



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/UA/South/TN/01/02/2025

05 February 2025

To,
Mr. Indrajeet Kumar,
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: Urgent Appeal for action for registration of FIR, custodial torture and arbitrary arrest based on fabricated charges against peaceful protestors by Tiruvannamalai police in Tamil Nadu– Reg.

Greetings from Human Rights Defenders Alert!

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 concern regarding the registration of FIR, custodial torture and arbitrary arrests based on fabricated charges against peaceful protestors who were protesting against the release of their fellow Viduthalai Chiruthaigal Katchi (VCK) Party member in front of Kilkodungalore police station, Tiruvannamalai.

About the Human Rights Defenders:

All HRDs are members of the VCK Party and were part of a peaceful protest in front of Kilkodungalore police station on January 13, 2025

- Metha Ramesh, activist and Zonal Committee member of Viduthalai Chiruthaigal Katchi (VCK), Tiruvannamalai.
- Ambiga (W/o) Ramachandiran
- Arun Prakash (S/o) Kuusami,

- Bhuvaneswari (W/o) Bakiyaraj
- Devi (W/o) Punniyakotti
- Dharma (S/o) Raj
- Dhinakaran (S/o) Mohan
- Jayakumar (S/o) Babu
- Karthik (S/o) Munusami
- Malathi (W/o) Ashok Kumar
- Ponnammal (W/o) Velu
- Rajasekar (S/o) Sankar
- Selvi (W/o) Sagadevan
- Sivaraj (S/o) Abimannan
- Sunilkumar (S/o) Murugan
- Tamilarasu (S/o) Punniyakotti

Source of Information:

- Communication with the HRDs
- Communication with other HRDs in the region

Perpetrators:

S. Balu, Inspector of Police, Kilkodungalore police station and
Other police officials of Kilkodungalore police station

Date of Incident:

January 13, 2025

Place of Incident:

Kilkodungalore police station

Background:

On January 13, 2025, the Secretary of Viduthalai Chiruthaigal Katchi (VCK), Vandavasi Mr. Ashok Kumar mistook a two-wheeler vehicle parked in front of Kilkodungalore police station as his friend's vehicle. He started the vehicle and proceeded with it, after two hours he realised his mistake and returned the vehicle to Kilkodungalore police station and informed the Police Inspector of Kilkodungalore police station. The police filed a complaint against Ashok Kumar, filled an FIR (No. 9/2025) and arrested him.

Details of the Incident:

When the VCK Zonal Committee member Tiruvannamalai District, Mr. Metha Ramesh was informed about the arrest of Mr. Ashok Kumar, he immediately proceeded to the Kilkodungalore police station along with other VCK members Ambiga, Arun Prakash, Bhuvaneshwari, Devi, Dharma, Dhinakaran, Jayakumar, Karthik, Malathi, Ponnammal, Rajasekar, Selvi, Sivaraj, Sunilkumar, Tamilarasu and few others.

At the police station, Mr Metha Ramesh informed the inspector of police that Ashok Kumar was a bonafide member of VCK and he had mistaken the bike parked before the police station as his friend's bike and drove away the same. When he realised that he is mistaken, he immediately returned the bike and informed the police about the incident.

The police told him that a case of theft had been registered against Mr. Ashok Kumar. Mr. Metha Ramesh pleaded for Ashok Kumar's release on station bail. Police Inspector S. Balu refused to release Mr. Ashok Kumar. An argument ensued and the inspector punched Mr. Mehta Ramesh in the chest. This aggravated the people accompanying Mr. Ramesh and they staged a protest in front of Kilkodungalore police station, demanding Ashok Kumar's release. Other police officials were called in, and a few officers continued to punch and beat Mr. Metha Ramesh. They forced him and the other protestors into vehicles and detained all of them. While being transported to Vandavasi, Mr. Mehta Ramesh struggled to breathe and urgently needed to urinate. However, the police refused his request, and he continued to struggle with chest pain throughout the journey.

The police then registered an FIR 10/2025 U/s 126(2)(offense of wrongful restraint) , 189(2) (being a member of unlawful assembly), 292 (Public nuisance), 132 (Assault and use of Criminal Force against a public servant) and 351(2) (Criminal intimidation) of BNS, 2023 based on the complaint of a police officer named Rajagiri against Metha Ramesh and 15 others. The detained protestors were taken to Vandavasi Government Hospital for medical examination, where Mr. Metha Ramesh complained about the attack by Inspector of Police, S. Balu due to which he was suffering from severe pain in the chest.

The medical officer failed to report the incident in the accident register, and It was only after the intervention of Joint Action Against Custodial Torture (JAACT) before the

Superintendent of Police, Tiruvannamalai and registration of online complaint on CCTNS portal on 13.01.2025 at 09 PM vide reference No. HAJ25021614 that the injuries were reported in the accident register. The detained protestors then were produced before the Cheyyar Magistrate and the magistrate issued bail for six women protestors and remanded 14 others to judicial custody at Vellore Prison. They are still in the prison.

HRDA strongly believes that the assault, registration of FIR and forcible arrest of peaceful protesters is a misuse of its power by the police. Mr. Metha Ramesh and others were tortured by the police in custody and were sent to prison in violation of national and international laws. The right to peaceful protest is enshrined in the article 19(b) of the Indian Constitution.

The Supreme Court in *Mazdoor Kisan Shakthi Sangathan v. UOI* 2018 17 SCC 32 held that: -

“54. The right to protest is thus recognised as a fundamental right under the Constitution. This right is crucial in a democracy which rests on the participation of an informed citizenry in governance. This Right is also crucial since its strengths representative democracy by enabling direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and demand accountability from the state authorities as well as powerful entities. This right is crucial in a vibrant democracy like India but more so in the Indian Context to aid in the assertion of the rights of the marginalized and poorly represented minorities.

59. A particular fundamental right cannot exist in isolation in a watertight compartment. One fundamental right of a person may have to coexist in harmony with the exercise of another fundamental right by others and also with reasonable and valid exercise of power by the state in the light of the directive principles of social welfare as a whole. The court's duty is to strike a balance between competing claims of different interests.”

Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights both provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Whereas **Article 2** of the United Nations Convention against Torture prohibits torture, and requires state parties to take effective measures to prevent it in any territory under their jurisdiction.

Declaration on human rights defenders adopted in 1998 by the UN General Assembly was Clauses 2 and 3 of **Article 12** of the declaration state: "*The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure, or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.*"

The Right to protest is recognized under several international instruments, including:

- I. The International Covenant on Economic, Social and Cultural Rights (Article 8),
- II. Article 5 (a) of the Declaration on Human Rights Defenders 1998 states that "For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, to meet or assemble peacefully".

The Right to protest is an essential element of the right to participate in any democratic dispensation, and restrictions imposed on this right must be closely scrutinized with respect to their necessity and reasonableness (A/61/312, para. 56)

Torture is a serious violation of human rights law in national and international law. The Hon'ble Commission itself asked the State to criminalise torture. In D.K. Basu vs. State of West Bengal, the Supreme Court of India called torture "*one of the worst crimes in a civilised society governed by the Rule of Law*". The **Article 5** of the Universal Declaration of Human Rights and **Article 7** of the International Covenant on Civil and Political Rights both provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Whereas **Article 2** of the United Nations Convention against Torture prohibits torture, and requires state parties to take effective measures to prevent it in any territory under their jurisdiction.

Appeal:

We urge the Hon'ble Commission to take cognisance of the above case and urgently:

- Direct the Director General of Investigation to initiate a transparent, independent inquiry in the illegal arrest and custodial torture of HRDs Mr. Metha Ramesh and others and submit the report to the Commission within four weeks.
- Based on the inquiry direct the Director General of police of Tamil Nadu to produce within 48 hours copies of all relevant documents pertaining to torture for an independent examination by the Hon'ble Commission.
 - Arrest memo as required, including name and designation of the police officer who prepare the arrest memo.
 - Medico-legal certificate prepared under section 53 of CrPC, as well as report of the medical examination conducted under section 54 of CrPC.
 - Inspection memo prepared at the time of arrest as required under the guidelines laid down by the Supreme Court in DK Basu vs State of West Bengal [1997 (1) SCC 416], as well as the name and designation of police officer who prepared the said Inspection Memo.
 - Names, duty records and registers of all officers involved in detention and arrest.
 - Examine compliance with all the mandatory procedures on arrest and detention laid down in Sections of BNS
 - Examine compliance with the NHRC Guidelines on Arrest.
- Based on independent examination of illegal detention, and custodial torture recommend strict and immediate legal action against the perpetrators, including prosecution under appropriate sections of the law.
- Intervene before the relevant courts on behalf of HRD and ensure that HRD Mr. Metha Ramesh and other protestors are released on bail.
- Direct the Director General of the Police of Tamil Nadu to ensure the safety of peaceful protestors and their family to protect them from further harassment by the police.

We hope to hear from you soon,

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary