



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No.32, Besant Road, Chokkikulam, Madurai - 625 002, Tamil Nadu, India.
P: +91-452-2531874 & 2539520 Fax: +91-452- 2531874 Mobile: 99943-68540
E.mail: hrdaindia@gmail.com Web: www.hrdaindia.org

21.07.2017

Shri. Sreenivasa Kamath

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: Human Rights Defenders' Alert - India - Urgent Appeal for Action – Tamil Nadu – Salem District - M. Valarmathi - A Post Graduate student of Mass Communication and Journalism at Periyar University – arrested for distributing pamphlets seeking support for a protest against a methane project in Neduvasal – later detained under Goondas Act by the Salem City Police Commissioner - 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 writing to express our grave concern regarding the criminal case registered under Sec 153 & 505 (1) (b) IPC and Sec 7 (1) A of the Criminal Amendment Act against Ms. Valarmathi and Jayanthi, the mother of one of her friends on 12th July 2017 and later the detention order that has been issued to her by the Commissioner of Police of Salem under the Goondas Act. Ms. M. Valarmathi, is a Post Graduate student of Mass Communication and Journalism at the Periyar University in Salem and a young woman human rights defender who has been targeted by the Salem Police only for distributing pamphlets seeking support for a human chain protest

against the hydrocarbon and methane projects in Kathiramangalam and Neduvasal in Tamil Nadu. The protest was to be held on the 15th July, 2017 and though the application for permission had been submitted it had not been denied nor granted till the 12th when they were both arrested.

It is pertinent to also mention that a similar case was also registered by the Tallakulam Inspector of Madurai Police Commissionerate for the distribution of the same pamphlets in Madurai on the same date and the case was registered under the same provisions of law. However, when the three accused were arrested and produced before the Judicial Magistrate No II, Mr. Sakthivel in Madurai past midnight at about 01.30 AM. Proper representation by several lawyers were made before the Judicial Magistrate at the time of production and after a careful reading of the pamphlet in question, refused to remand the accused under Sec 505(1)9b) IPC and only remanded the three of them under Sec 153 and 7(1)9A) of the CLA and released them on bail the same night by 2.30 AM. For the same pamphlet in Salem there was a remand and in Madurai there was no case for remand made out by the Police.

Source of Information on the Incident:

- Media Reports
- The Regional Co-ordinator for the South Region, HRDA-India

The Human Rights Defenders:

M. Valarmathi, aged 23 is a Post Graduate student of Mass Communication and Journalism of the Periyar University in Salem. She is also an activist of the 'Iyarkai Paadukappu Kuzhu' (Nature Protection Group) which is opposing the hydro-carbon and methane projects in Kathiramangalam and Neduvasal and hence is a woman student human rights defender.

This group urges the student community to support the peoples protest in Kathiramangalam and Neduvasal, where a group of farmers, activists and youth including students are staging an agitation against a proposal to dig wells to extract oil and also demanding withdrawal of large sections of the police personnel from Kadiramangalam village.

Ms.Valarmathi is a student human rights defender who also frequently organises student protests and has participated in various such peaceful agitations, including the Neduvasal and Kathiramangalam protests. Six cases are stated to be pending against her. In April this year, she was arrested in Karur along with her friends, while they were headed towards Neduvasal by train, and spent over a month in prison at Trichirapalli. During her stay in the jail she was tortured and a complaint in this regard was sent by the undersigned on 22.05.2017 that was taken up for consideration by the NHRC on 09.06.17 and transferred to the Tamilnadu SHRC by an order dated 07.07.17.

The Perpetrators:

- Q Branch of the State Police
- Hasthampatti police
- The Salem City (North) Assistant Commissioner Ramasamy
- The Salem Deputy Commissioner (Law and Order) G Subbulakshmi
- The Salem City Police Commissioner Mr. Sanjay Kumar

Date of Incident:

12th & 18th July 2017

Place of Incident:

Government Arts College for Women in Gorimedu, Salem City, Tamilnadu

Incident detail:

According to sources, it is alleged that, on July 12 Ms. Mr. Valarmathi, a second year Post Graduate student pursuing her MA in Mass Communication and Journalism at the Periyar University in Salem and Mrs. Jayanthi (the mother of Valarmathi's friend Ms. Swathi) were for distributing pamphlets highlighting the environmental degradation that was taking place in the state with specific happenings in Kadiramangalam and Neduvasal in the State with several demands to the Central and State Governments aksign themt o give up such anti people policies, seeking the withdrawal of police force form Kadiramangalam and demands calling for the release of activists like Prof Jeyaraman who had been arrested in Kadiramangalam. They were distributing the pamphlets seeking the participation of students in the

human chain protest for which petitions seeking police permission had been submitted and had not yet been refused in writing by the police. The pamphlets were distributed by Ms. Valarmathi under the banner of 'Iyarkai Paadukappu Kuzhu' (Nature Protection Group). A close and careful study of the pamphlets by this Hon'ble Commission will reveal how they were not at all provocative but only highlighting facts and making demands – all falling squarely within the ambit of Art 51A of the Constitution.

Valarmathi and Jayanthi were arrested at 8.30 AM near the entrance of the said college by a Kannangkurichi police and one woman police of Ammapet named Veerammal. They were immediately actually taken to Ammapet police station where they were detained from 9 AM to almost 10.30 PM when they were finally remanded. At the time of arrest there force that was used by the police arresting them and Valarmathi actually sustained in injuries on her right lower hand. This was also duly mentioned by her at the time of remand to the Judicial Magistrate There was no one, including her family members and lawyers who were allowed access to her while she was in police custody. It is pertinent to mention that the same was attempted to be done to the three 'accused' in Madurai Tallakulam Police Station in Madurai City the same day but the undersigned managed to open the closed doors of the police station forcibly and gained access to the accused thereafter finally leading to their remand being opposed past midnight by a battery of lawyers and they being released on bail by 2.30 AM or so.

It is pertinent to mention that all the sections that were filed against the accused in this case were for offences punishable with less than three years and hence following the judgment of the Supreme Court of India in Arnesh Kumar versus State of Bihar SC 2014 no remand of the accused could have actually been made excepting if they were for very special conditions that were mentioned to the Court at the time of remand for each of the accused. The Supreme Court further has stated in this order that contempt proceedings could be initiated against the Inspector of police and disciplinary action against the Judicial Officer who remands the accused to judicial custody in matters where the punishment is for offences less than 7 years. Therefore the actual remand of the two accused themselves were illegal in the eyes of law.

The Salem City (North) Assistant Commissioner Ramasamy and Deputy Commissioner (Law and Order) G Subbulakshmi recommended to the city Police Commissioner Mr. Sanjay Kumar to invoke the Goondas Act against Ms.Valarmathi. Acting on the recommendation, the Police Commissioner issued the order on Monday 17th July and Ms.Valarmathi was shifted to Coimbatore Central Prison from Salem Women's Prison and detained under the Goondas Act.

It is pertinent to mention that the cases so far registered against Valarmathi are not matters involving moral turpitude. Even in this case she was exercising her freedom guaranteed under the Article 19 (1) (a) of the Indian Constitution. Distributing pamphlet is not an offence in this country. However, the police are trying to portray the girl as a 'radical activist' in order that their action of detention is satisfied.

This is a case of a woman human rights defender who was only exercising her fundamental rights who has been falsely implicated in a criminal offence and now detained under the Goondas act which is meant for slum grabbers, bootleggers etc.

This complaint is registered before the Hon'ble NHRC since it is only the NHRC that has a separate focal point for HRDs and complaints received from HRDs. The SHRC does not hold any such portfolio. The Tamilnadu SHRC also only has a Chairperson and no members and hence there is already a heavy piling of cases before the SHRC , The SHRC has also seen this case reported in the media and has not cared to take this case and similar ones suo mottu and hence this complaint may kindly be handled only by the NHRC and not transferred to the Tamilnadu SHRC on any condition.

If even after this representation the Hon'ble Commission is inclined to transfer this case, this may only be done after a proper opportunity is provided to this complainant to present its views before this Hon'ble Commission by personal appearance.

Appeal:

We, therefore urge you to immediately take necessary steps to ensure that the Hon'ble Commission

- Orders an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned Case registered against Ms. Valarmathi and Jayanthi by the Salem police on 12th July and later the detention of Valarmathi on 17th July;
- Take immediate action on the perpetrators in this case the Inspector of Hasthampatti police station for the FIR filed & harassment of Ms. Valarmathi and Mrs. Jayanthi by their actual remand to judicial custody ;
- Take steps to ensure that the detention filed under Goonda Act by the Salem Police be immediately withdrawn;
- Ensure provision of reparation, compensation, apology to defender for the physical and psychological suffering she 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 women human rights defenders in the State of Tamil Nadu 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 that the SHRC in Tamil Nadu convenes meetings 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 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