] to ensure that a coordinated 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 Government of Tamil Nadu in collaboration with the NHRC Focal Point on HRDs 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 Government of 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, 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 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 it.

(Henri Tiphagne)

Honorary National Working Secretary