



## Human Rights Defenders Alert- India

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30 June. 2016

To,

**Mr.Srinivasa Kammath**

National Focal Point - Human Rights Defenders

& Deputy Registrar

National Human Rights Commission

Manav Adhikar Bhawan,

Block-C, GPO Complex, INA,

New Delhi – 110 023

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***Sub: HRD Alert - India - Appeal for Action – Tamil Nadu: Police threatening EVIDENCE, a human rights organization and taking into custody a couple from the office of the human rights organization in Madurai in total illegality – Regarding***

Dear Sir,

**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 incident of forcibly taking into custody a couple from the premises of a human rights organization and threatening the staff members of the organization in

Madurai, Tamil Nadu very close to our own national headquarters of HRDA in Madurai.

**Source of Information on the Incident:**

Communication from the Executive Director of EVIDENCE Mr. Kathir. Subject matter of a complaint preferred by Mr. Kathir to the Commissioner of Police, Madurai City accompanied by Mr. Henri Tiphagne, National Working Secretary of HRDA on 28<sup>th</sup> June 2016.

**Status of the Human Rights Defenders:**

EVIDENCE is a non-governmental organization based in Madurai, Tamil Nadu working for the protection of human rights in particular of Dalits and other marginalized communities since 2005. Mr. Kathir is the Executive Director of the organization. EVIDENCE has legally intervened in more than 1500 cases regarding caste based violence and women's rights in the subordinate judiciary, the High Court of Madras and its Bench in Madurai, before all relevant National and State Human Rights Institutions. Mr. Kathir is extremely well known in the state for his singular contribution to the human rights violation of 'honor killings' in the state and has field researched over 80 such cases in the past three years throughout the state. He is a veteran human rights trainer and has trained thousands of HRDs including officers and policemen across the state of Tamilnadu in human rights monitoring, intervention and campaigning as well as the effective use of the SC/ST Prevention of Atrocities Act and is also closely

associated with HRDA as one of our state level focal points for the state of Tamilnadu.

**The Perpetrators:**

Police personnel of Tallakulam Police Station, Madurai headed by its Inspector, Mr. Chakravarthy.

**Date of Incident:**

June 23, 2016

**Incident detail:**

On 23 June 2016, a boy belonging to the SC community and a Muslim girl approached the office of EVIDENCE for help and informed them that they had attained the legal marriageable age and that they were in a relationship and wanted to live together but their parents were opposing this relationship and also that their lives were in danger. Both their parents came to the organization referred by well wishers and people known well to the organization seeking our assistance , counselling and intervention. The girl's family had requested the boy's family to wait for three years and assured them that they will arrange for the marriage of the girl as the felt that their daughter was very young. Meanwhile, while negotiations were proceeding at the office premises of EVIDENCE, the grandmother of the girl who was present in the office received a call from a person who introduced himself as a police officer. He had asked her in a threatening tone whether the family wanted to create a communal clash between Hindus and Muslims in Madurai. Then she handed the phone to Mr. Kathir, the Executive Director of EVIDENCE and he assured the policeman on the phone that the couple with their families would be accompanied by

him to the office of the Madurai City Police Commissioner and if necessary they will be produced later before the Madurai Bench of the Madras High Court to seek legal assistance as the young couple feared for their lives. At about 8.50 PM on the same day when the the couple and their families with a few staff members of EVIDENCE along with Mr. Kathir were about to leave for the Police Commissioner's Office, about 15 policemen [ only three of them in uniform and the others in mufti and all men] led by Mr. Chakravarthy, the Inspector of Police of Tallakulam Police Station [ the jurisdictional police station] arrived in in three vehicles and surrounded the couple and the staff of EVIDENCE in front of their office as they were about to leave. The policemen immediately caught hold of the boy's shirt forcibly to which Mr. Kathir immediately protested and asked the policemen to take off their hands. Then after looking at the organizations board, the Inspector of police, Mr. Chakravarthy addressed Mr. Kathir asking him "Are you EVIDENCE Kathir? Are you the defender of all 'Pallan' and 'Parayan' [names of two SC sub castes in Tamilnadu ]". The policemen there whose names are not known but whom we can identify if produced before us , also threatened the male staff members of EVIDENCE Mr. Karthik, Mr. Muthu, Mr. Ilayaraja.

Then the policemen created a commotion in front of the public who were witnessing the incident on the stree by then and suddenly the policemen dragged the young boy and girl into a police jeep and the vehicle sped away. We were then informed by the rest that they were being taken to the Anna Nagar Police Station. [ not the jurisdictional police station.] There were no women police personnel present while the girl was forcibly taken to the police station and though the Inspector who was present was in charge of Tallakulam Police Station, both of them were taken for investigation only to the Anna Nagar Police Station. Ms. Andal who also

works with EVIDENCE and is a mental health counselor who has experience of over 30 years in counselling victims of such violence was also abused by Mr. Chakravarthy, the Inspector of Tallakulam Police Station in Anna Nagar Police Station when she intervened on behalf of the victims whom she had earlier counselled at the office.

This is therefore a clear case of a human rights organization not being allowed to perform their duty of assisting two victims and their families – both adults - who had sought their services for counselling followed by legal intervention. In addition, since the organization is headed by a member of the SC community and is known to work meticulously for the protection and promotion of the rights of the Dalit community in the state the Inspector also abused the head of the organization mentioning his caste identity which is an offence under Sec 3 (1) (r) & (s) of the recently amended SC/ST POA 2016.

The act of arresting and taking into custody the young couple with no intimation to them at their place of arrest is not only totally contrary to all guidelines of the NHRC on arrest but also of the directives of the SC in the DK Basu case and all provisions relating to arrest under Sec 41B, 41C, 41D, 46(1) & (4) & 60 A of the Criminal Procedure Code.

### **Appeal:**

We, therefore urge the Hon'ble Commission to immediately take necessary steps to ensure that this case is taken on file urgently and:

- Order an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incident engaging the services of the Hon'ble Commission's Special Rapporteur for South India since this relates to a high profile HRD of national repute from the state of Tamilnadu and this could not

have taken place without the tacit prior approval of the Madurai City Commissioner of Police who is a senior police officer reporting directly to senior police officers of the state;

- If the allegations in this complaint that have already been preferred to the COP, Madurai on 28<sup>th</sup> June and not been enquired till date by any senior officer of the Madurai Commissionerate till now, are proved right, then to ensure that action is initiated using the provisions of the SC/ST Prevention of Atrocities Act including specific action under Sec 4 for not initiating action as provided for in the amended act;
- Guarantees in all circumstances the reputation and integrity of EVIDENCE and all the NGOs and other organisations who work for the protection of human rights from such threat and intimidation as well as lack of total respect for the rule of law from the state police administration and using all provisions of law to ensure that the defenders and organisations are not harassed and intimidated in future;
- Put an end to all acts of attack and harassment and intimidation against all human rights defenders and W/HRD organisations in the State of Tamil Nadu and ensure that in all circumstances they carry out their activities as defenders of human rights without any such 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 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, that the SHRC in Tamil Nadu also takes 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 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 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 Tamil Nadu in collaboration with the NHRC Focal Point on HRDs and the SHRC Tamilnadu to provide sensitization training to its members and staff, 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 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, 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 Tihaagne', with a horizontal line underneath it.

**HENRI TIHAGNE**

**NATIONAL SECRETARY**