

## CASTE ATROCITY AGAINST KUM S DHARANI, BANGALORE

### FACT FINDING REPORT OF ADVOCATE DHRANI ON 14-06-2019.

#### INTRODUCTION

According to the Karnataka State Annual Monitoring Report on the Implementation of SC/ST (Prevention of Atrocities) Act, 1989 in Bengaluru Urban region had 163 atrocity cases against SC and ST communities, the highest reported during 2018. Even though Bengaluru is a metropolitan city, untouchability is still rampant here. The report showed that around 33.12% cases of atrocities are pending without acquittal or conviction in the district.



The present case shows the inefficiency of the Police and the remiss attitude they adopted while investigating a FIR registered under the SC&ST Act. The police neglected their statutory duties. The victim belonged to the SC&ST category and has struggled throughout her life. Through her hardwork and determination she fought against all odds. Though she became an advocate, she was still targeted by individual with higher social standing and subjected to gross humiliation and abuse only on the basis of her caste identity. This entire fact-finding was done with the aim of understanding the landscape of caste atrocities in Bangalore and to evaluate the actions of the police.



### **TEAM AND METHODOLOGY**

This is a fact finding report concerning the case of Kum S Dharani, an Advocate belonging to the SC/ST community, who had committed suicide on 31.12.18 after being assaulted and threatened for over a period of 4 months. Kun S Dharani made several attempts to persuade the investigating authority to take legal action against the culprits. The police failed to conduct effective investigation and apprehend the accused in time which allowed the accused to continue humiliating and abusing Kum S Dharani and her family.

The fact-finding team consisted of representatives from the following organizations:

1. The Human Rights Law Network, Bengaluru
2. People democratic forum
3. TMDK
4. Advocates Group

#### **The methodology used by the fact finding team**

- Visiting the victim house and meeting Dharani mother
- Met the incharge PSI krishanappa in Narayananpura police station who is involved in this case.

- Collected the related documents with her mother and Police
- Met Home minister, DGPI Etc...
- Collection of the media news
- Follow up of the case and collected the court documents.

firstly of meeting the victim's family who provided detailed accounts of the incidents which led to her suicide on 31.12.18. The victim's family consists of her mother and brother. Kum S Dharani's mother witnessed the incidents on 12.10.18 and 31.12.18. She was also assaulted and abused by the accused. Meeting the victim's family allowed the fact finding team to obtain their first-hand account of the atrocity, as well as to determine their needs and wants for further assistance and action.

Secondly, the team collected copies of the FIR and letter of complaint filed by Kum S Dharani. This includes the petition submitted by her advocate before the court and court orders from the High Court of Karnataka.

The aim of the fact finding team was to determine the chronology of the events of the facts which took place before 31.12.18 as well as the actions taken by parties involved. The action taken by the jurisdictional police were analyzed in comparison with their obligations under the SC/ST PoA Act, to see whether they were complying with the law. The team collected police documents, notices issued and the direction given by the Social Welfare Department to the jurisdictional police, media coverage on the atrocity, videos and images of protests conducted by lawyers

### **FAMILY BACKGROUND OF THE VICTIM**

Kum. S Dharani belonged to the Aadi Dravida caste which is a Schedule Caste (SC). She was 27 years old. Since childhood she had been subjected to vagaries of poverty, family backwardness and though she had initial schooling on account of the poverty she could not complete the schooling in the regular course. Her father had deserted the family when she was only 15 years

old. Her family consists of her mother and an older brother. Her older brother is also uneducated. Through her struggles she successfully completed her 10<sup>th</sup> standard under CBSE. Her mother supported her with great difficulties by working as a domestic help in many houses and with a small income which she has managed to accumulate, she started a petty shop. Her mother soon became physically infirm and unable to render services as a domestic help.

Kum S Dharani then pursued her education further till the year 2013. She completed her law graduation and was enrolled as an advocate with the bar council of Karnataka with enrollment No. KAR.2072 2013. She was also admitted as a life member of the Advocate's association, Bangalore. She joined the office of a senior lawyer Sri. Bhaktavachala and has been practicing in the lower courts. Kum S Dharani struggled in her life in coming up to the level of being enrolled as a lawyer and she was putting her best efforts and to the satisfaction of one and all concerned, showing promising signs of excelling in the profession.

#### **Narration of the incident**

A small portion of the property approximately measuring 20 Ft X 30Ft. situated at R/a No.64, 1<sup>st</sup> Cross, Vivekanada street, Udaya Nagar, Dooravani Nagar Post, Tin Factory, Bangalore-560016, consists of a small residential construction. A portion of the property is a petty shop which is managed by Kum S Dharani's mother. Kum S Dharani and her Family have been living at the property for several years. This property was under distress and certain persons who are highly placed in the society, took advantage of their helpless situation, including the local cooperator Mr. Suresh from congress (the 8<sup>th</sup> respondent), had started threatening the family. Kum S Dharani's mother in her statement given on 1.01.19 clarified the reason for discord between the accused and the victim. The discord began when the accused, namely, Shashi, who lives in the property adjacent to the victim, dug a bore well on their property which flooded Kum S Dharani's house. The flooding caused severe damage to the victim's house. She then requested the accused to compensate her for the damages. The accused refused to acknowledge the damages caused by him and began abusing her by calling her names. Another reason for contention was that both the victim and the accused ran petty shops in the neighborhood. The accused were jealous of the fact that Kum S Dharani's shop attracted more customers. They

made attempts to sabotage her business by imposing restrictions of what she could or could not sell. Frustrated from the constant abuse, the victim shut down her petty shop and started a fish shop. But the threat and abuse still continued.

On 11.09.2018 at around 11.30 p.m., certain person, namely, 1 Shashi 2. Anjanappa 3. Lakshmi 4 Renuka 5 Durai 6. Ajit 7. Sudhakar 8. Suresh 9. Ravi 10. Others, had unlawfully assembled at the victim's house. The accused had assaulted Kum S Dharani and her mother by breaking bottles and causing injuries to the victim's left hand. The accused had also assaulted Kum S Dharani's mother by pulling her saree. The said accused had also abused and caused disrespect to them for belonging to a particular caste. The accused assaulted the victim by outraging her modesty. The accused shouted abusive racial slurs in Kannada "Fuck you mother's caste dog, if we would have beaten and chased you it would have been better. Hooliya madiga! We will rape you in the main street and chase you like a street" at the victim and her mother with the intension insulting their caste.

The victim immediately called the Hoyasala Police (emergency police). She requested them to take her to a hospital, but the police refused to help her. She then travelled to the nearest hospital with her mother at around 11 p.m. Then at around 12 p.m she went to the Jurisdictional police station to register a complaint. She spent the entire night in the police station with her mother to register a complaint, but the police here again refused to perform their statutory duty. Instead they summoned the accused and wrote down their complaint as Crim.No.442/2019 for the offences punishable under Section 341,323,324,326,504,506 r/w Section 34 against Kum S Dharani and her mother. This complaint was registered at around 9:30 p.m. on 12/09/2018. A copy of the FIR dated 12/09/18 against Crime No. 442/2018 is produced herewith as **ANNEXTURE-C**

Later, after being accompanied by others the police obliged and registered the FIR at 3:30 p.m. on 12/09/18 in Crime No.441/2018 for the offence punishable under section 354A,427,448,509,506,324,143,147,149 and under Sections 3(1)(10) of the SC/ST(PA) Act,1989. A copy of the FIR dated 12/09/18 against Crime No.441/2018 is produced herewith as **ANNEXTURE-B**

The jurisdiction police failed to take any effective action against the complaint filed. Though the law mandates under P.A. Act to arrest in respect of offences punishable under the act, there was no arrest effected and no investigation was carried out by the jurisdictional police. In the statement given by Kum S Dharani on 12/09/18 that the complaint leading to registration of Crime No. 442/2018 was a complaint drafted in the computer in the police station by the police themselves, without there being any actual complaint. Following the incident, Kum S Dharani the President of her association regarding the incident and requested them to take up the cause action on account of her inability to handle highly placed persons and the police atrocities.

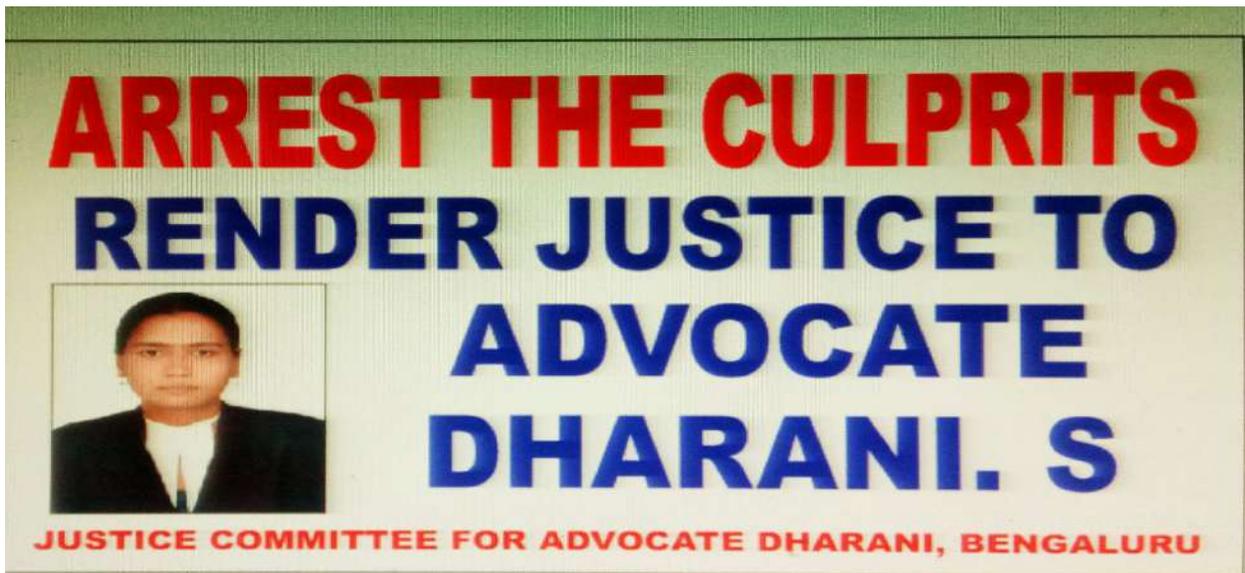
Prior to the incident on 12/09/18 Kum S Dharani and her family had filed several complaints against the repeated threats and assaults they were facing. The complaints were made under cognizable offences. But the 7<sup>th</sup> respondent did not take the incident seriously and without registering a FIR and issued NCR. As a result, the threats continued and a similar incident took place on 12/09/18. The victim registered another complaint.

Corporator Suresh of A.Narayanapura ward was principally responsible as , he was one of the accused named and it was his supporters and henchmen who had been threatening Kum S Dharani and her family to withdraw the complaint. On 29/09/18 one Smt.Kala and the said corporator tried to intimidate the by stating that Kum S Dharani and her family would face dire consequences if they did not vacate the premises and that the complaint against the corporator should be withdrawn or otherwise there will be a threat to her life. After informing the police about the incident they only provided a lady constable to their house fearing the constant threat and abuse another complaint to the Joint Director of District Social Welfare Office was sent on 3.10.18. A copy of the complaint dated 3.10.18 is produce herewith as **ANNEXTURE- H**

On 15/10/18 the police asked Kum S Dharani to appear before the police for investigation which was followed by another notice dated 25.10.18. On all the days, Kum S Dharani constanly made efforts to follow up with the police. But to her dismay the police issued the notice summoning her to the police station with the intention to harassing them by making them sit from morning to evening at the police station. The complaint was not investigated by the police on these occasions. She had been made to sit in the police station at least for about 4-5 days. Aggrieved

by this conduct, she filed under complaint on 12.10.18 indicating that the police is not conducting the investigation even though witness were taken

Based on the complaint filed on 12.10.18, the Additional Director General of Police (Civil Rights Enforcement Cell) had directed the Superintendent of Police and civil rights enforcement to take action and issue appropriate endorsement after proper enquiry. Even the human rights commission after an appeal was made, had issued an order to the Deputy Commissioner of Police on 22.10.18 and 30.12.18 to file a response to the complaint filed before it.



The police had failed to take any effective action. The threats continued and on 21.11.18 Kum S Dharani had filed a complaint before the 7<sup>th</sup> respondent, Inspector of the Jurisdictional police to take action against the threats and abuse .A copy of the complaint is produce herewith as **ANNEXTURE-N**

The police issued a notice alleging that the victim had failed to respond to previous police notice communicated on 07.11.18. But on the contrary, Kum S Dharani had made effort to produce a witness before the police for the purpose of recording a statement, the police had never taken any action to record their statement. A copy of the notice issued by the police on 23.11.18 is produced herewith as **ANNEXTURE-Q**

On 24.11.18, Kum S Dharani shocked and surprised by the unresponsive behavior of the police wrote a complaint to the Assistant Commissioner regarding the malafide with which the notice had been issued on 23.11.18. A copy of the complaint dated 24.11.18 is produced as **ANNEXTURE-P**. This was followed by another complaint dated on 30.11.18 stating that no action was been taken by the jurisdictional police since the FIR was registered on 12.09.18. A copy of the complaint dated 30.11.18 is produced as **ANNEXTURE-Q**.

With reference to the complaint filed before the Social Welfare Department on 10.12.18 issued an order directing the Assistant Commissioner of Police to take the appropriate action to further the investigation. A copy of the direction issued by the Social Welfare Department is produced herewith as **ANNEXTURE-R**.

Kum S Dharani had also confided in her Senior Lawyer under who she worked. The senior lawyer personally met the commissioner of Police and explained the inaction on the part of the police, who had directed the matter to the Deputy Commissioner of Police, Whitefield, Bangalore, who in turn referred the matter to the Assistant Commissioner of Police, Marathahalli, and Bangalore. Copy of the letter dated 17.12.18 is produced as **ANNEXTURE-S**.

On 31.10.18, the accused in Crime No.441/2018 had filed a petition under section 438 of Cr.P.C seeking anticipatory bail. The petition was dismissed by the Court on the grounds that there is prima facie case against the accused to show that they have committed the alleged offences under section 3(1)(10) and section 3(2) of the Schedule Caste and Schedule Tribe (Prevention of atrocities) Act and from the material facts it is evident that the abuse statement made by the accused in regards to the caste is sufficient cause to attract the provision of the SC/ST Act, which sets a clear bar to entertain bail petition under section 438 of Cr.P.C. The bailed was denied as the crime was heinous in nature.

On 31.12.18, at around 7 a.m. the accused, unlawfully gather at the victim property and began quarreling and assaulting her. Accused No.                      Then physically assaulted Kum S Dharani by removing his pants and inserting his penis in her mouth. She immediately ran back inside her house. This incident deeply shock and scared Kum S Dharani. In the evening, the accused

arrived at her property and assaulting her and stated that she should be embarrassment and that under the circumstances she should kill herself. The incident caused her grave embarrassment which pushed her to take the drastic step of ending her life. Kum S Dharani being unable to bear such harassment and trauma caused by the accused, committed suicide on 31.12.18 at around 7:30 p.m. It is to be noted that the incident took place in the presence of a police officer who was deployed for the victim's protection.



Kum S Dharani's mother then registered a case in Crime No.1/2019 before the Mahadevpura Police station under section3(1)(x) of the SC&ST (prevention of atrocities) Act and section 306 IPC against Shashi and others . The complaint was filed on the basis of the statement given by the deceased's mother on 1/1/19. A copy of the FIR in Crime No.1/2019 is produced herewith as **ANNEXTURE-V.**



*The victim's mother outside the court.*

### **Aftermath**

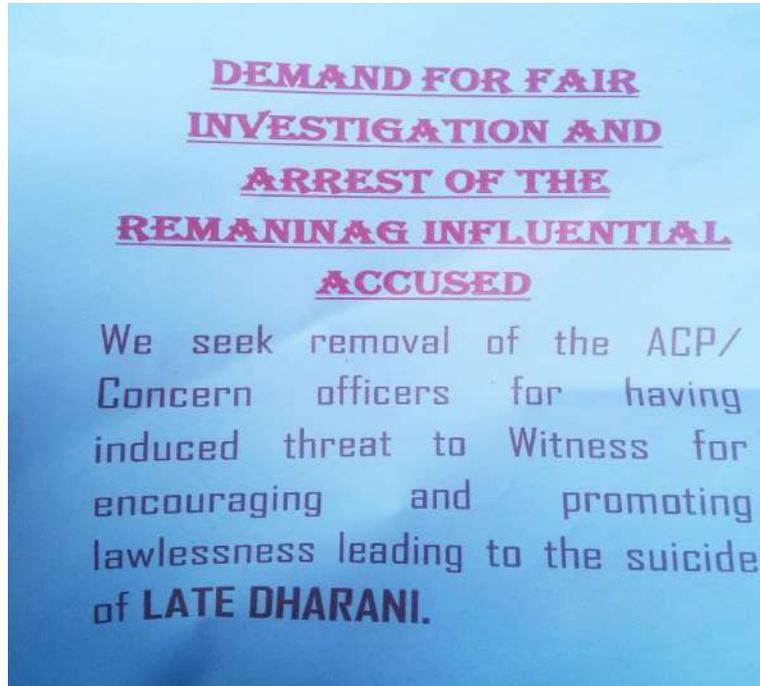
The matter was brought before the respective authority including Commissioner of Police and IGP by the members of the association. The association had also approached the office of Home Minister, the Commissioner of Police, DG & IGP and other higher-ups. A copy of the representation dated 03.01.19 to the Commissioner, 05.01.19 to the Home Minister, 28.01.19 to the DG & IGP are produced herewith as **ANNEXTURE-W,W1&W2**.



*Candle march conducted by the Advocate association*

The association on account of the atrocities faced by the victims family had also requested the Social Welfare Department to provide compensation to the family of the deceased. A copy of the representation made to the Hon'ble Minister of Social Welfare Department is produced as **ANNEXTURE-X**.

On 2.1.19, The Advocate Association had passed a resolution on 2.1.19 and resolved on point no.4 that no advocate should defend the case of the accused. The legal representative of the accused were restricted from attending the court on 19.1.19, 21.1.19, 23.1.19 and 25.1.19. The entrance of the court of blocked by large groups of protesters.



### **Relevant Legal Provisions and Status of Compliance**

Crime No.441/2018 for the offence punishable under section 354A(Assault or criminal force to woman with intent to outrage her modesty.),427(Mischief causing damage to the amount of fifty rupees),448(Punishment for house-trespass),509(Word, gesture or act intended to insult the modesty of a woman.),506(Punishment for criminal intimidation),324(Voluntarily causing hurt by dangerous weapons or means.),143(unlawful assembly),147,149(Punishment for rioting) and under Sections 3(1)(10) of the SC/ST(PA) Act,1989.

**Section 354 of the Indian Penal Code, 1860:** Assault or criminal force to woman with intent to outrage her modesty.—outlines the punishment for assaulting a women with the intent to outrage her modesty. Under this whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty can be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. In the present case, on 12.09.18, the respondents assaulted the victim and her mother by breaking glass bottle and injuring Kum S Dharani's left hand. The accused pulled Kum S

Dharani's mother's saree, thus outraging her modesty. Further, on 31.12.18, the accused assaulted the victim which led her to commit suicide.

**Section 427 of the Indian Penal Code, 1860:** Mischief causing damage to the amount of fifty rupees.—imposes penalty on whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards with imprisonment of either description for a term which may extend to two years, or with fine, or with both. The accused in this case, broke into the victim residence and damaged their belongings.

**Section 448 of the Indian Penal Code, 1860:** Punishment for house-trespass.—Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**Section 506 of the Indian Penal Code, 1860 :** Punishment for criminal intimidation.—Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; If threat be to cause death or grievous hurt, etc.—And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 1[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. In the present case, the accused made the several threats. They tried to intimidate the victim to withdraw her complaint.

**Section 509 of the Indian Penal Code, 1860:** Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

**Section 324 of the Indian Penal Code, 1860:** Voluntarily causing hurt by dangerous weapons or means.—Whoever, except in the case provided for by section 334, voluntarily causes hurt by

means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Section 143 of the Indian Penal Code, 1860:** Punishment.—Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**Section 147 of the Indian Penal Code, 1860:** Punishment for rioting.—whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

**Section 149 of the Indian Penal Code, 1860:** Every member of unlawful assembly guilty of offence committed in prosecution of common object.—If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

### **The scheduled castes and the scheduled tribes (prevention of atrocities) act, 1989**

**Section 3(1)** whoever, not being a member of a Scheduled Caste or a Scheduled

(x) Intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. In this case, Kum S Dharani and her family belonged at the SC/ST community. A copy of her SC/ST certificate is produced herewith as **ANNEXTURE-** . The accused threatened her because her belonged to the weaker section of the society. The accused took advantage of higher social standing to humiliate and torture the victim.



## **OBSERVATION**

This incident is took place due to property where the corporate wants to grab it there , so he was encouraging his hench men t to harass her mentally and physically to chase them out of that house. Same time there was completion of the neighbors of running the shop form Dahrani is mother, because a lot of customers and children were coming to to purchase. But Dahrani was a bold and courage's lady being an Advocate she made all legal attempts to get justice to her, but on 31-12-2018 inhuman a sexually abuse was happened by Shashidhar who is the accused ganged up with his family and others and started to fight he opened his pant jip and try to insert his Penis in her mouth in Public this made her more hurt and from morning she was completely upset of thinking of her dignity of life , and committed suicide .

Fact finding team consider it as a organized murder by the accused and police authorities Caste atrocities are grave offences, but the fact finding team found that there seems to be a lack of initiative, lack of empathy, apathetic attitude in the investigative authority. Upon interviewing the SI of the Police on 14<sup>th</sup> June 2019, of it became evident that police were biased against Kum

S Dharani. During the interview the SI stated that Kum S Dharani and her mother were mentally unstable and instead it was them who cause nuisance in the neighborhood. The police believed that Kum S Dharani had behaved disrespectfully towards them. Although there is no substantive cause. The fact finding team questioned him on the precautionary measures taken by the police to ensure the safety of the victim, to which the JSI refused to make any comment. Further, the police refused to furnish any documents related to the investigation conducted by them. From the initial stages of the investigation the police have shown a lack of consideration towards the victim. The police have instead aided the accused by discrediting the victim's reputation. Given the grave nature of the crime, the police had the statutory obligation under the SC&ST Act to immediate and effective action.

Further the incident on 31.12.18 is not documented in police reports. It is only from the victim's mother's statement given on 1.1.19 that we come to know about the true events. In her statements she stated that the accused assembled in their house on 31.12.18 and one of the accused, namely,..... inserted his penis in her mouth which caused her to take the drastic step of ending her life. The police have intentionally refrained from mentioning this incident in their reports.

In June 2019, the fact finding team consisting of the following 9 members, visited the family home of the victim. The family lived in a small house consisting of 3 rooms and a shed. The roof is made of tin sheets and the walls were dampened from flooding. The victim's family is now survived by her 50 year old mother. The death of her daughter has distraught her mother. On arrival, the team noticed that the mother had put up a picture of her daughter in the living room. A garland hung around the frame and was surrounded with victim's favorite belongings. The mother wept and explained in detail the incidents which caused her daughter to take her life. The victims was the sole bread earner in the family. The mother has no other way of earning a livelihood. She was forced to shut down her petty shop. As the accused are still free, they continue to make her life miserable. This is a case of organized crime aided by the police.

## **RECOMMENDATION**

1. To direct the investigation conducted by the officer not less than the rank of the superintendent of police who is not belonging to Karnataka Cadre, by constitution a special investigation team and to monitor the investigation.
2. To direct the Social Welfare Department to provide an
3. To the concerned government officials to take serious legal action against the police for their negligence.
4. The government should implement the precautionary measures before thee atrocity take place
5. Usually when the dalits are file the FIR on the POA Act the repeated atrocities will take place in a very cruel even like takin their life. so Police should notice this and act accordingly to protect the victims .
6. Government should give more protection to Dalit women when they are reaching the police and other concern officers to lodge their complaint. And women protection should be the first priority in their services.
7. Deploying the police near to victims house merely will not give the protection to the victims in this case the deployed police were involved with accused and the murder took infront of the police. So the higer government autorites should consider such a case very strictly and the legal action should be taken on the police.

#### NEWS LINKS

1. <https://timesofindia.indiatimes.com/city/bengaluru/advocate-dharani-suicide-case-hc-grants-conditional-bail-to-bbmp-corporator/articleshow/69654345.cms>
2. <https://www.deccanherald.com/city/life-in-bengaluru/nine-held-in-advocate-dharanis-suicide-casegovt-to-hc-724115.html>
3. <https://www.newindianexpress.com/cities/bengaluru/2019/mar/23/dalit-lawyer-suicide-case-cid-arrests-accused-congress-corporator-1954821.html>
4. <https://www.thenewsminute.com/article/after-suicide-dalit-lawyer-bengaluru-lawyers-protest-over-alleged-police-apathy-94448>
5. <https://thelogicalindian.com/news/dalit-lawyer-kills-self>
6. <https://www.youtube.com/watch?v=T6mqXicRfQk>

7. [https://www.youtube.com/watch?v=OW\\_Pyd14KW4](https://www.youtube.com/watch?v=OW_Pyd14KW4)
8. <https://www.youtube.com/watch?v=sMwwuiyRaZw>
9. <https://www.youtube.com/watch?v=pf3jqVsOdng>