



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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HRDA/UA/South/TN/03/01/2024

January 31, 2024

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: HRD Alert – Urgent Appeal for Action – Tamil Nadu – Tiruppur – Negligence of police officials of Tamil Nadu regarding failure to protect journalist from murderous assault.

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 brutal attack on journalist Mr. Nesa Prabhu of News 7 Tamil channel by unknown assailants and the negligence of Kamaickenpalayam police station officials in providing protection to the journalist despite request for protection by the HRD.

About the Human Rights Defender:

Mr. Nesa Prabhu (34) is a journalist working in the News 7 Tamil channel as a news reporter and lives in Palladam Taluk, Tiruppur District. He also advocates for rights of women and children who are victims of alcoholism. The HRD has been exposing illicit activities by collecting documentary evidence and publishing as news.

Source of Information:

Communication with the HRDA South Co-ordinator

Communication with the HRD's family

Communication with other HRDs in the region

Perpetrators:

Police officials of Kamanaickenpalayom police station

Date of Incident:

January 24, 2023

Place of Incident:

Petrol Pump of Chellam Agency, Tiruppur

Background:

Mr. Nesa Prabhu found out that the liquor in Palladam and Sulur areas was being sold illegally, especially in the Tasmac outlet functioning in Kamanaickenpalayom. He did a story on that in his news channel.

Details of the Incident:

On the morning of January 24, 2024, four persons on two bikes without number plates came to HRD's house and met his father Selvaraj and enquired about his whereabouts. The gang also questioned the journalist's whereabouts at bakeries, shops and petrol pumps in the Krishnapuram Crossroad area.

Mr. Prabhu immediately informed the Tirupur district police control room and the nearby Kamanaickenpalayam police station over phone that he was being searched by a mysterious gang continuously for more than four hours.

The journalist then returned to his home from his office. At 08.30 PM he observed that there were group of people outside his home. See this he contacted the emergency helpline number 100 and spoke to Mr. Kannan, Head Constable of Kamanaickenpalayam Police Station, stating that he was in danger. The police asked for details of the mysterious gang and asked the journalist to come to the police station to register a formal complaint. The journalist rushed to the police station by his car from his house.

While he was on the way to the police station at the Chellam Agency petrol pump, which is 500 meters away from the police station Kamanaickenpalayam, he was attacked by a group of 10 unidentified persons who were in 2 vehicles at about 9:55 PM. The group stopped the car and surrounded the Mr. Prabhu and chased him on the road. He managed to reach a petrol bunk in Chellam and locked himself in the office room of the petrol bunk. The attackers broke open the glass door, dragged Mr. Prabhu out of the office room, and attacked him using their sickles. Seeing the petrol bunk employees, the attackers fled from the spot.

The HRD was injured in more than 10 places, including two hands and a left leg and head. The petrol bunk employees informed the relatives of HRD, who took him to Palladam Government Hospital. The HRD was given first aid treatment there and was admitted to Ganga Hospital on Mettupalayam Road in Coimbatore for further treatment. The HRD is presently in critical condition which is being monitored in ICU.

The Kamanaickenpalayam Police reached the crime spot at about 2 AM and enquired about the incident. The police collected 161 statements and registered a complaint in Crime no 23 of 2024 under sections 147, 148, 342, 294B and 307 of the Indian Penal Code (IPC). The FIR states that the information was received at 02.30 hrs on January 25, 2024. As on January 30, 2024 no arrest has been made by the police and investigation is still pending.

HRDA strongly believes that the police failed to protect the journalist despite prior intimation by the journalist and request for protection.

Every person has a the right to life and liberty enshrined under Article 21 of Indian Constitution 1950, Article 3 of Universal Declaration of Human Rights 1948, Article 6 of International covenant on civil and political rights, 1966. The Right to life includes right against harassment and threats. The targeted attack on the HRD by the police amounts to violation of life and liberty.

A free media is an extremely important fourth pillar of the Indian democracy. A free press and active civil society are essential to ensure the public's right to know, so that governments and institutions can be held accountable. The protection of journalists and ending impunity for attacks against them, is a priority for safeguarding freedom of expression.

States are under an obligation to prevent, protect against, and prosecute attacks against HRDs. The United Nations Declaration on Human Rights Defenders 1999 states the following:

- Article 12 (2) and (3) "*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."

- Article 9 (1) *"In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights".*

The Declaration of Human Rights Defenders 1999 also 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. According to Article 11 United Nations Declaration on Human Rights Defenders 1999 "Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession".

The Right to exercise freedom of Speech and Expression is enshrined under Article 19(a) of the Indian Constitution. The Right to freedom of opinion and expression encompasses three different aspects: 1) The right to hold opinions without interference, 2) The right to access to information and 3) The right to impart information and ideas of all kinds.

In *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501, page 518: *"Freedom of speech is a principal pillar of a free government; when this support is taken away, the constitution of a free society is dissolved and tyranny is erected on its ruins." [Benjamin Franklin, On Freedom of Speech and the Press, from the Pennsylvania Gazette, November 1737]*

The Supreme Court in *Pooja Pal v. Union of India*, (2016) 3 SCC 135, page 178 held that:-"95. Adverting to the role of the police to be one for protection of life, liberty and property of citizens, with investigation of offences being one of its foremost duties, it was underscored in *Manohar Lal Sharma v. Union of India* [*Manohar Lal Sharma v. Union of India*, (2014) 2 SCC 532 : (2014) 4 SCC (Cri) 1] that the aim of investigation is ultimately to search for truth and to bring the offender to book. The observations of Lord Denning in his rendering in *The Due Process of Law*, First Indian Reprint, 1993, p. 102 were alluded to as under: (SCC p. 553, para 25) "25. ... 'In safeguarding our freedoms, the police play a vital role. Society for its defence needs a well-led, well-trained and well-

disciplined force of police whom it can trust : and enough of them to be able to prevent crime before it happens, or if it does happen, to detect it and bring the accused to justice.”

HRDA believes that the failure on the part of the police to protect, despite requesting the protection, led to the brutal attack on the vulnerable journalist for his reporting.

Appeal:

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

- Direct the Director General of Investigation of the NHRC to initiate a transparent, independent inquiry in the threats and attack on Mr. Prabhu and submit the report to NHRC within two weeks.
- Direct the Director General of Police of Tamil Nadu to initiate an independent and urgent inquiry of the failure of the police officials to protect Mr. Prabhu and submit a report to the NHRC within two weeks.
- Direct the Director General of Police of Tamil Nadu to immediately investigate and arrest the people responsible for the attack on Mr. Prabhu.
- On the basis of the investigation, direct the Director General of Police of Tamil Nadu to take urgent action against the police officials who were responsible for negligence in providing protection to the journalist and submit the report to the NHRC.
- Direct the Government of Tamil Nadu to immediately provide compensation for the treatment of HRD for the grievous injuries sustained during the assault.
- Direct the Director General of the Police of Tamil Nadu to ensure the complete physical and psychological safety of the HRD and his family and assure the NHRC of the same actions within one week.

We hope to hear from you soon,

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary