Fact Finding Report in a Rape and Murder of an eight year old girl Asifa in Kathua(Jammu) by Pragatisheel Mahila Sangathan

Pragatisheel Mahila Sangathan, Delhi sent a team to Kathua(Jammu region of J&K state) to Study the situation which has developed after the rape and murder of a little 8 years old girl in Kathua District of Jammu and Kashmir. P.M.s was particularly astonished to read the news of gran organisation called Hindu Ekta Manch coming into existencein favour of the persons accused of rape and murder of the little girl. There were reports that members of not only BJP but congress & PDP Of a particular religion were participants in it.There were also reports of protests for justice for little girl from students and citizens across Jammu and the Valley. P.M.s Delhi was thus disturbed by the news of horrifying communalization and politicization of rape and murder, so it decided to send a team to Kathua.The team was in Kathua on 18th and 19th Of March 2018.

The team consisted of Ms. Poonam(Gen Secy PMS,Delhi), Ms. Kalpana(Secy PMS Delhi), Ms. Shubra(Vice president PMS Delhi), Ms. Jaishree (All Advocates) . This team stayed in Kathua, met the family of the little deceased girl as well as the families of the persons accused Of rape and murder and the residents of Village Rasaana – the Village where this horrific incident happened.

The focus of the fact finding team was to understand the reasons for such a heinous brutality as well as reasons for protests in favour of accused persons and the support extended by 2 Ministers Of the State to the persons accused.

The version of the parents of the deceased girl.

On 18th March, 2018 the fact finding team met the mother and father of Asifa (The deceased Girl Child), at their home in the Jungles adjacent to village Rasaana. The team was informed by the parents that the nomad community of Gujjar, Bakkarwal stay for six months in Jammu and shift their 'Deras' to the hilly areas of Kashmir due to summer. This community depends on live stock and they need huge tracts of land for grazing purposes for their live stocks. They were paying money agreed to between the landlord and the concerned Gujjar, Bakkarwal family.

(When we reached the village,we were surrounded by the people of the village hostile to the family.We had to repeatedly assure them that we were only investigating for facts and would ask all sections).

The parents told the team members that they were coming to the Rasaana Village for Past so many years and were taking land on his every year for six months for grazing their live stocks. Mohd. Yusuf – Father of deceased Asifa

told the team that in the year 2002 around 2 acre land was also purchased by him from a Rajput Zamindaar of the adjacent Kuta Village and in 2004 a Pakka House was built by him on this land.

Nasima - Mother of Asifa told the team that on 10-01-2018 the little Asifa, as per the daily routine, took the mules for grazing but did not return till late night. They looked for their daughter in the nearby nomad deras but could not find her. Next day the mother went tom the concerned police station in Hira nagar. But the Munshi of the P.S. told them to come again the next day as it is a Government Job and it takes time. So the missing report was not lodged by the police and the report was lodged only on 2th January. The parents informed the team that police accompanied them to the Jungles to search for the little girl, but did not search for her in the houses of the Villagers of Rasaana. On 17th January 2018(the mother said it was a tribal- hereinafter referred to as Gaddi-who informed) the family was informed that the body of little Asifa is lying in the Jungle. Parents and other members of Bakkarwal Community saw the Body which bore marks of brutality, torture,crush injuries and the blood and mud stained clothes of the little girl .The body was prima facie depicting brutal sexual assault too.

The body was handed over to the parents after conducting Post Mortem. When the body was taken for burial to the Village of Rasaana ,locals

resisted the burial and forced the parents to take the body to burial ground of another Village Kanha which is7-8 Kms from the Village Rasaana. After the death of the little girl , water supply to h Yusuf'house was blocked. The live stock was also not allowed to access water from Rasaana. The Tubewel which is the source of water is a Government Tubewel, still Water was stopped.The Parents expressed their fear of either some harm to their sons or any others kind of mishap to them. They also informed the team members that they are under continuous threat that their house will be demolished when they will go to Kashmir this time. They also informed the team members that after the dead body of the little girl child was found, one village Woman informed them that crying sounds of alittle child used to be heard from the house of Sanjhi Patwari.The mother said that now the woman is silent due to the mood in the village.

The fact finding team also spoke to the activists of All Tribe Co-ordination Jammu and Kashmir regarding this ghastly incident.We are not naming them as in the communally charged atmosphere we are not sure if they will be endangered. They told the team members that when the dead body of the child was found on 17th January, 2018 the condition of the body was clearly depicting sexual brutality. The activists held a Demonstration on the main road along with the body of the child. They also informed the team members that the sniffer dog took the scent from the area where the body was found and took it to Jagdish Lal, Gaddi

(another nomadic tribe which believes in Hindusm) and from there to the cow shed of Sanjhi Patwari house. They also said that the police arrested the Gaddi and a 15 year Old boy of Bakkarwal Community working as his domestic help. The Gaddi informed the Police that the body was actually lying with his live stock. Out of fear he threw the body into the Jungle. Police later let off both of them afer questioning.

These activists also informed the team members that ever since the B.J.P.-PDP Regime has come to Power Bakkarwal Community is facing difficulties. The Forest Minister of this Government is encroaching the forest land particularly around Kathua. They showed a memorandum dated 19-12-2017 addressed to the State Chief Minister and this memorandum was submitted to her through D.C. Jammu during a demonstration. In this memorandum the notification of Forest Rights Act in Jammu and Kashmir was also sought along with a residential settlement for Nomad Community on the pattern of Jagti Township.

These activists have expressed the fear that since the Nomad Community of Bakkarwals is struggling for these just and genuine demands this ghastly act of rape and murder of this little girl have been carried out in a preplanned manner with the motive of frightening the Bakkarwal Community so that they stop coming to Jammu. The activists also informed the team that the

police was totally unconcerned and insensitive and therefore took 2 days to lodge even the report. These activists were also of firm opinion that those who committed this ghastly act as well as the police officials of Hira Nagar Police Station were dead sure that there will be no hue and cry as the girl was from the most vulnerable section and her parents Powerless. That's why the Police not only refused to lodge the missing person report but also did not take concrete steps to look for the girl.The activist also toldus that Sanjhi patwari after his retirement from goverenment Job has gone to the RSS headquarters in Nagpur. amd stayed there For many days.But the activists could not show any evidence to substantiate this.

These activists also informed the team that on 15.03.2018, in a marriage of Bakkarwal Community in nearby Kuta Village,a number of nomad families took part. These activists also went to this marriage. There information of this case was shared with the other members. Thereafter information was send to several deras of the nomad community throughout Jammu and Kashmir and also the Police was asked by the sctivists to look into the matter from the aspect of child trafficking but thr Police did not do anything.

These activists told the team members that looking at the callous attitude of police even after the dead body was found, they demanded the matter to

be investigated by the C.B.I. These activists told that when the dead body was burried in the Village Kanha, the water supply was stopped to this Village for a week and even the live stocks were not allowed to have water. After the intervention of these activists water supply was restored.

These activists also told us that on the “Chautha” of the girl child the Nomad Community people held a peaceful march in the Rasaana Village and demanded the arrest of all the culprits. This peaceful march was brutally lathi charged ,in which several people were injured and some of them suffered head injuries.(The activist speaking to us had an old injury on his head.)

These activists further informed that when the Police formed an SIT For the second time and started investigating the matter, A writ petition was filed in the High Court praying therein the supervision of the investigation.This was accepted by the court.

These activists also informed that protest demonstrations demanding arrest of the murderers of Baby Asifa were organized in Poonch, Rajouri and Sri-Nagar apart from in Kathua.

These activists said they were contented with the investigation by the Crime Branch but were resentful due to the delay in arresting all accused persons as well as delay in filing the charge sheet.

Parents of Baby Asifa also told the team members that they are satisfied with the Crime Branch

investigation(Through a SIT)and are in the hope of justice.

Parents of Asifa also informed the team members that no One from the Rasaana Village came to express solidarity with the grief stricken family after the body was found.

Some more facts were brought out by Mohd. Yusuf, Nasima and activists of All Tribe co-ordination Jammu and Kashmir to the knowledge of team members. some are mentioned below -

Bakkarwal Community takes land on cash payment for grazing purposes every 6 months from the landlords of the region. They are able to earn only 10,000/- Rupees per month. The students of this community come back to their homes after summer vacations and then they look after themselves on their own as the parents are in the hillse.in Kashmir).

Yusuf has an A.P.L. ration Card does not get any ration. There is no water supply, no electricity supply to their home. Every week they have to pay Rupees 700 for a water trolly tanker..

The team went to the houses of the accused persons of Rasaana Village and met their family members. When the team members were talking to the family members some residents of adjoining villages came there.Thus a total of 70-80 people gatheted to talk to us.

One of the family member of one of the accused informed the team members that Rasaana Village is a Village of Brahmin landlords. One extended family is living there for years. Thus all the residents are related to each other. They informed the team members that ever since 17th January, 2018 there is an atmosphere of fear among the Villagers.The Crime Branch is arresting everyone in the name of interrogation. The Crime Branch is recording confessions using Third Degree Torture.

When these residents were asked to name some of the persons who were called for interrogation and detained and tortured, they informed that 3 Youth of Prvesh Kumar, Shubham and Vishal Jangotra were the only youth arrested after interrogation. No other youth was either interrogated or detained.

These people also told the team members that Rasaana Village is being targeted. When they were questioned as to why they are targeted they said that this is since they are not leasing out their land for grazing purposes to Bakkarwal Community and are giving it to another nomad community, ‘sippy’.

The sister of one of the accused said that the police were recording confessions using third degree method. We want a C.B.I. enquiry She said. The demand for s C.B.I. enquiry was Supported by the family members of other accused persons.

Office bearers and members of Hindu Ekta Manch, some professionals and advocates also came to the spot. They all were saying that the Crime Branch is inquiring only from Hindus they are not interrogating the Bakkarwal Community. One of the Team Member asked them as to what kind of inquiry could have been done if such a ghastly incident would have occurred in their family. The audience really could not answer that except stating that Mufti Mehboba Government is pleasing Bakkarwals, Muslims, Kashmiris. In the SIT of Crime Branch there were only Kashmiri,Muslims. We want nothing less than C.B.I. enquiry. They further stated that if their children are found guilty in C.B.I. enquiry they may be hanged.

The office bearers of Hindu Ekta Manch said t this manch was formed after 17th January, 2018. Educated, affluent people including the sarpanch are the members of this manch. Residents of Rasaana Village are also members. They told us that since Hindus are being targeted after 17.03.2018, the Hindu Manch was formed for Justice. Prof. Vijay Kumar said that the composition of the investigating team and the arrest of Hindus is the result of the policies of Islamic radicalization pursued by Mehbooba Government.The present SIT of Crime Branch cannot be trusted upon and they have no faith in this SIT as it has Kashmiri Police Officials, Muslim Police Official and only one official from Jammu Ms. Shwetambri what will she be able to do for the accused.

They also said that Hindus worships little girl (Kanya Prayer). No Hindu will do such an act. The whole enquiry is one sided as only Hindus are being arrested. One 8 years old girl child was murdered and without medical evidences the accused persons are being named as “Rapists”.A 17 year old, a 28 year Old, a 42 year Old and an S.P.O.- who all are Hindus thus Labelled . A Man who had completed five years of service as SPO and Hindu Policemen who were in service for so many years have been arrested. No Hindu can commit such heinous crime on a little girl.

Some people present there also said that it is the compulsion of Brahmin landlords to lease their land to the nomad either Bakkarwal or Sippies as they have the land and they don't have any other source of Income through this land. The cost of agriculture is very heavy and causes lot of losses. Therefore by leasing out theit land so that they are able to earn some money.

The family members of the accused questioned how was it possible to keep a little girl in the cow shed so long With no one hearing anything.When we said that only membets of their families could have heard,they said nothing.

A family member of of an accused who was packed up from Merrut one day earlier, informed the Team Members that the boy was appearing for his exams in Merrut on the concerned dates. We asked him if he had some proof like examination hall admit card but he was not able to reply concretely.

The Sarpanch of a nearby village who also came to us informed us that they are afraid of Bakkarwals as they capture the land. They take the land on lease but don't pay the money on time.He said we are afraid that they may construct Pukka Houses on our land. Government is bringing such an act after which if the Bakkarwal are in the possession of Government land no government agency will be able to get it vacated. The collected people said that the Biological parents of Asifa have died under mysterious circumstances and she is the adopted

daughter of Yusuf and Nasim . Yusuf himself was adopted by a women Gulna who was the aunt (bua) of Yusuf. Theysaid that they suspected some property dispute behind the murder of Asifa. They also said that the adoptive parents did not love Baby Asifaand that's why she was not send to school but the two sons were going to school.

They also told us that on the day when chautha was performed s huge rally of nomads was organized from the house of Asifa ,passing through the houses of Rasaana Village .The rallyits raised pro Pakistan slogans and they banged on the doors of the houses of their village. They alleged that the Bakkarwal Community is being established in Jammu region to make demographic changes . Asifa must get justice but innocents must not be punished.They could not show any video of such rally raising such slogans though they said it existed.)

The narratives they put before the team members were verified and following facts could be established about Yusuf's family :

1. It is correct that Asifa was the adopted daughter of Yusuf and Nasima. It is completely wrong that the Biological parents are dead. In fact when the all Tribe co-ordination organised a hunger strike after the dead body was found, the Biological parents also sat on hunger strike.

2. It is also correct that Mohd. Yusuf was adopted by his Bua. But no property dispute as alleged by the Hindu Ekta Manch ,exists between Yusuf and the biological parents of Asifa or between Yusuf and anyone else. To say that Yusuf and Nasima had no concern for Asifa and that's why she was not sent to school is not correct. The reason for her not going to school is two-fold- one the school is at some distance and the other is due to the Backwardness Of the Nomad Community qua women education. They to further said that Nasima was not concerned about Asifa as she did not lodge the report immediately but this again is wrong as the police refused to register the case the 1st day.

Their allegation that the police is recording confessions by using Third Degree method will be discussed at a later stage of this report.

Hindu Ekta Manch, Advocate Ankur Sharma told the team members that it is being attempted that Jammu be converted into a muslim majority state. Rohinga Refugees enjoy the support of the State Government as they belong to a particular Religion. But Baluch Refugees are not treated as refugees because they are Hindus. The Government forced Kashmiri pandits to leave Kashmir but now they are inducing Kashmiri Muslims to settle in Jammu and for this they will be given many facilities and concessions.

It was not possible for the team members to interact with the other family of Bakkarwal Community because of the distance.

On 19.03.2018 we interacted with the officials, journalists, lawyers and the IG police in Jammu. We met Ms. Anuradha Bhasin, Executive Editor of Kashmir Times and spoke to her about this incident and the kind of atmosphere being built around this ghastly crime. She emphasized that communal polarization is rising in Jammu for the past few years. It is bit difficult to say that this rape and murder was preplanned. But if it is assumed to be a preplanned act it is horrifying to see how the little girl childs' body and violence on it is being used to address the conflicting interests of communities. She also told that when the first arrest was made in this case ,one of the correspondents met the Investigating officer and asked him about the identity of the person arrested. The I.O. replied to her that he cannot reveal the identity as it will become a the Hindu - Muslim issue. The correspondent questioned how it could be an issue of Hindus and Muslims and not one of accused and deceased 'survivor'. If the police functions with such an understanding how could the little girl get justice. She also questioned the dilly-dillaying in arresting the "Mastermind" (as projected by the Police) Sanjhi Patwari. Anuradha also emphasized that in this whole episode it is horrifying to see how the crime on a little girl child'S body is

just put aside and horrifying communalization and politicization is being done. It is further disheartening to see the Ministers of the State Government taking part in the protests in favour of the accused persons and the women of a particular religion also coming in support of accused persons. This all shows that the rape and Murder of the little child is being delegitimized. She also said that it will be against the interests of justice to change the investigating agency at this stage.

We met Ms. Dipika Singh Rajawat, Advocate of the Biological father of the deceased Asifa. She informed us that after the formation of SIT for the second time, a writ petition was filed, by the biological father of deceased Asifa (titled as Mohd. Faruq Vs. State) before the Jammu Bench of Jammu and Kashmir High Court. It was prayed therein to supervise the investigation and call for periodical status report. She also said that this Writ was filed in February 2018. After this ghastly incident the police was hushing-up the investigation. She also said that all the records i.e. Medical and FSL etc. have yet not been filed. The next date of hearing in the matter is fixed for 09.04.2018.

After this we met the I.G. Crime I.P.S. Syed Ahfadul Mujtaba, he informed us that the case has been registered under Section 201/ 360/ 376/

302 IPC. Since POCSO is not been notified in the state the Section are not added to the offence. A total 6 persons including 2 policemen have been arrested in connection with the matter. Sanghi Patwari is absconding. (He surrendered on 20.03.2018). This whole crime was preplanned, he said. Police has definite clues to substantiate this position of the crime. He also informed the team members about the name of the SIT members. The SIT is supervised by S.S.P. Mr. Ramesh Kumar Jhala, who is from Jammu, and Members are Additional S.P. Mr. Nabeed Preejada from Kashmir, S.P. Ms. Shwetambari from Jammu, Inspector Mr. Kewal Kishore from Jammu, By. S.P. Mr. Nisar Hussain Shah (Jammu). The I.G. also shared the link of a story published and telecasted by N.D.T.V.

He also informed us that very soon all the scientific evidences will be collected from the relevant authorities.

He said that the concerned police officials of the Hira Nagar Police Station played a crucial role in destroying the crucial evidence pertaining to the crime. He showed us the photographs of the little girl when her body was found in Jungle. She was wearing a“Frock” and this “Frock” was stained with blood, mud and other stains. He also showed us the photo of the “Frock” whend it was sent for forensic analysis- it was absolutely clean.

He also informed the team members that though there is 90 days time for filing of charge sheet but they will try to file the charge sheet prior to that.

He also said that when we have not spared our police officials why we will leave anyone else whosoever it may be?

One more observation he made is that this is a preplanned crime and is being horrifically communalized.

Conclusions of the Team:-

1. The team is unanimous that the brutal sexual violence and murder of a little girl is horribly politicized and communalized. It is a case of brutal violence on a girl child but is being projected as a matter between Hindus and Muslims.

2. The Fact finding team is unanimous that the investigation should be completed by the Crime Branch. The demand of C.B.I. inquiry by the persons accused and Hindu Ekta Manch should be out rightly rejected at this stage .It also amounts to be-littling judiciary. It is pertinent to mention that the SIT is working under the direct supervision of the High Court of Jammu and Kashmir. The natural and adopted parents of the little child are the most grievously hurt and on the petition of the natural father the High Court is supervising the investigation. The

adopted father also fully satisfied with the ongoing investigation by SIT Crime Branch.

3. PMS strongly feels that it should be remembered that whatever is being done by the Hindu majority forces in Jammu right now has its roots in the pre-partition days. Everyone in Jammu and Kashmir remembers how the armed forces of Maharaja Hari Singh instigated, anti muslim violence in Muslim majority Districts of Jammu. Thousands of muslims were killed and mass migration of Muslim population took place changing the Demography of the Jammu region and Kathua region as well.

4. The Fact finding team came to conclusion that Hindu Ekta Manch has put a question mark on the SIT only on communal lines which is not correct as discussed above.

5. The Fact finding team unanimous in its observation that police took action against nomads(i.e.Muslims) Muslim Kashmir the local hindus said Police has done a good job but when it works against them they question on Police functioning. The Hindu Ekta Manch does not question the overall functioning of the Police but only when their interest is attacked. So it is very strange stand.

6. Fact finding team is unanimous that the SIT should collect evidence through scientific method.

Demands of facts Finding Team :-

1. Crime Branch should use all scientific method to collect the evidence .

2. We demand notification of POCSO in the Jammu and Kashmir. It is strange that in a State where the violence on children, women is so prevalent this Act is yet to be notified by the PDP – BJP Government. This in a Sate in which women already find it very difficult to get justice due to AFSPA.

3. Forest Act should be notified in Jammu and Kashmir State.

4. Yusuf and Nasima and their family should be given protection of life and their property.

Released by the Team Members –

Poonam, Shubra, Kalpana, Jaishree