

## **A case of 'willful negligence' under Sec 4 of the SC/ST POA 1989 Part II:**

This is a provision that has yet to be used throughout the country in spite of the legislation having come over 22 years ago. The section reads as follows:

*Sec 4. Whoever, being a public servant but not being a member of a Scheduled for neglect Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed of duties by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.*

This is case of a 'marriage' between a dalit boy and a Vanniar girl – alleged to have been performed on the 14<sup>th</sup> of October. The 'young couple' are known to have presented their petition for protection of the DIG of the region in Salem. This is also a region that is known to be under the scanner of the 'anti-naxaliite' intelligence wing of the state police, popularly known as the 'Q branch'. In fact, we were unable during our visit to know why this village was being scanned to this extent by the Q branch police. The police personnel whose names many ordinary people knew in the riot affected villages - Natham village in particular – were the names of three 'officers' of the district Q Branch, namely, that of Soukath Ali, Manivanan and Mariappan. All the incidents that take place in this village – public and private - are well known to the 'Q branch' since the people themselves keep them informed when they visit the village almost daily. Hence, if there is any intelligence failure to alert the district and state authorities about events in the village ' that were likely to flare up ' which village is under the scanner of the Q branch police, it was primarily the failure of the 'Q branch' of Dharmapuri district to bring this to the attention of the District Collector who is the District Magistrate. Any investigation into this case under the SC/ST POA which provides for a Sec 4 as mentioned supra, shall also have to take this into their investigation.

The father of the bride [Divya] from the Vanniar community interestingly does not enjoy a 'bad' or 'casteist' reputation' among the dalit sections of Natham village. In fact it is known to one and all, that the parents of Divya were aware of this 'relationship' between Divya and Ilavarasan for almost two years. It is also publicly known that the parents of the girl themselves did not protest to this relationship. After the 'marriage' that had taken place, a family member of the bridegroom's family had

passed away and the last rites were being performed on the 25<sup>th</sup> of October in Nathan village [colony]. The groom's father working in the GH in Dharmapuri and having stayed away from the village for a few days came to participate in the last rites. The moment the Vanniar part of the village came to know that he had arrived, they became restless and started expressing their restlessness in gathering together and speaking out loudly so that the Dalit section of Natham village could feel their heat. It is at this stage that the groom's father was 'advised' by the elders of his village to leave the village in order to prevent any untoward incident and this was also accordingly conveyed to Divya's father. The details of this uneasiness that prevailed and the actions initiated thereafter were also properly communicated by the Dalit leaders of Natham village to Mr. Perumal the then SI of Police of the jurisdiction police of Natham village [now under suspension]. This was also made known specifically to the functionaries of the 'Q Branch' where they were located. No action followed. Is this not a very clear failure of the Q branch police mentioned supra ???

Mr. Asra Garg, the SP of Dharmapuri moved to Ramanathapuram for the 'Thevar Jeyanthi' band about a directed by his bosses. It was at this time when he was absent from the village that the entire 'Operation Natham' seemed to have got its act together - its planning and complete execution. Let us not forget the following facts:

- That the Inspector of Police of Krishnapuram PS, the jurisdiction police station for Natham village is one Mr. Jeganathan who is known to have been convicted under the SC ST POA Act 1989 in the famous Vachathi case; it is really surprising that he has been placed within such close jurisdiction of an exclusive and large SC village, Natham;
- That on the 4<sup>th</sup> Nov' 2012 there was public 'Katta Panchayat' held by senior members of the Vanniar community in which over 300 members from over 15 villages participated and was led by Ex and present Panchayat Presidents / councillors / and party political / community leaders from that area. 20 members of the dalit community from Natham village were also 'summoned' to be present and they were there. They were asked in the publicly held 'Katta Panchayat' when they would surrender 'Divya'. The representatives of the community replied to them that this was not at all possible since the family itself was not aware of where the new couple were and they had also ascertained this from the father of

the boy even before coming to the meeting. It is at this stage that the 'covenors' of this Katta Panchayat' then warned the representatives of the Dalit community that they would have to real the consequence of such a statement. The representatives were extremely weary of what the consequences would be and returned home after this meeting was held in total 'public view', less than three kilometers away from the local police station. It is also surprising to note that over 300 people assemble, from all the villages around, in total public view on a district highway and no action – preventive action that is expected under the provisions of the SC /ST POA Act and Rules are taken?

***Sec 17. (1) A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such inquiry as he may the law and think necessary, has reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behaviour and maintenance of public order and tranquility and may take preventive action.***

***(2) The provisions of Chapters VIII, X and XI of the Code shall, so far as may be, apply for the purposes of sub-section (1).***

***(3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes.***

Thus the police officers responsible for the Krishnapuram PS such as the Sub inspector of Police and the Inspector of Police as well as the Q branch CIDs and other CIDs who are known to frequent the village have totally failed to alert the District Magistrate on this issue allowing it to initiate preventive action or even alert the DSP of the jurisdiction to initiate the same.