



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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August 25, 2021

To,
Mr. C S Mawri,
Focal Point - Human Rights Defenders & Assistant 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- Telangana: Illegal detention of Women HRDs by the Telangana Police for conducting a fact-finding regarding rape of two women victims at a hospital in Telangana.

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 illegal detention of women human rights defenders by the police of Lalguda Police Station in Telangana. The WHRDs were illegally detained for conducting a fact finding at the government run Gandhi Hospital, Mahabubnagar, Telangana, regarding the rapes committed against two women.

Source of Information:

- Communication with HRDA Southern regional consultant
- Information gathered from media
- Communication with the HRDs in the region

Date of Incident:

August 17, 2021

Place of Incident:

Gandhi Hospital, Mahabubnagar, Telangana

The Perpetrators:

- Gandhi Hospital Administration
- Police officials of Mahabubnagar police station.
- Police officials of Lalguda police station

About the Human Rights Defenders:

The fact-finding team consisted of women activists belonging to various women rights

organisations like National Federation of Indian Women (NFIW), Progressive Writers Association (PWA), All India Democratic Womens Association (AIDWA) and others.

Background of the Incident:

A lab technician named Uma Maheswar at Gandhi Hospital at Mahbubnagar Telangana, allegedly raped two sisters, aged 38 and 40, from Mahabubnagar district and confined one of them to a room for four days.

The victims had accompanied the patient. While the patient was admitted to the hospital on August 5, 2021, and discharged on August 11, 2021, the two women who accompanied him went missing. After the patient was discharged, his son returned to the Gandhi Hospital in search of his mother and aunt (victims).

On August 15, 2021, the son received communication that his aunt was found in a secluded place in the hospital premises in an unconscious state lying naked with visible abuse marks on her body. When she regained her consciousness, she shared her ordeal of sexual abuse and rape with her family members.

The aunt told the family that while she was at the hospital, she lost her way and asked Uma Maheswar, a lab technician, for help. Taking advantage of this, he directed her into a room, where he drugged her and raped her repeatedly on multiple occasions and raped her elder sister who is still missing.

On August 15, 2021, the victims approached the Mahabubnagar police station, but the police didn't register the complaint because they said it was not within their jurisdiction. They were then to a different police station for registering the complaint and registered the complaint at Chilakaluguda police station.

Details of the Incident:

On August 17, 2021, an all-women activist's fact-finding team with members belonging to belonging to various women rights organisations like All India Democratic Womens Association (AIDWA)- Ms. Mallu Lakshmi, WT-JAC V (Ms. V. Sandhya), POW, Ms. B. Jyoti (CMS), Ms. Krishnakumari (NFIW) and Ms. Vijaya Bhandaru (Progressive Writers Association) went to enquire about the report regarding the rape of two sisters at the Gandhi Hospital.

However, they were not allowed inside the hospital and one of the HRDs on Facebook Live was stopped by the police. They were arbitrarily detained at the Lalguda Police station by the police which was already present there. Later in the evening they were released and were allowed to meet the hospital superintendent and were allowed to do the fact finding.

We believe that this is an example of the misuse of power by police officials. Complete ignorance of law was displayed by the police officials in turning away the woman victim in registering the FIR from the Mahabubnagar police station.

According to law, a Zero FIR can be filed in any police station **regardless of the place of incident or jurisdiction**. The provision of Zero FIR came up as recommendation in Justice Verma Committee Report in the new Criminal Law (Amendment) Act, 2013.

The concept of Zero FIR is a free jurisdiction FIR, brought up in order to avoid the delay in filing the crime and to avoid wastage of time that adversely impacts the victim.

According to Clause (e) of Section 460 of the Criminal Procedure Code (CrPC), if at the time of initiation of FIR, it looks evident that the crime was committed outside the jurisdiction of the concerned police station, then the police must be appropriately ordered to register a Zero FIR, and ensure that the FIR is transferred to the jurisdictional police station. If there is a failure in compiling with the instruction of FIR registration on acknowledgement of information about the offence, it will invite prosecution of the police officer under section 166A which provides a rigorous imprisonment of six months be extended to two years. This evasion of responsibility may invite the departmental action for the police officer.

Furthermore, the detention and harassment of women activists who were undertaking a fact-finding was completely unwarranted. In violation of the DK Basu guidelines, the WHRDs were not given any reason for their detention, nor were they given any detention memo as per the guidelines.

The right to freedom of peaceful assembly is an essential right in a democracy. A peaceful assembly is protected under the Article 21 of the International Covenant on Civil and Political Rights (ICCPR) and Article 19 (b) of the Indian Constitution, which gives all its citizens the right to assemble peaceably without arms. According to the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, "states and their law enforcement agencies and officials are obligated under international law to respect and protect, without discrimination, the rights of all those who participate in assemblies." Thus, we believe that in a democratic country HRDs have the right to peacefully assemble and conduct fact findings in cases of human rights violation without being treated as criminals and detained by the police.

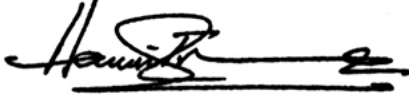
Appeal:

We urge to the Hon'ble Commission to immediately take necessary steps and:

- Direct the Director General of Police of Telangana for an immediate, thorough, transparent, effective and impartial investigation into case and provide a report from the state police the reason and explanation on the unwarranted detention of women human rights defenders.
- Recommend inquiry and necessary action against the superintendent of the Gandhi Hospital for not allowing the fact finding team inside the hospital and colluding in covering up the issue as the staff of hospital is involved.
- Direct the Director General of Police of Telangana to make all efforts to ensure that the missing woman victim is traced immediately.
- Recommend that cases are registered on the perpetrators under all relevant provisions of law. Victims and their families must be given adequate protection and immediately compensated.

- Direct the Chief Secretary, Telangana to take necessary steps for providing congenial atmosphere to human rights defenders and journalists for their smooth functioning in the state of Telangana.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line drawn underneath it.

Henri Tiphagne
National Working Secretary