

# Fact-finding Report on the Grievous Attack on Arun Kumar at Ashraya Badavane, Chikkamagaluru Town



July 2023

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# 1. Introduction

A team comprising Mr. Krishnamurthy (Samvidhana Samarakshane Vedike, Chikkamagaluru) and Mr. Sivamanithan (Advocate, Bengaluru), Dr. Sylvia Karpagam (Public Health Doctor, Bengaluru) and Siddharth K J (Researcher, Bengaluru) visited Chikkamagaluru town on 26-05-2023 to conduct a fact-finding into the election-related caste violence at Ashraya Badavane in Chikkamagaluru city. Mr. Arun Kumar, a member of the Dombara (scheduled caste) community, was grievously assaulted by the upper caste men affiliated to BJP party for celebrating the victory of Congress MLA H D Thimmaiah. The team spoke to the Dalit families residing at Ashraya Badavane in Chikkamagaluru town and the Superintendent of Police of Chikkamagaluru district. The facts, observations and recommendations presented in the report are based on the statements made by the residents of Ashraya Badavane and relevant documents collected by the fact-finding team.

The Ashraya Badavane, a residential layout, was formed 30 years earlier on a lake bed on the outskirts of Chikkamagaluru town. Around 120 houses were built in the said Badavane under a government housing scheme. Instead of allotting the built houses to the families of economically weaker sections of all caste, the housing units were allotted to the counselors of the (then) Chikkamagaluru Town Municipal Council (now a City Municipal Council). Subsequently, these counsellors, sold or lent out these houses to other families. Presently, most of the houses in the locality are occupied either by those who bought the houses from the counselors or by tenants who pay rent to the counselors or their henchmen. Currently, around 20 houses are occupied by Dalit families and rest are occupied by Vokkaligas, Lingayats, Banijiga Shettars, Achary and migrants belonging to Nair and Gounder castes from Kerala and Tamil Nadu. There is one Christian family living close to the Dalit settlements.

The events that led to the attack on Mr. Arun Kumar on the evening of 16th May 2023 are centered around four Dalit families that reside in an area in the Badavane and are surrounded on all sides by dominant caste households. One of these four houses belongs to Smt Anthonyamma, a widow, who has been an Ambedkarite activist and associated with Dalit organizations for several years. The house she lives in belonged to her father-in-law. Her husband was first married to Anthonyamma's elder sister, and they had four children – Manjunatha, Jyothi, Vinutha, Swathi. After her sister died, he married Anthonyamma and they had another daughter – Keerthi. After Anthonyamma's husband passed away, she has been bearing the sole responsibility of raising the five children. The three older daughters are married. Jyothi's husband Ramesh runs a food stall. Vinutha's husband Nagaraj and Swathi's husband Rakesh, both drive waste-collection auto's for the Municipal Council. Her son had developed neurological problems and is currently on epileptic and other medications. Anthonyamma supports him and his family financially.

## 2. Cause of the Incident

Arun Kumar is the brother of Rakesh (Anthonyamma's son-in-law). He has grown up in Ashraya Badavane and had canvassed support for the Congress candidate in the locality during the recent assembly elections which were concluded on 10th May 2023. The dominant caste families of the locality are aligned with Bharatiya Janata Party and there is a long history of caste-based antagonism between these dominant caste families of the locality specifically towards these four Dalit families, including that of Anthonyamma's family. Until 2023, Chikkamagaluru constituency was a strong BJP Bastion which was held by the then minister Mr CT Ravi a hate mongering fire brand leader of BJP. The election results were announced on 13th May 2023, and the Congress candidate, Mr. H D Thimmaiah defeated the BJP candidate, Mr. C T Ravi by a margin of close to 6000 votes. On 16th May 2023, at around 4:30 pm, when Arun Kumar and other Congress supporters were celebrating the Congress victory by bursting crackers at a lane in Ashraya Badavane, the upper caste members Putturaju (caste: Banajiga Shettar), Mohan (caste: Nair) and Manjunath (caste: Madiwala Shettar) supporting BJP party in the said area verbally abused Mr Arun Kumar with caste slurs and entered into a fist fight with Arun Kumar.

Arun's friends in the locality intervened to break the fight. Later, on the very same day, at around 6:30 pm, Arun Kumar who had to go to AIT Circle took his bike and was riding near Ashraya Badavane Circle when suddenly Putturaju, Mohan and Manjunath who were hiding in the dark stopped Arun Kumar abused him with caste slurs and Puttaraju attacked Arun Kumar with a long machete with an intent to kill and aimed for his head. In defence Mr Arun Kumar held his left hand high and the machete hit his left shoulder causing grievous deep cut injury. Puttaraju threw his machete on the road side and ran away with his accomplice. Coincidentally, Mr Yogesha, who belongs to one of the Dalit families living near Anthonyamma's house, was going to his house in his auto and saw Arun Kumar lying injured on the road and took him to M G Hospital where Arun Kumar was treated with 11 stitches on his left shoulder (see Image below).



While the Arun Kumar was at the Hospital, a MLC (medico-legal case) was recorded and the local Chikkamagaluru Town Police were informed about the incident. The police reached the hospital and took the statement of Mr Arun Kumar and an FIR came to be registered with the Chikkamagaluru Town PS (CR No. 82/2023 registered at 11:30 pm) u/s IPC 504 (intentional insult), 323 (voluntarily causing hurt), 324 (voluntarily causing hurt by dangerous weapons or means) and SC/ST (Prevention of Atrocities) Act (as amended in 2016) section 3(1)(r) and 3(1)(s). Despite Arun's insistence that the assault was with the intention of murdering

him, the Police did not invoke IPC section 307 (attempt to murder) and SC/ST (Prevention of Atrocities) Act (as amended in 2016) section 3(2)(va) and said that section 307 IPC will be invoked only when the hand is severed from the body and not for just a small injury with 11 stitches. From the videos of the earlier fight shared with the fact-finding team, one of the attackers can be seen issuing death threats to Arun. Arun refused to sign the statement or the FIR since the police was not ready to invoke section 307 IPC in the FIR. Arun's family and representatives of Dalit organizations met the Superintendent of Police about this lapse, but despite the assurance of the Superintendent of Police of invoking section 307, these sections were not invoked by the police.

### **3. The Investigation So Far**

Since the provisions of the SC/ST Atrocity Act are invoked, the Deputy Superintendent of Police is authorized to carryout the investigation. It was revealed to the fact finding team that Arun Kumar and his friends, who were asked by the police to be the mahazar witness, were made to sign some documents without knowing the contents of the said documents. Shockingly, in the absence of the accused persons, despite they being in police custody, Mr Yogesha, who acted as a recovery mahazar witness was asked by the police to pick up the machete, used by the accused Puttaraju, by his hands from the scene of the offence and was made to hand it over to the police which would be sent to FSL for forensic report. The IO has taken a video recorded statement of Mr Arun Kumar and other witnesses. Further, on 17-05-2023 at around 1 am, during the process of arrest, the Police, instead of using their vehicle, had asked one of the Dalit families, to get their auto to transport the accused from house to the police station.

# 4. Glaring Lapses in the Investigation

## 01. Failure to invoke appropriate sections

Despite earlier death threats and a deadly weapon used in the attack, which prima facie shows an intent to kill, the Chikkamagaluru Town PS has not invoked sections of 307 IPC and Section 3(2)(V) of the Scheduled Caste and Scheduled Tribe Prevention of Atrocity Act.

## 02. Non-disclosure of Mahazar content

Not disclosing the contents of the *mahazar* while getting the signature of the witnesses.

## 03. Contamination of Evidence

Making the witnesses to personally pick up the weapon used by the accused at the time of recovery *mahazar*.

## 04. Lapses in Carrying out Mahazar

Not bringing the accused, who were already in the custody of the police, at the time of the recovery *mahazar* and also for spot *mahazar*.

## 05. Failure to record statement

Not recording the statement of Mr Arun Kumar under section 164 of CrPC.



## 5. Life of Dalit Families post Caste Violence

The Dalit families at Ashraya Badavane in Chikkamagaluru Town continue to face harassment and intimidation from the upper caste families of the said locality. The accused Putturaju (caste: Banajiga Shettar), Mohan (caste: Nair) and Manjunath (caste: Madiwala Shettar) are out on bail. After being released on bail, these accused persons are regularly seen near the houses of the Dalit families either doing bike wheeling or walking semi-nude in their underwear. When the members of the Dalit families and accused persons cross each other while on streets, the accused persons and their family are seen cursing the street dogs using caste slurs. Further, Dalit families are wary and fearful of walking along the upper caste family streets because of these kinds of insults. Further, they also fear that the accused persons might use their woman in filing false cases against the Dalit families as that has happened previously.

## 6. Response of the Superintendent of Police

The Superintendent Police was earlier approached by the Dalit families of Ashraya Badavane and Dalit Organizations to register an FIR under section 307 of IPC and under section 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocity) Act 1989 (amended in 2016). Despite the assurance, the Chikkamagaluru Town PS proceeded to register FIR without invoking IPC sec 307. When the fact-finding team enquired with the Superintendent of Police (Chikkamagaluru district), she said that she has issued show cause notice to the concerned police officer of Chikkamagaluru Town PS for not invoking section 307 and also assured that there would be impartial investigation into the incident. However, it was learnt subsequently, that Superintendent of Police (Chikkamagaluru district) was not happy that a fact-finding team had met the affected family members. The next day, the Superintendent of Police had visited the spot and warned Anthonyamma against inviting fact finding team to Chikkamagaluru and also warned not to intervene in atrocity cases related to other Dalit families.

## 7. Adding insult to injury: A false counter-case against members of Dalit families

It was observed that, after the deadly assault on Mr Arun Kumar at around 6:30 pm, on the very same day at around 8:30 PM, Pushpa (Putturaju's wife) approached the Chikkamagaluru Women Police Station against Arun Kumar, Anthonyamma, Yogesha (Anthonyamma's Dalit neighbor) and Rakesh alleging that these persons entered their house between 6 – 7 pm on 16-05-2023 (same day as the attack on Arun Kumar), assaulting them, breaking the TV and using abusive language. The Chikkamagaluru Woman PS, without any inquiry, registered an FIR in CR No. 55/2023 registered at 9:00 pm for offences punishable under section 448 (house trespass), 354 (use of criminal force to outrage a women's modesty), 504 (intentional insult), 427 (causing damage) and 323 (voluntarily causing hurt) of Indian Penal Code.

## 8. History of Continuing Caste-based Violence

We were informed that the history of caste-based harassment and violence faced by the Dalit families of Ashraya Badavane at the hands of the dominant caste residents of the locality goes back over 20 years, but it intensified particularly since 2014. Provided below are few instances of some incidents of caste-based harassment, discrimination and violence against the Dalit families:-

- In 2019, Anthonyamma's daughter Vinutha was assaulted and kicked in the stomach by Manjunath (accused of assaulting Arun Kumar in the recent incident). A case under SC/ST (Prevention of Atrocity) Act 1989 has been registered against the accused and is pending in court. After the above case was filed, the harassment from the dominant caste neighbors increased so much that Vinutha tried to consume poison. When the family insisted on filing a case against the harassers, the police refused to accept the complaint.

- In 2019, one of the dominant caste neighbors foisted an assault and attempt to murder case against Jyothi, Anthonyamma and Rakesh (Anthonyamma's son-in-law) at Chikkamagaluru Town PS (CR No 203/2019 registered on 12-12-2019) offering to withdraw the case in lieu of withdrawal of the previous case filed by Vinutha. Jyothi, who was not even residing in Ashraya Badavane by then, was also named as an accused in the case.
- In July 2021, Shivu, a member of the four Dalit families who have been facing extreme forms of caste-based violence, was beaten up by three Gounder men for offering food during a neighbor's wedding at the Salumaradamma Temple. When his sister Rashmi went to save her brother, she was also assaulted by the attackers. A case was registered at the Chikkamagaluru Women PS (CR No 56/2021 on date: 01-07-2021) under IPC sections 323, 324, 354A(1)(i) & 504; POCSO Act 2012 sec 8 and SC/ST (Prevention of Atrocities) Act 1989 u/s 3(1)(r),3(1) (s) & 3(1)(w)(i) against the attackers.
- On 4th May 2023, just 12 days before the assault on Arun Kumar, a group led by Puttaraju came to Rakesh's house (Anthonyamma's son-in-law) and assaulted him. When his wife Swathi tried to save him, she was also assaulted and her clothes were torn by the attackers. Hearing the noise, Anthonyamma came to the rescue of the couple and started filming the assault. The attackers tried to snatch her phone and destroy it. Rakesh was admitted in hospital and based on his statement a case was registered on 11th may 2023, at the Chikkamagaluru Town PS under IPC 1860 (U/s-427,504,149 and 323) but the SC/ST (PoA) Act was not invoked. The family members reported that the police tried to dissuade the family from filing a complaint saying that "Why do you want to file a complaint and lose your daughter's honor?" Policemen from the police station have called them and laughingly asked Anthonyamma to show the video of her daughter's clothes being torn.

Apart from these serious incidents, the Dalit families of Ashraya Badavane are facing continuous harassment and discrimination from the dominant caste families. Few months back when one of the Dalit families opened a food stall/grocery store they were forced to close it down and asked to move to one corner of the locality.

The neighboring dominant caste families have blocked the municipal drain which conveys greywater from Anthonyamma's house to the larger drain, so that the greywater coming from a Dalit family's bathroom doesn't pass through dominant caste houses! Anthonyamma's family has to fill the greywater in buckets and pour it into another drain.

The Dalit families are not allowed to celebrate any festivals, even Ambedkar Jayanthi in the area. Anthonyamma couldn't hold her daughter's wedding function in the area and was forced to hold it at Dharmasthala instead. The girls of the Dalit families are regularly harassed by dominant caste women saying, "Would you sleep with our men?" Several girls of these families had to drop out of school because of this incessant harassment. Even the keys to the Ambedkar Bhavan are in the custody of the dominant caste men who use the space for unlawful activities.

# 9. Key Observations

## Escalation of Violence

There is a gradual but clear escalation in the violence and harassment against the Dalit families in the locality by dominant caste families which draw support from the BJP. This has culminated in the grievous assault on Arun Kumar.

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## Police Bias

The local police have acted in a partisan manner during the last two decades and failed to restrain the caste-based harassment and violence against the Dalit families. The brazen manner in which the local police ignored directions from higher officials to register the FIR under IPC 307 shows the biased attitude of the police against the Dalit families of Ashraya Badavane.

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## Fear and Intimidation

The Dalit families facing harassment and violence from their dominant caste neighbors are living with a sense of deep fear and foreboding because of the recent escalation in violence and the apathy of the local police. They have been alienated by the residents of the locality. Non-Dalit supporters of Congress also refuse to come to their support and several Dalit families living in various other lanes of the locality are also afraid of supporting them because of fear of retaliation from their dominant-caste neighbours who outnumber them.

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## Gender-based Violence

The female members of the Dalit families have especially been subjected to continued physical and mental trauma.

# 10. Recommendations

## 01. Safety of the Dalit Families

The safety and security of the affected Dalit families of Ashraya Badavane should be ensured immediately. A sentry should be posted at Ashraya Badavane and regular visits should be undertaken to mitigate caste based violence.

## 02. Amendment of FIR

The FIR in the case of attack on Arun Kumar should be amended to include IPC section 307 (attempt to murder) and SC/ST (Prevention of Atrocities) Act (as amended in 2016) section 3(2)(va).

## 03. Action against Police Officials

Legal action should be taken under the SC/ST (PoA) Act 1989 against Police Officials responsible for omission of IPC section 307 (attempt to murder) and SC/ST (PoA) Act 1989 section 3(2)(va) from the FIR.

## 04. Appeal against Bail Orders

The government should appeal against the court order granting bail to the accused in the case of attack on Arun Kumar.

## 05. Support to the *Dalit* Families

The Deputy Commissioner and officials of the Social Welfare Department should immediately visit the families and provide them with counseling support and rehabilitation.

## 06. Ensure Dignity for the *Dalit* Families

The Police should ensure that the Dalit families of Ashraya Badavane are free to practice their economic, social activities without indignity, humiliation, social boycott or aggression.

# 10. Recommendations

## 07. Departmental Enquiry

A Departmental enquiry should be initiated into the insults and harassment faced by Anthonyamma and her daughters at the hands of the police personnel of Chikkamagaluru Town Police.

## 08. Installation of CCTV Cameras

CCTV cameras should be installed near the houses of Dalit families of Ashraya Badavane as a precautionary measure.

## 09. Handing over probe to CID

The serious lapses in the initial stages of investigation would only result in acquittal of the accused and therefore considering the glaring lapses of the police and the investigating officer in Cr No. 82/2023 (Chikkamagaluru Town PS) the investigation must be handed over to the CID for fresh investigation.

## 10. Sensitization of dominant caste families

Police officials must hold meetings with the dominant caste families in Ashraya Badavane to sensitize them with the ideals of Fraternity and Brotherhood.

## 11. Mitigation of Caste-based Violence

The Police officials and the officials of the district social welfare department must meet the Dalit family members of the Ashraya Badavane on a weekly basis to mitigate caste related violence.

## 12. Sensitization of Police

The Chikkamagaluru Town Police officials must be sensitized to handle complaints of caste related violence on priority basis.

# Fact-Finding Team

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The Fact-finding team comprised of

1. **Mr. Krishnamurthy** (Samvidhana Samarakshane Vedike, Chikkamagaluru)
  2. **Mr. Sivamanithan** (Advocate, Bengaluru)
  3. **Dr. Sylvia Karpagam** (Public Health Doctor, Bengaluru)
  4. **Siddharth K J** (Researcher, Bengaluru)
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## Cover Page Design

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