

May 13, 2022

To,

Shri Sadanand Date
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Subject: Seeking stringent action against the brutal death of Dalit youth (Shri Krishna Tusamad) in Bhayandar, Mumbai

Respected Sir,

We at Citizens for Justice and Peace (CJP) Mumbai, a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about the brutal death of a 30-year-old Dalit youth named Shri Krishna Palaram Tusamad in Bhayandar region of Mumbai, Maharashtra. We are aware that an offence has already been registered and are simply urging that further protection under the existing law is also provided to the victims' family.

According to details publicly available, the case of Shri Krishna Tusamad –who was a sanitation worker employed by Chandicharan Sanatan Bind, factory owner of imitation jewellery called Nagmani jewellers located in Bhayander. Tusamad who belonged to a Scheduled Caste category of Valmiki community and who was originally from Haryana was allegedly beaten to death by the above-mentioned factory owner Bind with an iron rod and wooden belt on May 7, 2022. As reported by the *Free Press Journal* dated May 11, 2022, Tusamad suffered serious head and other injuries and was declared dead by the time he reached the hospital due to excessive bleeding.

A photograph of the injuries uploaded on the Transcontinental Times dated 10.05.2022 is marked and annexed hereto as Annexure A

A copy of the Free Press Journal reported dated 11.05.2022 is marked and annexed hereto as Annexure B

As per other reports in the media dated May 10, 2022, a complaint has been filed by his father, Palaram Dhanaram Tusamad which informs the police that relatives of the factory owner named Dilip Nirmalchandra Bind and Ashish Manas De had also joined him in committing such a heinous act.

A copy of the media report dated 10.05.2022 is marked and annexed hereto as Annexure C

As mentioned above, we are aware that an FIR has been registered under section 34 and section 302 of the Indian Penal Code (IPC) along with Section 3(2)(v) of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Navghar police station of Meera Bhayander. Accordingly, Mumbai police has arrested 11 persons so far including the factory owner. **However, it is also important to note that the deceased is survived by his mother, wife, and four children who are entitled to the protection granted to them under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.**

Therefore, keeping in mind the gravity of the situation, we urge you to also ensure that deceased victim's family is ensured the protection under the said Act:

Section 15A. Rights of victims and witnesses—

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victim, his dependent, informant or witnesses--

- (a) the complete protection to secure the ends of justice;
- (b) the travelling and maintenance expenses during investigation, inquiry and trial;
- (c) the social-economic rehabilitation during investigation, inquiry and trial; and
- (d) relocation

(7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.

(8) Without prejudice to the generality of the provisions of sub-section (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including--

- (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;
- (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

(9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.

(10) All proceedings relating to offences under this Act shall be video recorded.

(11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as--

- (a) to provide a copy of the recorded First Information Report at free of cost;
- (b) to provide immediate relief in cash or in kind to atrocity victims or their dependents;
- (c) to provide necessary protection to the atrocity victims or their dependents, and witnesses;
- (d) to provide relief in respect of death or injury or damage to property;
- (e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;
- (f) to provide the maintenance expenses to the atrocity victims and their dependents;
- (g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report;
- (h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment;
- (i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost;
- (j) to take necessary precautions at the time of medical examination;
- (k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount;
- (l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;

(m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose;

(n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights.

(12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.]

Section 21. Duty of Government to ensure effective implementation of the Act-

(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include--

(i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice;

(ii) the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act;

(iii) the provision for the economic and social rehabilitation of the victims of the atrocities;

(iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;

(vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provision of this Act;

(vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.

Sir, this needs your immediate attention and rapid action. We urge the Mira-Bhayander Police under your leadership make an example of this case, that on all appearances amounts to a targeted hate crime against one of our most vulnerable sections of society.

1. To immediately investigate, and then also prosecute, in a time-bound fashion, the acts committed by the accused under the Indian Penal Code, the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989;
2. For the Mira Road-Bhayander police to ensure that there is a fast track the trial and speedy delivery of justice
3. For the police to ensure that the deceased victim's family receives the necessary relief
4. For the police to ensure that data on such monitoring is made public digitally and that progress in this case is also visible and made public electronically and digitally.
5. To take any other action as you may deem fit.

Yours sincerely,

Nandan Malsute, President

Teesta Setalvad, Secretary

Annexures

Annexure A- A photograph of the injuries uploaded on the Transcontinental Times dated 10.05.2022

Annexure B- A copy of the Free Press Journal reported dated 11.05.2022

Annexure C- A copy of the News Click report dated 10.05.2022