



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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August 14, 2020

To,
Justice (Retd.) H.L. Dattu,
Chairperson,
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 – Delhi: Journalists working with *The Caravan* physically assaulted, subjected to communal slurs, threatened with murder, and sexually harassed by a mob, while reporting in Northeast Delhi

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 attack on three journalists working with *The Caravan* — Mr. Shahid Tantray, Mr. Prabhjit Singh and a woman journalist (name withheld) — were physically assaulted, threatened with murder, subjected to communal slurs, and sexually harassed, while reporting in Subhash Mohalla, in northeast Delhi's North Ghonda neighbourhood.

Source of Information:

- Communication with the journalists
- Media Reports

Date of Incident:

August 11, 2020

Place of Incident:

Subhash Mohalla, in northeast Delhi's North Ghonda neighbourhood

The Perpetrators:

- Mob of local men and women including alleged BJP office bearer
- Mr. Ashok Sharma, SHO, Bhajanpura police station
- Police personnel of the Bhajanpura police station

About the Human Rights Defenders:

Mr. Prabhjit Singh (50) is a senior journalist and associated with *The Caravan*. He has a journalistic experience of 25 years in various national media outlets like 13 years in the UNI, 10 years in the Hindustan Times, etc. He has done many acclaimed public interest stories on corruption of public funds, Delhi riots etc.

Mr. Shahid Tantray is a journalist with 11 years of experience. He is an assistant photo editor at *The Caravan* and was previously working as a journalist in Kashmir doing public interest stories.

The woman journalist works at *The Caravan*.

Background to the Incident:

On August 10, 2020, Mr. Prabhjit Singh and Mr. Shahid Tantray had published a story about two women and a teenager of Subhash Mohalla in northeast Delhi's North Ghonda neighbourhood (<https://caravanmagazine.in/crime/delhi-police-beat-sexually-assaulted-us-bhajanpura-station-riots-complainant-daughter>). The women and teenager had accused officials of Delhi's Bhajanpura police station of beating and sexually assaulting them in the station premises on the night of August 8, 2020. The article stated that a group of around ten women visited the police station to seek the registration of a First Information Report (FIR) against some residents of the locality who had raised communal slogans and asked the Muslims to leave the area on night of August 5-6, 2020. As the other women waited in the police station's compound, three of them went inside the police station and demanded an FIR for the incident on the night of August 5-6, 2020. The women said that they were violently and repeatedly

slapped, manhandled and threatened, and sexually assaulted by the police officials in the police station. The Bhajanpura police station SHO Mr Ashok Sharma did not register an FIR and informed the women that an FIR could only be registered after an enquiry.

The three journalists were in northeast Delhi's North Ghonda neighbourhood on August 11, 2020, to do a follow up on the above mentioned incident.

Details of the incident:

On August 11, 2020, Mr. Singh, Mr. Tantray, and a woman journalist (name withheld), were following up on the above-mentioned news story in the locality. As they were taking photographs of the public area, some men approached them and told them to stop. One of the men, wearing a saffron kurta and had a bandage on his arm, identified himself as a "BJP general secretary".

Mr. Singh and Mr. Tantray told the mob of around 20 people surrounding them that they were journalists and not doing anything illegal. They were only taking photos of the saffron flags in the public area. They also told them about their investigation and offered to publish their views too. However, the man in saffron kurta told them that "*Main BJP general secretary hun, humaara kuch nahi bigaad sakte tum*" (I am a BJP general secretary, you can't do anything to us.) He then asked for an ID from Mr. Tantray and on finding that he was a Muslim, called more people. The mob which had swelled to around 50 people, started getting extremely aggressive. While Mr. Singh and Mr. Tantray were being attacked, the woman journalist managed to get out of the lane through a gate. After she left, the mob locked the gate behind her, imprisoning the male journalists inside.

Mr. Singh and Mr. Tantray were abused with religious and ethnic abuses specially Mr. Tantray. For nearly ninety minutes, the mob surrounded them and shouted communal slurs at Mr. Tantray, while also repeatedly manhandling, slapping and kicking him. When Mr. Singh tried to intervene, they kicked him as well. The mob threatened to break the camera the journalists were using. Mr. Tantray had offered to delete all the pictures he had taken. Even after deleting all the pictures and taking his memory card, the mob continued hitting Mr. Tantray, strangling him with the strap of the camera while others assaulted him. His complaint recounts that the mob was shouting, "*Mullah saala kattua*" (racial slur for Muslims) and "*Saale jaan se maar denge*" (We will kill

you.. abuses). In the meantime, Mr. Singh managed to call his political editor apprising him of their situation, and the editor contacted the Delhi Police Commissioner.

After about 90 minutes of being assaulted and abused by the mob, Additional Sub-Inspector Mr. Zakir Khan and Head Constable Mr. Arvind Kumar from the Bhajanpura police station arrived on the scene. They tried to plead and pacify the violent mob from the side-lines, though not taking definite measures to control them. Then more police officials arrived and they were able to take the two journalists away from the mob after almost two hours of assault and harassment. On seeing the police take the journalists, members of the mob protested to which a policeman responded, *"We're taking them to the station. We'll question them there"*. Mr. Tantray and Mr. Singh were then taken to the Bhajanpura police station. En route, the police car in which they were taken was stopped by an unidentified man in civilian clothes who had a long conversation with the policemen accompanying them, while pointing and looking at them. On reaching the police station, they wrote a complaint about the incident, while the mob also reached inside the police station.

While the two male journalists were being attacked, the woman journalist who had escaped outside the gate of the lane, pleaded with the attackers to let her colleagues go. Then a man with a crew-cut hairstyle, who had rakhis tied around his wrist, pulled at her clothing to drag her back inside the lane. The woman journalist ran to a neighbouring lane but as she sat on a slab to compose herself, many young men in their early twenties surrounded her and began taking photos and videos of her, *"making cheap and lewd comments and started saying 'Dikhao, dikhao'"* (Show show). According to her in her complaint she had filed, *"A middle-aged man in a dhoti and a white t-shirt, with a bald head and a slim pony-tail stood in front of me, he then opened his dhoti and exposed his genitals while looking at me. He proceeded to shake his penis with his hand and started making objectionable and lewd expressions, while laughing at me"*.

After running away from them, she received a call from her two male colleagues asking her to come to the Bhajanpura police station. However, when she was asking for directions to the Bhajanpura police station, she saw a mob of 3 women and 2–3 men, pointing towards her and charging in her direction. She started running away, but as she was running, she fell and the mob was all around her. The attackers immediately began pushing her around while hitting her on head, arms, chest and hips. Her

complaint says that she recognised the man in the saffron kurta who had claimed to be the BJP general secretary also as a part of the mob that assaulted her. As she was being attacked, she saw a policeman and rushed to him for help. However, even though witnessing the attack on her, according to her, *“policeman tried to trivialise the situation and told us to resolve the dispute verbally, among ourselves”*. As she pleaded with that policeman for help, another policeman approached the spot. The second policeman took her to Bhajanpura police station, where she filed a complaint.

The police personnel at the Bhajanpura station took their separate complaints (one by the male journalists and a second by the female journalist), but refused to register an FIRs against the complaints. Mr. Sharma, the Bhajanpura SHO, told journalists that the locals who are accused of assaulting the journalists had also filed a complaint and that the police would need to examine both sides' complaints before registering an FIR. When the journalists were taken by the police to the hospital to do an MLC, the mob also reached the hospital. It is the victims' opinion that it seemed that the perpetrators were well known to the police officials of the Bhajanpura police station.

Instead of initiating immediate disciplinary actions and legal proceedings against Bhajanpura police station personnel for their deliberate negligence in registering an FIR for the communal violence incident on the night of August 5-6, 2020; physical assault and sexual violence on women who had come to the police station on August 8, 2020, to register an FIR for the communal violence incident; and another case of deliberate negligence to register an FIR for prima facie what appears to be hate crimes against journalists (assault, harassment, racial abuse, hate crime and sexual violence by a mob), the PRO of Delhi Police Commissioner's office gave a written rejoinder to the Editor of the Caravan on August 13, 2020, saying that the journalists were taking photographs in the Subhash Nagar area without consent, leading to law and order problems, that they were escorted safely by the police and since a cross complaint had been filed against the journalists, the police was conducting an investigation after which they will take action. They also denied the sexual assault of women inside the Bhajanpura Police station on August 8, 2020.

Appeal:

It is our firm belief that this police failure to act, prima facie deliberate, amounts to a serious incident of human rights violation against HRDs and journalists in the national capital of India. Not only were the journalists subjected to a violent mob attack in plain sight, the Delhi Police did not act to adequately shield or protect the journalists or register the FIRs as they are legally mandated. This is serious breach of the law by the police.

The police failure to act constitutes breach of law and duty on several fronts.

Section 41 of the Code of Criminal Procedure (CrPC) clearly lays down any police officer may arrest any person without a warrant, among other conditions, “who commits, in the presence of a police officer, a cognizable offence” (S. 41(a)). On reaching the spot, after considerable delay, where the two male journalists were being attacked, the police officers would have seen that several cognizable offences were being committed – Sections 337, 340, 350, 351, 352 of the Indian Penal Code (IPC) apply to the criminal assault on the men. Sections 153A and 295A apply to the anti-Muslim slurs and insults being shouted at Mr. Tantray. In addition to the criminal assault she was subjected to, the violent acts committed on the woman journalist amount to cognisable offences, specifically of crimes against women, under Sections 354, 354A, 354B, and 509 of the IPC. It was a violation and serious breach of duty that the police officers who arrived on the scene and did not immediately carry out arrests of the perpetrators.

If the police would have acted to arrest, the police themselves would have ensured the FIRs are registered. As this did not happen, the journalists acted responsibly in the immediate aftermath of a violent attack on them and the trauma this brings, to write detailed complaints. Section 154 of the Code of Criminal Procedure makes it mandatory on the police to register a FIR on receipt of information or a complaint that a cognizable offence has been committed. The Supreme Court in *Lalita Kumari v. Government of Uttar Pradesh & Ors* AIR 2014 SC 187 has reiterated that if the information given to the police by a complainant or informant discloses the commission of a cognizable offence, it is mandatory for the police to register an FIR. The Supreme Court’s directions in *Lalita Kumari* bar the police from conducting preliminary enquiry except in very limited circumstances which do not apply here. In this judgement, the

Supreme Court laid out 5 broad categories of offences in which a preliminary enquiry is permitted but must be done within 7 days. None of the alleged offences fall into these categories. The Supreme Court held that the police is not empowered to carry out an inquiry as to whether the information is reliable and genuine or not. In case the police refuse to register a case, they violate their legal duty.

Section 166A(c) of the IPC makes it punishable with imprisonment and fine for a public servant to fail to record information of stipulated sexual offences. The failure to register an FIR into the complaint of allegations of Sections 354, 354B and 509 amount to a criminal offence by the relevant police personnel of Bhajanpura police station.

More questions remain. Why was the mob allowed to enter inside the police station? Who gave the mob the details of the journalists being taken to the hospital and how did it reach there while they were inside? Why did the Delhi Police Commissioner's office give a public rejoinder denying all charges by the women accusing them of sexual assault as well as the complaint by the journalists even before while their own investigation in the issue was not finished?

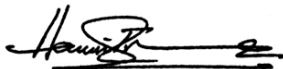
Our Constitution gives journalists the right to exercise freedom of speech and expression under Article 19(a) of the Indian Constitution. Freedom to expression is crucial to the work of journalists. The right to freedom of opinion and expression encompasses three different aspects: 1) the right to hold opinions without interference; 2) the right of access to information; and 3) the right to impart information and ideas of all kind. On the aforesaid it is stated that Declaration on Human Rights Defenders seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights. These freedoms are also a part of the Universal Declaration of Human Rights.

We thus appeal to the NHRC to urgently:

- Direct the Deputy Commissioner of Police of Northeast Delhi to order the registration of the FIRs for the incidents on August 10, 2020 (assault and harassment of Mr. Singh and Mr. Tantray by a mob and assault, harassment and sexual violence on the woman journalist by a mob as per powers under Section 154(3) of the CrPC within 24 hours.

- Direct the Commissioner of Police of Delhi to transfer the investigation to another police station to be supervised by an Assistant Commissioner of Police (ACP) rank officer from a district other than Northeast Delhi.
- Issue directions and take needed measures to ensure the three journalists can safely record their statements under Section 164 CrPC before a judicial magistrate at the earliest.
- Direct the Director General of Investigation of the NHRC to inquire independently into the incident on August 10, 2020, which prima facie is a clear cases of police acting in a partisan manner, police inaction, wilful negligence and abetment.
- Direct initiation of criminal proceedings under Section 166A(c) of the IPC against the SHO of the Bhajanpura police station, Mr. Ashok Sharma, and any other implicated personnel, for failure to register a FIR on receipt of a complaint of commission of Sections 354, 354B, and 509 IPC
- Direct the Chief Secretary of Delhi to pay interim compensation to the three journalists for the physical and psychological sufferings they underwent and continue to undergo.

Yours sincerely,



(Henri Tiphagne)

National Working Secretary