



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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September 18, 2019

To

Mr. Khaleel Ahmed

National Focal Point - Human Rights Defenders & Deputy 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 – Registration of case for organising a meeting in protest of abrogation of Article 370 at Nellore, Andhra Pradesh –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.

On behalf of HRDA, we express our grave concern regarding registration of case against human rights defenders for organising a meeting in protest of abrogation of Article 370 at Nellore, Andhra Pradesh.

Source of Information on the Incident:

- Communication with the HRDs
- Media sources
- Communication with the activists in the region
- The Regional Coordinator for the South & West of India

About the Human Rights Defenders under attack:

- Mr. V S Krishna, is the Member of the State Coordination Committee of Human Rights Forum (HRF)
- Mr.K Bhaskar, a member of Progressive Democratic Students Union.

The Perpetrators:

- Mr. Bellamkonda Malyadri President of Bhartiya Janata Party's local unit
- Mr. M Rosaiah, Circle Inspector (CI) Kavali police station

Date of Incident:

- September 10, 2019

Place of Incident:

- Nellore District, Andhra Pradesh

Incident:

On 8th September 2019, Sunday, activists from Human Rights Forum (HRF), a civil rights organisation held a meeting in Shadi Manzil, Nellore, on the abrogation of Article 370, and the alleged human rights violations in Kashmir.

According to sources, a group led by the Bhartiya Janata Party's (BJP) local President Mr. Bellamkonda Malyadri approached police and accused the activists of provoking the people and disrupting peace in the region and that the activists were spreading false narratives and trying to incite violence.

Based on the complaint, the Kavali police have filed a case under Sections 504 (Intentional insult with intent to provoke breach of peace), 505 (Statements conducing to public mischief), 153(A) (Promoting enmity between different groups on grounds of religion, race) read with Section 34 of IPC (Acts done by several persons in furtherance of common intention) against activists Mr. V S Krishna, , Mr. K Bhaskar and Mr. Mohammed Abzal, a religious leader and others for organising the meeting. The organisers denied there was any attempt to disturb peace and accused BJP leaders of filing police complaints to stifle opposing voices. Last week, the police had declined permission to Human Rights Forum to hold a meeting on Article 370 in Adoni and Kurnool, in Kurnool district, stating that it may disturb public peace.

Article 19 of the Universal Declaration proclaims the right to freedom of expression, which includes freedom "to seek, receive and impart information and idea through any medium regardless of frontiers". Further Article 19 of the International Covenant on Civil and Political Rights sets forth the right to freedom of opinion, expression and information.

Article 19 (1) (a) guarantees to all its citizens the right to freedom of speech and expression. The Hon'ble Supreme Court of India *in Union of India Vs. Association for Democratic Reforms* (2002) 5 SCC 294 had observed that "*one sided information, and non information, all equally create and uninformed citizenry which makes democracy a farce. Freedom of speech and expression includes right to impart and receive information which includes freedom to hold opinion*", and can be read in the present case through participation in the said meeting.

Further, in the Supreme Court in *Shreya Singhal v. State* (2015) had observed that there are three concepts which are fundamental in understanding the reach of this most basic of human rights which are discussion, advocacy and incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in. It is at this stage that a law may be made curtailing the speech or expression that leads inexorably to or tends to cause public disorder or tends to cause or tends to affect the sovereignty & integrity of India, the security of the State, friendly relations with foreign States, and so on.

The protection of human rights defenders is critical to ensure that they are able to work in a safe, supportive environment and be free from attacks and reprisals. Article 21 of the Constitution of India ensures to all its citizen right to life – a life to live without fear, intimidation, harassment or mental torture. Also, The Declaration on Human Rights Defenders, adopted in 1998 by the UN General Assembly, states that governments are under a duty to “take all necessary measures to ensure the protection of human rights defenders by the competent authorities against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary actions” as a consequence of their efforts to promote human rights. Therefore, the government is bound by its international legal obligations to ensure that all activists and human rights defenders are provided with security against harassment or intimidation so that they may enjoy their constitutional right to due process, life and liberty under Article 21, and the right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India.

In the present case filing unnecessary FIR against Mr. V S Krishna, Mr. Bhaskar and Mr. Mohammed Abzal just for holding a meeting on a issue of public importance amounts to denial of right to freedom of speech and expression as guaranteed by the Constitution of India.

Appeal

We therefore urge you to immediately take necessary steps to ensure that the Superintendent of Police, the District Collector and District Magistrate of Nellore District:

- Demand from the authorities to withdraw the FIR filed against on human rights activists Mr. V S Krishna, Mr. K Bhaskar and Mr. Mohammed Abzal among others;

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident of intimidation, harassment FIR filed on human rights activists Mr. V S Krishna, Mr.K Bhaskar and Mr. Mohammed Abzal among others;
- Take immediate action on the perpetrators by and using all provisions of law to ensure that the defenders, like Mr. V S Krishna, Mr. K Bhaskar and Mr. Mohammed Abzal among others are not harassed or attacked in future and provide a re-assurance of not engaging in such acts against HRDs;

Looking forward to your immediate action in this regard,

Yours sincerely,



Henri Tiphagne

Honorary National Working Secretary