



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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February 17, 2020

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 - Tamil Nadu: Fabricated charges against HRDs Mr. Balan, Mr. K Seenivasan and Mr. Selvaraj of Tamilaga Makkal Munnani by Tamil Nadu Police and their illegal arrests.

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 false charges, including under the Unlawful Activities Prevention Act (UAPA), by the Tamil Nadu police against HRDs Mr. Balan, Mr. K Seenivasan and Mr. Selvaraj of Tamilaga Makkal Munnani (TMM), a political party in the state of Tamil Nadu.

Source of Information:

- Communication with the HRDs in the region
- Communication with the Southern Regional Consultant
- Information from social media

Date of Incident:

February 7, 2021

Place of Incident:

Deevattipatti, Salem, Tamil Nadu

The Perpetrators:

Police personnel of Deevattipatti Police Station, Salem, Tamil Nadu

About the Human Rights Defenders:

Mr. Balan, Mr. K Seenivasan and Mr. Selvaraj are social activists and active members of TMM. TMM works against caste and communal discrimination and for the welfare of Tamil people and language.

Background of the Incident:

On October 28, 2019, an alleged Maoist, Mr. Manivasagam was killed in an encounter by the Kerala Police. Many human rights organisations in Kerala and Tamil Nadu protested against this encounter killing.

Mr. Manivasagam's family filed a petition in the Madras High Court for his body. The High Court ordered to hand over the body to the family and Mr. Manivasagam was buried on November 14, 2019. Mr. Balan, Mr. Seenivasan and Mr. Selvaraj also participated in the burial ceremony.

On January 18, 2020, at 10:00 am, an FIR No. 14/2020 was registered at the Deevattipatti police station, Salem, by the Village Administrative Officer of Pudhur village, Mr. KM Sankar, stating that pro-Maoist slogans were raised by the people who participated in the burial of Mr. Manivasagam. Charges included IPC Sections 188, 120b, 121, and Sections 10, 13, 15 and 18 of the UAPA. The FIR was filed against 5 alleged Maoists and they were arrested.

Details of the Incident:

On February 6, 2021, Mr. Balan, Mr. Seenivasan and Mr. Selvaraj organised a meeting of over fifty organisations in Salem. The main objective of the meeting was to protect Tamil Nadu from communal and caste-based violence and threats to peace in the state posed by the political party Bhartiya Janata Party (BJP). A press conference was organised and a press release was issued at the Chennai Press Club on the same day itself. Multiple such meetings were planned in the future by Mr. Balan, Mr. Seenivasan and Mr. Selvaraj.

On February 7, 2021, at about 4 am, homes of Mr. Balan, Mr. Seenivasan and Mr. Selvaraj were raided one after another by policemen from Deevattipatti police station. The policemen, 4 in uniform and one in civilian clothes, knocked at Mr. Seenivasan house and when asked who was knocking, the police said we are the neighbours and entered and took Mr. Seenivasan into custody. The policemen jumped the walls of the neighbouring houses and took Mr. Balan and Mr. Selvaraj also into custody. All three were arrested and taken to the Deevattipatti police station without any arrest warrant and without following proper procedure and informing the family that they were being arrested.

In the Deevattipatti police station, they were kept in the police station from early morning till the night and at 11 pm they were told that they were booked under UAPA in FIR 14/2020. At 11 pm, they were produced before the District Judge Mr. Kumaraguru and sent to judicial custody for 15 days. Following day, in the morning they were shifted to the Coimbatore prison.

It is absolutely shocking that the three HRDs were arrested in 2021, only after organising a meeting, two years after attending a funeral. HRDA strongly believes that the draconian charges against Mr. Balan, Mr. Seenivasan and Mr. Selvaraj of the TMM are because of their work as human rights and political activists, especially for organising the meeting in Salem where they highlighted the threats to peace posed by the BJP.

The Constitution of India clauses (a) to (c) of Article 19(1) promise - freedom of speech and expression; Freedom to assemble peaceably and without arms; and the freedom to form associations or unions. The right to disagree, the right to dissent and the right to take another point of view inhere inherently in every citizen of the country. These differences in opinions cannot be used as targets and fabricate charges against any individual.

HRDA also believes that the charges against the HRDs are connected to the exercise of their rights and freedoms HRDs who opposed police encounters. Mr. Manivasagam who was killed by the Kerala Police does not belong to TMM nor does the said party follow Maoist ideology. HRDs merely opposed the extra judicial encounter by attending his funeral.

Furthermore, the police did not follow the DK Basu Guidelines by showing an arrest memo or arrest warrant. They did not tell them or their families the charges they were being arrested for or show them the FIR or inform lawyers of their choice. They gave no intimation to them till 11 pm about whether he had been arrested or not, and on being asked by the family why they were being informed so late they were threatened with adding more cases to the FIR.

As the Supreme Court of India said in **NANDINI SATPATHY V P.L DANI AIR 1978 SC 1025**, “the accused person must be informed of her/his right to remain silent and also of the right against self-incrimination. The person being interrogated has the right to have a lawyer by her/his side if s/he so wishes. An accused person must be informed of the right to consult a lawyer at the time of questioning, irrespective of the fact whether s/he is under arrest or in detention.” In this case the HRDs were not allowed access to their families or their lawyers or the latter even told about the arrest till 11 pm.

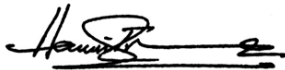
We contend that without proper arrest procedure followed by the police, these arrests can't be held to be valid and that this is a clear case of overreach and abuse of power by the Tamil Nadu police and an act of reprisal against HRDs for exercising their constitutional rights.

Appeal:

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

- Order an immediate, thorough, transparent, effective and impartial investigation into the charges against HRDs Mr. Balan, Mr. K Seenivasan and Mr. Selvaraj of the Tamilaga Makkal Munnani and submit to the NHRC within two weeks.
- Direct the Director General of Police of Tamil Nadu to submit with the NHRC all documents to show compliance with all the required arrest procedures mandated by the CrPC and guidelines by the Supreme Court and the Hon'ble Commission.
- Based on the findings of the independent inquiry, direct the Director General of Police of Tamil Nadu to initiate proceedings to file final closure reports in the FIRs against the HRDs and recommend disciplinary and penal actions against the police personnel for misusing their power.
- Direct the Chief Secretary of Tamil Nadu to provide a compensation of Rs. 5,00,000 to each HRD for the fabricated charges against the HRDs and their illegal and wrongful arrest, detention and the physical and psychological suffering the HRDs continue to undergo.

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary