



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

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July 3, 2020

To,
Mr. Debindra Kundra,
National 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 – Gujarat: Misuse of law and continuous harassment of lawyer activist in fake cases, Adv. Mohammad Bilal Gulam Rasul Kagzi

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 and fabricated case by the Gujarat police on Advocate Mohammad Bilal Gulam Rasul Kagzi, a lawyer and human rights defender from Kosamba in Gujarat. HRDA would like to state that Adv. Kagzi has been a victim of repeated personal vendetta by the Kosamba police for his work as a human rights defender and this is the third FIR filed against him in last nine months.

HRDA would like to humbly submit here that a petition pertaining to false cases against Adv. Kagzi was submitted by HRDA on September 18, 2019, numbered as NHRC case no. 1111/6/23/2019. In the said case, during the last hearing on January 23, 2020, it was stated, “The Commission has observed that despite lapse of considerable time, the state authorities have failed to submit requisite reports till date. In view of the above, the Commission directs its registry to again transmit a copy of the complaint to

the concerned authorities calling for a report within four weeks. In case, the reports are not received within the stipulated time, the Commission shall be constrained to invoke coercive process u/s 13 of the Protection of Human Rights Act, 1993 by issuance of summons for personal appearance of the concerned authorities.” The due date for submission of the report was March 14, 2020, however, according to the information mentioned on website, it appears that this was not complied by the SP, Surat.

HRDA also submits that on May 4, 2020, another petition was filed in the commission pertaining to the harassment, intimidation and detention of Adv. Kagzi, numbered as NHRC case no. 324/6/23/2020. The commission on May 20, 2020, has called for an action taken report from the Gujarat DGP and the same is due on July 13, 2020.

This is the third submission from HRDA in the case of Adv. Kagzi in nine months and we would like to draw commission’s attention to the repeated harassment of Adv. Kagzi.

Source of Information:

- Communication with the HRD
- Communication with the HRDs in the region
- Media Reports

Date of Incident:

May 29, 2020

Place of Incident:

Kosamba in Surat District (South Gujarat)

The Perpetrators:

Police personnel of Kosamba police station, Surat

About the Human Rights Defender:

Advocate Mohammad Bilal Gulam Rasul Kagzi (39), is a practicing advocate at the Mangrol Taluka Court of Surat District and also at the District and Sessions Court at Surat. Adv. Kagzi has been working as an advocate in Surat, Gujarat, for over a decade and has actively taken up cases of human rights violations, and has represented victims of police atrocities and custodial torture while also actively engaged in issues of Adivasi rights. It is pertinent to note that till now there have been three FIRs filed by the Kosamba police against him in the last nine months. In the first case filed against him, he got the anticipatory bail from the Session Court, Surat; in the second case, the High court has passed the order not take any coercive steps and

now a third FIR has been filed against him by the police again. Adv. Kagzi fears for his life and motivated and illegal arrest by the police which is continuously harassing him.

Details of the Incident:

On May 29, 2020, between 2.30 to 2.45 pm, a fight took place between two rival local groups in Kosamba village of South Gujarat. Adv. Kagzi resides in Kosamba village and legally represented one of the groups.

Within two hours of the so-called incident, at around 5pm, 50 policemen came to Adv. Kagzi's home to question him and found that he never went out of his house. However around 9.45 pm, the name of Adv. Kagzi was inserted in the FIR as the main accused and he was accused of firing a gun. An FIR No.11214021200717 was filed against Adv. Kagzi on May 29, 2020, at the Kosamba Police Station, Surat (Rural) under sections 307, 323, 324, 225, 143, 147, 148, 149, 120 B of the IPC and Sections-25(1)(a), 25(1)(b), 25(1-b)(a) and 27 of the Arms Act.

Apprehending false arrest, his wife and other advocates attempted to make a written representation before the Investigation Officer, Kosamba Police Station, Surat on June 8, 2020. However, the Investigation Officer Mr. Sisodia rudely refused to receive the written representation and asked them to get out of the police station. The Police denied them even a certified copy of the FIR. Then Adv. Kagzi's colleague-advocates approached the DSP, Surat (Rural), and explained his innocence and the reasons and causes for his false implication in the present case. However, no positive response has been received till date.

Adv Kagzi's house has CCTV cameras and he has evidence from CCTV camera footage of his home/house wherein he is clearly seen inside his house, and not going outside the entire time named in the FIR. CCTV Footage from his home between 1-4PM on May 29, 2020, along with hardcopies of 120 photographs of each minute between 2-4PM were produced before the DSP (Rural), Surat to establish his clear absence at the time, date and place of the so-called incident. Preliminary inquiry by the police before the FIR also reveals that Adv. Kagzi never went to the place of so-called incident and nor was he aware of it.

Thus we contend that his name has been falsely entered in the said FIR with clear mala fide intention by the Kosamba police. Adv Kagzi has become a victim of personal vendetta by the police, wherein he has been victimised repeatedly in different FIRs, for his work as an HRD who has been protesting against the illegal activities of the police in various human rights issues. Adv. Kagzi fears for his life and liberty.

Appeal:

HRDA urges the Hon'ble Commission to urgently –

- Given the ongoing threats on Adv. Kagzi by the local police as submitted in petitions 1111/6/23/2019 and 324/6/23/2020 and no response from the concerned authorities to the commission, order an independent and impartial investigation, through NHRC's investigation wing, into the repeated harassment and intimidation through misusing law.
- Based on independent investigation's, recommend prosecution proceedings against officer in-charge of Kosamba police station Mr. Sisodia and constables Mr. Sajid Sayyed and Mr. Nilesh Bojhawala for registration of false FIR, negligence of duty.
- Direct the DGP, Gujarat to ensure the protection of the life and liberty of HRD and Adv. Mohammad Bilal Gulam Rasul Kagzi.
- Exercise powers under the Protection of Human Rights Act and intervene before the court through an experienced criminal lawyer and seeking quashing of the FIRs against Adv. Kagzi.
- Order the SP Surat to place all the CCTV footages on record referred to in this petition.
- Direct the DGP and Chief Secretary of Gujarat to ensure provision of reparation and apology to Adv. Kagzi for the physical and psychological suffering he is undergoing because of the illegal police actions.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

National Working Secretary