

REPORT
ON
THE INQUIRY INTO THE VERACITY OF THE VOICE
CLIPPING SAID TO BE THAT OF A MINISTER OF THE
STATE TELECAST BY MANGALAM TELEVISION
CHANNEL ON
26-3-2017 AND OTHER CONNECTED MATTERS

BY
THE COMMISSION OF INQUIRY
JUDGE P. S. ANTONY
DISTRICT JUDGE (RETD.) &
FORMER JUDGE, FAMILY COURT

SECRETARY
A. G. VISWAMBHARAN

VOLUME - I & II

R E P O R T
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VOL - I

(Chapters 1 to 12)



CONTENTS

Executive Summary	i to xiv
--------------------------	-----------------

Introduction	1
---------------------	----------

(i) Preliminary	1
(ii) The Nature & Manner of Inquiry	2
(iii) The Structure & Contents of the Report	8

PART -1

The Circumstance Leading to the Appointment of the Commission of Inquiry

Chapter - 1 Inauguration of the Mangalam News Channel	10
--	-----------

Chapter - 2 The Inaugural Telecast & the Voice Clipping	15
--	-----------

Chapter - 3 The People Behind the Voice Clipping	19
---	-----------

3.1 Introduction	19
3.2 Apology by R. Ajithkumar	20
3.3 Eight Senior editorial members and a female journalist	21
3.4 The Principal Persons behind the voice Clipping	23
3.4.1 R. Ajithkumar	23
3.4.2 Sajan Varghese	24
3.4.3 R. Jayachandran	26
3.4.4 M.P. Santhosh	26
3.4.5 Rishi K. Manoj	26
3.4.6 Lakshmi Mohan	27
3.4.7. Firoz Sali Mohammed	27
3.4.8 S.V. Pradeep	28
3.4.9 Manjith Varma	29
3.4.10 Nazila Nazimuddin	29



Chapter – 4 The Resignation of the Minister of the State Shri A.K. Saseendran 33

- 4.1 Announcement of resignation 33
4.2 Why did he resign? 35

Chapter – 5 Appointment of the Commission & Scope of the Inquiry 37

- 5.1 Appointment of the Commission 37
5.2 Terms of Reference 38
5.3 Scope of the inquiry 38

PART - II

The Inquiry & Conclusions on Terms of Reference Nos. 1 to 4

Chapter – 6 The Inquiry

41

- 6.1 Commission assumes charge 41
6.2 Preliminary steps for inquiry 42
6.3 History of inquiry 48

Chapter –7 The Evidence of the Witnesses Examined 55

- 7.1 CW1 R. Ajithkumar 55
7.2 CW3 R. Jayachandran 65
7.3 CW4 M.P. Santhosh 69
7.4 CW5 Rishi K. Manoj 71
7.5 CW6 Lakshmi Mohan 73
7.6 CW7 Firoz Sali Mohammed 75
7.7 CW8 S.V. Pradeep 77
7.8 CW9 Manjith Varma 77
7.9 CW13 Sandhya S.N. 79



7.10	CW14 Al-Neema Asharaf	80
7.11	CW15 A.M. Yazir	83
7.12	CW17 A.K. Saseendran MLA	89
7.13	CW18 C. Narayan	93
7.14	CW 19 John Brittas (KTF)	93
7.15	CW20 Secretary, Press Council of India	94
7.16	CW21 Shanavas A., Dy.S.P.	94
7.17	CW22 Bijumon, Dy.S.P.	97

Chapter – 8 The Witnesses who did not appear and their case examined 100

8.1	CW2 Sajan Varghese	
8.2	CW 10 Nazila Nazimuddin	103
8.3	CW 11 Sonia George & CW12 Dhanya Raman	111
8.4	CW 16 Geetha Nazir	112

Chapter – 9 The Documents produced before the Commission 115

9.1	Documents produced for Mangalam News Channel	115
9.2	Documents obtained by Commission During local inspection	116
9.3	Documents produced by CW 17 A.K. Saseendran MLA	116
9.4	Documents from CBCID	116
9.5	Documents received from CW10 Nazila Nazimuddin	117
9.6	Documents from Press Council of India	117
9.7	Documents from Ministry of I&B, Government of India	118
9.8	Documents from NBSA	118
9.9	Documents relating to cases filed before the Hon'ble High Court	118
9.10	Other documents	119

Chapter – 10 Local Inspection 120

10.1	Introduction	120
------	--------------	-----



10.2	Report of Local Inspection	121
10.2.1	Description of Mangalam Office Building	123
10.2.2	Impression of the Commission	125
10.3	The object of local inspection	125
10.3.1	Answers to questions	126
10.4	General remarks	131
Chapter – 11 Arguments on behalf of the Parties		133
11.1	Argument for CW 17 A.K. Saseendran MLA	133
11.2	Argument for CW1 R. Ajithkumar	150
11.3	Arguments for CW2 Sajan Varghese & Others	160
11.4	Argument for CW 3 R. Jayachandran	164
11.5	The contentions of Mangalam Television Channel journalists	165
11.6	Statement filed on behalf of State	171
Chapter – 12 Conclusions on Terms of Reference Nos. 1 to 4		191
12.1	Veracity of the voice clipping	191
12.1.1	Conclusion on terms of reference No.1	219
12.2	The circumstances that led to the above conversation	219
12.2.1	Conclusion on terms of reference No.2	229
12.3	Whether the recorded voice clipping was edited/tampered with	229
12.3.1	The persons who acted behind the voice clipping	233
12.3.2	Conclusion on terms of reference No. 3	235
12.4	Terms of reference No. 4	237
12.4.1	Whether the act of airing of the voice clipping is illegal	237
12.4.2	Violation of the provisions of the Constitution	241
12.4.3	Violation of Programme Code	243
12.4.4	Violation of journalistic norms of conduct and Code of Practice	244



12.4.5	Offences under I.T. Act, 2000	245
12.4.6	Offences under IPC, 1860	248
12.4.7	Legal action to be taken in this case	253
12.4.8	Conclusion on terms of reference No.4	255

PART – III

Inquiry into the other matters connected with this Case as the Commission has observed & Conclusion on Terms of Reference no. 5

Chapter – 13	The Issues involved as observed by the Commission	259
13.1	Introduction	259
13.2	Complaints against Mangalam Television Channel	260
13.3.	What is the action taken?	267
13.4	Withdrawal of complaint by NMWI, Kerala	268
13.5	The issues that arise for consideration	269
Chapter – 14	Media Law & Ethics at Present	271
14.1	Introduction	271
14.2	Constitutional basis	272
14.3	Regulatory Mechanism and self-regulation	274
14.3.1	Inadequate law and statutory body to regulate electronic media	282
14.3.2	Self-regulation by private electronic media	286
14.4	Broadcasting services Regulation Bill, 2006	287
Chapter – 15	Need for Enactment of Law for Regulating Private Electronic Media and machinery for Enforcement of Ethical Standards	289
15.1	Introduction	289



15.2	Inadequacy of the present law and directions by the Supreme Court	290
15.3	Need for change in Licensing Policy	293
15.4	Towards & Comprehensive LAW	298
Chapter – 16 Other Matters Observed in connection with This Case		302
16.1	Introduction	302
16.2	Invasion of Right to Privacy and Freedom of the Media	302
16.2.1	Statement of CW18 General Secretary, KUWJ	304
16.2.2	Affidavit of the Secretary, Kerala Television Federation	305
16.2.3.	Affidavit by Press Council of India	307
16.2.4.	Statement of Shri. Adoor Gopalakrishnan	307
16.2.5.	Opinion of Dr. Sebastin Paul	308
16.3	Journalistic ethics and professional standards	312
16.3.1	The Conduct of some of the journalists before the Commission	315
16.4	Social media and cyber crimes	316
16.5	Misuse of the freedom of the media	318
16.6	Media Justice	322
16.7	The Conduct of the media towards the Commission	325
16.8.	Media Education	327
16.8	Code of Conduct for Ministers	330
Chapter – 17 Voice Clipping & Criminal Cases		333
17.1	Telecast of the voice clipping	333
17.2	Responsibility of the State police	334
17.3	Progress of investigation	335
Chapter – 18 Conclusion on Terms of Reference No. 5		341
Chapter – 19 Recommendations		348



<u>Annexure</u>	Conclusion	353
Annexure – I	Transcript of voice clipping	355
Annexure – II	Report of EMMC, Government of India	358
Annexure – III	Apology of R. Ajithkumar, CEO, Mangalam News Channel	363
Annexure – IV	Complaint of Nazila Nazimuddin	364
Annexure – V	Sworn statement of Nazila Nazimuddin	370
Annexure – VI	Face Book post of Nazila Nazimuddin	374
Annexure – VII	Daily Indian Herald Online dated 16.08.2017	375
Annexure – VIII	e-mail message of A.M. Yazir	380
Annexure – IX	Call Details Records & Maps	382
Annexure – X	Code of Practice of NBA	392
Annexure –XI	Statistics of cyber crimes	398
Abbreviations		399
Reference		400
Acknowledgments		

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Executive Summary

Government of Kerala appointed Judge P.S. Antony Commission of Inquiry for the purpose of making an inquiry into a definite matter of public importance, namely, the veracity of the voice clipping said to be that of a Minister of the State telecast by Mangalam Television Channel on 26.03.2017 and connected matters with the following terms of reference:-

- (i) To inquire into the veracity of the voice clipping said to be that of a Minister of the State telecasted by Mangalam television channel on 26.03.2017;
- (ii) To inquire into the circumstances that led to the above conversation;
- (iii) To inquire into as to whether the recorded voice clipping was edited or tampered with mala fide intentions, and as to who have acted behind that;
- (iv) To inquire into as to whether the act of airing the voice clipping is illegal and it involves illegal activities or conspiracies and if so, the legal action to be taken in this regard;
- (v) To inquire into the other matters connected with this case and the Commission observes.

After the inquiry the Commission reached the following conclusions on the above terms of reference:-

(i)



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(ii)

Conclusion on terms of reference No. (i)

The veracity of the voice clipping said to be that of a Minister of the State telecast by Mangalam Television Channel on 26.03.2017 is not proved. The voice clipping is a product of criminal conspiracy to create a shocking news on the launching day of the new Channel to boost its rating.

Conclusion on Terms of Reference No. (ii)

The circumstances that led to the conversation, that is the voice clipping, is the criminal conspiracy of the Mangalam Television channel management to make a shocking news to Kerala leading to the resignation of a Minister of the State so as to achieve top rating for the channel on the date of its inauguration itself.

Conclusion on terms of reference No. (iii)

The recorded voice clipping was edited or tampered with mala fide intentions and the product of criminal conspiracy and forgery to create a shocking news regarding a Minister of the State leading to his resignation so as to gain high rating and popularity for the Mangalam Television channel on the date of its inauguration itself.

The following persons have direct involvement in the making of the voice clipping:-



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(iii)

- 1) CW1 R. Ajithkumar
- 2) CW3 R. Jayachandran
- 3) CW10 Nazila Nazimuddin

CW 8 S.V. Pradeep has active involvement in the telecast of the voice clipping on 26.03.2017 along with CW 1 R. Ajithkumar.

The role of the following persons in the telecast of the voice clipping has to be ascertained by the police during investigation.

- 1) CW4 M.P. Santhosh
- 2) CW5 Rishi K. Majon
- 3) CW6 M. Lakshmi Mohan
- 4) CW7 Firoz Sali Mohammed
- 5) CW9 Manjith Varma.

CW 2 Sajan Varghese is the Director/Chairman of the Company which owns the Mangalam Television channel and also involved in the affairs of the Channel. Therefore he has abetted the crimes committed by other accused in the making and telecast of the voice clipping on 26.03.2017.

Conclusion on terms of reference No. (iv)

The act of airing the voice clipping was the culmination of a well planned criminal conspiracy and therefore is illegal and it involved illegal activities including



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(iv)

- Violations of the provisions of the Constitution under Article 19(2), 21 and 51-A (e).
- Violation of the Programme Code prescribed under Rules 6(1)(a), 6(1)(d), 6(1)(o) and 6 (5) prescribed under the Cable Television Network Rules, 1994.
- Violation of norms of journalistic conduct of PCI and Code of Practice adopted by NBA for self-regulation.
- Offences punishable under section 67 and 67 A, 84 B and S. 85 of the I.T. Act, 2000.
- Offences committed under various Sections of IPC punishable under Sections 109, 120 B, 201, 294, 463, 464, 469, 470 and 471 of the IPC, 1860.
- Offence punishable under Section 182 of the IPC against CW I R. Ajithkumar.

The legal action to be taken in this regard are given in the recommendations below.

Conclusions on Terms of Reference No. (v)

On the basis of the terms of reference Nos. (i) to (iv), inquiry conducted and the documents produced before the Commission and the documents obtained from the Ministry of Information and Broadcasting, Government of India and NBA, the Commission has considered that the following matters are connected with this case and that they also involve the following issues:-



(v)

- i) invasion of Right to Privacy of citizens
- ii) the extent of freedom of media as a whole
- iii) measures to prevent the misuse of the freedom of the media
- iv) questions of journalistic ethics and professional standard

This Commission has observed that the following matters are connected with this case:-

- 1) Media law is necessary for the purpose of preserving freedom of the media, enforcement of the rights of the people and regulate the functioning of the media institutions while media ethics is necessary for self-regulation.
- 2) There is a specific law, that is, Press Council Act, 1978 and a statutory body, that is, the Press Council of India for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of news papers and news agencies in India.
- 3) There is no specific law and no statutory body to regulate the private electronic media and for maintaining and improving the standards of private electronic/broadcast media.
- 4) The Press Council has no jurisdiction over the electronic media.
- 5) The Cable Television Networks (Regulation) Act, 1995 and Cable Television Network Rules, 1994 are not effective to regulate the private electronic media. There is no effective machinery at the level of Ministry of Information & Broadcasting to discipline the



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erring private electronic media which violates the Programme Code under Rule 6 of the CTN Rules, 1994 unlike S. 14 of the Press Council Act, 1978 and a statutory body like Press Council of India.

6) Ministry of Information and Broadcasting, Government of India closed the complaints against the Mangalam Television Channel which telecast the voice clipping in violation of the Programme Code under Rule 6 of CTN Rules, 1994 without conducting any inquiry and without notice to the complainants.

7) There is no effective machinery for self-regulation in private electronic media. Though NBA published a Code of Practice in 2008 and set up NBSA, to look into complaints only relating to the content shown by the member channels of NBA, the Mangalam Channel not being a member of the NBA, no action was taken on the complaints received against Mangalam Television Channel. Membership of NBA is not made mandatory for new channels.

8) Insufficiency of the present law has been taken note of by the Supreme Court and there are directions to enact a comprehensive law to regulate electronic media as reported in (1995) 2 Supreme Court Cases 161 and (2011) 13 Supreme Court cases 155.

9) In U.K. there is a comprehensive law to regulate the electronic media. Communications Act, 2003 is an Act to confer functions of the Office of Communications, to make provision about the regulation of the provisions of electronic communications, networks and services and of the use of the electro-magnetic spectrum; to make provision about the regulation of broadcasting and of the



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provision of television and radio services; to make provision about mergers involving newspaper and other media enterprises etc.

By virtue of this Act all the functions in par with the above objectives transferred and assigned to office of communications – OFCOM.

10) In compliance with the directions of the Supreme Court referred to above, the Union Government shall seriously consider the enactment of a comprehensive law repealing the Indian Telegraph Act, 1885, The Indian Wireless Telegraphy Act, 1933, The CTN (Regulation) Act, 1955 and the Telecom Regulatory Act, 1997 on the model of Communications Act, 2003 of U.K. under which the office of communications (“OFCOM”) is the regulatory body for the broadcast media.

11) The Union Government can also consider converting the Press Council as a Media Council with sufficient teeth as suggested by Justice Markandey Katju when he was the Chairman of the Press Council of India. This can be easily done by amending the Press Council Act, 1978 by the Parliament renaming it as Media Council Act to cover the electronic/broadcast media.

12) There was violation of Right to Privacy which is declared as a fundamental right of the individual to be let alone in the telecast of a part of the conversation said to be that of a Minister of the State. The act was also not in keeping with journalistic ethics and professional standards.



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13) There is misuse of the freedom of the media which is an industry violating journalistic ethics and professional standards. Broadcasting has become a crowded market place where news

channels vie with one another for viewers bringing down the standard of journalistic ethics to rock bottom.

14) The unbridled freedom exercised by the media interferes with enforcement of law and order and administration of justice through media trial.

15) There is a necessity for a change in the licensing policy of the Union Government in respect of private electronic/broadcast media. As the audio visual media market has become crowded resulting in unhealthy competition and lowering of standards of programme, the number of news channels in regional/vernacular languages should be restricted. The policy can be on the basis of the population strength of a particular State or language along with other parameters to be decided by the Government considering the interest of the State and the society under Act 19(2) of the Constitution.

16) There are serious omissions in the investigation of the criminal cases registered in connection with the telecast of the voice clipping said to be that of a Minister of the State. There is unexplained delay in questioning the prime accused who admittedly recorded the conversation. The statement of former Minister A.K. Saseendran is not yet recorded.



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17) The Mangalam News Channel also committed cyber crimes by posting the voice clipping in the Face Book and You Tube.

18) There is necessity for amending Section 294 of IPC, 1860 as the present Section does not include the word 'broadcast' so as to cover specifically the offence of annoyance caused by broadcast of obscene acts , words, songs etc., through electronic media .

19) Kerala tops in cyber crimes. There is necessity for cyber crimes division at least at the district level manned by police personal with special training in the prevention and investigation of cyber crimes.

20) There is also necessity for a Special Court for the expeditious disposal of cyber crime cases.

21) There is a necessity for revamp of media education in Kerala. The Government can take initiative to encourage journalism with responsibility and accountability by encouraging the media education at the school level onwards. The media houses should be persuaded to follow ethical journalism. The Kerala Media Academy can be pressed into service for raising the awareness level with regard to ethical journalism.

22) There is a necessity for a Code of Conduct for the Ministers of the State/the Union in general and especially in dealing with the



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journalists/media for the efficient and effective functioning of the democratic system of Government.

The Commission has made the following recommendations for the purpose of taking action.

Recommendations of the Commission

- 1) The Government may forward a copy of this Report to the Secretary, Ministry of Information and Broadcasting, Government of India with a recommendation to reopen the complaint file against the Mangalam Television channel for appropriate action including cancelling its broadcasting licence or permission to run the visual channel.
- 2) A copy of this Report may be forwarded to the Press Council of India for information and necessary action.
- 3) The absence of self-regulation in the management of Mangalam Television channel and non-membership in the NBA by Mangalam Television channel should also be brought to the notice of the Ministry of Information and Broadcasting.
- 4) The Mangalam Television channel and the company which owns the channel and the persons behind the making and telecast of the voice clipping shall be prosecuted for offences punishable under Sections 67, 67A, 84 B and S. 85 of I.T. Act, 2000 and under Sections 109, 120 B, 201, 294, 463, 464, 469, 470 and 471 of the IPC before the



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competent court after expediting the investigation on the basis of the two crimes already registered.

- 5) CW 1 R. Ajithkumar is liable to be prosecuted separately for offence punishable under section 182 of the Indian Penal Code.
- 6) There are serious omissions in investigation as discussed in Chapter 17.3 of this report. SPC, Kerala may be directed to take steps to complete the investigation of the criminal cases registered in connection with the telecast of the voice clipping and the criminal conspiracy behind it including its political dimension etc. , if any.
- 7) A Special Court for the trial of cyber crime cases in the rank of an Additional Chief Judicial Magistrate shall be created and established at Ernakulam, Kochi which tops in cyber crime cases, for the expeditious trial of the accused in this case. This Court shall be allowed to continue as a Special Court for the trial of cyber crime cases in view of the increasing trend in cyber crime cases in Kerala.
- 8) A cyber crimes division in police may be formed at least at the district level manned by police personnel with special qualification and training for the prevention and investigation of cyber crime cases.
- 9) In view of the absence of an effective and comprehensive law to regulate the private electronic/broadcast media, the Government of Kerala may request the Union Government to enact such a law repealing the Indian Telegraph Act, 1885, The Indian Wireless



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Telegraphy Act, 1933, The Cable Television Networks (Regulation) Act, 1995 and The Telecom Regulatory Act, 1997 on the model of the Communications Act, 2003 of UK under which the office of Communications ("OFCOM") is the regulatory body for the broadcast media.

- 10) In the alternative to a comprehensive law, for the time being, the Central Government may be requested to consider converting the present Press Council as a Media Council to cover the private electronic media with sufficient teeth as suggested by Justice Markandey Katju when he was the Chairman of the Press Council of India, by suitably amending the Press Council Act, 1978 by the Parliament and renaming it as Media Council Act to cover the electronic/broadcasting media also.
- 11) While forwarding a copy of this report to the Ministry of Information & Broadcasting, the observations of this Commission in Chapter 19 regarding Media and Media Ethics may also be brought to the notice of Ministry of Information & Broadcasting for necessary action.
- 12) A Code of Conduct should be framed for the Ministers of the State in general and especially in dealing with the journalists/media.
- 13) Kerala State Legislature may pass a resolution asking the Central Government for enactment of necessary law for regulating the



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private electronic/broadcast media in execution of Recommendation No. (9) above as the subject 'broadcasting and other like forms of communication' is included in Entry 31 in the List 1 – Union List.

- 14) State Legislature may amend S. 294 of the Indian Penal Code, 1860 as follows:-

a) Insert a new clause, “(c) broadcast through audio visual media or any electronic device any obscene act, scene, song or words”,

b) for the words “ which may extend to three months”, substitute the words “which may extend to 3 years”

c) At the end of the present S. 294 IPC, add an explanation as follows,

“Explanation - mere airing or broadcasting is sufficient to constitute the offence”.

- 15) The Government can take initiative to encourage journalism with responsibility and accountability by introducing media education at the school level onwards so as to make the young generation aware of the benefits and perils of using the media and especially the social media. The media houses should be persuaded to follow ethical journalism. The Kerala Media Academy can be pressed into service for raising the awareness level with regard to ethical journalism. All the journalists should undergo an annual refresher course in media law and ethics as part of a Continuing Media



(xiv)

Education (CME) to be conducted by the Kerala Media Academy as a precondition for renewal of accreditation on an annual basis.

- 16) It is left open to the Government to take appropriate decision and take steps to realise liquidated damages from the Company G.N. Info Media Private Limited which owns the Mangalam Television Channel and the persons directly liable for the telecast of the false news (voice clipping) and causing breach of public order and loss to public exchequer in accordance with law.

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INTRODUCTION

1. Preliminary

On 26.03.2017 a new Television Channel, namely, Mangalam Television Channel at Trivandrum aired its inaugural programme starting from 10 A.M. During the news programme on the subject of 'safety of women', a voice clipping said to be that of a Minister of the State was telecast after the presentation of the anchor, CW6 Lakshmi Mohan that a Minister of the State engaged in a sleazy talk with a poor widow who approached him for some help. The voice clipping consisted of only the male voice uttering obscene words. After airing the voice clipping the Thiruvananthapuram correspondent of the Mangalam Television Channel came on live through telephone reporting that the voice belonged to Shri A.K. Saseendran (CW17), Minister of the State for Transport. Scrolls also appeared on the screen that the Minister concerned was Shri A.K. Saseendran. On that day Shri A.K. Saseendran was attending public function at Kozhikode. On coming to know of the breaking news in the Television Channels on him, he cancelled his programmes and announced his resignation from the Council of Ministers at about 3 p.m. at a Press Meet convened by him. He denied the allegations against him. He stated that he resigned because he did not want to be the butt of ridicule by clinging on to the ministerial post in the context of allegations. He further stated, "I knew a new Malayalam Channel was launching its operation on Sunday, but never had any idea I will be the subject of its launch exclusive. I am ready to face any probe as I have not committed the mistake as alleged by the Channel" (As



reported in Indian Express dated 27.03.2017). His resignation was accepted on the same day. On 27.03.2017, the Government declared a judicial probe into the matter. The willingness to head the Commission of Inquiry was ascertained from me on 28.03.2017. On 29.03.2017 the Cabinet meeting took the decision to appoint this Commission of Inquiry under the Commissions of Inquiry Act, 1952 for the purpose of making an inquiry into a definite matter of public importance, namely, the veracity of the voice clipping said to be that of a Minister of State telecast by Mangalam Television Channel on 26.03.2017. The Government issued Notification No. 29870/SSA2/2017/Home dated 31.03.2017 appointing the Commission of Inquiry with the following terms of reference :-

- i. To inquire into the veracity of the voice clipping said to be that of a Minister of the State telecasted by Mangalam Television Channel on 26.03.2017 ;
- ii. To inquire into the circumstances that led to the above conversation ;
- iii. To inquire into as to whether the recorded voice clipping was edited or tampered with mala fide intentions, and as to who have acted behind that ;
- iv. To inquire into as to whether the act of airing the voice clipping is illegal and it involves illegal activities or conspiracies and if so, the legal action to be taken in this regard ;
- v. To inquire into the other matters connected with this case as the Commission observes.

On 03.04.2017, this Commission assumed charge and started taking steps for the functioning of the Commission.

2. The nature and manner of Inquiry under the Commissions of Inquiry Act, 1952.

A Commission of Inquiry is appointed under section 3 of the Commissions of Inquiry Act, 1952 by the appropriate Government



for the purpose of making an inquiry into any definite matter of public importance and within such time as may be specified in the notification. This Commission was appointed to inquire into the definite matter of public importance which are specified in the terms of reference mentioned above. The Commission was initially appointed for a period of three months. Later the Government decided to extend the term of Commission for a period of three months from 01.07.2017 and consequently amended the original notification as per Notification No. 29780/SSA2/2017/Home dated 01.07.2017 and thereafter the term was further extended to complete the inquiry and submit the report.

The question whether this Commission of Inquiry was appointed into any definite matter of public importance was raised by the management of the Mangalam Television Channel twice before the Hon'ble High Court of Kerala. Firstly, in the criminal jurisdiction in B.A. Nos. 2378, 2379, 2380, 2539 and 2540/2017 before the High Court of Kerala filed by Sajan Varghese, Chairman and R. Ajithkumar, C.E.O. of Mangalam Television Channel and other staff of the Television Channel who are accused in the connected criminal cases. Their contention was that the "registration of the crime is entirely for political consideration. The Government have already announced the conduct of a judicial inquiry though no matter of public importance is involved. This steps appears to be purely politically motivated and not in public interest". This contention was not considered by the Hon'ble High Court while denying bail to some of the accused as per order dated 12.04.2017.

In WP© No. 21095/2017(J) filed under Article 226 of the Constitution of India, Sajan Varghese, Director, G.N. Infomedia Private Limited, which owns the Mangalam Television Channel



challenged the competency of the State of Kerala to appoint the Commission of Inquiry and also on the ground of public importance. The petitioner contended as follows :

“The case of the petitioner is that the appropriate Government under the Act for ordering an inquiry into a matter which was telecast is the Central Government and therefore, Ext.P6 notification is one issued without jurisdiction. It is also the case of the petitioner that an inquiry can be ordered under the Act only into a definite matter of public importance and the matters in respect of which the inquiry is ordered in terms of Ext. P6 notification are not matters of public importance. Ext. P6 notification is under challenge in the writ petition on the aforesaid grounds”.

The respondents were Union of India, State of Kerala and P.S. Antony Commission of Inquiry respectively.

After considering the contentions of both parties, the Hon'ble High Court of Kerala dismissed the writ petition. It is held as follows:-

“As noted above, there is no dispute to the fact that the conversation which was telecast in the news channel is a conversation involving sexual connotations and the substance of the conversation was such that the Minister had to resign on account of the telecast of the said audio clip. The liberty which is enjoyed by the media is part of the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. There cannot be any doubt that the freedom of speech and expression guaranteed under the said Article is not an absolute right and the same does not include the right to tell the people what they do not want to hear. If the contents of the audio clip which was telecast are something which would disturb or affect the tempo of the life of the community or the tranquillity of the society, it is a matter concerning public order.



Such a view has been taken by the Apex Court in **Kanu Biswas v. State of W.B.** [(1972)3 SCC 831].

Paragraph 7 of the said judgment reads thus :

"7. The question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order, according to the dictum laid down in the above case, is a question of degree and the extent of the reach of the act upon the society. Public order is what the French call "order publique" and is something more than ordinary maintenance of law and order. The test to be adopted in determining whether an act affects law and order or public order, as laid down in the above case, is: Does lead to disturbance of the current of life of the community so as to amount to a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed?"

Identical is the view taken by the Apex Court in **Subramanian v. State of T.N.** [(2012)4 SCC 699] also. Paragraph 15 of the said judgment reads thus :

"15. The next contention of behalf of the detenu, assailing the detention order on the plea that there is a difference between "law and order" and "public order" cannot also be sustained since this Court in a series of decisions recognised that public order is the even tempo of life of the community taking the country as a whole or even a specified locality. [Vide **Pushpadevi M. Jatia v. M.L. Wadhawan** 1, SCC paras 11 & 14; **Ram Manohar Lohia v. State of Bihar** 2; **Union of India v. Arvind Shergill** 3, SCC para 4 & 6; **Sunil Fulchand Shah v. Union of India** 4, SCC para 28 (Constitution Bench); **Commr. of Police v. C Anitha** 5, SCC paras 5, 7 & 13]."

"Public order is a matter which comes under Entry 1 of List 11 of the 7th Schedule. As noted above, Entry 31 of List 1 of the 7th Schedule deals with "Posts and telegraphs: telephones, wireless, broadcasting and other like forms of communication". The said entries essentially deal with the licensing of telecasting and



other rights. None of the matters sought to be inquired into in terms of Ext. P6 notification falls, therefore under Entry 31 of List 1. The issue is therefore, answered against the petitioner. 7. The next issue is whether the matters included in Ext. P6 notification are matters of public importance. I have already held that the inquiry is into a matter relating to public order. A matter relating to public order is certainly a matter of public importance. This issue is also, in the said circumstances, answered against the petitioner".

Thus it is already found that the Commission of Inquiry is duly constituted as per law and that a definite matter of public importance is involved.

"In an inquiry conducted under the Commissions of Inquiry Act, there is no accuser, no accused, no plaintiff and no defendant. That is to say there is no *lis* before the Commission. The Commission does not conclude an inquiry by pronouncing a Judgment in the legal sense of the term. The task before the Commission is collection of facts and material on the subject referred to it and submit its report with recommendation to the appropriate Government. The Government may or may not take any action on the report. It is for the appropriate Government to decide what action, if any, is required to be taken on the report. Thus the inquiry under the Act is inquisitorial and not accusatorial". (Page 60, The Commission of Inquiry Act, 1952 A Critical Analysis, Edition 2011 by B.M. Prasad & Manish Mohan)

In *R. Balakrishna Pillai v. State of Kerala* a full Bench of Kerala High Court held as follows:

"... it is evident that the purpose of an enquiry under S. 3 of the Commissions of Inquiry Act is only to enable the Government 'to



gather facts or information.' The information can be obtained or gathered in any manner. The proceedings before a Commission is not judicial or *quasi-judicial*. It is only a fact-finding authority. The enquiry is done or made to reach an ultimate administrative decision".

It was further observed :

"It cannot be denied that the appointment of a Commission under S. 3 of the Commission of Enquiry Act is generally impelled by a desire to set up and maintain high standard of moral conduct in public life and administration. This is a welcome step to maintain high standard in public life. It is definitely a matter which will result in cleanliness of public life in which the public are vitally interested".

Lord Denning was appointed to inquire into the scandal relating to John Profumo, British Secretary of State for war on 04.06.1963. In the introduction of Lord Denning's report, he has expressed his views regarding the nature of the inquiry and the powers conferred upon him under the Tribunals of Inquiries Act, 1921 as follows:-

"The appointment of a tribunal under the Tribunals of Inquiries Act, 1921, is an elaborate and costly machine, equipped with all the engines of the law – counsel, solicitors, witnesses on oath, absolute privilege, openness to the public (so far as possible) and committal for contempt – but it suffers from the invincible draw-back, in doing justice, that there is no prosecution, no charge and no defence".

The above observation is relevant as the Indian Act of 1952 is modelled on the British Act of 1921.



In short, the scope of a Commission of Inquiry is limited to its role as a fact finding authority. The utility and importance of a Commission of Inquiry was stressed by the Supreme Court in *Ram Krishna Dalmia v. Justice S.R. Tendolkar* (AIR 1958 SC 538) in the following words:

“In our view the recommendations of a Commission of Inquiry are of great importance to the Government in order to enable it to make up its mind as to what legislative or administrative measures should be adopted to eradicate the evil found or to implement the beneficial objects it has in view”.

As part of the inquiry, this Commission has considered the inputs from the Print and Electronic media, social media, the evidence of the witnesses examined by the Commission, affidavits and statements filed by some of the witnesses and experts, documents produced by witnesses and documents obtained from various sources by the Commission. The Commission also conducted a local inspection of the office and studio of Mangalam Television Channel at Thiruvananthapuram to have a first hand experience of the functioning of a Television channel and as to how a news programme is telecast.

3. The Structure & Contents of the Report

Following the terms of reference, the Commission has prepared this report dividing it into 3 parts.

In the first part, the circumstances leading to the appointment of the Commission of Inquiry are considered.

Second Part of the report consists of the details of the inquiry conducted and conclusions reached by the Commission on terms of reference Nos. (i) to (iv).

Third part of the report deals with the details of inquiry into the other matters connected with this case as the Commission has observed and answer to terms of reference No.5 Finally, the Commission has given recommendations for consideration and necessary action by the Government.

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PART I

THE CIRCUMSTANCES LEADING

TO

THE APPOINTMENT OF THE

COMMISSION OF INQUIRY



CHAPTER I

The Inauguration of the Mangalam Television Channel

1. Mangalam Television Channel

A perusal of the statements filed by CW1 Ajithkumar, C.E.O of Mangalam Television Channel, CW2 Sajan Varghese, Chairman, the documents produced by them and copy of case diary produced by the police in the connected criminal cases and the information gathered from Web page of Mangalam, i.e. www.mangalam.com gives the following picture of the Mangalam group of business and its publications and the launching of the Mangalam Television News Channel.

Mangalam Weekly was started by late M.C. Varghese, father of CW2 Sajan Varghese in 1969 at Kottayam. It competed with Malayala Manorama Weekly published from Kottayam and captured the large slice of readers through romantic novels and stories and often spicy items in the weekly. Mangalam Daily was started in 1989 by late M.C. Varghese. In 1993 Mangalam was registered as a company. Thereafter the Mangalam group had a spectacular growth in different fields of business including, Mangalam Hospitals (P) Limited, Mangalam Diagnostic Research Centre, Mangalam Confectionary (P) Limited, Mangalam Residential High School, Mangalam College of Engineering, Mangalam B.Ed. College etc. Mangalam Television Channel is the latest addition to this group of business.

After the demise of M.C. Varghese, CW2 Sajan Varghese became the M.D. of the Mangalam Group of Publications. Sabu Varghese, Saji Varghese, Biju Varghese, brothers of Sajan Varghese are the



Directors. The Registered Office of the Company is at Kottayam. During 2006 Mangalam Telecasting India (Pvt.) Limited was registered with the object of starting a Television News Channel. Mangalam Television is the latest Malayalam Language News Channel which started functioning in 2016 and it was formally inaugurated by Shri Pinarayi Vijayan, Chief Minister of Kerala at a colourful function on 6th March, 2017 and its inaugural broadcast of news was on 26th March, 2017.

Malayala Manorama, Mathrubhumi, Kerala Kaumudi, Madhyamam etc. are the other print medias which had started Television Channel. Therefore Mangalam Television Channel had to face tough competition from other Malayalam News Channels. India Vision, one of the first news channel from Kerala had to stop functioning. Asianet News, Manorama News, Mathrubhumi News, Kairali People T.V., Media One, Reporter T.V. etc. are the popular Malayalam News Channels. Flowers T.V. and News 18 Kerala are the later additions to the Malayalam language News channels. It was against the backdrop of proliferating language News channels and in a highly competitive media industry, Mangalam Television Channel was inaugurated. Naturally, the Mangalam Television News Channel wanted a 'lightening and explosive launching of news broadcast'.

The launching of the Mangalam News Channel was the culmination of several years of planning. The idea of starting a channel was that of R. Ajithkumar, C.E.O of Mangalam Daily. He was entrusted with the task of starting the channel. They understood that it was difficult to get a new licence from the Central Broadcasting Ministry and that it was very expensive to get a new license. Therefore, they decided to purchase the license of an existing Television Channel. Through



brokers Ajithkumar negotiated and purchased the license of G.N. Infomedia Private Limited in New Delhi. As per statement given to the police an amount of Rs. 2.5 crores was paid to purchase the above company. At the time of purchase, G.N. Infomedia was running 24x7 local channel and Whistle Television, an entertainment channel. The company G.N. Infomedia Private Limited was purchased in the name of Mangalam Telecasting Private Limited and one Gautham Sarkar, said to be a businessman from West Bengal, in the month February, 2016 in the proportion of 60 : 40%. This is as per the statement given to the police by CW2 Sajan Varghese. But, as per the statement filed by CW1 R. Ajithkumar and CW2 Sajan Varghese before the Commission in answer to the questions issued by the Commission, the capital of the company is Rs. 4,63,71,000/- by way of issued, subscribed and paid up capital. As answer to question No. 7, as to from whom and how much is the share capital raised, it is stated as follows:-

Mangalam Telecasting India : Rs. 3,13,03,000/-
Private Limited

Gautham Sarkar : Rs. 1,50,68,000/-

Total : Rs. 4,63,71,000/-

But, initial investment for the new channel was said to be Rs. 32 Crores as per the online information from <http://www.desktracking.com>.

Anyhow, it can be concluded that a much greater investment than stated by CW1, CW2 to the police and before the Commission has been made to launch the news channel.

According to the statement given by CW2 Sajan Varghese to the police he has no acquaintance with Gautham Sarkar, only CW1 R.



Ajithkumar has acquaintance with him. At present CW2 is Chairman (with effect from 16.02.2016) and R. Ajithkumar (from 16.02.2016) is the Managing Director and C.E.O. of G.N. Informedia Private Limited. However, from the signatory details filed before the Commission on 25.08.2017 it is seen that Sajan Varghese is the Director and R. Ajithkumar is the Managing Director of the Company. As per statement filed by CW1 R. Ajithkumar and CW2 Sajan Varghese, Mangalam Television Channel is the brand name of the news channel owned by G.N. Infomedia Private Limited. The company was incorporated on 18.03.2009 and having its registered office at 903, 9th floor, Inderprakas Building, Brakhamba Road, Connought Place, New Delhi – 110 001. The object of the company is to carry on the business of IPTV (Internet Protocol Television) and to establish new Satellite Channels and to work as news agency giving all types of news through electronic and print media (Memorandum of Association and Articles of Association are produced).

There are 84 employees in the Company. A list of the employees has been filed before the Commission. When required to furnish the amount of salary or emoluments paid to each of the staff or employee as per question No. 14 in the questionnaire, CW1 R. Ajithkumar and CW2 Sajan Varghese gave only a cryptic answer that staff of the company are adequately remunerated. When required to furnish the previous experience of the staff/employee in their respective field or area of employment as per question No. 15, again a vague answer is given that all staff have required work experience in Television journalism. Regarding the broadcasting licence of Mangalam Television Channel and the name of licence holder as per question No. 16, it is stated that the communication from the Ministry of



Information & Broadcasting evidencing the renewal of the license of the channel is produced before the Commission. From a perusal of the documents produced, it is seen that an amount of Rs. 5,00,000/- towards permission fee of Television channels for down linking from India for the period from 27.10.2016 to 26.10.2017 was remitted on 10.02.2017. Regarding the date of commencement of broadcast by the Mangalam Television Channel as per question No. 17, it is stated that the Mangalam Channel had commenced the broadcast of Malayalam Television programmes about five months prior to the date of inauguration of the channel on 26.03.2017.

As answer to question No. 18 whether Mangalam Television Channel adheres to any code of ethics/canons of journalism followed in news telecast, it is answered as follows:-

“It is adhering to the code of ethics of electronic journalism that the channel has aired its programmes. The authenticity and credibility of the news item is thoroughly scrutinized and only in case the editorial board is convinced of the news item, the programme is telecasted. The ethical guidelines issued by the National Broadcasting Association Guidelines are scrupulously followed in the telecast. The universal safeguard that the source of the news item is not disclosed is followed at all times”.

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CHAPTER 2

The Inaugural Telecast on 26.03.2017 and the Voice Clipping

In the words of CW2 Sajan Varghese as stated in paragraph 2 of Memorandum of Writ Petition (Civil) No. 21095/17 filed before the Hon'ble High Court of Kerala:

“That on 26.03.2017, a live discussion was conducted in the studio of the said “Mangalam” Television in a show titled “Sthree Surakha” at around 10 p.m. That around 3 to 4 lady panellists were present for the said live discussion and during the course of the discussion, an audio clip featuring the voice of a Minister of State and a lady was telecast. The contents of the audio clip contained conversations of sexual connotations which created a furore in the news circles and in the light of the said audio clip, the said Minister tendered his resignation”.

On 26.03.2017 CW6 Lakshmi was the News Reader. CW6 stated that the programme started with news at 10 A.M. A panel discussion on the subject of Women's safety was part of the news programme which was to continue till 12.30 p.m. CW11 Sonia George, CW12 Dhanya Raman and CW13 Sandhya S.N., social activists were the members of the panel. About 11 A.M. the breaking news was given. It was announced by CW6 that the Mangalam Television Channel was now going to broadcast a startling news for Kerala. After the said announcement, the audio clipping was broadcast. According to CW6 it was an obscene talk which she did not want to hear as an individual and it is difficult for her to say it before the Commission. The



transcript of the voice clipping produced during inquiry by CW21 Shanavas, Dy S.P. who is the main investigating officer in the connected criminal cases, is given as Annexure – I to this report. After the broadcast of the voice clip, it was announced by CW6 Lakshmi Mohan that Shri A.U. Renjith from their News Desk is joining to give more details. Renjith appeared and gave the name of the owner of the voice as the Minister of State Shri A.K. Saseendran and also stated that it was a sleaze talk made by the Minister to a poor widow who approached the Minister for some assistance. This information was also given as a scroll in the Television. Thereafter CW6 received instruction from the console to start discussion on this subject.

On hearing the voice clipping one of the panellists Dhanya Raman (CW12) was covering her face with embarrassment and the other two were covering their ears. When CW6 anchor conveyed the discomfort of the guests to the console through the talkback, the instruction from the console was to continue the programme, but to minimise the embarrassment to the guests the audio speaker in the studio was made silent from the console. CW13 Sandhya stated before the Commission that they wanted to leave the studio, but it was difficult to walk out as the anchor's seating was in front of the main door. To the Deccan Chronicle Daily correspondent, CW13 stated, "I too was tempted to walk out of the studio, but then felt that it would send out wrong message of escapism. However, I made my point clear by asking the anchor whether it was the way the topic on women safety has to be discussed. I felt that they were trying to sensationalise the whole". CW11 Soniya George, who is the Secretary of Self Employed Women's Association (SEWA) said the three women were invited to speak on women safety. "The anchor,



Lakshmi Mohan, discussed with us the rise of atrocities against women in society till 11 a.m. Then the anchor told us that there will be breaking news at 11 a.m. and when we asked her the topic, she feigned ignorance. Once they started airing the audio clip, I felt hugely humiliated. In fact now I regret that I did not get out from there. I was aghast when the anchor repeatedly requested the viewers that they should not let children listen to the audio clip (Deccan Chronicle Daily dated 30.03.2017).

The Channel aired this audio recording 18 times on the same day as noted by the Electronic Media Monitoring Centre (Ministry of Information and Broadcasting), Government of India. Report of EMMC is given as Annexure -II. This report contains an English translation of the voice clipping as follows:-

"Now I am in Goa for Election Work. I thought that my girl forget me, not calling me, I kissing me, hugging me. 'Tightly hug me and lay on my chest. Oh my Girl, hold me tightly and comfortably lay on, few minutes more, put your face on by chest, let me cuddle you. Oh my kitty, oh my sweetie, what do you want my sweetie, bit it and eat it, I like it very much. Why you biting like this? (Makes kissing sound) Did you get it? Tell me my beautiful, do you want more? Remove your clothes; I want to see your chest and buttocks. Let me see breasts and buttocks. It is your breastsit is your buttocks remove your clothes and let me see your breasts and buttocks..... and lay on my chest. Kiss me fervently. I will hold your buttocks tightly and you kiss all parts of my body. Let me put my gun (private part) on your breasts, your body and between thighs. sweetie, hug me tightly and keep my private part between your thighs then push it inside you. Oh....how good is this feeling !! (He makes some sensual noises). Kitty.....there is no chance to do it now.....then I will bend you over, kiss your breasts, bite your



buttocks and I will try to push my private part in between your buttocks. Lie on your back, spread your thighs, let me put it inside and push it slowly... then fuck me quickly and entertain me. Then let's hug and lie down, and after some time, let's do it again..... again.....and again...do it ten times (Makes kissing sound)"

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CHAPTER 3

The People Behind The Voice Clipping

3.1 Introduction

Who are the people behind the voice clipping said to be that of the Minister of the State telecast by Mangalam Television Channel on 26.03.2017 ?

The answer is given by R. Ajithkumar, the Managing Editor , C.E.O. and Chief Editor of the Mangalam Television Channel. Following the general condemnation of the action of the Mangalam Television Channel in airing the voice clipping containing pornographic and sexual talk, Chief of the Channel, R. Ajithkumar appeared in his own channel and other Channels and stated that the alleged talk by the Minister of the State was with a poor housewife who approached the Minister for help. When there were reports doing the rounds that a woman journalist also had a role in the incident involving A.K. Saseendran, there was widespread protests from Network of Women in India, a group of women in media profession. They gave a representation to the Chief Minister of the State and submitted that his intervention was required to bring out the facts in connection with the allegations against the former Minister. CW16 Geetha Nazeer is one of the signatories in the representation. There were also condemnation from Kerala Union of Working Journalists (KUWJ) of which CW18 is the General Secretary. Groups of women journalists staged demonstrations in front of the Mangalam Television Offices at Thiruvananthapuram, Kochi, Kozhikode etc. There was a resignation spree of journalists from the Mangalam.



CW14 Al-Neema Ashraf, CW15 A.M. Yazir, Mr. M.M. Rajesh, Deputy News Editor at Kozhikode bureau are some of them, as reported in Deccan Chronicle Daily dated 01.04.2017. 37 prominent writers and cultural leaders of Kerala issued a joint statement condemning the reprehensible broadcast made by the Mangalam Television Channel which was reported in Kerala Kaumudi Daily dated 30.03.2017 and other leading dailies of Kerala.

3.2 Apology by CW1 R. Ajithkumar

In the wake of the mounting criticism against the Mangalam Channel, R. Ajithkumar, C.E.O, Mangalam Channel finally admitted that the Minister was the target of a sting operation. He appeared on Mangalam Television Channel and tendered an apology on 30.03.2017 at the prime time (21:19:46 to 21:22:55 hrs.) on behalf of the channel as follows:-

"This is an explanation to the news telecast on launching day of Mangalam Channel. We had made some mistakes while telecasting that news and Mangalam Television genuinely apologises for that. Many cultural leaders, who are like teachers to us, made state-ments on this issue. We respect them and accept their criticism. There was criticism from social media and other media houses as well. We deeply apologise for the inconvenience caused to the media fraternity, especially women journalists. This was a sting operation which is a part of journalism. Since it was a sting operation, we had earlier decided not to reveal the identity of the person involved during the sting operation. No one was forced to take the job as it is being alleged by our rivals. Eight senior editorial members were part of the investigation. We appointed a female journalist who took up the job voluntarily. Nobody knew about it. We will reveal the truth before the judicial probe.



We promise that we will not repeat the mistake again. We will include a special editorial system to prevent such mistakes. Mangalam is determined to fight against wrongdoing and will continue to do so. We request everyone not to stand against the channel for this single mistake, and expect everybody's co-operation".

Repeat telecast of the apology was also given:

The above is the English translation of the apology telecast in Malayalam found in Annexure – II report of EMMC. The Malayalam transcript of the broadcast of apology produced on behalf of CW1 R. Ajithkumar is given in Annexure -III.

Annexure – III apology shows that the voice clipping was the product of a sting operation carried out by the Mangalam Television Channel and that eight senior editorial members were part of the investigation. It is stated that "we appointed a female journalist who took up the job voluntarily".

3.3. Who are the Eight Senior Editorial Members and the Female Journalist?

Though notice under section 5(2) of the Commissions of Inquiry Act, 1952 was issued to CW1 R. Ajithkumar, C.E.O. and CW2 Sajan Varghese, Chairman of the Mangalam Television Channel to submit answers to the questionnaire, they did not file the statement in time. When they filed it belatedly, CW1 R. Ajithkumar on the date of his examination and by CW2 Sajan Varghese (who did not appear before the Commission) by the end of the inquiry, both of them claimed protection under Article 20(3) of the Constitution and did not answer questions 19, 21 to 30 of the questionnaire relating to the voice



clipping and the people behind it. In the last paragraph of his statement, CW1 R. Ajithkumar stated as follows:-

“However I would like to present the following facts. I am the Managing Director of the Company GN Infomedia. I am not involved in the day to day collection and transmission of News items. The transmission is under the control of an editorial team consisting of numerous persons. I had no occasion to edit the so called talk transmitted on 26.03.2017. Chief reporter Jayachandran along with Nazila Nazimuddin approached me with a complaint regarding sexually explicit talk and acts by the Minister. I entrusted Mr. Jayachandran to look into the matter Later 2 days prior to the inaugural transmission both of them again approached me along with a recording of the talk. I asked them to meet the editorial team for appropriate action. The unedited recording of the voice clipping was transmitted. During the early stages of the telecast I was convinced that the voice in the recording was of the Minister himself. There is no conspiracy of any sort in transmitting the voice clipping of the minister on 26.03.2017. It was done bonafide and it was true voice recording of the talk of the minister with one of our staff members which is the truth. No editing of the voice recording was done by me or my channel and the entire recording furnished by Nazila was telecast. The telecast omitted revealing the true identity of the lady as she qualifies as the victim in the incident”.

After stating in the Annexure – III apology that 8 senior editorial members were part of the investigation, in the statement he has taken a different version that he is not involved in the day to day collection and transmission of news items. The transmission is under the control of an editorial team consisting of numerous persons. In spite of direction to furnish the names of the editorial team in charge on 26.03.2017, CW1 R. Ajithkumar did not produce it. What is produced



is only the list of the entire staff and the editorial list of Mangalam consisting of 30 persons as on 28.08.2017 including Al-Neema Ashraf who had resigned from Mangalam on 03.04.2017. The list is so carelessly prepared and submitted without complying with the direction of the Commission. However, it appears to the Commission that the following persons are prima facie connected with the making and telecast of the voice clipping. The identity of the actual persons who are responsible for the making and telecast of the voice clipping comes within the domain of criminal investigation which is going on parallel to this judicial inquiry.

3.4 The Principal Persons behind the Voice Clipping

The principal persons prima facie involved in the making and telecast of the voice clipping are the following:

3.4.1 CW1 R. Ajithkumar

R. Ajithkumar is admittedly the Managing Director and Chief Editor of the Mangalam Television Channel. Before the Commission, CW1 Ajithkumar denied that he is the C.E.O. of the Channel in spite of answering in the statement that he is the C.E.O. of the Company as answer to question No.11. According to him he is the C.E.O. of Mangalam Daily. But he is known as the Chief of the Channel as stated by other witnesses before the Commission and that nothing will be done in the Channel without his approval. He is shown as the C.E.O. of Mangalam Television Channel in the Bail Applications filed by him before the Hon'ble High Court of Kerala. In the statement filed by CW2 Sajan Varghese, Chairman of Mangalam Television Channel, it is stated as answer to question No. 11 that R. Ajithkumar is the M.D. and C.E.O. of the Company. In the list of staff filed before the Commission, one Teena Krishnan is shown as Office Assistant to C.E.O. It has come out in the inquiry that Teena



Krishnan came to take back the pen drive containing the voice clipping after the telecast. CW8 S.V. Pradeep, News Editor & Reader in the Mangalam Television Channel stated that the pendrive was handed over to him just before the morning broadcast by CW1 R. Ajithkumar to be handed over to CW6 Lakshmi Mohan. In the statement extracted above, CW1 has admitted that when CW3 R. Jayachandran and CW10 Nazila Nazimuddin approached him with a complaint regarding sexually explicit talk and acts by the Minister, he entrusted CW3 Jayachandran to look into the matter. It is again stated by CW1 R. Ajithkumar that 2 days prior to the inaugural transmission both of them again approached him along with a recording of the talk. CW10 in her complaint filed against CW17 A.K. Saseendran has stated that she handed over the phone containing the recorded talk to the C.E.O. Therefore, the involvement of CW1 R. Ajithkumar in the making and broadcast of the voice clipping is prima facie made out.

3.4.2 CW2 Sajan Varghese

Sajan Varghese is the Chairman of the Mangalam Television Channel as stated by him as answer to question No. 9 in the statement filed by him. He refused to answer question Nos. 19, 21 to 32 regarding the voice clipping and persons involved claiming protection under Article 20(3) of the Constitution. He stated that being the Chairman of the Company, he is not involved in the selection of programmes in the channel. The editorial board is selecting the programmes to be telecast in the channel. He is not a part of the editorial board.

In Writ Petition (Civil) No. 21095/17 filed by CW2 Sajan Varghese before the Hon'ble High Court of Kerala - after obtaining several adjournments from the Commission for his appearance and



evidence - to quash the appointment of the Commission of Inquiry, to cancel the notice issued to him along with questionnaire and to recall the summons issued to him by the Commission, the contention taken by him is as follows:

"The petitioner who is the Director of the company which owns Mangalam Television is not involved in the selection of news items telecast by the channel. There is no legal liability upon the petitioner herein with regard to the programmes telecast by the channel. Therefore, inclusion of the petitioner in the proceedings of the 3rd respondent is unnecessary and beyond the scope of the said enquiry. The questionnaire which the petitioner was called upon to answer before the commission does not come under the purview of the terms of reference".

The contentions of the writ petitioner was rejected and the Writ Petition was dismissed by the Hon'ble High Court of Kerala as per judgment dated 08.08.2017. The relevant portion of the judgment is extracted under heading No. 2 above.

After the dismissal of the Writ Petition, one more opportunity was given to CW2 Sajan Varghese to appear before the Commission, but he chose not to face the Commission. If the case of CW2 is that he has no involvement in the news telecast by the channel or that he has no legal liability as claimed above, that contention should be sworn before the Commission. It is to be noted that CW2 Sajan Varghese is Accused No. 9 in CBCID Crime No. 51/CR/OCW-1/TVPM/2017 and Crime No. 52/CR/OCW-1/TVPM/2017 registered in connection with the telecast of the voice clipping in which investigation is in progress as seen from the progress report filed by CW21 Shanavas, Dy.S.P. before this Commission. In the circumstance, it is prima facie seen



that he is also one of the persons involved in the making and telecast of the voice clipping.

3.4.3 CW3 R. Jayachandran

R. Jayachandran @ S. Narayanan is the chief reporter and head of the Investigation Team of the Mangalam Daily. His involvement in this case is already mentioned by CW1 R. Ajithkumar in the statement filed by him and in the complaint filed by CW10 Nazila Nazimuddin in the private complaint filed by her before the Court of the Chief Judicial Magistrate, Thiruvananthapuram. He is also Accused No. 2 in the crimes registered by the police as mentioned above. He himself has revealed his involvement in many sensational news in the last two decades in Kerala including the ISRO espionage case which was found to be a fake one by the Supreme Court of India. His involvement is also spoken of by witnesses examined by the Commission which will be discussed later in the Report. In the circumstances his prima facie involvement in the making and telecast of the voice clipping is established.

3.4.4 M.P. Santhosh

M.P. Santhosh was one of the 2 News Co-ordinating Editors of Mangalam Television Channel on 26.03.2017. He is Accused No. 5 in the crimes registered by the police and by seniority he must be one of the 8 senior journalists who took the decision to conduct the sting operation as stated by CW1 R. Ajithkumar in the Annexure – III apology. In the circumstance, he is prima facie involved in the making and telecast of the voice clipping.

3.4.5 CW5 Rishi K. manoj

Rishi K. Manoj is one of the News Co-ordinating Editors along with CW4 M.P. Santhosh. He is Accused No. 7 in the crimes registered by



the Police and by seniority he must be one of the 8 senior journalists who took the decision to conduct the sting operation. In the circumstance, he is prima facie involved in the making and telecast of the voice clipping.

3.4.6 M. Lakshmi Mohan

Lakshmi Mohan is News Editor and Reader of Mangalam Television Channel. She was the anchor/News Reader at the inaugural news programme on 'women's safety' telecast by Mangalam Television Channel from 10 A.M. to 12.30 P.M. during which the voice clipping said to be that of a Minister of the State was telecast. She is Accused No. 8 in the crimes registered by the Police. Her evidence before the Commission is that she had no previous knowledge of the contents of the voice clipping. CW13 Sandhya who was one of the guests in the studio at the time of airing of the voice clipping, stated that CW6's face became pale at the time of airing of the voice clipping. CW6 Lakshmi Mohan broken down in front of the Commission during inquiry. Though she may have no knowledge regarding the making of the voice clipping, as a news presenter she must have knowledge about the voice clipping and cannot be absolved from the liability in airing the voice clipping containing the obscene matter.

3.4.7 CW7 Firoz Sali Mohammed

CW7 is one of the highly qualified and experienced media journalists of Mangalam Television Channel having an M.Phil in Theatre Arts and having worked in many Channels in Kerala and abroad. His involvement in the making of the voice clipping is doubtful as he joined the Mangalam Television Channel only on 25.02.2017 as News Editor & Reader. He is accused No. 4 in the crimes registered by the police. His role on 26.03.2017 was as News Reader in the



repeat telecast of the voice clipping on that day. As he was involved in the telecast of the obscene matter he cannot be absolved from his liability.

3.4.8 CW8 S.V. Pradeep

He was News Editor & Reader of Mangalam Television Channel. He joined the Channel on 07.11.2016. He is a Law Graduate and has other qualifications in Journalism and other subjects. He started his media career in AIR and worked in various other channels before joining the Mangalam Television Channel. He was on duty on 26.03.2017. CW1 R, Ajithkumar handed over the pen drive to him just before the morning programme. From his evidence before the Commission he appeared to be a confident of CW1 R. Ajithkumar. He also stated that after the broadcast of the voice clipping, Teena Krishnan, Office Assistant to the Chief approached him and asked for the pendrive. He stated that his belief is that the audience did not hear the sleazy talk from the voice clipping. This shows the nature of the witness. CW9 Manjith Varma also spoke about the closeness of CW8 Pradeep to CW1 R. Ajithkumar. To the suggestion that the duty of a journalist is to report things happening and not to make things happen, he denied the suggestion. This shows the journalistic ethical standard of CW8. He also justified the broadcast of the voice clipping and also stated that he has not so far heard the apology broadcast by CW1 R, Ajithkumar. He is accused No. 3 in the connected crimes as seen from the progress report dated 30.08.2017 filed by CW21 Shanavas, Dy.S.P. before the Commission. In the circumstance, he is prima facie involved in the making and telecast of the voice clipping.



3.4.9 CW9 Manjith Varma

He was News Editor of the Mangalam Television Channel on 26.03.2017. He has an experience of 17 years in media. He joined Mangalam Television Channel on 15.06.2016. He stated that he resigned from the Channel on 18.06.2017 after the case as he faced difficulties. According to him, he had no previous knowledge of the voice clipping. But he stated that he had knowledge about an explosive news on the inaugural day. CW9 stated that he had the impression that the discussion was not in the right direction and when he told this to CW8 Pradeep in the PCR (Production Control Room), he was told that the C.E.O. had told CW6 Lakshmi Mohan as how to lead the discussion and he need not interfere. CW9 stated that he felt insulted before the juniors and when he objected before CW1 R. Ajithkumar, he indifferently told that he would look into it. He told that at the time of the breaking news CW1 R. Ajithkumar and CW8 Pradeep were in the PCR. CW9 added that again CW8 Pradeep insulted him by saying that they knew how to manage all this. Thereafter he went to canteen. He has completely distanced himself from the voice clipping. However he is Accused No. 6 in the crimes registered by the Police as seen from the progress report filed by CW21 investigating officer. In the circumstance, a close appreciation of the evidence is necessary to establish his involvement in the making and broadcast of the voice clipping.

3.4.10 Nazila Nazimuddin

Nazila Nazimuddin is the Sub Editor of the Mangalam Television Channel as per the list of employees furnished by CW1 R. Ajithkumar in response to the questionnaire issued by the Commission. She was also employed as Reporter as seen from the statement filed by CW1 R. Ajithkumar. It is stated that 2 days prior to the inaugural



transmission, CW3 Jayachandran and CW10 Nazila Nazimuddin approached him along with a recording of the talk. CW10 Nazila did not respond to the notice and questionnaire issued to her by the Commission under section 5(2) of the Commission of Inquiry Act. CW10 also did not appear when issued summons to appear before the Commission on 21.06.2017 or thereafter. When the Commission issued an official memorandum to her to appear before the Commission and warned her that on her default to appear before the Commission, the Commission will be forced to take coercive steps for her appearance or draw an adverse inference against her, she sent an application dated 27.06.2017 for exemption from personal appearance. Along with the application she submitted certified copy of the complaint filed before the Court of the Chief Judicial Magistrate, Thiruvananthapuram, copy of her appointment letter dated 01.07.2016 in the Mangalam Television Channel as Sub Editor, copy of the letter extending her probation till 30.06.2017 and copy of proceedings in CMP No. 899/17 dated 29.05.2017 of the Chief Judicial Magistrate, Thiruvananthapuram which shows that the complaint filed by CW10 Nazila Nazimuddin was taken on file as CC No., 528/2017 under section 354(A), 354 (D), 509 IPC against A.K. Saseendran, former Minister for Transport. The complaint of Nazila Nazimuddin before the Court of the Chief Judicial Magistrate, Thiruvananthapuram is given as Annexure – IV. In the same application filed for exemption from appearance, CW10 Nazila Nazimuddin also stated that her statement before the Court of the Chief Judicial Magistrate may be treated as her version before this Commission. The sworn statement of CW10 Nazila Nazimuddin is given in Annexure – V. It was also stated by CW10 Nazila Nazimuddin in the affidavit that her right leg got fractured and it was



advised by her Doctor to take complete rest for a period of 2 months from 21.05.2017. It was also stated in the affidavit that discharge summary dated 21.05.2017 of Cosmopolitan Hospital was attached. But no discharge summary was attached. However, considering the medical reason stated by CW10, she was directed to appear before the Commission on 24.07.2017. But CW10 failed to appear on 24.07.2017 and thereafter on 21.08.2017. There was also no representation for her throughout the proceedings. It is ascertained during local inspection of the Mangalam Television Channel that CW10 Nazila is now working as News Reader in the Mangalam Television Channel. Meanwhile, there was a face book post by CW10 Nazila Nazimuddin, copy of which was produced by Counsel for CW17 A.K. Saseendran, to the effect that she was cheated by CW3 R. Jayachandran. This face book post dated 15.08.2017 is given as Annexure – VI. It was later withdrawn by her. It is reported by Daily Indian Herald, an online News portal on 16.08.2017 that the face book post was withdrawn by CW10 Nazila under the compulsion of CW1 R. Ajithkumar and others. A copy of the news in the Daily Indian Herald is produced by the Government Pleader for the information of the Commission. Daily Indian Herald Online dated 16.08.2017 is given as Annexure – VII. It is reported that the channel management has given new offers to CW10 Nazila Nazimuddin.

From the averments in the Annexure – IV complaint and statement of CW10 Nazila before the Court of the Chief Judicial Magistrate, Thiruvananthapuram as Annexure - V, the statement of CW1 R. Ajithkumar and other witnesses before the Commission during inquiry,



it is seen that CW10 is primarily responsible for the recording of the talk. It is also prima facie seen that it was a sting operation conceived by CW1 R. Ajithkumar and CW3 Jayachandran and executed by CW3 R. Jayachandran using CW10 Nazila as a 'honey trap'. CW10 is the accused No. 10 in the connected criminal case, who is shown as Unknown Female in the progress report filed by CW21 Investigating Officer on 30.08.2017. CW21 has reported that he has recorded the statement of Nazila Nazimuddin and it was stated by her that it was under the direction of CW1 R. Ajithkumar and CW3 R. Jayachandran she established rapport with A.K. Saseendran, that the talk collected by her through her telephone was entrusted to CW3 R. Jayachandran, to be given to CW1 R. Ajithkumar and that the phone handed over by her to him contained the entire talk between male and female and it was after editing out female sound the voice clipping was broadcast on 26.03.2017. It is seen that it was after the questioning of CW10 Nazila by CW21 Investigating Officer when she realised that she was an accused in the criminal case, CW10 Nazila posted in the face book that she was cheated by CW3 R. Jayachandran.

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CHAPTER 4

The Resignation of the Minister of the State

Shri A.K. Saseendran

4.1 Announcement of Resignation

“Mangalam Television came, People Saw, Minister surrendered”

This is the English translation of the headline of the box news published in the centre page of Mangalam News Daily published on 27.03.2017, following the resignation of Minister of State for Transport, Shri A.K. Saseendran on 26.03.2017 immediately after the telecast of the voice clipping allegedly that of the Minister of the State on 26.03.2017 at 11.20 A.M.

The timeline as published in the box news is as follows:-

10.00A.M	:	Scroll and Announcement in the Television Screen that soon there will be a big breaking news that will shock Kerala
11.00A.M	:	Announcement by the News Reader that the voice clipping of obscene talk of the State Minister of the State to a woman who came to give a representation is going to be telecast
11.20 A.M	:	The voice clipping is aired
11.45 A.M	:	Disclosure that the talk was by Minister of the State A.K. Saseendran

12.10 P.M.	:	Demand for resignation of the Minister by various politicians like P.C. George MLA, J.R. Padmakumar, spokesperson of State BJP, Bindhu Krishna, President of State Mahila Congress, V.S. Manoj Kumar, State General Secretary of Kerala Congress (J).
01.30	:	Chief Minister Pinarayi Vijayan informs that the allegation against the Minister is serious and it will be looked into
02.00	:	Minister A.K. Saseendran cancels his official programmes and goes to Guest House, Kozhikode
02.15	:	Channels break the news that A.K. Saseendran informed the Chief Minister his willingness to resign
02.36	:	There is confirmation by Government sources that the Minister will resign
02.50	:	A.K. Saseendran declares his resignation at the Press meet.



4.2 Why did he resign ?

In the Press meet, Minister A.K. Saseendran stated that :

“ I haven't done anything wrong and I am confident about that. I am resigning because I don't want to create an embarrassing situation to the LDF, which is facing a by-election in Malappuram. Let there be a probe and truth will prevail. I am resigning to uphold political morality. Only a detailed probe will bring out the truth and I am ready for it. I knew a new Malayalam Channel was launching its operation on Sunday, but never had any idea I will be the subject of a launch exclusive. I am ready to face any probe and I have not committed the mistake as alleged by the Channel. Neither my party nor the LDF has sought my resignation. I deny the allegations against me. I am not afraid of anyone. I resigned because I don't want to be the butt of ridicule by clinging on to the Ministerial post in the context of allegations”. To a query whether he feared more tapes or videos will come out, Saseendran said he was not afraid because he had never committed the act. “I am confident I have not committed any mistake. While I was in the opposition, I had condemned UDF leaders who refused to resign despite facing allegations of corruption and sleaze. I resigned because I wanted to show them I do what I speak. Public always expect a resignation from a Minister in such a situation. I see my resignation as a moral responsibility”. (as reported in Indian Express Daily dated 27.03.2017).

Before the Commission of Inquiry CW17 A.K. Saseendran reiterated his version regarding the reason for resignation. In answer to the questionnaire issued to him along with the notice issued u/s 5(2) of the Commission of Inquiry Act, 1952, he stated that he did not talk as broadcast in the voice clipping and it is not his talk. He never misbehaved and talked in a lewd manner to any woman who



approached him for assistance. He also stated that the talk in the voice is not that of a Minister and it is only a private talk and that too only that of a male. He further stated that what was broadcast as a voice clipping in his name was the product of a criminal conspiracy with the intention of destroying his public life with a reputation for half a century. He asserted that the said fabricated news broadcast by the Channel on the date of its inauguration was for the purpose of making illegal gain and it is a serious crime. He pointed out that C.E.O of the Channel tendered an apology about the fabricated news about him.

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CHAPTER 5

The Appointment of the Commission and the Scope of Inquiry

5.1 Appointment of the Commission

The telecast of the voice clipping said to be that of a Minister of the State was a major embarrassment to the LDF Government which came to power on the promise of a corruption free and clean administration as reported in media. While announcing his resignation on 26.03.2017 Minister A.K. Saseendran stated that he was resigning to uphold political morality. He stated that only a detailed probe will bring out the truth and he was ready for it. On 27.03.2017 itself the Government declared a judicial probe into the matter. Announcing the decision, Chief Minister Shri Pinarayi Vijayan said that A.K. Saseendran stepped down on moral grounds and it was not an admission of guilt (As per Indian Express Daily dated 28.03.2017). On 29.03.2017 the State Cabinet decided to appoint the Commission of Inquiry to look into the circumstances leading to the resignation of A.K. Saseendran. As reported by the media the Cabinet felt that in the given circumstances when the former Minister didn't even wait for a preliminary inquiry into the incident before stepping down, a judicial probe would be suitable to find out the truth behind the incident (as per Deccan Chronicle Daily dated 30.03.2017).

In the circumstance, the Government of Kerala reached the opinion that it was necessary to appoint a Commission of Inquiry for the purpose of making an inquiry into a definite matter of public importance, namely, the news aired in Mangalam Television Channel on 26th March, 2017 and accordingly issued Notification



judicial probe would be suitable to find out the truth behind the incident (as per Deccan Chronicle Daily dated 30.03.2017).

In the circumstance, the Government of Kerala reached the opinion that it was necessary to appoint a Commission of Inquiry for the purpose of making an inquiry into a definite matter of public importance, namely, the news aired in Mangalam Television Channel on 26th March, 2017 and accordingly issued Notification No.29780/SSA2/2017/Home, S.R.O./ No. 167/2017 on 31st March, 2017 and appointed this Commission of Inquiry.

5.2 Terms of Reference of the Commission.

The Government fixed the terms of reference of the Commission of Inquiry as follows:-

- i. to inquire into the veracity of the voice clipping to be that of a Minister of the State telecast by Mangalam Television Channel on 26/03/2017 : to inquire into the circumstances that lead to the above conversation
- ii. to inquire into as to whether the recorded voice clipping was edited or tampered with mala fide intentions and as to who have acted behind that ;
- iii. to inquire into as to whether the act of airing the voice clipping is illegal and it involves illegal activities or conspiracies and if so. the legal action to be taken in this regard :
- iv. to inquire into the other matters connected with this case as the Commission Observes ;

The Commission was directed to complete the inquiry and submit its report within three months from the date of publication of the notification.

5.3 Scope of Inquiry



In an inquiry conducted under the Commission of Inquiry Act, there is no prosecution and defence. The object of conducting the inquiry is not with a view to pronounce judgment. The task before the Commission is collection of facts and materials on the subject referred to it and submit its report with recommendation to the Government. In this case the Commission has to inquire into the veracity of the voice clipping said to be that of a Minister of the State telecast by Mangalam Television Channel on 26.03.2017; circumstances that led to the above conservation ; whether the recorded voice clipping was edited or tampered with mala fide intentions and who have acted behind that ; whether the act of airing the voice clipping is illegal and it involves illegal activities or conspiracies and if so, the legal action to be taken in this regard.

The scope of inquiry of the Commission also includes other matters connected with this case as the Commission observes. The Commission has considered that the matters connected with this case also involves the following issues :-

- invasion of Right to Privacy of Citizens ;
- the extent of freedom of the Media as a whole,
- questions of journalistic ethics and professional standards ; and
- measures to prevent the misuse of the freedom of the media especially electronic Media.

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CHAPTER 6

The Inquiry

6.1 The Commission Assumes Charge

Immediately after the notification on 31.03.2017, the Commission assumed charge on 03.04.2017. The Secretary to the Commission and other staff were appointed soon and the Commission started the preliminary steps for the functioning of the Commission. As finding a Government accommodation for the functioning of the Office of the Commission involves a long and protracted proceedings, the Commission decided to function from his residence making use of the available office facility. A meeting with the District Collector, Ernakulam had preceded and it was informed that no Government accommodation was available. In the Government Order, it was specified that the headquarters of the Commission would be at Ernakulam and that the sitting of the Commission can be held at the Government Guest House, Ernakulam. Secretary from the Home Department contacted the Commission and requested the Commission to start functioning at the earliest. It is to be stressed that the term of the Commission was only three months which was later extended by another 3 months by amending the original notification dated 31.03.2017 and later extended by another three months. The Commission was also desirous of completing the inquiry at the earliest. Hence it was decided to start functioning of the Commission by making use of the available office facility like computer, printer and other office furniture. This has saved the Government a very substantial amount as arranging the office



and furniture for the functioning of the office of the Commission would amount to lakhs of rupees. Though Government circular No. 50086/SSA2/2001/Home dated 4th May, 2002 makes a provision for an amount of Rs. 10,000/- to meet the initial expenses of the Commission, the procedure to draw the amount is so cumbersome that the Commission has not been able to draw even that amount even after 6 months. In the circumstance, the Commission was forced to spend from his own purse to meet the day to day office expenses.

6.2 Preliminary Steps for Inquiry

A press release was issued on 03.04.2017 and 05.04.2017 regarding the commencement of the functioning of the Commission from the Office attached to the residence of the Commission at Padamugal, Kakkanad. A notification of the Commission of Inquiry contemplated under Rule 5 (2) of the Commission of Inquiry (Central) Rules 1972 for publication in prominent Malayalam and English dailies having circulation throughout Kerala, was sent to the Government on 11.04.2017. The notification was effected by the Government on 27.04.2017.

The public notification was issued inviting all persons - individuals, group of persons, political parties, institutions and other organisations, particularly those who are directly or indirectly connected with the making of the voice clipping said to be that of the Minister of the State and its telecast by Mangalam Television Channel on 26.03.2017 and any connected matters covered by the terms of reference of the Commission of Inquiry - to furnish to the Commission of Inquiry



affidavits duly sworn to or statements containing relevant facts giving necessary particulars as to date, time and place of any fact or occurrence referred to in the affidavit or statement and the persons responsible for the same. Such affidavits, statements, reports and suggestions with detailed particulars were required to be filed within three weeks from the date of the notification before the Secretary to the Commission.

Though the airing of the voice clipping had led to the resignation of a Minister of the State and condemnation of the unethical conduct of the Mangalam Television Channel by various sections of the society from KUWJ, NWMI, cultural leaders of Kerala society and the rest of the media including print and electronic media and many journalists from the Mangalam Television Channel resigned protesting against the unethical practices of the Channel, none filed any statement or affidavit before the Commission except CW14 Al-Neema Ashraf and CW17 A.K. Saseendran. CW15 A.M. Yazir who is one of the journalists who resigned from the Mangalam Television Channel sent an e-mail message to the Commission making certain disclosures and allegations against CW1 R. Ajithkumar, C.E.O. of the Mangalam Television Channel.

Meanwhile this Commission had gathered information from the print and electronic media and social media about the persons directly or indirectly involved in the airing of the voice clipping said to be that of a Minister of the State telecast by Mangalam Television Channel on 26.03.2017. Commission obtained certified copies of the Bail Applications of the accused in the criminal cases registered by the CBCID, Thiruvananthapuram in connection with the airing of the voice



clipping by the Mangalam Television Channel. This Commission also obtained certified copy of the private complaint filed by CW10 Nazila Nazimuddin against A.K. Saseendran, former State Minister for Transport. Thereafter, this Commission issued notice under section 5(2) of the Commission of Inquiry Act, 1952 read with S. 5(2) of the Commissions of Inquiry (Central) Rules, 1972 to the following persons and witnesses:

- CW1 R. Ajithkumar,
C.E.O., Mangalam Television Channel,
Santha Raghavam, P.T.P. Nagar,
Thiruvananthapuram
- CW2 Sajan Varghese,
S/o M.C. Varghese,
Chairman, Mangalam T.V. Channel,
Thiruvananthapuram
- CW3 R. Jayachandran,
S/o late S. Rajappan Nair,
Investigation Team Leader,
Mangalam T.V. Channel,
Thiruvananthapuram
- CW4 M.P. Santhosh,
S/o K. Madhavan Pillai,
News Co-ordinating Editor,
Mangalam T.V. Channel,
Thiruvananthapuram



- CW5 Rishi K. Manoj,
S/o P.K. Kamalasanan,
News Co-ordinating Editor,
Mangalam T.V. Channel,
Thiruvananthapuram
- CW6 M. Lakshmi Mohan,
D/o Mohanan Nair,
News Editor & Reader,
Mangalam T.V. Channel,
Thiruvananthapuram
- CW7 Firoz Sali Mohammed,
S/o Shallukhan,
News Editor & Reader,
Mangalam T.V. Channel,
Thiruvananthapuram
- CW8 S.V. Pradeep,
S/o Sadasivan Nair,
News Editor & Reader,
Mangalam T.V. Channel,
Thiruvananthapuram
- CW9 Manjith Varma
S/o K.K. Godavarma,
News Editor,
Mangalam TV Channel,
Thiruvananthapuram



- CW10 Nazila Nazimuddin
D/o Nazimuddin,
Nazila Manzil, Varnam,
Kaniyapuram,
Thiruvananthapuram
- CW11 Sonia George,
SEWA, KRAD 63,
Kuthiravattom Road,
Kunnumpuram,
Thiruvananthapuram
- CW12 Dhanya Raman,
Vadakke paravila Veedu,
K.S. Road, Kvalam P.O.,
Thiruvananthapuram
- CW13 Sandhya S.N.,
Anova.T.C., 10/1947 (4),
Thozhuvancode, Vattiyoorkavu P.O.,
Thiruvananthapuram.
- CW14 Al-Neema Ashraf,
Chinnuf, AKG Jn.,
Elanad P.O., Ayur P.O.,
Kollam - 3
- CW15 A.M. Yazir.
Sruthi (H), Kallampadi Road,
Behind Indoor Stadium, MSP,
Kunnummel,
Malappuram



CW16 Geetha Nazir,
MF4, Flat 310,
Vrindavan Housing Colony,
Pattom,
Thiruvananthapuram

CW17 A.K. Saseendran MLA.,
MLA Quarters,
Chandragiri Block – 303,
Thiruvananthapuram

CW18 Narayanan C.,
General Secretary,
KUWJ, Kesari Building,
Thiruvananthapuram

CW19 The Secretary,
Kerala Television Federation,
Kairali Tower, Asan Squire,
Palayam, University P.O.,
Thiruvananthapuram

CW20 The Secretary,
Press Council of India,
Soochana Bhavan, 8 CGO Complex,
Lodhi Road,
New Delhi – 110 003.

The Commission also addressed the State Police Chief for copies of the FIRs registered and the statements of the accused and the witnesses recorded and documents seized during the investigation of the connected



criminal cases. It was also requested to send a progress report of the investigation for the purpose of inquiry by the Commission.

None of the above persons or witnesses except CW14 Al-Neema Ashraf, CW17 A.K. Saseendran filed statement or affidavit or documents within the stipulated time.

Commission issued summons to all the persons and witnesses mentioned above and also to CW21 Shanavas, Dy. S.P. and CW22 Bijumon, Dy.S.P., High Tech Cell who are the main investigating officers in the connected criminal cases for their examination before the Commission from 19.06.2017 and for final hearing on 30.06.2017.

6.3 History of Inquiry

Sitting of the Commission for recording of evidence started on 19.06.2017. Though CW1 R. Ajithkumar and CW2 Sajan Varghese, C.E.O and Chairman of Mangalam Television Channel respectively were summoned for examination, both of them remained absent. It was submitted by Adv. Georgekutty Mathew that the witnesses had some personal inconvenience for appearance on that day and prayed for adjournment for 2 weeks. However, Commission adjourned their examination to 28.06.2017 considering the limited time for inquiry.

On 20.06.2017 CW3 Jayachandran, CW4 M.P. Santhosh, CW5 Rishi K. Manoj and CW6 M. Lakshmi Mohan who were summoned for examination remained absent. Adv. Georgekutty Mathew filed vakalath for these witnesses and submitted that these witnesses required time to appear before the Commission. They were directed to appear on 29.06.2017.



On 21.06.2017 CW7 Firoz Sali Mohammed, CW8 S.V. Pradeep, CW9 Manjith Varma and CW10 Nazila Nazimuddin who were summoned for examination remained absent. CW7 to CW9 were represented by Adv. Georgekutty Mathew who filed vakalath for them. It was submitted that these witnesses required more time for their appearance before the Commission. CW10 Nazila Nazimuddin remained absent, though summons was served. CW7 to CW9 were directed to appear on 29.06.2017. It was ordered to issue an Official Memorandum to CW10 Nazila Nazimuddin to appear on 29.06.2017 and informing her that on her failure to appear on 29.06.2017, the Commission will have to consider enforcement of her appearance or the Commission will draw an adverse presumption against her in the inquiry.

On 22.06.2017 CW13 Sandhya S.N., who was one of the panellists for discussion present at the studio of the Mangalam Television Channel at the time of telecast of the voice clipping was examined. CW11 Soniya George and CW12 Dhanya Raman who had received summons to appear on that day remained absent. There was also no representation for them. However, their examination before the Commission was dispensed with as they were to depose on the same point as CW13 Sandhya.

On 23.06.2017 the evidence of CW14 Al-Neema Ashraf was recorded. CW15 A.M. Yazir and CW16 Geetha Nazir remained absent. CW16 applied for time and she was directed to appear on 27.06.2017. Examination of CW15 was dispensed with for the time being.

On 24.06.2017 CW17 A.K. Saseendran MLA was present. His evidence was recorded. As the case of CW17 A.K. Saseendran in the statement



filed by him and his evidence before the Commission is that he did not talk to CW 10 Nazila Nazeemuddin as aired in the voice clipping, his cross-examination on behalf of CW 1 to CW 10 from the Mangalam Television Channel was postponed after their evidence. It was specifically made clear by the Commission that CW 1 to CW 10 shall be allowed to put questions to CW 17 only after their evidence and production of the voice clipping telecast and the original conversation of CW 17 allegedly recorded by CW 10. CW17 was directed to appear as and when necessary after the evidence, if any, of CW 1 to CW 10.

On 27.06.2017 CW 21 Shanavas, Dy.S.P. was examined. On behalf of CW 20, the Secretary, Press Council of India, an affidavit was filed. CW 20 was required only to file an affidavit. CW 16 Geetha Nazir, CW 18 Narayanan C. and CW 19 Secretary, Kerala Television Federation remained absent. CW 19 had filed a statement. It was ordered that CW 16 and CW 18 will be summoned again.

On 28.06.2017 CW 1 R. Ajithkumar was partly examined. He also filed statement belatedly answering some of the questions in the interrogatory issued to him at the time of notice. As Counsel for CW 17 sought time for cross-examination, his further examination was adjourned to 11.07.2017.

On 29.06.2017 CW 3 to CW 10 were absent. It was informed by the Secretary that CW 5 Rishi K. Manoj contacted the office through telephone and informed that he had resigned from Mangalam Television and that he had no instruction from the Advocate regarding the posting of the case. His examination was adjourned to 13.07.2017. CW 9



Manjith Varma appeared before the Commission after the sitting and stated that he had resigned from the Mangalam Television channel on 18.06.2017 and that he was not informed about his appearance today before the Commission. He was directed to appear for evidence on 13.07.2017.

After the sitting on 29.06.2017, the Commission received a petition and affidavit by registered post from CW 10 Nazila Nazimuddin praying for deferment of her examination till the evidence of the Government and the investigating officer is complete. It was also stated in the affidavit that her doctor advised complete rest for 2 months from 21.05.2017. She had also enclosed a copy of the complaint filed by her before the Court of the Chief Judicial Magistrate, Trivandrum, her letter of appointment at Mangalam Television and copy of proceedings in CMP No. 899/17 dated 29.05.2017 of the Court of Chief Judicial Magistrate, Thiruvananthapuram. Considering her petition and affidavit, CW 10 Nazila Nazimuddin was directed to appear before the Commission on 24.07.2017.

On 11.07.2017 the examination of CW 1 R. Ajithkumar was completed. On the basis of his evidence CW 1 was directed to produce full transcript of the controversial news programme on 26.03.2017, transcript of the apology of CW 1 broadcast on 30.03.2017 in Mangalam Television Channel and details of the members of the editorial board of Mangalam Television Channel at the time of broadcast of the news on 26.03.2017 on or before 24.07.2017.

Counsel for CW 1 filed an application to call for the Call Data Records (CDR) of the Mobile Nos. 9847001879 and 70025159952. Commission



had already taken steps to obtain the CDR of the above telephone numbers.

On 12.07.2017 CW 4 M.P. Santhosh and CW 6 M. Lakshmi Mohan were examined. On 13.07.2017 CW 5 Rishi K. Manoj and CW 9 Manjith Varma were examined. On 14.07.2017 CW 8 S.V. Pradeep was examined. CW2 Sajan Varghese who continued to remain absent was directed to appear on 26.07.2017 as a last chance.

On 24.07.2017 while CW 3 R. Jayachandran was present, CW10 and CW18 were absent. Due to the illness of the Commission, examination of CW 3 was adjourned to 21.08.2017 and the examination of the remaining witnesses including CW 10 was rescheduled from 21.08.2017 to 25.08.2017.

On 21.08.2017 the examination of CW 3 Jayachandran was completed. CW 10 Nazila remained absent and there was also no representation. As the case was posted as last chance on 21.07.2017 for her and adjourned thereafter, her evidence was closed.

On 22.08.2017 CW 15 Yazir was examined partly. As Counsel for CW 1 and CW 2 sought adjournment for cross-examination, CW 15 Yazir was directed to appear on 24.08.2017.

On 23.08.2017 CW 22 Bijumon, Dy.S.P. High Tech Cell was examined. CW 2 Sajan Varghese remained absent in spite of various adjournments granted from 19.06.2017. As the matter was posted as a last chance, his evidence was closed. However, CW 2 Sajan Varghese filed a belated statement and answers to some of the questions in reply to the notice and questionnaire issued to him.



On 24.08.2017, the examination of CW 17 A.K. Saseendran MLA was completed. CW 17 Narayanan C. prayed for permission to file an affidavit. CW 18 was allowed to file affidavit to be read as evidence.

On 25.08.2017 the examination of CW 7 Firoz Sali Mohammed was completed. Evidence of CW 15 A.M. Yazir was closed as he did not appear. Application for local inspection of the Mangalam Television Channel Office and Studio filed by Counsel for CW 17 was allowed. An application for Voice Identification Test filed by Counsel for CW 1 R. Ajithkumar was dismissed. The examination of witnesses of the Commission was closed. For evidence, if any, on the side of the parties was posted to 13.09.2017.

Though witness list was filed on the side of CW 1 R. Ajithkumar, no witnesses were produced on 13.09.2017. The witnesses, namely, Rajesh Mulakulam, Chief News Editor, Mangalam Channel and Dr. P. Vinod Bhattathiripad, Cyber Forensic Expert were called absent. After hearing Counsel for the parties, evidence was closed. Counsel for the parties were directed to file argument notes, if any on or before 04.10.2017 after the Local Inspection on 15.09.2017.

Local Inspection of Mangalam Television Channel premises was conducted on 15.09.2017. A detailed local inspection report prepared by the Commission will be discussed in Chapter 10 below. Two documents – C.D. containing the news programme during which the voice clipping was telecast and the Mangalam Daily dated 27.09.2017 were obtained during the local inspection.

On 23.09.2017 and 24.09.2017 the C.D. obtained from the Mangalam Television Channel, C.D. forwarded by the Secretary, Ministry of



Information & Broadcasting, Government of India, and C.D. containing a copy of the voice clipping produced by CW 21 investigating officer during inquiry was viewed by the Commission in the presence of the Government Pleader. Though the Counsel for the parties were informed to be present, they remained absent. Thus the inquiry came to an end. Thereafter, Counsel for CW 1, CW 2, CW 3, CW 4, CW 6 and CW 17 filed notes of argument. Government Pleader filed a statement on behalf of the State and the Commission started the preparation of the report of inquiry.

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CHAPTER 7

The Evidence of the Witnesses Examined

The evidence of the witnesses examined before the Commission is appreciated and analyzed in this Chapter.

7.1 CW1 R. Ajithkumar

He is the C.E.O. and Managing Director of the Mangalam Television Channel. Though he has denied that he is the C.E.O in spite of admission in the statement filed by him, it has come out in evidence from the statement filed by CW 2 Sajan Varghese, Chairman of the Mangalam Television Channel and the evidence of other witnesses examined from the Mangalam Television Channel, he is known as the Chief of the Channel. Admittedly he is Managing Director of the Mangalam Television Channel and C.E.O and Associate Editor of Mangalam News Daily. It has come out in evidence that Mangalam Television Channel, Mangalam Daily and Mangalam Online are functioning on the basis of synergy as stated by CW 9 Manjith Varma and as seen by the Commission during Local Inspection. In fact he is the final authority in the Mangalam Unit of Thiruvananthapuram. He has an experience of 35 years in print media. As revealed in his interview in 'Faces of Mangalam' programme his father was a journalist, a reporter of Deshabhimani Daily. He revealed that once he sent a report to the Deshabhimani affixing his father's signature, while he was a student! Such was the beginning of his journalistic career!. He is aware of norms of professional conduct applicable to journalists. He



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emphasised that it is not statutory, but only guidelines laid down by the Press Council of India and not applicable to Channels. This statement indicates his attitude and approach towards norms of journalistic ethics. That attitude is that he is not bound to follow the guidelines. He admitted that there are guidelines laid down by National Broadcasters Association. (It is News Broadcasters Association – NBA). His approach to journalistic ethics is apparent when he disagreed with the principle, ‘the duty of a media professional is to report things happening and not to make things happen’. He stated that a news may make events happen, that is the impact of the news. He reiterated that what is stated in the news broadcast of Mangalam Television Channel on 26.03.2017 including the voice clipping said to be that of a Minister of the State is true. He stated that the responsibility for the telecast of the voice clipping was with the Editorial Board. According to him the Chief of the Editorial Board changes per time and that he could not remember the members of the editorial board on 26.03.2017 and stated that all journalists are in the editorial board. It has come out from the evidence of CW 8 S.V. Pradeep and CW 9 Manjith Varma that CW 1 was present in the Production Control Room (PCR) and News Desk at the time of the telecast of the voice clipping on 26.03.2017. According to CW 1 when he heard the telecast he understood that the voice was that of Minister A.K. Saseendran. Earlier the Sub Editor had complained to him that Saseendran had spoken indecently to her. Chief Reporter of Mangalam Daily CW 3 R. Jayachandran who had recommended that girl had also complained to him and informed him that they had recorded the



conversation. He directed them to contact the Editorial Board and do whatever is necessary. Later he understood that it was that talk which was telecast. He stated that the victim girl is Nazila Nazimuddin. Thus CW 1 R. Ajithkumar had totally distanced himself from the entire episode.

But CW 1 R. Ajithkumar is a master of lies as can be seen from his contradictory statements, evasive answers, the evidence of other witnesses examined from Mangalam Television Channel and C.D. containing the morning programme of Mangalam Television Channel which was obtained by the Commission from the Channel during the local inspection. The evidence against him, his contradiction, evasive answers, circumstance against him is discussed below.

- 1) He has not revealed the names of the members of the Editorial Board, which according to him is responsible for the telecast of news on 26.03.2017 which must be within his knowledge as the CEO, MD and Chief Editor of the Mangalam Television Channel. What is produced is only the List of Employees in the Mangalam Television Channel and the List of Editorial Staff.
- 2) He has denied the averment in the complaint of CW10 Nazila Nazimuddin that she had handed over the phone containing the recorded conversation to the C.E.O. When he was again asked about the statement of CW 10 Nazila Nazimuddin that when she informed the Chief of Channel about this, he told CW 3 Jayachandran about this and asked him to do what is necessary and whether he is not the Chief of Channel, he replied that the said fact is correct.



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3) CW 1 R. Ajithkumar denied the main statements of his Annexure – III apology telecast by him on 30.03.2017. Firstly he denied that he apologised for the telecast of the news on 26.03.2017. He stated that his expression of regret as M.D. was only for telecasting the talk of the Minister to the woman journalist in the name of a housewife. His evidence before the Commission is against the statements in the Annexure – III apology. When the video of his apology was played before the Commission, that it was a sting operation and that the sting operation was the decision of eight members of the editorial board, he stated that it was a mistake. According to him the note of apology was prepared by the available editorial board. He did not read the note of apology applying his mind. He again stated that it was a mistake that he stated in the apology that they would reveal everything before the judicial commission.

4) When he was asked about the statement of Renjith, Chief Reporter of Trivandrum Bureau of Mangalam Daily that the Mangalam Television Channel was in possession of the entire conversation and documents, his answer is that it has not come to his notice. When he was again asked whether Renjith was a member of the eight member's team of editorial board, his answer is that there is no such team. He admitted that if it was a sting operation, the Channel would be in possession of the entire unedited conversation.

5) In answer to question put to him by the Counsel for CW17 A.K. Saseendran MLA, CW1 admitted that Teena Krishnan was his Secretary. Her designation shown in the List of employees filed before the Commission is Office Assistant to CEO. When this was pointed out to



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him, he stated that the said post was not filled up. During local inspection, this Commission ascertained from Teena Krishnan that she was working as Secretary to the CEO R. Ajithkumar in the month of March, 2017. Therefore, his denial before the Commission that he was not the CEO of the Mangalam Television Channel is only on the apprehension that he would be held liable if he admitted that he was the CEO of the Channel. He stated that he has not verified the list of employees produced by him before the Commission.

6) The complaint given by him before the Museum Police Station about the alleged theft of his laptop and pen drive which contained the alleged unedited conversation between CW10 Nazila and CW17 A.K. Saseendran was found to be false by the police in the investigation as stated by CW21 Shanavas, Dy.S.P. before the Commission and in the progress report filed by him. CW21 later produced copy of the FIR and the Refer Report filed in Crime No. 0549/2017 of the Museum Police Station. In the 10th paragraph of the Order dated 12.04.2017 in B.A. Nos. 2378, 2379, 2380, 2539 and 2540/2017 of the Hon'ble High Court of Kerala, it is observed as follows:

“ In this case only the statements of the former minister made in the conversation between him and the 10th accused were telecast. The statements of the 10th accused were not telecast. In other words they were suppressed. If the channel wanted the public to know the truth about the former minister, it should have made the whole statement



public. The statements of the 10th accused are integral part of the statements made by the former minister. Admittedly, the version given by the channel is an edited one. The investigating officer recorded the statement of the person who edited the conversation. He has disclosed that it was at the instance of the first and second accused the editing was done; it was they who take the initiative to telecast the incident. The unedited statement was in the possession of the first accused, perhaps of the second accused also. The first accused in the course of the investigation made a complaint to the police officer concerned that the laptop and the pen drive containing the unedited version of the incident was stolen from his car in the course of a journey. It means that they are not in a position to produce the unedited version of the incident. The story of theft can be accepted only with a pinch of salt. It also cannot be believed that the accused are not in the custody of a copy of the unedited version".

When the above observation was brought to the attention of CW1 R. Ajithkumar during the inquiry, his reply is that they could not convince the truth to the Hon'ble High Court at that time. It is brought out from the question put to CW1 by Counsel for CW17 A.K. Saseendran MLA that during the hearing of the bail application before the Hon'ble High Court of Kerala, the Counsel for CW1 submitted that they were ready to produce the unedited version of the recorded conversation before the police, and upon that submission, the case was adjourned to the next date for hearing. It was thereafter the false complaint was reported to the Museum Police Station that his laptop and pen drive were stolen from his car. CW 21 investigating officer deposed that from their



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Investigation and verification of CC TV Camera, the alleged theft from the car of CW 1 was found to be false.

7) The evidence of many witnesses is against CW1's version that he had no connection with the telecast of the voice clipping. CW 3 R. Jayachandran admitted that the reference to CEO in the complaint of CW 10 Nazila Nazimuddin is regarding CW 1 R. Ajithkumar. CW 4 Santhosh stated that in the morning of 26.03.2017 CW1 R. Ajithkumar spoke to him about the controversial news before its telecast and it was about a Minister speaking badly to a housewife. He also stated that CW 1 had knowledge of the contents of the voice clipping before it was aired.

CW 5 Rishi K. Manoj stated that CW 1 R. Ajithkumar used to say that there would be some bombs and in the training camp for newly recruited journalists, he used to say that they should make at least one Minister to resign. CW5 also stated that the news of 26.03.2017 was created by CW 3 Jayachandran under the supervision of CW 1 Ajithkumar. He also stated that CW 1 aired an apology on the controversial news and that before its telecast CW 1 R. Ajithkumar came to his cabin and asked him to read the statement (of apology).

CW 6 Lakshmi Mohan stated that CW 1 Ajithkumar is known as the Chief of the Channel and that nothing will happen in Mangalam Television Channel without his knowledge. CW6 also stated that what is stated by CW 1 Ajithkumar in Annexure – III apology is correct and the apology was for telecasting such a news. CW 6 stated that while she was coming to the News Room in the morning, CW 1 Ajithkumar



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told her that there would be a breaking news and he confirmed that everything was ok.

CW 7 Firoz Sali Mohammed stated that he came to the Channel in the morning of 26.03.2017 and almost everyone was there and CW 1 C.E.O. Ajithkumar was also there at the Desk. CW 7 stated that the approval for airing a news programme which is prepared in advance is normally given by the Editor-in-chief.

CW 8 S.V. Pradeep stated that CW 1 Ajithkumar is the Chief Editor and he has the last word in the activities of the Channel. He stated that before the commencement of the morning programme, CW 1 Ajithkumar handed over a pen drive to him and informed him that it was the matter to be telecast as breaking news and that it was about a minister talking to a housewife badly. CW 8 stated that he handed over the pen drive to one Varghese, Video editor. After the telecast of the voice clipping, Teena, Office Assistant to Chief approached him and asked for the pen drive. CW 8 also admitted that CW 1 Ajithkumar talked to him about the apology.

CW 9 Manjith Varma deposed that at the time of the breaking news CW 1 Ajith Kumar and CW 8 Pradeep were in the PCR. CW 9 stated that CW 8 Pradeep told him that they knew how to manage all this. CW 9 also stated that there was an investigation team formed by CEO Ajith Kumar and CW 3 R. Jayachandran was leading that team. He also stated that on that day CEO was in-charge of the News Desk. CW 9 also stated that CW 1 Ajithkumar used to say that there would be a bomb on the inaugural day. CW 9 also stated that CW 1 had discussed with him



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about the apology to be aired by him and he has informed him about his disagreement and that the apology telecast was not the one which CW 1 Ajithkumar discussed with him.

CW 14 Al-Neema Ashraf stated that CW 1 R. Ajithkumar was the CEO of Mangalam Television Channel. CW 14 stated that after the telecast of the controversial news, the lady journalists of the Mangalam Television Channel refused to read news and upon their protest CW 1 tendered the apology.

CW 15 A.M. Yazir stated that during the training camp, CW 1 R. Ajithkumar talked that they required a bomb everyday and they should make at least one MLA to resign. For this purpose an investigation team was formed and that CW 3 R. Jayachandran was the team leader. It came to their knowledge that there was a plan to target certain Ministers and find out their weaknesses. CW 15 also stated that special training was given to a team consisting of 4 journalists who were divorced women.

CW 21 Shanavas, Dy.S.P. who is the main investigating officer deposed that after receiving his notice to produce the laptop, phone and pen drive on 04.04.2017, CW1 R. Ajithkumar gave a complaint to the Museum Police Station that the bag containing the above articles were stolen from his car in the night of 03.04.2017. Police registered a crime and upon investigation it was referred as false. CW21 deposed that the investigation so far revealed that the voice clipping was created through a sting operation and the recorded conversation was edited removing the female voice.



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8) This commission has viewed the C.D. containing the entire morning programme of the Mangalam Television Channel telecast on the date of inauguration on 26.03.2017. This C.D. was obtained by the Commission from the Mangalam Television Channel itself during the local inspection held on 15.09.2017. The C.D. starts with a programme with the caption, "Faces of Mangalam" anchored by CW 1 R. Ajithkumar introducing the News Readers of Mangalam Television Channel including CW 6 Lakshmi Mohan, CW 7 Firoz Sali Mohammed, CW 8 S.V. Pradeep, CW 14 Al-Neema Ashraf, Rudra Krishnan, Divya Joseph, Shihab and others. During his introduction of himself, CW1 reveals that he started his career as a journalist at the age of 22 at the Mangalam Weekly. He boasts that his father was a reporter of Deshabhimani Daily and that while he was studying in the 7th Standard he started preparing and sending reports to Deshabhimani by putting his father's signature. He gave the motto for the Mangalam journalists as dedication, motivation, adventure and hard work. He frequently uses the phrase, 'making of the news' and not reporting of news. He stated that 'adventure' is unique to their channel. He hints of shocking news in Mangalam Television Channel. He also boasts about the history of Mangalam Daily news reports which led to the resignation of 3 Ministers of Kerala. The C.D. is further proof of the fact that CW1 is the Chief of the Channel and that he has the final word in the affairs of the Channel and especially with regard to the contents of the programmes as Chief Editor.

From the above appreciation of the evidence of CW 1 and other witnesses and the circumstances in which the voice clipping was



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telecast, it can be concluded that CW1 was fully involved in the making and telecast of the voice clipping.

7.2 CW 3 R. Jayachandran

CW 3 R. Jayachandran is the Chief Reporter of Mangalam Daily. He has an experience of 21 years as a journalist. According to him he had reported about 1000 sensational news items including ISRO espionage case, Neelan – Nalini Netto controversy, disclosure of the investigation report of ADGP Sandhya leading to the resignation of the then Minister P.J. Joseph, the news that led to the resignation of the then Minister Ganesan, the report regarding the foreign tours of ADGP Tomin Thachankary which led to his suspension etc.

Though he stated that he has no clear understanding as to why the news was telecast on the inaugural day itself his role behind the making and telecast of the voice clipping is obvious. He stated that one day CW 1 R. Ajithkumar, CEO told him about the inappropriate behaviour of the Minister to a journalist who had approached him for preparing a report on she-toilet scheme in the KSRTC. He asked the journalist whether there was evidence and if there was evidence, they could give a complaint to the police. CW 3 stressed that he had confidence in the good character of that person. CW 1 R. Ajithkumar has already stated that CW 10 Nazila Nazimuddin was introduced to him by CW 3. CW 3 stated before the Commission that he had heard that the pen drive was brought to the news desk on the date of inauguration. He has not heard the conversation of CW 10 Nazila to the Minister. He repeated that he



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did not know anything more than the above and that he is ready to face any observation from the Commission if it is found that there is any change from what he stated above.

He admitted that the Mangalam News Paper, Mangalam Television Channel and Mangalam Online are functioning from the same building and under the same management. But he was reluctant to admit that they are functioning on the basis of synergy. He admitted that he had taken classes in the training camp for the newly recruited journalists of the Mangalam Television Channel. But he denied that he made an observation that news should be obtained at any cost. He admitted that he is a witness in the complaint filed by CW 10 Nazila before the Court of the Chief Judicial Magistrate, Thiruvananthapuram. He admitted the averments in the Annexure - IV complaint relating to him. When he was specifically asked about the averments in the complaint that the phone containing the recorded conversation was handed over to the CEO, CW 3 stated that he did not know accurately. But he admitted that the reference to CEO is to CW 1 R. Ajithkumar.

He denied the evidence of CW 14 Al-Neema Ashraf against him that he was the leader of the investigation team. CW 3 alleged that as her performance was not satisfactory, she was targeted for removal from the channel. He admitted that he was an accused in the criminal case registered in connection with the forgery of a document by Shobhana George. He stated that he was acquitted in that case. He admitted that he is one of the accused in the 2 criminal cases registered in connection with the telecast of the news on 26.03.2017. He justified the telecast of



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the voice clipping which according to him is the voice of the Minister. He asserted that until it is proved in police investigation that the voice is not that of the Minister he will believe the voice clipping. When it was put to CW 3 that until the original record of the conversation is produced before the Commission or the police and without getting the original record no voice identification test can be conducted, he stated that he did not know about it. When it was put to him that CW 10 Nazila is not appearing before the Commission as she will have to reveal the truth, he had no answer. When it was put to him that CW 10 is prevented from appearing before the Commission by him and the management of Mangalam Television Channel, CW3 stated that CW10 Nazila is of good character and that they would not prevent her. He admitted that he had read the face book post of CW 10 Nazila on 15.08.2017. The face book post of CW 10 produced by Counsel for CW 17 is given as Annexure – VI. When it was suggested that the face book post was later withdrawn by CW 10 Nazila due to the pressure of himself, CW 1 Ajith Kumar and Mangalam Management, the reply of CW 3 is that only false matters are withdrawn. When the specific allegation against him in the Annexure – VI face book post was pointed out to him, the denial of CW 3 is not specific and he weakly stated that he would call his colleagues only by name. He further stated that Minister A.K. Saseendran was not his enemy and that he does not know about his character. When it was pointed out that CW 1 Ajithkumar tendered the



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Annexure – III apology on 30.03.2017 as the news on 26.03.2017 is not true, he replied that he did not know about such an apology. He denied the evidence of CW 5 Rish K. Manoj and CW 8 Manjith Varma against him. He denied that he was giving news in the Mangalam News Channel. When he was asked about the news about him and Mangalam Management in the news portal Daily Indian Herald, CW 3 stated that he did not know about it. A hard copy of the Daily Indian Herald dated 16.08.2017 produced by the Government Pleader is given in Annexure – VII. When it was pointed out to him that false documents could be created using voice recorder and camera, CW 3 stated that he did not know it, and that he is a journalist from the print media. In the cross-examination by Counsel for CW 17 A.K.Saseendran, CW 3 stated that everybody in Mangalam knew that the news was going to be about A.K. Saseendran. It has also come out from the cross-examination of CW 3 that the Annexure – VI face book post of CW 10 Nazila appeared on 15.08.2017 when Smt. Sunitha Devadas took charge as Chief Operating Officer of Mangalam Television Channel. When it was suggested by Counsel for CW 17 that CW 10 Nazila was induced into the sting operation on the offer of making her Chief Operating Officer, CW 3 stated that it is not correct and that he did not know about it. When it was put to him that he was partner with CW 1 R. Ajithkumar in creating the controversial news of 26.03.2017, his reply is that it is not a false news and that he was not involved in the conspiracy. He admitted that CW 10 Nazila is now working in the Mangalam Television Channel as News Reader and Reporter.



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Though CW 3 initially stated before the Commission that he knew about the news of 26.03.2017 only after the telecast, it has come out in inquiry that he is directly involved or part of the news programme anchored by CW 6 Lakshmi Mohan on 26.03.2017. It can be seen from the C.D. obtained from the Mangalam Television Channel on 15.09.2017 during local inspection that CW3 R. Jayachandran has introduced the breaking news on the voice clipping said to be that of a Minister of the State just before the voice clipping was telecast sharply criticising the Minister for his immorality. This shows that he had previous knowledge about the voice clipping and he was part of the conspiracy to make the voice clipping and to telecast the same on 26.03.2017. Therefore the contents of Annexure – VI face book post of CW 10 Nazila appears to be true and that the face book post must have been withdrawn by CW 10 Nazila Nazimuddin in the circumstances reported in Annexure – VII news of Daily Indian Herald.

7.3 CW 4 M.P. Santhosh

He was the Co-ordinating Editor of Mangalam Television Channel. He has been working there from 26.12.2015. He has a total experience of 25 years as a journalist. He is No. 2 in the editorial hierarchy. He co-ordinates editorial work, bureau, desk and technical aspects. He was on duty at the time of telecast of the voice clipping. CW 1 R. Ajithkumar talked to him about the breaking news of the day regarding a Minister talking badly to a housewife. The permission for the telecast of the



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controversial news must have been given by the Desk Chief. They call CW 1 R. Ajithkumar as the Chief of the Channel. Regarding the apology of CW 1, CW4 stated that it was about not giving the beep sound while airing the voice clipping. But he feigned ignorance about other contents of the apology. According to him the news was brought by a journalist, Nazila Nazimuddin of the Mangalam Television Channel. It was believing the said journalist the news was telecast. He did not know that CW 3 Jayachandran had any role in it. He admitted that CW 3 Jayachandran came live in the telephone after breaking the news. He stated that the journalists working in Mangalam Daily can also work in the Channel. According to him on the date following the telecast of the voice clipping CW 1 R. Ajithkumar told him about the misbehaviour of the Minister towards the woman journalist of the Mangalam Television Channel. He admitted that CW 1 Chief had knowledge about the contents of the news before it was telecast. He fully justified the telecast of the voice clipping and supported CW 1 R. Ajithkumar. He denied that there was any protest by women journalists of Kerala or there was any resignation protesting against the telecast of the voice clipping. But when he was confronted with the video showing the protesting journalists he stated that they are not actually journalists. Thus it is seen that he is a witness more loyal than the king and a witness who closes his eyes and then would say that it is darkness.



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7.4 CW5 Rishi K. Manoj

He is one of the News Co-ordinating editors along with CW 4 M.P. Santhosh. He has a total experience of 28 years as a journalist and had worked in various Channels before joining Mangalam Television Channel. He stated that he came to know about the controversial news after its telecast. He stated that it was a created news for getting the attention by the viewers on the date of inauguration itself. He stated that he believed that the voice in the voice clipping is that of A.K.Saseendran as the Mangalam reporter who came live in the Television announced that the voice is that of Minister A.K. Saseendran. CEO had announced that there would be some bombs. In the training camp for newly recruited journalists CW 1 R. Ajithkumar used to say that they should make at least one Minister to resign. He agreed that it is not the duty of a journalist to make things happen. He stated that the telecast of the news on 26.03.2017 was against media ethics. It was a created news. The CEO wanted a shocking news on the date of inauguration of the Channel. It was in this circumstance the said news was telecast. CW 1 R. Ajithkumar and CW 3 R. Jayachandran were involved. There was a special investigation team to create news bombs. He said that CW 10 Nazila was one of them. Once he was asked whether he would lead the investigation team. He declined and stated that CW 3 could do it directly. The telecast of the controversial news created a lot of humiliation to journalists of the Mangalam Television Channel. He stopped going to the Office. He visited the CEO at the jail and informed him that he would continue in the Channel



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only till he came out. But when he was released from the jail a termination letter on the ground that his performance was not satisfactory was sent to his house before he resigned. CW 1 had tendered an apology regarding the telecast of the voice clipping. When he was consulted he objected to the apology. For the telecast of the prepared apology in the Channel, CW 1 gave two reasons, (a) an assurance was given that they would be free from the police case and (b) then there is the Judicial Commission, they need not mind it, they would escape from it. There was no reference to the 8 member editorial team when he was consulted. The said sentence in apology might have been added later. The apology was given as the controversial news was not true. The voice clipping was an edited one. The video editor Ebin Raj told him that the original recording was for a duration of 29 minutes. First it was edited and reduced to 3 minutes. Then CW 1 R. Ajithkumar asked him to increase the length to 6 minutes. In a sting operation media ethics demand that the entire conversation should be aired. Here the female voice was edited out. An edited conversation is not at all credible. The telecast of such a voice clipping is both legally and morally wrong.

CW 5 also deposed before the Commission that he was not informed of the date to appear before the Commission and that when he contacted the Channel Office he was informed that it was not necessary to appear before the Commission of Inquiry and that they have settled it. Then he became suspicious and contacted the Secretary to the Commission to get the date for appearance.



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In the cross-examination for CW 1, CW 5 stated that the news could have been presented without the telecast of the voice clipping informing about the misbehaviour of the Minister, then it would have been effective and would have gained acceptability. He stated that on 26.03.2017 CW 4 M.P. Santhosh was in-charge of the news desk. He stated in the cross-examination that he expressed his dissent in the WhatsApp group of the channel and when he was removed from the group he expressed his opinion in the face book. He reiterated that what he deposed before the Commission is the truth.

7.5 CW 6 Lakshmi Mohan

CW 6 is News Reader-cum-News Editor of Mangalam Television Channel. She was the anchor/news reader at the news programme on the subject women's safety on 26.03.2017 during which the voice clipping was telecast. She has an experience of 17 years as a journalist in various channels. According to her she had no previous knowledge of the controversial news. She had heard from the news desk that there would be a breaking news and that it was a bomb and Kerala would be shocked. After discussion of one hour in which CW 11 Sonia George, CW 12 Dhanya Raman and CW 13 Sandhya S.N. participated, the breaking news was given with an introduction that now they are going to a shocking news.



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Then the voice clipping was aired. It contained only the male voice speaking in obscene words. She did not like to hear it as a person and it was difficult for her to state the contents before the Commission. After airing the voice clipping, A.U. Renjith from the news desk appeared live and the name was given announcing that it was the voice of the Minister A.K. Saseendran who spoke obscenely to a poor housewife who approached him for some assistance. During the airing of the voice clipping one of the guests (CW 12 Dhanya Raman) was covering her face and the other two guests became uncomfortable. CW 13 Sandyha stated that it was difficult for them to continue there and that they wanted to get out. Then she informed the console that the guests were not comfortable. Finally, the guests told that they would leave only after saying their opinion and the programme continued.

Following the telecast of 26.03.2017 there was police case and she was one of the 9 accused. She became mentally depressed. She sought the assistance of a psychiatrist. She had to take medicine and underwent counselling. She could not sleep after the incident. She wanted the job for her living and that is why she has not quit. Her husband is a Freelance photographer. She has a 5 year old son and living in her parental house. During the deposition before the Commission CW 6 broke down and wept. She stated that she did not enter the frame after the telecast of 26.03.2017. KUWJ intervened. CW 12 Dhanya Raman encouraged her to continue her work. The Company (Channel) supported her. She was told to continue news reading after she was relaxed. The Company assured her that henceforth they would think



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before they act. Following the protest of women journalists, CW 1 R. Ajithkumar tendered an apology which was telecast. CW 1 is known as the Chief of the Channel. The contents of the voice clipping was indecent and against public morality. That is why CW 1 tendered an apology. The embarrassment she suffered was must have been suffered by the entire society. If the news was well planned and presented there would not have been this embarrassment and the viewers would have accepted the news with the importance it deserved. She agreed that it was a news created for the inaugural day of the Channel to boost rating. A number of journalists resigned from the channel. It was stated by CW 1 in the apology telecast that it was the product of a sting operation. The evidence of CW 6 Lakshmi shows that the voice clipping was a created news for the purpose of telecast on the date of inauguration without any regard for truth and media ethics, and against decency and public morality. CW 6 Lakshmi Mohan became a victim of the indecent news telecast resulting in her mental break down.

7.6 CW 7 Firoz Sali Mohammed

He joined Mangalam Television Channel as News Editor on 25.02.2017. He started as a journalist trainee in Kairali Television in 2005 and thereafter worked in various channels in India and abroad. He denied any knowledge about the circumstances in which the controversial news of 26.03.2017 was telecast. But he stated that being the date of inauguration the entire staff including CW1 Ajithkumar was at the desk. Though he supported the telecast of the voice clipping,



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when the Commission had given him the Annexure – I transcript of the voice clipping, he refused to read it and stated that he did not like it and requested the Commission not to compel him to read it. When he was asked whether the Mangalam Television Channel made use of the services of CW 3 R. Jayachandran, the Chief Reporter of the Mangalam Daily, he stated that he did not know. This is in spite of the appearance of CW 3 R. Jayachandran to introduce the voice clipping just before its telecast. CW 7 had followed CW 6 Lakshmi Mohan in the repeat telecast of the voice clipping at the 1 O'clock news as seen from the C.D. of the news programme obtained by the Commission during the local inspection and also in the C.D produced by the investigating officer during the inquiry. It is clear that CW 7 is not speaking the truth before the Commission . He denied that CW 6 Lakshmi Mohan spoke to him after the telecast and that he did not know anything about CW 6 and the guests present during the telecast of the voice clipping becoming uncomfortable. He justified the telecast of the voice clipping and stated that more obscene matters were telecast by other channels before. He admitted that there is a competition among Channels to telecast sensational news. When it was suggested that it was against all journalistic ethics and the Code of Practice given by the News Broadcasters Association the voice clipping was aired, his reply is that it is for the NBA to say that. On the one hand he would say that he has not heard the voice clipping, on the other hand he would not agree that the voice clipping is not genuine. He also stated that he did not watch the apology telecast by CW1 R. Ajithkumar.



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From the nature of the evidence of CW 7, it is only to be found that he is a highly interested witness and not prepared to speak the truth.

7.7 CW8 S.V. Pradeep

CW 8 also fully support the telecast of the voice clipping. He is a confident of CW 1 R. Ajithkumar. It was to CW 8, CW 1 entrusted the pen drive containing the voice clipping to be telecast in the morning of 26.03.2017. He has fully supported the telecast of the voice clipping and stated that he did not know about the apology tendered by CW 1 on 30.03.2017. His evidence before the Commission is more or less on the same lines of CW 7 Firoz Sali Mohammed. But his evidence has revealed the involvement of CW 1 in the telecast of the voice clipping as already discussed under 7.1 above.

7.8 CW 9 Manjith Varma

CW9 joined the Mangalam Television Channel on 15.06.2016 as News Editor and resigned from the Channel on 18.06.2017 following difference with CW1 after the telecast of the news on 26.03.2017. He has an experience of 17 years in various channels. While he admitted that he was on duty on 26.03.2017, he stated that he had no previous knowledge about the voice clipping. When he came to the Channel on 26.03.2017 CW 1, CW 4, CW 6 and CW 8 were already there at the desk. CW 1R. Ajithkumar used to say that there would be a bomb on the date of inauguration of the Channel. News was handled by CW1



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CEO and CW 4 Santhosh and CW 8 Pradeep was there as producer. The journalists of Mangalam Television Channel, Mangalam Daily and Mangalam Online were working on a synergy basis. He saw the controversial news only at the time of breaking. CW 6 Lakshmi Mohan was the anchor. When he heard the voice clipping, he felt that it ought not to have been telecast. During the telecast of the voice clipping CW 1 R. Ajithkumar and CW 8 Pradeep were in the PCR and when he went there CW 8 told him that they knew how to manage all this. During the telecast of the voice clipping he saw CW 12 Dhanya Raman, covering her face and other guests not comfortable. Then he heard the reporter Renjith stating the name of the owner of the voice. There was a special investigation team formed in the channel to prepare a news on the subject of women's safety and that it was under the leadership of CW 1 R. Ajithkumar and CW 3 R. Jayachandran was also there in the team. Only later he came to know that CW 10 Nazila was in the team. He did not know CW10 Nazila working as a journalist. There was only male voice in the voice clipping. He understood that it was an edited one. If it was a sting operation, the entire conversation of both persons ought to have been aired and if there were obscene words, beep sound ought to have been used to cover the obscene portion. It was against all media ethics the voice clipping was telecast. It was a created news to get rating on the opening day of the new Channel.

CW9 stated that after the telecast of the voice clipping a number of journalists resigned from the Mangalam Television Channel and the women journalists of Mangalam Television Channel and in general



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protested against it. He stated that all the journalists at the desk were responsible for the telecast.

Regarding the apology telecast by CW 1 on 30.03.2017, CW 9 stated that what was telecast by CW 1 was not the one discussed with him. When he expressed his dissent, CW8 Pradeep supported CW 1 and thereafter CW 1 left for the live telecast saying that it was the opinion of the majority. There was no editorial board in the Mangalam Television Channel.

The last word in the matter of news telecast was that of CW 1 R. Ajithkumar who was CEO, M.D. and Chief Editor of Mangalam Television Channel.

It appears that the evidence of CW 9 is credible and reliable.

7.9 CW 13 Sandhya S.N.

CW 13 is a social activist who was one of the guests for panel discussion on the subject of women's safety on 26.03.2017 at the studio of Mangalam Television Channel. She is working as a Publication Assistant at the Kerala Council for Historical Research. CW 13 stated that she heard the voice clipping and she is ashamed to state the contents of the same before the Commission. When the guests protested CW 6 Lakshmi Mohan informed the console about the discomfort of the guests. The first telecast of the news clipping was



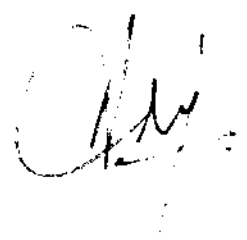
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for about 3 minutes. When the Channel again started to air the voice clipping, they requested CW 6 not to continue and it would be difficult for them, the speaker in the news room was cut and the voice clipping was fully telecast. Before that CW 6 had informed the audience to remove children from hearing the voice clipping. Meanwhile, CW 11 Soniya George suggested that they would leave. Finally they decided to remain and express their opinion. According to CW 13, it was only to get attention of the public on the date of inauguration of the channel, such a voice clipping was aired. It was against all principles of media ethics. It appeared that the voice clipping was of a male and it was part of a talk by mutual agreement. The voice clipping was aired after introduction by CW 6 that it was the record of the voice of a Minister who sexually exploited a helpless housewife who approached him for some assistance. But after hearing the voice clipping they felt that it was not an attempt to exploit the housewife, but part of a private talk by mutual agreement. After the telecast of the voice clipping it was announced that the voice was that of the Minister A.K. Saseendran.

CW 13 stated that it is a serious matter and such telecast should not be repeated and that it is a matter where the law and the State should interfere.

7.10 CW14 Al-Neema Ashraf

CW 14 was working as Sub Editor-cum-News Reader at the Mangalam Television Channel. She joined the Channel in the month of May, 2016. She has a P.G. Degree in Communication and Journalism. She wanted



to become a good journalist. Before joining Mangalam Television Channel she had worked in Jeevan T.V. After the telecast of the voice clipping on 26.03.2017 she resigned. According to her, on 26.03.2017 she had night shift starting from 9 p.m. She had news reading at 11 p.m. It was then that she heard the voice clipping. It was a repeat of the voice clipping aired at 11 a.m. When she heard it she wondered why this was given as a breaking news. She felt that it was only a personal talk. As per the journalism she studied, a personal talk should not be used as a news. Media is expected to respect right to privacy. In the Kerala Kaumudi Daily of 27.03.2017 and in some other dailies and online news portals it was reported that the woman journalist behind the news was a 24 year old from Kollam. She and one Salini working at Ernakulam Bureau are hailing from Kollam. Some journalist friends called her and enquired whether she was involved. She felt embarrassed. She applied for leave on 27.03.2017. On 28.03.2017 in the afternoon she reached the Mangalam Television Office and e-mailed her resignation letter to CEO. She resigned because in a live programme in which CW 1, CW 4, CW 5 and Copy Editor Sreekumar participated and answered questions of viewers, they did not reveal the name of the woman journalist. The news was presented as if the Minister sexually exploited a poor housewife who approached him for some assistance. But, the name of the woman was not revealed. There was only the male voice responding. As per principles of media ethics the entire talk ought to have been telecast. After her resignation she posted her experience and opinion in face book which was reported in the media.



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After 2 days of her resignation CW 1 gave a live telecast and stated that it was a sting operation and it was done by a woman journalist who had volunteered for the same. When she had joined the Channel, she was told that she was included in an investigation team which was stated to be led by CW 3 Jayachandran and CW 5 Rishi K. Manoj. Salini, Rudra Arun, Nazila Nazimuddin and Rinal were the members. It was stated by CW 3 that their aim was to get news at any cost. She declined the offer as it was against the professional standards of a journalist. When the voice clipping was telecast she understood that the investigation team was continuing. She was convinced that there was a conspiracy behind the voice clipping and the woman journalist involved was CW 10 Nazila. It is not ethical to create sensational news. The voice clipping was created for the purpose of having a shocking news for the channel on the date of inauguration and it was telecast alleging that the Minister sexually exploited a poor housewife who approached him for some assistance. They succeeded in their attempt and the Minister resigned.

Television Channel is a business. For profitable running of the Channel they require continuous breaking news and sensational news. Freedom of Media is part of the freedom of speech and expression and subject to reasonable restrictions and no news against public interest and indecent and immoral news can be aired. The apology was given as women journalists of Mangalam Television Channel refused to read news and they changed their stand only after the apology by CW 1.



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CW 14 further admitted that it was against the norms of Press Council of India and the NBA the voice clipping was telecast.

CW 14 has denied the suggestion on the part of the Counsel for CW 1 that it was part of the duty of the media to inform the public about the sexual talk of a high public functionary. CW 14 reiterated that what was telecast was a personal talk. Though the case of CW 1, CW 3 and CW 4 that CW 14 was about to be removed from the Channel on the ground of incompetence, no such question was put to CW 14 before the Commission.

Going through the evidence of CW 14 before the Commission and her face book post, it can be concluded that CW 14 is an able and competent journalist and that no journalist with self-respect could have continued in a channel like Mangalam which telecast the sexually explicit voice clipping and she herself was suspected by her media friends that she was involved in the sting operation. Therefore, CW 14 rightly resigned from the Mangalam Television Channel.

7.11 CW 15 A.M. Yazir

CW15 joined the Mangalam Channel in 2016 as Chief Reporter in-charge of Malabar region. He started as a journalist in 2003 and worked in various channels before he joined Mangalam. Following the telecast of voice clipping allegedly to be that of Minister A.K. Saseendran, he



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resigned on 12.04.2017. When there was notification of the Commission of Inquiry, CW 15 sent an e-mail message to the Commission stating what he knew about the incident. The hard copy of the e-mail message to the Commission is given as Annexure - VIII.

CW 15 had attended the 10 day training camp for the newly recruited journalists of Mangalam Television Channel. CW 1 R. Ajithkumar, CEO and Chief Editor of the Channel gave a long talk spelling out the aim of the Channel. His main focus was on getting a bomb for every day and that at least one MLA should resign. If that was not possible they should make a top bureaucrat to resign. A discussion followed and many questioned as to whether they need such kind of journalism. When his turn came, he expressed the view that Kerala is a State with an expanding middle class and we don't have a large upper class or a lower class. Therefore, it was better not to give the kind of news that would disturb the middle class. He posed the question that was it not desirable to have a Channel that would strengthen the State and its administrative machinery and one that would strengthen other economic, cultural and social sectors. He talked about a model political economy of communication. Though CW 1 praised his suggestions, his decision was to execute his aim already spelt out. During the following dates discussion continued creating different panels and one of the panel was on how to find news bombs. CW3 R. Jayachandran was leading that panel. Though, they had the freedom to join the panel of CW3, many of them kept away as the team had a plan to investigate certain subjects which would sabotage the present Government. It came



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to their knowledge that there was an attempt to find out certain Ministers with some weaknesses and prepare a report on that.

Later another camp was organized as there was delay in starting the Channel. It was during that camp he had met CW10 Nazila. There was special training for 4 of the women journalists who were divorcees. These journalists were sent out with cameramen to certain important persons including Minister A.K. Saseendran. CW10 Nazila had shared her experiences to one of her friends. At the end of the camp there was Onam celebration during which CW10 Nazila fainted. Chief Reporter of Central Kerala resigned when he knew about the sordid affairs and went back to the Reporter Channel. After the camp they inquired about it and came to know that CW3 R. Jayachandran was giving some unconventional training to CW10 Nazila to get some exclusive news. When they enquired with the editorial, they got the reply that everything was being done in good faith.

On the previous day of the launching of the Channel, i.e. on 25.03.2017, he got instruction to conduct an interview of A.K. Saseendran and sent it urgently. At that time he was working in the Malappuram Bureau in connection with the Lok Sabha bye-election there. As the camera man was not available, he suggested that it could be on the next day. But the desk demanded that the matter should be sent on that date itself. When he contacted the Minister A.K. Saseendran he asked him to suggest a suitable place and he would come there. As it was election, the Minister



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could not enter the constituency in official vehicle. He met the Minister at the compound of a friend and requested for his opinion on the subject of women's safety. The Minister gave a very progressive view on the subject. It was against the moral hypocrisy in Kerala. After sending the record of the conversation he contacted the desk. But he was not given a reply. But he was told that the launching was on the following day and there would be a resignation from the Ministry. Later he realised that the Channel was going to employ the media tool juxtaposition where a person would be exposed exhibiting his words and deeds. But in conventional journalism such a tool is seldom employed. But during the news programme on 26.03.2017, only a voice clipping was used and an allegation was raised against the Minister. But some of them were of the view that it was not sufficient to prove the truth except raising an allegation. Therefore some of the journalists from the Channel resigned. He did not resign immediately due to the bye-election at Malappuram and did not want to cause difficulty to the Channel.

Later he came to know many stories – one of the stories was that there was a conspiracy to make A.K. Saseendran resign and make Thomas Chandy a Minister. He came to know that CW1 R. Ajithkumar talked to Thomas Chandy in Dubai and he received something in return. When the matters are examined according to our law and considering the conspiracy he understood that 3 offences were committed; i) Media was used to sabotage the Government; ii) Media freedom was misused violating principles of media ethics; and iii) Women were used to create a media culture of blackmail in Kerala.



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Following the airing of the voice clipping many journalists from the Mangalam Television Channel resigned and condemned the low media culture of Mangalam Television Channel. CW 14 Al-Neema, M.M. Rakesh, Deputy News Director, Kozhikode, Deepak Malayalam, Reporter are some of them. He also opined that a journalist who does not follow the principle that the duty of a journalist is to report things happening and not to make things happen is one who does not obey the law of the land. Twisting and fabrication of facts is a serious offence by a journalist. Hearing the obscene voice clipping that was telecast, he felt that it was an attempt to make believe something that would not stand as truth. If a voice clipping is to be telecast it should be complete, concise and precise. There are norms laid down by the Press Council of India in conducting a sting operation. If a conversation is recorded, it is not credible, if the conversation is edited. It was telecast only to boost the rating of the channel. Objective information is the product of the media business. No licence is given to sell a false information. Just like a hotel which is not given a licence to sell poisonous, and adulterated food, a media house has no licence to sell half truths and false news. False news will create problems in the society and anarchy in administration. There is a social demand in Kerala for news that are genuine and truthful. It was without understanding this the Saseendran news was given to boost rating. Criminal conspiracy, illegal activities and violation of laws are involved in the telecast of the voice clipping.

In answer to the questions of the Government Pleader, CW15 admitted that the women journalists in Mangalam Television Channel are under



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mental strain. A journalist does not know any other work to earn his or her livelihood and due to that circumstance the women journalists are exploited by media houses. A channel which telecast a voice clipping as Annexure - 1 has no right to function as per law. There should be strong law to control such erring media. At present there is no well defined statute to regulate the electronic media and its functioning. It is easy to invest money in media and create anarchy in the country through false news. Though 100% foreign direct investment in media is allowed in the country there is no strong law or enforcement machinery to regulate the media. Media is used by various interest groups to advance their agenda. Media has no right to intrude into the privacy of the individuals.

In answer to questions by Counsel for CW 17, CW 15 replied that when a news report is prepared exposing the wrong doing by a person the reporter must have incontrovertible facts and records with him to justify the expose. The reporter is also liable to produce all those facts and records before the lawful authority. When a conversation is recorded, it should be aired as such. If the recorded conversation is manipulated with ulterior motive and made part of the news, the said news is not truthful and objective information. Editing does not mean to cover up truth, but to facilitate communication. When an investigation is conducted by a journalist or a sting operation is conducted the name of the journalist should be revealed. The controversial news in this case is not true. Following the controversial news the journalists of Kerala held demonstrations before the different offices of Mangalam in Kerala as it was humiliating to them.



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Counsel for CW1 and CW2 sought adjournment which appeared to be deliberate to avoid cross-examination. Though the cross-examination was adjourned to after two days, CW15 did not turn up. As the contents of the Annexure - VIII e-mail message of CW15 was already put to CW1 R. Ajithkumar and given him an opportunity to deny the allegations, the evidence of CW15 A.M. Yazir can be relied upon in the inquiry.

7.12 CW 17 A.K. Saseendran MLA

CW 17 A.K. Saseendran who resigned as Transport Minister following the airing of the voice clipping said to be that of a Minister of the State by the Mangalam Television Channel on 26.03.2017, is 74 years old and representing the Elathoor Constituency in the Kerala State Legislative Assembly. He started his political career as a student and rose to become the State Secretary of the K.S.U., State Secretary, Vice President and President of Youth Congress, State Secretary of Congress and later Nationalist Congress Party (NCP). He was elected MLA from the Edakkad Constituency in 1982, from Balussery in 2006 and from Elathoor in 2011 and 2016. After the election in 2016 he was inducted as Transport Minister in the LDF Ministry and continued as Minister till his resignation. At present he is the working committee member of the NCP.

According to CW 17, a voice clipping was aired by the Mangalam Television Channel on 26.03.2017 and gave a breaking news that he conducted sexually explicit conversation to a housewife who approached him for some assistance. It was a totally false news. Other news Channels also telecast the same news. As he wanted a detailed probe to bring out the truth and it was not fair to continue in power during the probe he resigned to uphold political morality. Though he had not done anything wrong, he did not want to create an embarrassing situation to the LDF Government. Therefore he resigned and demanded a detailed probe. The news of 26.03.2017 about him is false. No housewife approached him for any assistance. He did not know the circumstance of the telecast of the voice clipping said to be that of a



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Minister of the State. There must be criminal conspiracy, illegal activities and violations of law in the airing of the voice clipping. He always behaved in a friendly manner to people including men and women who approached him for anything.

The complaint filed by CW10 Nazila Nazimuddin before the Court of the Chief Judicial Magistrate, Thiruvananthapuram, is known to him. The averment in the complaint that she as Sub Editor – Reporter of Mangalam Television Channel had interviewed him on 08.11.2016 as part of morning show and acquainted with him is correct. Many media persons used to telephone him and he always responded to them. The allegation against him in the complaint of CW10 is contrary to facts and not true. The said complaint was filed against him only when the police registered cases against the responsible persons of the Mangalam Television Channel including the complainant. He would face the complaint against him as per law. In his long political career there was never any complaint against him like this.

He denied that the voice in the voice clipping aired on 26.03.2017 by Mangalam Television Channel belongs to him. Regarding the allegation of certain witnesses before the Commission that he had admitted the voice to be his, he denied that he ever admitted it anywhere.

During his examination on 24.06.2017 before the Commission, CW 17 had stated that he could not remember whether he had called from his phone No. 9847001879 to phone No. 7025159952 of CW 10 Nazila



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Nazimuddin. The Commission had already called for the Call Details Records (CDR) of the above numbers along with other numbers used by CW 17 as Minister. The CDR relating to the above 2 numbers is given in Annexure – IX. The CDR shows that during the period from 16.11.2016 to 16.02.2017 there were a total of 35 calls between the 2 numbers. Of this 19 calls were from 7025159952 of CW 10 and 16 from 9847001879 of CW 17. His explanation for these calls is that many media persons used to call him and he would call them back. When the Commission asked pointedly whether the talk of the voice clipping aired by Mangalam Television Channel on 26.03.2017 is part of his telephone talk, he denied that he talked like that.

Counsel for CW 1 R. Ajithkumar put portions of the complaint of CW 10 relating to CW 17 in his cross-examination. These questions were objected by Counsel for CW 17 on the ground that they were part of the complaint and answering of the same could affect his defence in that case. A part from that as an accused this witness is having protection as provided Under Article 20(3) of the Constitution of India and allowing such questions is against his Fundamental Right. The objection was sustained and such questions were disallowed. Counsel for CW 1 asked CW 17 regarding the contents of the talk between the above 2 numbers of CW 10 and CW 17. CW 17 admitted that as a media person CW 10 talked to him and he answered accordingly. He again denied the suggestion that the contents of the voice clipping aired by Mangalam Television Channel on 26.03.2017 is part of the talk between the 2 numbers in the CDR. He reiterated that he denied the



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voice of the voice clipping as his at many places. He denied the suggestion that he resigned because the voice in the voice clipping belonged to him. He stated that in the press meet itself announcing his resignation, he denied the talk. He resigned because it was not fair to continue as a Minister during the probe. He stated that the terms of reference of the inquiry were fixed by the Government in reply to the question that there is no terms of reference to inquire into the veracity of the voice clipping so as to ascertain whether the talk belongs to him.

Similar questions were put to CW 17 by Counsel for CW 2 and others and CW 17 repeated the answers. He confirmed the interview given to CW 15 A.M.Yazir at Malappuram. CW 17 stated that he never thought that the voice clipping was aired due to a conspiracy of any of the members of his party. He did not know the basis of the voice clipping. To the question that an inquiry into the relationship with him and the media person involved is necessary to bring out the truth behind the allegation, CW17 replied that the present inquiry is sufficient. He also stated that a voice identification test is not relevant now and if police required such a test, he would think about it when such a demand is made.

The evidence of CW 17 before the Commission is in consonance with his statement of denial filed before the Commission.



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7.13 CW 18 Narayanan C.

CW 18 is the General Secretary of the Kerala Union of Working Journalists (KUWJ). In view of item No. 5 of the terms of reference, that is, to inquire into the other matters connected with this case as the Commission observes, the Commission considered that the following issues are also involved in this case,

- invasion of right to privacy of citizens ;
- the extent of freedom of the media as a whole ;
- questions of journalistic ethics and professional standards ; and
- measures to prevent the misuse of the freedom of the media involved and arising in the telecast of the voice clipping said to be that of a Minister of the State in Mangalam Television Channel on 26.03.2017.

Therefore, notice was issued to CW 18 to CW 20 to file statement before the Commission and also issued summons to adduce evidence before the Commission directly or by affidavit.

CW 18 filed a statement giving the justification for sting operation as a journalistic tool for news reporting. His statement will be discussed in detail in Part - III of this report.

7.14 CW 19 John Brittas, General Secretary, Kerala Television Federation.

Statement and affidavit filed by CW19 will be discussed in detail in Part – III of this report.



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7.15 CW 20 Secretary, Press Council of India

The affidavit and documents filed on behalf of CW 20 Press Council of India (PCI) will be discussed in detail in Part – III of this report.

7.16 CW 21 Shanavas A., Dy.S.P.

CW 21 Shanavas, Dy.S.P. is the main investigating officer of the Special Investigation Team (SIT) formed by the State Police Chief to investigate the two crimes, i.e. Cr. No. 51/CR/OCW1/TVPM/2017 under section 120(B) IPC and under section 67(A) of I.T. Act and Crime No. 52/CR/OCW1/TVPM/2017 under the same sections of the Crime Branch Police Station under the supervision of I.G., Crime Branch. The SIT consists of M. Ramachandran I.P.S., S.P. Kottayam, Pratheesh Kumar IPS, S.P. Palakkad, Bijumon, Dy.S.P., High Tech Cell, Radhakrishna Pillai, Dy.S.P., Crime Branch, Woman S.I. Sudhamani, Thiruvananthapuram City and CW 21. Three progress reports were filed by CW 21, on 14.06.2017 and 30.08.2017 and 03.10.2017.

Both the crimes were registered on 29.03.2017. The first crime was registered on the basis of the complaint filed by Adv. Sreeja Thulasi and the second crime was registered on the basis of the complaint filed by Adv. Mujeeb Rahman. As both the crimes were regarding the same matter, both the crimes were clubbed for investigation. The copy of the petition given to the Chief Minister by Network of Women in Media India signed by CW 16 Geetha Nazir and Jisha Surya was also



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received for investigation. CW 14 A1-Neema gave a copy of her social media post to the police. S. 34 IPC was also added in addition to the offences mentioned in the FIR. Report was filed before the Court furnishing the name and address of the accused including CW 1 to CW 9 and A10 unknown female. The unknown female is CW 10 Nazila Nazimuddin working in the Mangalam Television Channel. But no report regarding her involvement is given to the Court. The reason given by CW 21 is that they are waiting for the FSL report on the voice clipping for questioning her regarding her involvement in this case. Though notice were issued twice to appear before the police she did not turn up after receiving the notice. A1 to A5 in the crime were arrested on 04.04.2017 and were produced before Court. They were remanded to judicial custody and later released on bail by the Hon'ble High Court.

CW 21 stated that his investigation revealed that the talk of the voice clipping was recorded using a mobile phone and later edited using laptop in the edit suit and telecast in the Television Channel in the name of a housewife.

Though police custody of A1 and A2 were obtained and questioned, they did not co-operate with the investigation. Therefore, the original voice clipping, the mobile phone used for recording and the laptop used for editing the voice clipping could not be recovered. After receiving the notice by A1 to appear before the police i.e. on 04.04.2017, A1 Ajithkumar gave complaint to the Museum Police Station that his bag containing the mobile phone and laptop was stolen from his car in the



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night of 03.04.2017. Regarding this Crime No. 549/2017 of Museum Police Station under section 379 IPC was registered and investigated. The case was found to be false and a refer report was filed before the Court. As A1 would have to produce the above evidence before the investigating officer, they were either suppressed or destroyed. Though it is stated by the accused and witnesses that it was the talk of Minister A.K. Saseendran that was recorded, the same has to be proved through scientific evidence. The transcript of the voice clipping is produced before the Commission (Annexure -I). By telecasting the voice clipping containing sexually explicit contents offence under section 67(A) of IT Act is committed. The voice clipping is containing only the male voice of a private talk. The voice clipping of a particular person could be made through voice imitation and voice mixing through digital technology. Video editor of Mangalam Television Channel Ebin Raj and Teena, Personal Secretary to A1 gave statement to the police regarding the editing of the voice clipping. There was conspiracy in recording and editing of the recorded talk. So far offences under sections 120(B), 201 read with S. 34 IPC and S. 67(A) of the I.T. Act are made out against the accused. The investigation has to be completed by collecting scientific evidence. He has also collected the apology telecast by A1 in the Mangalam Television Channel.

In the progress report filed by CW21 on 30.08.2017 it is stated that he subsequently questioned A10 Nazila Nazimuddin and recorded her statement. According to the statement given by her one day the Minister A.K. Saseendran misbehaved when she had approached him for recording a programme and thereafter at the instruction of A1 and A2



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(CW 1 and CW 3) she became close to A.K.Saseendran and recorded the conversation and handed over to A2 and that in the mobile phone handed over by her there was the conversation of herself and the male and that it was editing out the female voice the voice clipping was made and telecast on 26.03.2017 by the Mangalam Television Channel. He has also collected the CDR of the mobile phones used by A10 Nazila Nazimuddin and A.K. Saseendran. The CDR have to be analysed and the investigation has to continue. FSL Report regarding the electronic instruments and voice clipping is awaited.

7.16 CW 22 Bijumon, Dy.S.P.

He is one of the investigating officers along with CW 21 Shanavas, Dy.S.P. He has investigated the technical aspects of the case. On 03.04.2017 he had taken into custody the voice clipping copied in a pen drive produced by Shyam Kumar, Technical Officer of the Mangalam Television Channel on the basis of a mahazar. The transcript of the voice clipping was prepared. A copy of the same along with a copy of the voice clipping is produced before the Commission. Call details records were collected from the service providers. As the case is under investigation and the call details are of confidential nature only the soft copy is produced before the Commission. A10 was questioned by CW 21 Shanavas on 04.08.2017. The hard disk, pen drive, phone obtained from A1, A2 and Hard Disk of the CC TV of Mangalam Television Channel are sent for forensic examination. Mobile phone used for recording the talk and laptop used for editing the audio clipping could not be recovered. They must have been suppressed or destroyed



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by A1. R. Ajithkumar who gave a false complaint regarding their theft to the Museum Police Station. Their investigation revealed that the Mangalam Television Channel Company had purchased a mobile phone and given to A10 for recording the talk. The Online purchase bill of the mobile phone has been obtained by the investigating officer.

CDR shows that there were 19 calls from the mobile phone No. 7025159952 of A1 Nazila to mobile phone No. 9847001879 of A.K. Saseendran and 16 calls were made from the latter to the former number. The tower location of the above calls is Thycaud Hospital, and the address is Lal Tourist Home, Thampanoor. There is only a distance of 100 metres between the office of the Channel and the tower address. As the conversation is edited and as the original conversation is not produced and as the voice clipping is made by combining and mixing the conversations at different times, conspiracy is suspected and the investigation is continuing. Without obtaining the original voice recording the genuineness of the voice cannot be verified. It is technically feasible to collect talks made on different contexts and create a voice clipping by editing with the help of software. In addition to the phone calls obtained from the CDR, calls could also be made through WhatsApp, messenger, skype and internet using smart phones for which there would be no CDR.



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As per S. 5 of Indian Telegraph Act only authorized authorities are entitled to intercept and record telephone calls. Other interceptions and recording are illegal. Without producing the original voice recording the veracity of the voice clipping telecast by the Mangalam Television Channel on 26.03.2017 cannot be verified. No technical problem in the telecast of Mangalam Television Channel on 26.03.2017 was reported. The face book post of CW 10 Nazila (Annexure - VI) in connection with this case was noted. It is stated in the face book post that she was cheated by CW 3 R. Jayachandran and others. It was after questioning by the police the above face book post was seen. Later this face book post was withdrawn. CW 10 Nazila is still working in the Mangalam Television Channel. It was in the month of November, 2016 the order for phone was given. The first phone call was on 16.11.2016. The last call was on 16.02.2017. The first 4 phone calls were made by the woman journalist. It was thereafter there was the return call. No other women journalists were given mobile phones. A.K. Saseendran has not been questioned and his statement recorded so far. The investigation is going on.

It is suggested on the side of CW2 that there is nothing obscene in the voice clipping.

The evidence adduced before the Commission shows that the veracity of the voice clipping said to be that of a Minister of the State telecast on 26.03.2017 is not established and the said voice clipping is the product of a conspiracy and created to boost the rating of the New Channel on the launching day itself.



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CHAPTER 8

The witnesses who did not appear and their case examined

8.1 CW2 Sajan Varghese

CW 2 is the Chairman of the Mangalam Television Channel. His role is discussed in detail in Chapter 3.4.2 above. He is accused No. 9 in the array of the accused in the connected crimes registered by the police as per the progress report filed by CW 21 Shanavas, Dy. S.P.

CW 2 has not co-operated with the judicial inquiry. He is mainly responsible for delaying the inquiry. The examination of CW2 before the Commission was scheduled on 19.06.2017. He sought adjournment. Adjournment was granted. But he did not appear before the Commission in spite of several adjournments. Meanwhile CW2 filed WP© 21095/2017 before the Hon'ble High Court of Kerala on 23.06.2017 under Article 226 of the Constitution of India to quash the notification appointing the Commission of Inquiry and to recall the notice and summons issued to him. The WPC was dismissed by the Hon'ble High Court of Kerala as per the judgment dated 08.08.2017. Thereafter the Commission posted the inquiry to 23.08.2017 for his examination as a last chance. On that day also CW2 did not turn up. The examination of witnesses by Commission was closed on 24.08.2017. Thereafter the inquiry was posted on 13.09.2017 for the evidence of the parties. On that last occasion also CW2 did not adduce



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Evidence before the Commission. Inquiry was closed on 13.09.2017 as there was no evidence for the parties.

CW 2 Sajjan Varghese attempted to mislead even the Hon'ble High Court of Kerala as can be seen from his averments in paragraph 3 and 4 of the WPC which are extracted as follows:

"3. That the police registered two crimes with regard to the disputed telecast on 26.03.2017. A true copy of the FIR No. 51/2017 of CBCID, Thiruvananthapuram dated 30.03.2017 is produced herewith and marked as Ext. P3. A true copy of the FIR No.52/2017 dated 30.03.2017 of CBCID, Thiruvananthapuram is produced herewith and marked as Ext. P4. Besides this Complaint bearing No. 55231/2017 – PHQ was filed before the Director General of Police, by a lady, alleging misbehaviour from the part of the said Minister. Since there was no proper action from police, the said lady filed CMP No. 877/2017 dated 05.04.2017 before the Chief Judicial Magistrate Court, Thiruvananthapuram. True copy of the said CMP No. 877/2017 dated 05.04.2017 is produced herewith and marked as Ext. P5.

4. While matters were pending before the police authorities as also the subject matter of judicial scrutiny before concerned jurisdictional Magistrate,



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the State Government in a surprise move, issued a notification dated 10.04.2017 appointing the 3rd respondent Commission of Inquiry. A true copy of the notification dated 10.04.2017 issued by the State Government is produced herewith and marked as Ext. P6.”

Actually the Government declared the appointment of the Commission of Inquiry to enquire into the veracity of the voice clipping on 29.03.2017 and the Government notification is dated 31.03.2017 (shown as Ext. P6 in WPC). It was on the basis of 2 complaints dated 29.03.2017 the FIRs were registered on 30.03.2017. The lady journalist filed the complaint dated 03.04.2017 before the Director General of Police on 03.04.2017 and the same was forwarded to the Commissioner of Police which was received by him on 05.04.2017. Meanwhile, the same complainant filed the complaint dated 05.04.2017 before the Court of the Chief Judicial Magistrate, Thiruvananthapuram obviously without waiting for necessary action by the police. As it was learnt that the complainant approached the Court, the police obtained legal opinion from the District Government Pleader and Public Prosecutor who reported that the Hon'ble Chief Judicial Magistrate recorded the sworn statement of the complainant and posted the case for further enquiry. Therefore, the police did not register a crime as can be seen from the statement filed by G. Sparjan Kumar IPS, District Police Chief and DIG of Police, Thiruvananthapuram City in



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reply to the notice issued by the Commission under section 5(2) of the Commission of Inquiry Act, 1952.

As the Government notification appointing Commission of Inquiry was issued on 31.03.2017, the averments in paragraph 4 of the WP(C) No. 21095/2017 is totally false. In fact, it is the lady journalist who filed the complaint as a shield when the judicial inquiry was ordered and police registered crimes in which CW 2 and the lady journalist are accused. In the circumstance, it is only to be found that CW 2 attempted to mislead the Hon'ble High Court of Kerala when he stated that the State Government in a surprise move issued a notification dated 10.04.2017 appointing the third respondent Commission of Inquiry.

CW 2 Sajjan Varghese wilfully and deliberately did not appear before the Commission and his role in the criminal conspiracy in the making of the voice clipping and its telecast on 26.03.2017 is rightly being investigated by the police.

8.2 CW 10 Nazila Nazimuddin

CW 10 Nazila is admittedly the reporter of Mangalam Television Channel who allegedly recorded the conversation of CW17 A.K. Saseendran as seen from the statement filed by CW1 R. Ajithkumar. Her role is already discussed in Chapter 3.4.10 above. But CW10 has failed to file any statement and reply to the questionnaire issued by the Commission under section 5(2) of the Commission of Inquiry Act, 1952. CW10 also did not turn up before the Commission to substantiate



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her case as per the summons issued by the Commission as discussed in Chapter 6.2 above.

In reply to the Official Memorandum issued by this Commission on the failure of CW 10 to appear on 21.06.2017 and directing her to appear on 29.06.2017, CW 10 sent an application for adjournment by registered post which was received by this Commission after the sitting on 29.06.2017, raising various contentions in the affidavit filed by CW10 along with the application. It is apposite to go through her affidavit which is extracted below:

"1. I have been served with summons from the Hon'ble Commission directing to appear for the purpose of recording evidence. It is submitted that Rule 5(5)(a) of the Commission of Inquiry (Central Rules), 1972 provide that if the commission considers it necessary to record evidence it shall first record the evidence produced by the Government and only thereafter record the other evidence. It is submitted that the documentary evidence furnished by the Government has not been disclosed to the petitioner. Hence, the petitioner is not in a position to ascertain the nature of the subject matter of the inquiry and the specific nature of the allegations which is to be inquired by this Hon'ble Commission.



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2. From the notice issued directing my appearance the terms of reference seems to be a bunch of allegations into the veracity, circumstance and tampering and conspiracy in the airing of the voice clipping of a Minister of the State on 26.03.2017. It is humbly submitted that I have already filed a complaint before the Hon'ble Chief Judicial Magistrate, Thiruvananthapuram and had given my statement before the Hon'ble Court. A copy of my statement before the Hon'ble Court is attached herewith that may be treated as my version before this Hon'ble Commission. My right leg got fractured and it is advised by doctor to take complete rest for a period of two months from 21st May, 2017. A copy of my appointment letter is attached herewith and discharge summary dated 21.05.2017 Cosmopolitan Hospital. Hence it is essential in the interest of justice that my examination may be deferred and the Government asked to produce the evidence from their side. A separate petition has been filed and the same may be allowed in the interest of justice".

It is obvious from the contentions of CW10 Nazila in her affidavit that she has no idea or mislead regarding the nature of inquiry conducted by this Commission. There is no basis for her contentions as the Government is not a party in this inquiry and the Government has



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absolutely no evidence to adduce before the Commission. However, considering her contention that her right leg got fractured and it was advised by her doctor to take complete rest for a period of 2 months from 21.05.2017, she was asked to appear before the Commission on 24.07.2017. But she did not appear on 24.07.2017 or thereafter on the dates to which inquiry was adjourned. There was also no communication from her. When the Secretary to the Commission attempted to contact her from the official phone, her phone reported to be switched off.

CW10 is not truthful even in the affidavit filed before the Commission. Though it was sworn in the affidavit that discharge summary dated 21.05.2017 of Cosmopolitan hospital was attached, the same was not seen attached. This was intimated to CW10 in the Official Memorandum issued by the Commission asking her to appear on 24.07.2017. It is seen from the evidence of CW1 R. Ajithkumar and CW3 R. Jayachandran that she has been working in the Channel during the entire period of inquiry. They have no case that she was on leave on medical grounds during the period. Therefore, the only conclusion that can be drawn by the Commission is that she had deliberately not responded to the notice and questionnaire issued to her and also failed to appear before the Commission in obedience to the summons and the two official memorandum subsequently issued to her by the Commission. She was informed by the official memorandum that on her failure to appear before the Commission, the Commission will have to consider enforcement of her appearance before the Commission or the



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Commission will draw an adverse inference against her in the inquiry.

In spite of such a warning by the Commission, CW10 Nazila has chosen not to appear before the Commission on the subsequent dates. CW1 and CW2 representing the Mangalam Channel also did not produce her on their part when an opportunity to adduce evidence by parties was given to them on 13.09.2017 on which day the inquiry was closed.

The Commission did not consider it expedient to issue coercive steps against her in view of the short duration of the Commission and also in view of her averment in the above affidavit filed by her. She stated that she has already filed a complaint before the Hon'ble Chief Judicial Magistrate, Thiruvananthapuram and had given a statement before the Hon'ble Court. CW10 has attached a copy of her statement (Annexure - V) before the Hon'ble Court and prayed that the same may be treated as her version before the Hon'ble Commission.

In view of the above stand taken by CW 10 Nazila Nazimuddin, her version in the complaint and statement given by her before the Court of Chief Judicial Magistrate, Thiruvananthapuram has to be considered.

Along with the petition and affidavit dated 27.06.2017, CW10 also attached copy of her appointment letter dated 01.07.2016 issued by Mangalam Television Channel as Sub Editor on probation for a period of 6 months on an all inclusive remuneration of Rs. 10,000/-. CW 10



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has also submitted letter dated 31.12.2016 issued by the Director of Mangalam Television Channel extending her probation till 30.06.2017.

On the basis of the complaint dated 05.04.2017 and the sworn statements of the complainant and 2 witnesses recorded, the Chief Judicial Magistrate, Thiruvananthapuram passed the following order as proceedings in CMP No. 899/17 dated 29.05.2017:

“ I have gone through the complaint and the statement of the complainant and witnesses. I am satisfied that there is a ground to proceed against the accused and I am of the view that complainant has prima facie made out a case against the accused under section 354(A), 354(D), 509 IPC. Hence complaint is taken on file as CC 528/2017 under section 354(A), 354(D), 509 IPC. Issue summons to accused. Take steps. For return of summons posted to 28.07.2017”.

On going through the Annexure - IV complaint and the Annexure - V statement given by her before the Chief Judicial Magistrate, it is seen that the complaint against A.K. Saseendran, former Transport Minister is regarding an incident allegedly occurred on the date after 08.11.2016. It was admitted by CW17 A.K.Saseendran himself before this Commission that on 08.11.2016 CW10 Nazila had interviewed him as part of morning show and she acquainted with him. The alleged incident which formed the subject matter of the complaint and on the basis of which the learned Chief Judicial Magistrate found prima facie



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case under section 354(A), 354(D), 509 IPC must be after a few days after 08.11.2016. It is pertinent to note that the complainant has not given the date of occurrence of the offence either in the complaint or in the sworn statement before the Court. The date of occurrence is one of the essential ingredients in a case for criminal prosecution. It appears that without considering this aspect prima facie case is found by the Court against the accused.

As CW10 has requested the Commission to treat her statement before the Chief Judicial Magistrate as her version, it has to be considered whether the said statement is a probable version. As per the Annexure – IX CDR produced by CW 21 and CW 22 investigating officers obtained from the service providers there were a total of 35 calls between Phone No. 9847001879 of A.K.Saseendran and Phone No. 7025159952 of CW10 Nazila. Out of this 16 calls were from 9847001879 and 19 calls were from 7025159952 during the period from 16.11.2016 to 16.02.2017. The first 4 phone calls and the last 2 calls were from the phone No. 7025159952. Therefore, it does not appear probable that CW 17 A.K. Saseendran were making frequent phone calls to CW 10 Nazila and harassing her as stated in the Annexure – IV complaint.

CW 17 had called back after the first 4 calls by CW 10 Nazila. CW17 has explained his talk to CW 10 that various media persons used to call him and he called back. He has denied any improper talk from his part or from the part of CW 10. Therefore, it is for CW 10 Nazila to prove before the Commission that the talk included in the voice clipping was made by CW 17 A.K. Saseendran. The complainant (CW 10) did not produce her phone and original voice recording before the Chief



Judicial Magistrate also. The Mangalam Television Channel which telecast the voice clipping did not produce the original recorded conversation or any other relevant evidence and documents and devices claiming protection under Article 20(3) of the Constitution.

In the circumstance, it is only to be concluded that the complaint was belatedly filed by CW 10 Nazila Nazimuddin after the Government appointed this Commission of Inquiry on 29.03.2017 to enquire into the veracity of the voice clipping alleged to be that of a Minister of the State aired by Mangalam Television Channel on 26.03.2017 and after two criminal cases were registered by the police on 30.03.2017. Therefore, it is more probable that the complaint was filed by CW 10 on 05.04.2017 only as a shield to avoid arrest by the police and as a defence in the judicial inquiry and against criminal prosecution. A1 to A5 were already arrested by the police on 04.04.2017 as stated by CW 21. Prima facie case was found by the Court of the Chief Judicial Magistrate only on the solitary statement of the complainant. The statement of the other 2 witnesses, namely, Sibi and R. Jayachandran is only regarding what is told by CW 10 Nazila to them. In short, the version of CW 10 Nazila in the complaint and statement does not appear to be credible and reliable in the absence of any corroborative evidence, i.e. the phone that was used for recording the conversation and the record of the original conversation and also in the absence of sworn statement and facing questions before this Commission.



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8.3 CW 11 Sonia George and CW 12 Dhanya Raman

CW 11 Sonia George and CW 12 Dhanya Raman are 2 of the guests along with CW13 Sandhya S.N. who were present in the studio of Mangalam Television Channel on 26.03.2017 at the time of telecast of the voice clipping. They are social activists invited by the Mangalam Television Channel to participate in the panel discussion on the subject of 'Women's Safety' as stated by CW 6 Lakshmi Mohan who anchored the news programme which started at 10 a.m. CW 13 Sandhya who deposed before the Commission stated that they were highly embarrassed by the telecast of the voice clipping containing sexually explicit talk. It is in evidence as can be seen from the deposition of CW 6 Lakshmi Mohan and CW 16 Sandhya that CW 12 Dhanya Raman covered her face with hands and the 2 were seen closing their ears during the telecast of the voice clipping due to embarrassment. Though notices and summons were issued to CW 11 to CW 13, only CW 13 Sandhya appeared before the Commission to give evidence.

CW 11 Sonia George, who is the Secretary of Self Employed Women's Association (SEWA) and CW12 Dhanya Raman, social activist as reported by the media, did not care to respond to the notice issued by the Commission or appeared before the Commission obeying the summons issued to them. However, considering the fact that they were to depose on the same point as CW13 Sandhya, the Commission dispensed with their evidence.



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8.4 CW 16 Geetha Nazir

CW 16 Geetha Nazir is one of the 2 signatories in the representation given to the Chief Minister of Kerala on 29.03.2017 demanding a proper inquiry into the telecast of the voice clipping by Mangalam Television Channel on 26.03.2017 in the wake of the reports that a woman journalist is involved and it is humiliating to the women journalists of Kerala. A copy of the representation given in the name of the Kerala Chapter of Network of Women in Media India was forwarded to the police for investigation from the office of the Chief Minister. Though notice and summons were issued to CW 16, no statement or affidavit is filed before the Commission.

Meanwhile it has come to the notice of the Commission from the letter dated 14.09.2017 received from the Secretary to the Government of India, Ministry of Information & Broadcasting that on 03.04.2017 they received a complaint from NWMI, Kerala regarding the violations by Mangalam News Channel on the telecast of a voice clipping containing sexually explicit matters. It was also reported that the above complaint was withdrawn by NWMI, Kerala on 04.04.2017 on the ground that they have decided to approach the News Broadcasters Association with their petition.

When the NBA was addressed in the matter by the Commission as per letter dated 20.09.2017, the NBA replied as per letter dated 22.09.2017 as follows:



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1. NBSA would like to inform you that as per the News Broadcasting Standards Regulations, the News Broadcasting Standards Authority (NBSA), the independent self-regulatory mechanism set up the News Broadcasters Association (NBA) looks into complaints only relating to the content shown by the member channels of the NBA.

2. On 10.04.2017 at 14.00 hrs, NBA received a complaint by email only from Network of Women in Media (NWMI), Kerala regarding violations of Mangalam news channel. NBSA replied to (NWMI) by email only dated 10.04.2017 at 14.41 hrs, that Mangalam

News channel is not a member of NBA. Hence, NBSA cannot take action on the complaint. NWMI may write to the Ministry of Information and Broadcasting (MoI&B). In the letter, itself we gave the details of the Joint Secretary (Broadcasting) and the Director in the Ministry of Information and Broadcasting with whom they should communicate and both these officials of the MoI&B were marked/copied in the mail itself. With this action, the complaint was closed by NBSA.

From the above communications it is seen that the NWMI, Kerala has not sincerely pursued their complaint regarding the violations



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by Mangalam Television Channel in the telecast of the voice clipping on 26.03.2017. So much is the commitment of NWMI, Kerala to the cause of the women journalists in Kerala !

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Signature

CHAPTER 9

The Documents produced before the Commission

The following 60 documents have been referred to and considered by the Commission during the Inquiry and in this Report.

9.1 Documents produced by CW1 and CW2 for Mangalam Television Channel

The following are the documents produced by CW1 and CW2 Managing Director and Chairman of the Mangalam Television Channel respectively and perused by the Commission:

- (i) Copy of Memorandum of Association of GN Info media Private Limited dated

17.02.2009

According to CW1 and CW2 Mangalam Television Channel is the brand name of the news channel owned by G.N Info media Private Limited.

- (ii) Copy of Articles of Association of GN Info media Private Limited.

The Company is a "Private Company" within the meaning of S. 3(1) (iii) and 2(35) of the Companies Act, 1956.

- (iii) The name and address of the 84 staff members and their status as on 27.06.2017

- (iv) Permission to uplink Non-news and current affairs Television Channel dated 27.10.2010 of Ministry of I & B, Government of India

- (v) Copy of Certificate of Incorporation issued by Registrar of Companies to GN Info media Private Limited dated 18.09.2009.

- (vi) Copy of Communication granting renewal of the permission to downlink News & current affairs Mangalam Television Channel, for a further period of 5 years dated 01.12.2015 issued by Ministry of I & B, Government of India, Online

- (vii) Receipt for Rs. 5,00,000/- remitted by M/s. GN Info media Pvt. Ltd., dated 10.02.2017 as permission fee for down-linking.

- (viii) Editorial List of Mangalam as on 25.08.2017



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(ix) Signatory Details of GN Info media Private Limited as on 25.08.2017

(x) Letter of termination of probation issued to Rishi K. Manoj by Mangalam Television Channel dated 24.05.2017

9.2 Documents obtained from Mangalam Television Channel office by the Commission during Local Inspection on 15.09.2017.

- (i) Mangalam Daily dated 27.03.2017 produced by CW3 R. Jayachandran, Chief Reporter of Mangalam
- (ii) C.D. of the Morning news programme of Mangalam Television Channel on 26.03.2017

9.3 Documents produced by CW17 A.K. Saseendran MLA

- (i) Transcript of the apology telecast by CW1 R. Ajithkumar, CEO, Mangalam Television Channel on 30.03.2017
- (ii) Code of Practice of News Broadcasters Association of India published August, 2008
- (iii) Self-Regulation Guidelines for the Broadcasting Sector issued by the Ministry of I & B, Government of India in 2008
- (iv) Hard copy of the Face book post dated 15.08.2017 of CW10 Nazila-Nazimuddin

9.4 Documents obtained from Crime Branch CID, Thiruvathanthapuram through CW21

- (i) Progress Report of investigation in Crime Nos. 51/CR/OCW-1/TVPM/2017, 52/CR/OCW-1/TVPM/2017 dated 14.06.2017 along with copy of FIRs, statements of accused and witnesses and mahazar.
- (ii) Statement filed by G. Spargan Kumar IPS, District Police Chief and DIG of Police, Thiruvananthapuram City along with copy of petition filed by CW10 Nazila Nazimuddin before the State Police Chief, Hon'ble Chief Minister & Hon'ble Chief Judicial Magistrate, Thiruvananthapuram, and copy of legal opinion obtained from District Government Pleader & Public Prosecutor, Thiruvananthapuram
- (iii) C.D. of Audio files & Video files in Mangalam Television Channel on 26.03.2017
- (iv) Transcript of the audio clipping telecast by the Mangalam Television Channel on 26.03.2017



- (v) Progress Report of investigation dated 30.08.2017
- (vi) C.D. containing Call Details Records of the phone numbers of A.K. Saseendran MLA (CW17) and CW10 Nazila Nazimuddin.
- (vii) Certified copies of statements of complainant and 2 witnesses in CMP No. 899/2017 of Court of Chief Judicial Magistrate, Thiruvananthapuram
- (viii) Hard copy of Google maps showing the location of the Office of Mangalam Television Channel and Lal Tourist Home, tower location of phone numbers of CW10 Nazila and CW17 A.K. Saseendran and surrounding area (4 copies)
- (ix) Progress report of investigation dated 03.10.2017 along with copy of FIR and Report in Crime No. 0549/2017 dated 04.04.2017 of Museum Police Station and copy of mahazar in Crime No. 51/CR/OCW-1/
TVPM/2017 dated 03.04.2017

9.5 Documents received by post from CW10 Nazila Nazimuddin on 29.06.2017

- (i) Petition for exemption from personal appearance dated 27.06.2017
- (ii) Affidavit dated 27.06.2017
- (iii) Certified copy of private complaint before Chief Judicial Magistrate, Thiruvananthapuram dated 05.04.2017
- (iv) Letter of appointment issued by Mangalam Television Channel dated 01.07.2016
- (v) Intimation of extension of probation dated 31.12.2016
- (vi) Copy of proceedings in CMP 899/2017 of the Court of Chief Judicial Magistrate, Thiruvananthapuram

9.6 Documents received from CW20 the Secretary, Press Council of India, New Delhi

- (i) Press Council Act, 1978
- (ii) Press Council (Procedure for Conduct of Meetings and Business) Regulations, 1979.
- (iii) Affidavit on behalf of Press Council of India dated 22.06.2017
- (iv) Copy of Adjudications in K.L. Soni vs. The Editor, Guru Express



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- (v) Copy of Adjudication in Smt. Usha Yadav vs. The Editor, Patrika, Bhopal

9.7 Documents obtained from Ministry of I & B, Government of India

- (i) Copies of the complaints dated 26.03.2017, 27.03.2017, 31.03.2017 and 04.04.2017 received from Dr. Pradeep K.P., Kurian Benny, Saiju Menon and M. Sarita Varma & others respectively against telecast of programme by Mangalam Television Channel on 26.03.2017
- (ii) Copy of Note file of File No. N-41015/33/2017-BC. III of Ministry of I & B on the complaints received.
- (iii) Report of the Electronic Media Monitoring Centre, Government of India on the complaint against Mangalam Television Channel for objectionable content.
- (iv) C.D. of the programme containing the objectionable matter.
- (v) Copy of Order constituting Inter-ministerial committee under section 20 of the Cable Television Net Works (Regulations) Act, 1995 dated 25.04.2005.
- (vi) Copy of Order amending the order dated 25.04.2005 issued on 11.11.2011

9.8 Documents obtained from the News Broadcasting Standards Authority (NBSA) of News Broadcasters Association (NBA)

- (i) Copy of letter dated 22.09.2017 from NBSA regarding the complaint received from Network of Women in Media (NWMI), Kerala against Mangalam Television Channel
- (ii) Copies of complaint from NWMI Kerala, Prashob Kumar, and Saiju Menon and Response from NBSA sent by email.
- (iii) C.D. of Mangalam Television clip

9.9 Copies of cases filed before the Hon'ble High Court of Kerala and the order and judgment

- (i) Certified copy of B.A. No. 2378/17 dated 02.04.2017
- (ii) Certified copy of B.A. No. 2379/17 dated 02.04.2017
- (iii) Certified copy of B.A. No. 2380/17 dated 02.04.2017
- (iv) Certified copy of B.A. No.2540/17 dated 05.04.2017



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- (v) Certified copy of Common order in B.A. Nos. 2378, 2379, 2380, 2539 and 2540/2017 dated 12.04.2017
- (vi) Copy of W.P. (Civil) No. 21095/17 filed by Sajan Varghese against Union of India & Others dated 23.06.2017
- (vii) Certified copy of statement filed by Assistant Solicitor General on behalf of Union of India in WP© No. 21095/2017
- (viii) Certified copy of judgment in WP© No. 21095/2017(J) dated 08.08.2017

9.10 Other documents referred to by the Commission

- (i) Press clipping of Indian Express Daily dated 27.03.2017 under the caption "sleaze call halts Saseendran"
- (ii) Press clipping of Deccan Chronicle Daily dated 30.03.2017 under the caption "Trapped women panellists cry foul" and other news reports on the telecast of the voice clipping telecast by Mangalam Television on 26.03.2017
- (iii) Press clipping of Deccan Chronicle Daily dated 01.04.2017 under the caption "Resignation spree at Television Channel"
- (iv) Press clipping of Kerala Kaumudi Daily dated 30.03.2017 under the caption "Psychology of moral police behind the channel news" report of a statement issued by 37 leading writers of Malayalam
- (v) Press clipping of the Hindu Daily dated 19.06.2017 Under the caption 'Sting journalism is not investigative journalism'
- (vi) Expert opinion given by Shri Adoor Gopalakrishnan Dated 19.09.2017.
- (vii) Expert Opinion given by Dr. Sebastian Paul dated 24.10.2017

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CHAPTER 10**Local Inspection**

The following is the Memorandum of Local Inspection of Mangalam Television Channel premises conducted by this Commission on 15.09.2017.

10.1 Introduction

I.A. No. 18/2017 was filed by the Advocate for CW 17 Shri A.K. Saseendran MLA praying that in order to correctly appreciate the evidence already recorded, it is highly necessary to conduct a spot inspection of the studio including News Room, Edit Room etc. of the Mangalam Television Channel by the Commission in the presence of the parties and the Advocates appearing for them. It is pointed out that in the course of the Inquiry when the witnesses were examined, namely, CW 13 Sandhya and CW 6 M. Lakshmi Mohan, they deposed that when the news item which is the subject matter of the inquiry was aired, there was interference from the Edit Room. It was also stated that the audio speaker enabling the News Reader and the Guests participating in the programme sitting in the news room to hear the voice clipping was disconnected by the persons in-charge of the Edit Room.

Having heard both parties and after perusing the records, it appeared to this Commission that a local inspection of Mangalam Television Channel's News Room, Studio and Office will be helpful to understand the evidence already adduced. Accordingly, the above I.A. for the local inspection was allowed. Notices were issued to the C.E.O. R. Ajithkumar and Chief Operating Officer of Mangalam Television Channel, Smt.



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Sunitha Devadas besides informing the Counsel concerned. They were directed to make necessary arrangements for the local inspection of the Mangalam Television Channel premises on 15.09.2017 at 11 a.m. The Television channel was also directed to ensure the presence of all the staff including journalists, non-journalists and the technical staff who were on duty on 26.03.2017 except the staff who left the channel thereafter.

10.2 Report of Local Inspection

The Commission arrived at the office of the Mangalam Television Channel situated near Aristo Junction, Thiruvananthapuram. The Commission and the staff were received by

Chief Operating Officer Smt. Sunitha Devadas, CW 4 Shri M.P. Santhosh, Director of News and Shri Suresh Kumar, Unit Manager of the Mangalam establishment at Thiruvananthapuram.

Government Pleader, Shri Jayasurya, Counsel for CW 1 and CW 17 were present. Investigating Officers in the crimes registered in connection with the telecast of the voice clipping, CW 21 Shanavas and CW 22 Bijumon, Dy.S.Ps as summoned by the Commission to assist in the local inspection were also present. Commission was accompanied by P.S.O. Prakash who was deputed by the Police Headquarters for personal security. The police party who accompanied the Commission from the Guest House were directed to remain outside the Mangalam premises.

It was ascertained from the Chief Operating Officer of Mangalam Television Channel that there is no interruption of their live broadcast going on due to the local inspection of the Commission. It was suggested that the Studio/News Room can be inspected at the end of inspection as the live programme was due to end by 12.30 p.m. CW 6 M. Lakshmi



Mohan was anchoring the morning news programme. Today's programme was on the problem of self-financing Medical Colleges in Kerala. 3 guests were attending the live programme anchored by CW 6. The guests were Shri Shajir Khan, Shri Akhil, ABVP Leader and Anand Krishnan, KSU General Secretary.

In spite of the direction of this Commission to ensure the presence of the staff who were on duty on 26.03.2017, many were absent. Various reasons for their absence like leave, off duty, shift duty etc. were given. The absence of the following staff were noticed.

1. Chief Technical Officer Shri Syam Kumar. It was informed by the Chief Operating Officer that Shri Arun Kumar, System Administrator will explain the technical aspects.
2. CW10 Nazila Nazimuddin. She is reported to be off duty today. Chief Operating Officer stated that CW10 is now News Reader and attending duty regularly at the Channel.
3. CW 8 S.V. Pradeep
4. CW 7 Firos Sali Mohammed
5. CW 1 R. Ajithkumar
6. CW 2 Sajan Varghese
7. Rudra Krishnan

A list of the staff on duty in the morning shift of 15.09.2017 is obtained.

The following are the staff on duty:

- i) Gopakumar Sadasivan Nair – Desk Chief
- ii) Priya Suresh - Reader
- iii) Samuel Mathew - Breaking



iv) Lakshmi Mohan	- Reader
v) Mathew	- Wasp
vi) Navami Dinesh	- Production
vii) Gokul G. Nair	- Input
viii) Ranjima K.R.	- Wasp
ix) Arun Kumar	- MCR
x) Vishnu P.V.	- Sound Recordist
xi) Shaiju M	- Online Editor
xii) Jishnu B	- Visual Editor
xiii) Siva S.	- Visual Editor

10.2.1 A Brief Description of Mangalam Office Building

It is three floor building, i.e., the ground floor, I floor, II floor and III floor. The entrance of the building is also the reception area. Smt. Renjitha Prabhu is the receptionist at the ground floor. Behind the reception area is the Office of the Chief Operation Officer Smt. Sunitha Devadas. On the right side of the reception area is the entrance to the Mangalam Television Channel's News Room, Studios, News Desk, Edit, Production Control Room etc. Just after the entrance door is the make-up room on the right side, adjourning to which is a small room for processing news and a small studio for airing recorded programmes.

On the left side is the main studio for live programmes where CW 6 Lakshmi Mohan was anchoring the morning news programme. Behind the main studio is the News Desk. It is ascertained that the maximum number of Desk strength is eight. Edit Section is adjacent to the News Desk. On the left side of the News Desk and Main studio is Production



Control Room (PCR). Adjacent to the Edit room is the voice booth and behind which is the Server Room.

From the ground floor there is a staircase to the Conference Hall on the first floor, where we were seated when arrived for inspection.

From the 1st floor there is a staircase to the second floor where the News Bureau of the Mangalam Daily is functioning. R. Ajith Kumar is the C.E.O./Associate Editor of Mangalam News Paper as seen from the name board of the office room of R. Ajithkumar who is today absent. Adjacent to this room is the office room of the Chief Editor of Mangalam Daily. Sabu Varghese, brother of Sajan Varghese (CW 2) is the Chief Editor. Marketing Section and Editorial Desk of Mangalam News Paper are also functioning in the second floor.

It is gathered that News Bureau is common for Television channel and Mangalam News Paper. Chief Reporter and Head of Investigating Team R. Jayachandran (CW 3) was present.

There is a lobby for the reporters at the entrance to the News Bureau. Accounts Section of the Mangalam Unit is also functioning at this floor.

From the second floor, there is a staircase to the third floor. It is stated by Chief Operating Officer and CW 4 Santhosh that the programme Edit Unit of the Mangalam Television Channel is on the third floor. There is also the library/Archives of the television programmes.

Graphic Room of Television Channel is also functioning at this floor. Graphics necessary for the television channel are prepared here.



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Mangalam Online section is also functioning at this floor. News clippings for web pages, U tube etc., are prepared here.

10.2.2 Impression of the Commission

From the above, it appears that Mangalam Unit at Trivandrum consists of the Mangalam Television Channel, Mangalam News Paper and Mangalam Online and it has a single unit Manager. As some of the witnesses stated during oral evidence before the Commission, Mangalam Television Channel, Mangalam News Paper and Mangalam Online are operating on the basis of synergy, i.e, the facility and infrastructure are common for all the three and productively used.

10.3 The object of Local Inspection

As far as the Commission is concerned the object of the local inspection is to understand the functioning of a Television News Channel and to find answers to the following questions which are pertinent during inquiry:-

- 1) How or in what manner a news programme is aired by a Television News Channel ?
- 2) Who are all present when a news programme is on air ?
- 3) Who are in-charge/responsible regarding the contents of the programme ?
- 4) What is the role of the anchor/News Reader ?
- 5) Who has control over the News Reader ?
- 6) Who operated/played the pen drive containing the voice clipping ?



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- 7) Whether the audio speaker at the news room can be disconnected and by whom ?
- 8) Whether there are binding editorial guidelines in the Mangalam Television Channel ?

10.3.1 The above questions are answered as now understood by the Commission from the local inspection as follows:

- 1) How or in what manner a news programme is aired by a Television News Channel ?

Ans : A news programme originates from the News Desk and the Edit Section attached to it. Various news items recorded and brought by reporters and the local, national and other news received online are stored in the Server (Central Operations Room). Visuals and audios are recorded separately and stored in separate devices. The Server is managed by the Chief Technical Officer assisted by two junior officers – system administrators. When a news item is given to the Edit unit, the video editors mixes it with videos and audios and pass on to the News Desk and from there to the Programme Control Room (PCR), and from there to the network and after giving the programme a name returned to the P.C.R. Only the news producer in the PCR can play the file and what is to be read as news appears in the teleprompter in the studio (News Room). The anchor/News Reader facing the camera placed adjacent to the teleprompter can read it to the viewers of the



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channel facing them. This arrangement gives an impression to the viewers that the anchor/News Reader is talking to them. During news programme the News Reader who keeps contact with the News Producers in the PCR can get instructions/ feedback, through the 'talk back' fitted at his/her ears.

At the time of inspection, Mr. S. Gopakumar was the Desk Chief. There were five others with him at the News Desk. Eight is the maximum desk strength.

At the Edit suit attached to the News Desk, three video editors were on duty. They control the length and contents of visual/voice or both of the news. For example, if the video/audio is of 5 minute duration, they can reduce it to 3 minutes or increase the duration.

It is gathered that 'edius' is the software used to edit news by the video editors. The editors and producers can see the news being aired in the screens in front of them. At the time of inspection news regarding Nadir Shaw in connection with the Dileep case was being broadcast by the News Reader Lakshmi Mohan. At the PCR, the news producer was giving instruction, through a microphone for broadcasting the news.

In the PCR there are separate consoles for audio and video control and separate persons are in-charge. There are a total number of six producers in the PCR. One producer is at the microphone giving instructions for news. Two are at the audio and video respectively.

Another producer is in-charge of the console producing scrolls. The software used for this is called 'Wasp'. This is real time graphics.



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Another person is assisting the wasp. The 6th producer is in-charge of advertisements.

Of the six persons on duty in the PCR, it is gathered that two are journalists and the remaining four are technicians.

2) Who are all present when a news programme is on air ?

Ans : As stated under question No.1, there is the Anchor/News Reader broadcasting the news, who is seen by the viewers, and behind him/her are the Editors at the news desk (up to eight) three at the Edit suit, six producers in the PCR and the System Administrator at the Server.

3) Who are in-charge/responsible regarding the Contents of the programme ?

Ans : The first person responsible is the reporter who obtained the news and given to the Television Channel and the Chief Editor who has overall control. The next are the news editors at the desk, followed by the video/audio editors at the Edit Suit and the producers at the PCR. The last person responsible is the anchor/News Reader who only presents the news programme as per instructions from the PCR.

4) What is the role of the anchor/News Reader ?

Ans : The anchor/news producer presents the programme in his/her own way depending on her grasp/control over the subject.



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As already answered under question No.3, the News Reader broadcasts as per instructions from the PCR and also reads the news from the teleprompter which is produced by the News Editors at the News Desk, Edit Suit and Producers in the PCR.

5) Who has control over the News Reader ?

Ans : As answered under question Nos. 3 and 4 above, News Reader is controlled by the News Editors and Producers from the PCR. There is a hand-control at the Desk in front of the News Reader through which the anchor/News Reader can control the teleprompter, i.e. to get preview, next, run, previous, function, audio top, black/screen/on/ off. At the end of a programme the anchor can switch off the teleprompter. This is mostly done at the instruction of the producers received through 'talk back'.

6) Who operated/played the pen drive containing the voice clipping ?

Ans : The voice clipping was operated/played by one of the three video/audio editors at the Edit Suit and thereafter passed on to the news editors and producers at the PCR, who aired the voice clipping. The anchor/News Reader has no role in playing the voice clipping. One of the video editors demonstrated as to how an audio/video clipping is played.



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As answer to the Commission's question as to who was in-charge of the Edit on 26.03.2017, it was stated by CW4 Shri.M.P. Santhosh that Shri Binu Mahesh, Video Editor was on duty on that day. It is reported that today his duty starts from 2 p.m.

It is ascertained that the Edit shift has the following time schedule :

6 A.M. to 2 P.M.

8 A.M. to 4 P.M.

2 P.M. to 10 P.M.

4 P.M. to 12 P.M.

10 P.M. to 7 A.M.

- 7) Whether the audio speaker at the studio/News Room can be disconnected and by whom ?

Ans : The anchor/news producer presents the programme in his/her own way depending on her grasp/control over the subject and under instruction from the PCR. As already answered under question No.3, the News Reader broadcasts as per instructions from the PCR and also reads the news from the teleprompter which is produced by the News Editors at the News Desk, Edit suit and Producers in the PCR. News Reader is controlled by the News Editors and Producers from the PCR. There is a hand-control at the Desk in front of the News Reader through which the anchor/ News Reader can control the teleprompter, i.e to get preview, next, run, previous, function, audio top, black/screen/ on off. At the end of a programme the anchor can switch off the teleprompter. This is mostly done at the instruction of the producers received through talk back.



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8) Whether there are binding editorial guidelines in the Mangalam Television Channel ?

Ans : It is ascertained from CW4 M.P. Santhosh that there are no written guidelines for the Channel. He informed that on every morning and evening Editorial Team meeting is held to discuss the programmes for the day after the controversy on 26.03.2017

10.4 General Remarks :

CW 21 and CW 22 investigating officers in the connected crimes stated that they took into custody from the Mangalam Television Channel, the hard disk which contained the copy of the contents of the pen drive containing the audio clipping which was aired on 26.03.2017. They stated that no pen drive was taken into custody from the Mangalam Television Channel.

Server Room is storage of all programmes. Arun Kumar, system administrator explained that the storage is for a period of 5 days normally and thereafter it is deleted. If the programme is necessary for future use, it is preserved in the library/archived in a tape preserved in video logger.

The voice clipping involved in this case was retrieved by CW 22 Bijumon, Dy.S.P., Hi-tech Cell from the video logger during investigation. A copy of the voice clipping in C.D. has been produced before the Commission during inquiry.

At the request of the Commission during inspection, a C.D. containing the entire news programme anchored by CW 6 Lakshmi Mohan from 10 A.M. to 12.30 A.M. on 26.03.2017 during which the voice clipping was aired, is handed over to the Commission.



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At the request of the Commission, CW 3 R. Jayachandran, Chief Reporter of Mangalam Daily handed over to the Commission a copy of the Mangalam Daily dated 27.03.2017 reporting the telecast of the voice clipping. Commission had also requested copies of the Mangalam Daily dated 28.03.2017 and 29.03.2017 which are not readily available.

Towards the end of the Inspection, Commission inspected the News Room/Studio where CW 6 Lakshmi Mohan explained as to how the news is broadcast by the News Reader, as explained under question No. 3. It is ascertained that Teena Krishnan, whose name was given as Office Assistant to C.E.O. in the list of employees furnished to the Commission during inquiry is now working as Producer. She admitted that she was working as Secretary to C.E.O. Ajithkumar in March, 2017 at the time of airing of the news on 26.03.2017.

The local inspection was concluded at 12.30 P.M.

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CHAPTER 11

Arguments on Behalf of the Parties

11.1 The argument for CW 17 A.K. Saseendran MLA

The Counsel for CW17 A.K. Saseendran MLA filed notes of argument. The main contentions are as follows:-

The terms of reference can be considered in seriatim. First one is to inquire into the veracity of the voice clipping said to be that of a Minister of the State, telecast by Mangalam Television Channel on 26.03.2017. Evidence is available on record that during the course of the news telecast made on 26.03.2017 which started at 10 am in the morning the day of official opening of Mangalam Television Channel into air, a news item including a voice clipping said to be that of a Minister of the State was telecast. Shri A.K. Saseendran MLA, CW 17 in his statement dated 25.05.2017 as well as in his deposition made before this Hon'ble Commission on 24.06.2017 categorically denied the said allegation and stated that the voice clipping telecast by the Mangalam Television Channel on 26.03.2017 allegedly that of him is not his voice clipping. He did not make conversation to anybody. So there is no occasion to have such a conversation or to record such a conversation by anybody. The persons belonging to Mangalam Television Channel who appeared before the Commission had given evidence said that it is that of CW17.



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Now the voice clipping said to be that of Minister may be considered. A compact disc containing the copy of the voice clipping is produced before this Hon'ble Commission by CW 21. It is admitted by CW 1 that what is aired as voice clipping of State Minister on 26.03.2017 is conversation between two persons. He said that the voice clipping received by the Mangalam Television Channel was aired in its full form without any editing. CW 1 himself has admitted that the voice clipping contained only sound of a male person. It is come on evidence that the voice clipping is an edited version of a conversation between two persons, particularly through the evidence of CW 6 Lakshmi Mohan, who was the news reader at the relevant time and presented the particular news item. Further CW 13 Sandhya S.N. who was in the studio of Mangalam Television Channel at the relevant time when the news item was aired as a guest stated before this Commission that the voice clipping heard during the course of the discussion which was telecast was that of a male making conversation with a lady in bedroom. She further stated that on hearing it she realized that it is a part of a voluntary sex conversation between two individuals. She also specifically stated that airing of such a voice clipping is inappropriate. She further stated that in hearing the voice clipping it is clear that the conversation and editing the female voice. Further the evidence of CW 14, Al-Neema Ashraf who was a journalist with the Mangalam Television specifically stated that in the voice clipping the sound of a male person alone is included and on hearing the voice clipping it is clear that the male person was responding to the conversation should have been telecast by the channel. The evidence adduced by CW 21 is also very material and relevant in this aspect. CW 21 is the investigating officer in the crime registered against the Mangalam Television personals in this matter. He specifically



deposed that the voice clip is an edited one. The evidence of CW 22, Bijumon E.S., Dy.S.P., Hi-tech cell is also relevant in this aspect. He is a witness having expertise and he specifically stated that the phone used for recording, original voice clipping and laptop used for editing the voice clipping are either concealed or destroyed purposely to destroy evidence. He also deposed that the voice clip is edited version of conversation recorded on different occasions and aired as one single conversation and therefore there is clear case of conspiracy behind this. He very clearly deposed that the genuineness of the voice cannot be examined or analysed without getting the original voice recording. From the above it is clear that the voice clipping stated to be that of a Minister of the State Government aired by Mangalam Television Channel on 26.03.2017 is not a genuine recorded conversation, but it is an edited version of some conversation between two persons and telecast the male voice alone with ulterior motive.

Next it is to be considered, what is the news item aired by Mangalam Television Channel on 26.03.2017. The news item stated that “പരാതിയുമായി വന്ന വിധവയും അബലയുമായ വിട്ടമ്മയോട് മന്ത്രി അശ്ലീല സംഭാഷണം നടത്തി”. It means that the Minister has made sex related conversation with a lady who is a widow and who had come with a complaint to ventilate her grievances to the Minister. The specific case was that the lady who was involved in the issue was a widow and homemaker who was having a complaint in some official matters and approached the Minister for redressal of the same. What is the evidence come on record regarding the same. The clear and categorical evidence available before this Commission is that the alleged conversation in the voice clipping is not



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made to a widow homemaker who approached the Minister for redressal of some grievance. But the evidence adduced by the personals of Mangalam Television Channel is to the effect that the conversation in the voice clipping was recorded by one of its employees. So it is clear that the news item aired by Mangalam Television Channel was a false news. It was so done with a malicious intention to tarnish the image of CW 17 with ulterior motive and to increase the rating of the Television channel. A false and fabricated news, affecting the very existence of the State Ministry was aired by Mangalam Television Channel. When the substratum of the news item is fraudulent and the voice clipping telecast in support of the same was also a manipulated and created one, the entire news item and voice clipping can be considered only as fraudulent, false and created one.

In this aspect the evidence tendered by CW 6 Lakshmi Mohan, CW 5 Rishi K. Manoj, CW4 M.P. Santhosh, CW 9 Manjith Varma are also relevant. Apart from the evidence mentioned above, the evidence given by Lakshmi Mohan to the effect that the news aired on 26.03.2017 as such was not true is to be considered in view of the other evidence available on record. It has also come on record that CW 1 has made a public apology appearing in the channel on the fourth day of the transmission of the news. It is clear from the apology made by CW 1, which he admitted before the Commission, that the news item was a created one by 8 senior journalists of the channel. He also admitted in the apology that it is part of a sting operation and a lady journalist was appointed for the task. These aspects are, though denied by CW 1 by giving false evidence before this Commission, indisputable materials demonstrating the falsity of the entire episode. CW 6 the reader of the



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news item has specifically admitted these facts and from her evidence it is clear that CW 1 and CW8 along with CW 3 Jayachandran is the master brain were fabricating a false voice clipping and attributed the same against CW 17. The chronology of events culminated in telecasting the disputed voice clipping is discernable from the evidence adduced by CW 6.

The evidence of CW 5 and CW 9 when read along with the evidence of CW 14 and CW 15 it is clear that the voice clipping telecast by Mangalam Television Channel on 26.03.2017 is a fabricated voice clipping created by CW 1, CW 3, CW 7 and CW 8 along with one other senior journalists in the editorial board of the Mangalam Television Channel.

The evidence adduced by CW 1, CW 3, CW 7 and CW 8 clearly show that those persons are giving false evidence before this Commission. All the questions which cannot be disputed even at the face of the facts available on record are denied or disputed by these witnesses, in order to save their face and in the attempt to show a fabricated, false voice clipping telecast by them is a genuine one.

So going through the evidence it is clear that the voice clipping aired by Mangalam Television Channel on 26.03.2017 claiming to be that of a Minister of the State of Kerala is not genuine and the same is a fabricated and false material only to see that some breaking news (bomb) is made



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on the first day of its official transmission and to obtain a high rating in the first day itself. In this aspect the evidence tendered by CW 14

Al-Neema Ashraf, Rishi K. Manoj and Manjith Varma regarding the workshop organized by the channel and the classes given by CW 1 and CW 3 requiring the journalists to make the breaking news (bomb) and to see that the Ministers in the Government are resigned on the basis of the same or to see that at least one MLA is resigned, and to create such news in that regard.

Another important aspect in respect of the veracity of the voice clip in question is the non-availability of the digital equipment in which it was recorded. The digital evidence lies in the memory device of the digital equipment and also the digital evidence requires the seizure of the suspected digital equipment. Section 65 B of the Indian Evidence Act deals with the admissibility of the electronic record. When the digital equipment/computer/mobile phone or any other device by which the original conversation was recorded is not available and no conditions in Section 65 B is complied with, the copy of any sort of electronic record would be inadmissible in evidence. The case of the Mangalam Television Channel and their people like CW 1, CW 3 etc. are to the effect that they did not get the original recorded tapes or recorded version of the conversation/voice clipping. Whatever they obtained was telecast in its entirety. But the evidence tendered by CW 6 Lakshmi Mohan, Rishi K. Manoj and Manjith Varma belies the case of CW 1, CW 3, CW 4 and CW 8. It is to be noted that Lakshmi Mohan is still in service of Mangalam Television Channel and whatever she deposed before



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the Commission is as an employee of the Mangalam Television Channel, but she was constrained to depose some true facts. Even now she is continuing in Mangalam Television Channel studio. She was seen in the studio working as an anchor of news programme. So there is no reason to disbelieve her version regarding the voice clipping to the effect that Ajith Kumar and Pradeep stated to her, immediately before she entered the studio to read the news regarding the clipping and the assurance given by Ajithkumar and Pradeep that the breaking news is factually correct. This would show that these persons have created false news in order to get a high rating and on the insistence made by CW 1 to have a special item on the opening day to give surprise to other channels. It is also clear from the evidence of CW 4 M.P. Santhosh that the news to the effect that Minister has made undesirable conversation with a housewife who approached him with a grievance is hearsay. This was deposed by CW 4 Santhosh when he was asked whether the news item aired as such was false news or not.

As submitted earlier, when we are considering the veracity of the voice clipping, the availability of the equipment by which the voice clipping was recorded is an important aspect. It is not before the Commission or it is not available with the investigating agency who investigated the crime with regard to this incident. It has come on evidence that when CW 1 and other officers of Mangalam Television Channel approached the Hon'ble High Court of Kerala by filing application for anticipatory bail as B.A. No. 2539/2017 and connected matters, there was a query made by the Hon'ble High Court with regard to the original



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equipment/mobile phone in which voice clipping was recorded. On behalf of CW 1 and others it was submitted before the Court that the original equipment can be produced before the investigating agency and for that purpose the case was adjourned. Strangely, on the evening of the same day a complaint was made by CW 1 before the Trivandrum Museum Police Station that the bag containing the mobile phone in which the voice clipping was recorded, a laptop etc. were stolen away from his car. This complaint was registered by the Museum Police Station as Crime No. 549/2017 and after investigation the investigating officer found that the complaint is false and the complaint was referred as false also. The evidence of CW 21 Shanavas A., Dy.S.P. is very important and relevant in this aspect. He specifically deposed that due to the non-co-operation of the accused in the criminal case the original audio clipping and the device used for recording and editing could not be recovered and seized.

In this regard falsity of evidence tendered by CW 1, CW 3, CW 4, CW 7 and CW 8 are to be viewed seriously. The manner in which CW8 S.V. Pradeep behaved before the Commission even challenging, defaming and threatening the Commission is a matter which require deprecation. The subsequent face book posting of the above said witness is also to be deprecated. He proved himself to be a conspirator and manipulator of the entire episode along with CW 1, CW 3 and CW 4.

Next point is, who is the person recorded the alleged voice clipping. There is no evidence with regard to that. CW 1, CW 3, CW 4 and CW 8, though giving false evidence stated before the Commission, stated that



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they did not know who recorded the voice clipping. When there is no evidence regarding the recording, the persons indulged in the conversation, by whom the clipping was recorded and regarding the device used for recording, it cannot be stated at any stretch of imagination the voice clipping is a genuine one.

The veracity or genuineness of the voice clipping is to be proved by Mangalam Television Channel which telecast the same. Even according to them, voice clipping telecast on 26.03.2017 is not original or genuine conversation. It was a copied or manipulated or edited conversation. So it cuts the root of the veracity of the voice clipping and it is corrupt or fabricated voice clipping.

The voice clipping telecast is apparently an edited version. It is stated by the witnesses that the voice record in the clipping is that of a male and it is part of a conversation between a male and a female. The portion of the female conversation is beautifully edited and removed and this voice clipping was created. This Hon'ble Commission required CW 1 and CW 2 to produce the original voice clipping before the Commission. They have not done it. It was clearly put in the form of a question by the commission to CW 1 to the effect that if original voice clipping and device recorded the conversation is produced, then only Mangalam Television Channel can show that the news item and voice clipping are true and factually correct. CW 1 answered to that question that Mangalam Television Channel telecast the voice clipping without any editing and in the same form as it was received. The non-production of unedited original voice clipping before the Commission or Police by Mangalam Television Channel clearly proves that the voice clipping is



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not a genuine one. It justifies the evidence¹⁴² tendered by CW 13 Sandhya S.N., CW 14 Al-Neema, CW 21 and CW 22 police officers to the effect that the voice clipping is an edited version of conversations between two persons in private. The sexually explicit conversations between a male and female in privacy was edited and manipulated to create the voice clipping and news. Rishi K. Manoj who was in the channel on the relevant day said that the news item and voice clipping are fabricated. So on the basis of the materials and evidence on record the one and only conclusion that can be reached regarding the voice clipping is that it is not a genuine or true one. It is created, manipulated and fabricated by Mangalam Television Channel and its personals with mala fide intention and motive.

The circumstances leading to the conversation or the voice clipping said to be that of a Minister of the State telecast by the Mangalam Television Channel on 26.03.2017: It is a clear case of conspiracy, mala fide intention and illegal motive on the part of the Mangalam Television Channel personals in order to increase the TRP rating of the channel on the first day of its official telecast itself. It is come out in evidence that even before the Mangalam Television Channel started telecast and at the time when the newly recruited journalists of the channel were given training, there was clear instruction from CW1 and CW3 to the effect that the news should be created making at least one of the Ministers are resigned from the Ministry. It is clear that CW3 has given specific direction to the newly recruited journalists regarding making of exclusive bombs (exclusive breaking news). CW1 wanted employees to create news by using any method. The evidence of CW14 Al-Neema Ashraf, CW5 Rishi K. Manoj, CW9 Manjith Varma and that of CW15 A.M. Yazir who were the journalists working in the Mangalam Television



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Channel show that CW 1 and other higher-ups in the Mangalam Television Channel wanted to create some news which give them breaking, particularly in the opening day itself. Apart from that it has come out in evidence that an investigation team was constituted by the Television Channel in order to collect news using or adopting any method. It is the case of CW 14 that she did not join that group as to create or to collect news by using any method is not agreeable for her. It is also come out in evidence that the particular news item and the voice clipping is a product of the criminal conspiracy wherein CW 1, CW 3, CW 4, CW 7, CW 8 etc. are actively involved. This fact is discernable from the apology made by CW 1 to the viewers. So the circumstances leading to the telecast of the fabricated voice clipping is the malicious intention of the Mangalam Television Channel authorities to increase the rating even from the very beginning of its official telecasting. From the evidence adduced before this Hon'ble Commission, which are pointed out in the foregoing paragraphs would clinchingly show that the voice clipping was edited and fabricated with mala fide intention and the persons behind or persons acted behind the said illegal activity are the higher-ups of the Mangalam Television Channel which include CW 1, CW 4, CW 7 and CW8 and others who are responsible for the airing of the news item and voice clipping on the relevant date. CW 2 who is the Chairman of the company which owns the Mangalam Television Channel and also involved in the affairs of the channel, cannot wash his hands away.

The airing of the alleged voice clipping and news item is clearly an illegal act. It violates the decency and morality. Evidence is available on record that voice clipping is not an item which could be aired as the



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same is offending the morality, cultural and ethical standards and also an illegal act. Mangalam Television Channel on the first day of telecast itself was using manipulated voice recording of some person which is available in porn websites on telephone sex chatting to increase its rating. It was attributed to CW 17 as a part of the attempt to tarnish his image and thereby leading to his resignation from the Ministry, with ulterior motive. In this aspect the evidence tendered by CW 15 is very relevant.

The airing of the voice clipping is also against the guidelines issued by the Central Government and the News Broadcasters Association of India. It offends the self regulation guidelines for the broadcasting sector issued by the Government of India and also the Code of Practice published by the News Broadcasters Association of India. The norms of journalistic conduct published by the Press Council of India are also plainly violated. The news item and the voice clipping aired by the Mangalam Television Channel violate the decency and morality to be kept in publishing any item of news for viewing by the general public. It offends the right to life guaranteed under Article 21 of the Constitution of India and also the right to freedom of speech and expression as provided under Article 19(1a) of the Constitution. The privacy of persons whoever made the conversation, if it is a real conversation, has been interfered by the Mangalam Television Channel. The act committed by the Mangalam Channel as stated above is also in clear violation of the Fundamental Duties



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enshrined in Article 51A of the Constitution whereby it is provided that it shall be the duty of every citizen of India, to renounce practice derogatory to the dignity of women. The act committed by the above said persons of Mangalam Television Channel is an act derogatory to the dignity of women hood. They have done it with mala fide intention and motive to improve their business. CW 17 has been dragged into it with ulterior motive on extraneous consideration.

The Hon'ble Commission may be pleased to see that a self regulation guideline for the Broadcasting sector was introduced by the Ministry of Broadcasting, Government of India which is produced before this Commission. The introduction of the said guidelines says that a need has been felt to regulate the contents going into public domain to ensure conformity with acceptable contemporary community standards and to protect the vulnerable sections from harmful and undesirable contents of Television. The principles behind the guideline, it is stated in point No. 9 that guidelines are intended to guide Broadcasting Service Providers and are based on enduring principles that all programming should not mislead, cause offence or lead to harm, particular to the vulnerable. One of the principles available in clause No. 11 is that great care and sensitivity should be exercised to avoid shocking or offending audience. Clause 11(e) is also relevant in this aspect. Clause 12 (iv) with regard to the responsibility of the Chief Editor also may be noted. CW1, the Chief Editor cannot shirk his responsibility to plead ignorance regarding the content of the news item or voice clip broadcast. The guidelines in Chapter IV particularly dealing with the News and Current Affairs (N & CA) programming is more important and relevant. It is stated as item No. 2 in Chapter IV that news should be reported with due accuracy and



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presented with due impartiality. Accuracy requires the verification (to the fullest extent possible) and presentation of all facts that are necessary to understand a particular event or issue. Clause 14.1 to 14.4 regarding the privacy of individuals are also relevant and important in this aspect. In the heading Audio visual presentation, Clause 2 says that any scene/clipping/footage depicting excessive violence, cruelty, obscenity and vulgarity that is not suitable for viewing by children and in family setting must be avoided. As required by the self-regulation guidelines, the News Broadcasters Association of India published a Code of Practice. Section – 1 Fundamental Principles in the Code of Practice are very relevant in the issue before this Hon'ble Commission. Under Section – 2 in the heading of Principles of self-regulation it is stated that "accuracy is the heart of news television business". Clause – 5 under the said heading is also relevant. Clause 9 deals with sting operations which also required consideration by this Hon'ble Commission.

Press Council of India has issued Norms of Journalistic Conduct, 2010 edition of the said norms is available on record. Though these norms are applicable to the print media, the principles of ethics dealt with in the norms issued by the Press Council of India, a statutory body is relevant. It clearly says under the heading accuracy and fairness that the Press shall eschew publication of inaccurate, baseless, graceless, misleading or distorted material. It is also stated that while it is the duty of the Press to expose the wrong doings that come to their notice, such report need to be backed by irrefutable facts and evidence. Heading No. 9 regarding the interviews and voice conversation it is provided that, Press shall not tape record anyone's conversation without that person's knowledge or



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consent, except where the recording were necessary to protect the Journalists in a legal action or for other compelling good reasons. It is also stated that the Press shall prior to publication, delete offensive epithets used during such conversation. In clause 26 where investigative journalism, its norms and parameters are contemplated, it is stated that strict standards of fairness, accuracy of facts should be adopted in the matter of reporting. It is also stated that the private life, even of a public figure is his own. Exposition or invasion of his personal privacy or private life is not permissible unless there is clear evidence that the wrong doings in question for a reasonable nexus with the misuse of his public position or power and as an adverse impact on public interest. On considering all the above noted provisions in the guidelines, Code of Practice and the norms of conduct, the entire episode created by Mangalam Television Channel is clearly illegal and an offence touching the privacy of a person apart from manipulation of records and evidence.

While considering the point of reference, an important issue which crop up for serious consideration of this Commission is journalists ethics. The journalism is a profession. Press, it may be the print media or the electronic media, is considered to be the 4th pillar of the democratic State. It is also called the 4th estate. Like any other profession, the journalism also should be guided by principles and ethics in their profession. The underlying principle that governs the Press either print or electronic, is that gathering and selling of news and views is essentially a public trust. It is the same kind of trust which is implied in the relationship between a doctor and patient. Though medical men work under discipline of professional code which is statutorily recognized and



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they are applied to old recognized medical degrees, the journalism is a free profession subject to the external restrictions of the laws of the land. But a dishonest doctor can harm at the worst only a few dozen or a few score of his patients while the dishonest journalist may poison the minds of hundreds or thousands or millions of the general polity.

Every news item prepared by the journalists and published by the media should be accurate and fair. The basic object of the journalism is to serve the public with news, views, comments, analysis, objective, unbiased, sober, rational, wholesome and decent manner. The media can cause much harm, if baseless, misleading or distorted news about an individual, community, programme or organization is published. This peculiar nature of the media underscores the importance of accuracy and fairness in the material published. The famous author Mr. Thomas W. Kooper in his work, Communication, Ethics and Global Change says that a study of more than 100 media ethics codes around the world revealed that almost all media system are committed to truth telling and preventing harm. In regard to the news item, it should be 100% truthful without allowing imagination to play any mischief. It is the principle adopted by the media of all the countries in the world that the media shall not intrude upon or invade the privacy of an individual unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. This has been codified by the Press Council of India in the guidelines evolved by it. It is the accepted principles of journalistic ethics that while reporting the person's statement, interpolation of words is highly objectionable. It is always open to media to make its comment on a person's statement, but it is not proper to record the statement in secret



or add something which may convey any different meaning or subtract from it.

It is an accepted principle of journalistic ethics that journalist should not tape record anyone's conversation without his knowledge or consent except where the recording is necessary to protect the journalist in any legal action or for other compelling reasons. With the advent of television, sting operation is being carried out by the reporters of Television channels. But in some cases, the Journalists indulge in sting operations just to create sensational news. It is also an established principle of journalism conduct that no obscene or vulgar journal or offensive matter in any forum should be published. Though the expressions obscenity or vulgarity are not capable of precise definition, these aspects are to be judged with reference to the facts and circumstances of the particular case depending upon the totality of the expression that created in the minds of the readers/viewers.

The act of Mangalam Television Channel and its officials is clearly unethical. This Hon'ble Commission may be pleased to see that they have conspired with malicious and criminal intention to malign and defame CW17 to get a high rating to their channel in the opening day itself and for that matter they have forged and manipulated electronic documents and aired false and inaccurate materials. Their acts are offences attracting various penal provisions also.



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11.2 The argument for CW1 R. Ajithkumar

The Counsel for CW 1 R. Ajithkumar, C.E.O of Mangalam Television Channel filed notes of argument as follows:-

There is a preliminary fact to be found by this Hon'ble Commission. This is because the Commission is concerned with the deciding of the collateral fact disputes. The purpose of fact finding by this Hon'ble Commission is to verify collateral facts. Hence the crucial question to be addressed by this Hon'ble Commission is as to who must prove a collateral fact and what stand of proof.

Collateral facts can be divided into preliminary facts and underlying facts. Since these concepts are not well known it can be explained as follows; [R. Pattendon, "Proof rules of pre-verdict judicial fact finding" vol. 125 law quarterly review 79 (2009)]. A preliminary fact refers to a fact that

- i) must be proved whenever the Judge applies a rule often concerned with admissibility of evidence or
- ii) determines whether a discretion arises

Discretion refers to any judicial decision that is to the considerable extent left to the personal evaluation of particular circumstances.

All discretions have preconditions but not all have preliminary facts that is factual preconditions embedded in them. The Commission proceedings being a non adversarial one, a dispute about any of



preliminary facts is not inter parties as the Commission does not contemplate any parties or the resolution of any lis.

An underlying fact is an empirical fact that the Judge must decide because it is reasonably relevant to the exercise of discretion that has arisen. Legislation and case law structure a judge's discretion by spelling out in general terms facts and other matters to which the judge is to have regard. A fact may be simultaneously preliminary and underlying. When preliminary and underlying facts are not agreed and cannot be assumed the judge decides them. All the parties including those examined can adduce evidence. Once the evidence has been received and argument taken place, the judge assess its cogency and reliability, makes relevant inferences.

As to whose voice clipping was aired by Mangalam Channel on 26.03.2017 is a factual precondition in the finding to be entered by this Hon'ble Commission. All the other facts to be found are incidental to the finding on the fact of whose voice was aired by the Mangalam Channel. The Government of Kerala by notification No. 29780/SSA2/2017/Home dated 31.03.2017 have appointed this Hon'ble Commission under section 3 of the Commissions of Inquiry Act, 1952 for the purpose of making an inquiry into a definite matter of public importance, namely the veracity of the voice clipping said to be that of a Minister of State Shri A.K. Saseendran by Mangalam Television Channel on 26.03.2017 and connected matters with terms of reference 1 to 4. The first of which reads as follows;



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“to inquire into the veracity of the voice clipping said to be that of a Minister of the State telecast by the Mangalam Television Channel on 26.03.2017?”

Item Nos. 2 and 3 relate to the circumstances that lead to the recorded conversation in the voice clipping and its editing, tampering and airing and the conspiracy if any in doing the above.

It is submitted that the telecast voice clipping is a digital produce which is in the custody of the police. One of the copies of the aired version which was seized by the police and saved in separately in the server at the Mangalam Channel, Trivandrum has been obtained by the Hon'ble Commission from the Mangalam Television Channel. When the voice in the clipping which is available with the Hon'ble Commission is disputed by Shri A.K. Saseendran, it has to be necessarily got examined by a voice identification expert and all questions relating to the author of the voice can be put to him. As to the question whether and who is the expert, there are Central Institutes in Mysore and Hyderabad. Hence the veracity and authorship of the voice that was aired by the Mangalam Television Channel on 26.03.2017 can only be found out from sending the voice clipping with the Hon'ble Commission for analysis.

When Shri A.K. Saseendran was examined before the Hon'ble Commission, question was put to him as to whether he was willing to send his voice clipping aired by Mangalam Channel for voice identification analysis, he has replied that since there was no such petition pending he would consider such an option as and when a petition to that effect comes up before the Commission. Thus he has not raised



any defence under Article 20(3) of the Constitution of India. Thus the witness having not taken such a contention, he cannot be given the liberty to dodge the responsibility of the discharging onus cast on him to establish that the voice which was similar to his and aired by Mangalam Television Channel is not his. More over there is no criminal case pending against Shri A.K. Saseendran as on date as the cognizance in C.M.P. No. 237 of 2017 has not been taken by the Chief Judicial Magistrate till date even though the sworn statement has been recorded long back.

Shri Bijumon, Dy. S.P., Hi-Tech Cell who is investigating Crime No. 51 and 52 has vouched for the fact there has been 35 calls between the phone numbers used by Shri A.K. Saseendran and Nazila Nazimuddin between November 2016 and March 2017. Those calls includes long duration calls. When questioned about these calls being the one recorded by Nazila and telecast by Mangalam Television Channel on 26.03.2017 he only vaguely denied them by a form of evasion. Thus it is to be found that the calls between A.K. Saseendran and Nazila recorded by her and telecast on 26.03.2017 by Mangalam Television Channel are made as described by Nazila in her complaint before the Hon'ble Chief Judicial Magistrate, Trivandrum. The mere denial by CW17 would not suffice. This Hon'ble Commission has the duty of finding as a fact as to whose sound is contained in the voice clipping aired by Mangalam Television Channel on 26.03.2017.

Since the voice clipping is a sound track even if the original of the recording is not available the voice in the sound track can very well be identified from the characterizes of the voice of the speaker. A voice



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clipping merely because it is edited does not make it a forged one provided the voice contained in it is that of the person alleged to have spoken in the clipping. Hence for this purpose also it is crucial that the author of the voice is identified properly. Without doing that one cannot presume forgery in the voice clipping. It has to be compared with the voice of the person alleged to be the speaker to rule out the possibility of the voice not belonging to him. Any other interpretation will be moving away from the truth.

Another crucial piece of evidence on this aspect is the averments in the complaint of Smt. Nazila Nazimuddin as C.M.P. 237 of 2017 before the Chief Judicial Magistrate Court, Trivandrum. It has come out in evidence that Shri . Saseendran had contacted Nazila from his Mobile Phone No. 9847001879 in her mobile number 7025159952 several times. The contents of that talks were sexually explicit ones. She had recorded the said talks with the former Minister. Such talks that she had recorded in a Mobile phone was handed over to the Mangalam Television Channel authorities. Thus it is prima facie proved that the telecasted voice on 26.03.2017 was that of the former Minister A.K. Saseendran.

The investigating officer of Crime 51/2017 and 52/2017 of Crime Branch Police Station has deposed that from the statements of witness and on questioning the accused it is revealed that the telecasted voice recording was that of former Minister A.K.Saseendran. According to him the authorship of aired voice can be ascertained only by scientific analysis not voice identification. He has also stated that the CD containing voice clipping was seized and sent to forensic science laboratory for analysis. He had stated that even in the news telecast the voice was claimed to be



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that of A.K. Saseendran. According to him the subject matter of investigation is confined to the telecast alone and does not include whether any limitation of the voice was made for fabrication. He has also stated that from the investigation it is revealed that Nazila Nazimuddin had engaged in telephonic conversation with A.K. Saseendran. He has specifically answered that the voice sample has not been sent for analysis nor has voice comparison test employed in the case of A.K. Saseendran. He has further stated that Nazila Nazimuddin alleged co-conspiracy has not been questioned. He came out about the correction given by the 1st accused Ajith Kumar and the same has been collected as part of the investigation.

Shri. Bijumon E.S., Dy.S.P., Kerala police Hi-Tech Cell is member of the special investigation team headed by Dy.S.P. Shri. Shanavas has taken the voice telecast into custody in a pen drive. He has also collected the call detail records from the service providers, a soft copy of which has been forwarded to the Commission. He has stated that on 04.08.2017 the investigating officer has questioned Nazila Nazimuddin. He has stated that he has collected the call detail record of the phone number 7025159952 in the use of Nazila Nazimuddin as well as the call details of mobile phone number 9847001879 in the use of Shri A.K. Saseendran from the service providers. It is revealed that from the number in the use of Nazila 19 calls have originated and from the number of A.K. Saseendran 16 calls have been generated. Thus all together there have been a total number of 35 calls between the numbers of A.K.Saseendran and Nazila Nazimuddin from November to March 2017. He has stated that the call duration of the 1st call is 576 second and the 2nd call is 176 seconds. He cannot state whether the 16 calls that originated from the



mobile number of A.K. Saseendran were return calls made by him or not. He has not ventured to ascertain from A.K.Saseendran about the authorship of the voice containing the voice clipping. He has categorically stated that the investigation regarding the existence of telephonic conversation between A.K. Saseendran and Accused No. 10 can only be ascertained from by questioning A.K. Saseendran. No explanation is offered for delaying questioning of A.K.Saseendran. He has also not ascertained from the former Minister the circumstances under which the 16 calls were generated from his mobile to the phone of Nazila.

Regarding the questions relating to the voice clipping A.K. Saseendran has denied the same. But this evidence on this aspect has to be analyzed along with the other evidences in the light of other circumstances relating to the same. One of the main circumstances is that he has not denied the voice that was telecast. For the first time before the Commission he takes a stand that the voice was not his. For what was the content of the conversation of the talk between Nazila and himself he has no clear explanation except a vague statement that she being a media person might have put some questions which he has answered. But evidently that answer do not account or explain the long duration of 35 calls between the two which cannot be casually explained away.

The resignation entered upon very telecast of the news would show that the voice telecast was of A.K. Saseendran itself. Regarding the question of indulging in sexually explicit talk with Nazila the Minister has refused to answer taking the shelter a complaint of which cognizance is not taken so far. He has also not filed any complaint regarding telecasting of



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sexually explicit talk. Regarding the question whether he was prepared for voice identification he vaguely answered that only if the police direct him he shall consider it. Thus the entire evidence of A.K. Saseendran is false and it is clear that the content of the telecast is nothing but the content of the telephonic conversation he had with Nazila Nazimuddin during November 2016 to March 2017 in their respective mobile numbers.

Next is the question of determining the preliminary facts in order to fasten liability of CW1 Ajith Kumar. He has stated that 26.03.2017 the reason for telecasting only the voice clipping of the former Minister alone without telecasting the conversation as a whole was that the way in which the recording was furnished to the channel was telecast. Saseendran's conversation was with a sub editor trainee of the Mangalam Television Channel. She along with R. Jayachandran, Chief reporter, Mangalam daily had approached him with a complaint that the Minister had indulged in sexually explicit talks with her. She had also stated that a recording was done of the talk of the Minister. He directed them to discuss with the editorial committee and decide on the future course of action to be adopted. He came to know later that it was the telephonic talk of A.K.Saseendran with the girl that was telecast.

Regarding the evidence given by CW14 Al-Neema Ashraf it has come out in evidence that in the resignation letter she had e-mailed the reason stated is not the telecasting of the news item on 26.03.2017 but rather the action of CW 1 not supporting her by revealing the identify of Nazila Nazeemudhin in his apology. According to her she had been irked by the non inclusion of the disclosure of identity when CW 1 had proceeded to



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tender an apology publically. According to her this action of CW1 had caused a lot of shame to her as there developed talk amongst journalist circles that the reporter trainee in question was a single muslim lady from Kollam or Thiruvananthapuram. Since she fitted the description she had demanded that CW 1 make a public statement regarding a true identity of the victim. CW 1 ventured only to say that the talk was with a women reporter of the channel. According to Al-Neema Ashraf such an action from the part of CW 1 put her into a lot of stress and public ridicule. This was the real reason it was stated in the resignation email. Thus it is clear that she had an axe to grind against CW 1 and hence her evidence regarding the conspiracy of CW 1 and Jayachandran is only to be discredited.

According to CW1 it was following the Supreme Court judgment of not revealing the name of the victim that the telecast dated 26.03.2017 the person to whom the minister was talking is described as a helpless woman. Several of the witness examined before the Commission including CW 14 opined that entire conversation ought to have been telecast. But the fact remains that they had not raised any objections with the Channel authorities at the relevant time. Their reason for resignation also being for different reasons. The evidences of persons who resigned from Mangalam can be taken only with pinch of salt as they have an axe to grind with their former employer. Thus their interested testimony cannot be the sole material for entering finding upon the liability of C W1 and Jayachandran. Even the organization of women network in media consist of former employees of the channel. According to CW 1 the telecast of 26.03.2017 was not the first news telecast of the channel and they had no intention to increase the rating by telecasting the talk of the



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Minister. Regarding the two time resignation of A.M. Yazir, former reporter the first time was for misusing the laptop of office. According to CW 1 the telecasted news is only reminder for the purity of character expected of a public servant.

Regarding the question as to who recorded the conversation CW1 says he cannot name the person due to the existence of the parallel criminal investigation. The same reason and the protection against self incrimination provided by Article 20(3) of the Constitution of India as to his inability to produce the original of the voice record. The only reason for telecasting the news was that the complaint of Nazila was true.

The evidence of Rishi K. Manoj and Manjith Varma former staff of Mangalam Television Channel are clearly interested testimony. They have resigned from the company much later to the telecast and their only intention is to defame the channel. Thus their evidence is liable to be rejected as uncreditworthy. It is to be noted that they were also editors of the channel and was on editorial work and hence they cannot be permitted to turn around and put responsibility on CW 1 alone. Thus there is no credible evidence against CW 1 for having telecast the talk of former Minister A.K. Saseendran and for entering into a conspiracy for the same. There is also no evidence that CW1 had entered into a criminal conspiracy with Nazila Nazimuddin and Jayachandran to defame and cause the resignation of Shri A.K. Saseendran, there is no credible evidence. Mere saying that reporter should aspire for resignation of some of the Minister or in order to prove conspiracy there should be a specific intention against A.K. Saseendran. What was the intention of CW 1 or



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CW 3 or Nazila. There is no legally sustainable material to enter into a finding. More over any finding by the commission relating to criminal liability of CW 1 or CW 3 will adversely affect them in the ongoing criminal investigation. One more important circumstance to be noted is the resignation of A.K. Saseendran immediately on the telecast of his voice. He has not denied that the voice telecast was his in the press meet held immediately after the telecast by 2.30 p.m. This action for resignation would evidence that it was fully convinced that the voice telecast was his alone Shri A.K. Saseendran had resigned from the post of Minister without waiting for any sort of enquiry.

11.3 The argument for CW2 Sajan Varghese, CW 4 M.P. Santhosh and CW 6 M. Lakshmi Mohan

The Counsel for CW 1, CW 4, CW 6 filed notes of argument. Their contention is as follows:-

Any inquiry in term No.1, on 'the veracity of the voice clipping said to be that of a Minister of State telecast by Mangalam Television Channel on 26.03.2017' can be done only by doing voice identification of the voice in the clipping and CW 17. Though, petition was filed by CW 2, CW 4 and CW 6 praying to conduct voice identification of the clipping and CW 17, the same was rejected on unsustainable grounds. The Hon'ble Commission had gone seriously wrong in accepting the contentions of CW 17 that the original copy of the recordings is needed for the voice identification. The commission reached to this finding without ascertaining the possibility of conducting voice identification with the voice clipping in the possession of the commission.



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The assistance of experts was not taken by the commission before rejecting the application. All India Institute of speech and hearing 'Manasaganjyothi', Mysore Pin – 570 006, Karnataka is doing voice identification tests. As it is shown in the website of the above Institute, it is not insisting for original voice clipping for doing voice identification. Therefore, it is respectfully submitted that the voice identification is possible with the available voice clipping. It is pertinent to note that CW 17 did not disagree when the Counsel for CW 2, CW 6 and CW 8 suggested for conducting voice identification of his sound with the voice in the clippings. Since CW 17 did not object voice identification test, it is a great omission from the part of the commission in not conducting the voice identification test. The public importance of this enquiry is to find that whether the sound in the clipping is that of CW 17. It is respectfully submitted that the honourable commission failed to conduct proper enquiry to the term No. 1 of the reference.

Even in the absence of voice identification test, the veracity of the clipping can be proved from the conducts of CW 17. CW 22, the investigating officer deposed that he had collected the call details between the phones of CW17 and the concerned woman journalist. It is stated by CW 22 that there are 19 calls from the phone of the woman journalist to the phone of CW 17 and 16 calls from the phone of CW 17 to the phone of the woman journalist during the relevant time. It is admitted by CW 17 during the cross-examination by the Counsel for CW 2, CW4 and CW 6 that he had called the woman journalist at several times. But CW 17 could not state any specific reasons for repeatedly calling the woman journalist. It is pertinent to note that CW 17 did not deny that the voice in the clipping is not of him until he appeared before



this commission. CW17 did not lodge any complaint against the voice clipping aired as of his voice, in spite of his resignation on account of the disputed news. All these circumstances point that the voice in the clipping is that of CW17.

The terms No.2 of the reference is that to inquire into the circumstances that lead to the above conversation; to inquire into as to whether the recorded voice clipping was edited or tampered with mala fide intentions and as to who have acted behind that. CW 22, the investigating officer deposed that he had collected the call details between the phones of CW 17 and the concerned woman journalist. It is stated by CW 22 that there are 19 calls from the phone of the woman journalist to the phone of CW 17 and 16 calls from the phone of CW 17 to the phone of the woman journalist during the relevant time. It is admitted by CW 17 during the cross-examination by the Counsel for CW 2, CW 4 and CW 6 that he had called the woman journalist several times. But CW 17 could not state any specific reasons for repeatedly calling the woman journalist.

The case of the woman journalist in her complaint before the Chief Judicial Magistrate Court, Trivandrum is that CW 17 used to deliver sexually explicit dialogue over phones, after the incidents on the 08.11.2016, described it in paragraphs number 3&4 of her complaint. Since the behaviour of CW 17 became intolerable, she had recorded the sexually explicit dialogues of CW 17 to make proof in her legal proceedings against CW 17. Hence this makes an act of sting operation from the part of the woman journalist to make proof for legal proceedings. The Mangalam Television Channel aired the news clipping as the report of the legal proceedings being initiated by the woman



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journalist. As it is deposed by the employee's of the Mangalam Television Channel before this commission, the channel aired the voice clipping as given by the woman journalist. As stated by the woman journalist in her complaint before Chief Judicial Magistrate Court, Trivandrum, she had recorded the voice of CW17 during the telephonic conversation. She had recorded the relevant words alone of CW17. That is why, it contains the voice of CW17 alone. There is no editing or tampering in the voice clipping.

CW17 categorically denied during the cross-examination by the Counsel for CW2, CW4 and CW6 that there was no bad behaviour from the part of the concerned woman journalist. Therefore it is clear that CW 17 was not corresponding to any sexually explicit conversations from the part of the concerned woman journalist.

The terms No.3 of the reference is that to inquire into as to whether the act of airing the voice clipping is illegal and it involves illegal activities or conspiracies and if so, the legal action to be taken in this regard. The case of the woman journalist in her complaint before the Chief Judicial Magistrate Court, Trivandrum is that CW 17 used to deliver sexually explicit dialogue over phones. Since the behaviour of CW 17 became intolerable, she had recorded the sexually explicit dialogues of CW 17 to make proof in her proposed legal proceedings against CW 17. Hence this makes an act of sting operation from the part of the woman journalist to make proof for legal proceedings. The 'Mangalam' TV Channel aired the news clipping also report on the legal proceedings being initiated by the woman journalist. There are no legal violations in airing legal proceedings. The acts of legal proceedings and the reporting of them



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through the channel are not amounting to any legal violations or conspiracy. It is A.M. Yazir (CW 15) raised allegations of conspiracy from the part of politicians belongs to the political party of CW 17 are behind the airing of the disputed news item. CW 17 categorically denied during the cross-examination by the Counsel for CW 2, CW 4 and CW 6 that there is no conspiracy as alleged by A.M. Yazir (CW 15).

The terms no. 4 of the reference is that to inquire into the other matters connected with this case as the Commission observes. CW 17 categorically denied during the cross-examination by the Counsel for CW 2, CW 4 and CW 6 that there is no code of conduct to the ministers and other representatives of people. One of the major threat against the Democratic system in our country is the moral turpitude of the elected representatives. Our state was frozen for long periods pursuant to the solar scam. The judicial commission appointed for conducting enquiry on solar scam submitted reports pointing to the abuse of powers by the rulers for the consideration of sex and woman. Hence it is necessary to recommend for framing code of conduct to the ministers and other representatives of people from the part of government.

Notwithstanding anything stated above, it is respectfully submitted that CW 2, CW 4 and CW 6 are not responsible for the selection of news and programmes in the 'Mangalam' TV channel.

11.4 Argument for CW 3 R. Jayachandran

There is no evidence that CW 1 had entered into a criminal conspiracy with Nazila Nazimuddin and Jayachandran to defame and cause the



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resignation of Shri . A.K. Saseendran. Mere saying that reporter should aspire for some shocking news which may cause resignation of some of the Minister or other higher ups will not suffice. In order to prove conspiracy there should be a specific intention against A.K. Saseendran. What was the intention of CW 1 or CW 3 or Nazila. There is no legally sustainable material to enter into a finding. More over, any finding by the commission relating to criminal liability of CW 1 or CW 3 will adversely affect them in the ongoing criminal investigation.

The investigation into the case has not revealed any material nor has any recovery effected against CW 3 so as to connect him with the alleged conspiracy. Merely because Nazila Nazimuddin has posted something on the internet that too after the police questioned her would not amount to any proof of conspiracy against CW 3. More over any adverse finding by this Hon'ble Commission would seriously prejudice CW 3 in the ongoing investigation of Crime No. 51 and 52 of 2017 under investigation by Crime Branch.

11.5 Contentions in the cross-examination of Mangalam Television Channel Journalists.

The contention of CW 1 R. Ajithkumar, CW 2 Sajan Varghese, CW 3 R. Jayachandran, CW 4 M.P. Santhosh, CW 7 Firoz Sali Mohammed and CW 8 S.V. Pradeep who have justified the airing of the voice clipping said to be that of a Minister of the State aired on 26.03.2017 through the Mangalam Television Channel, as has come out from the cross-examination of CW 17 A.K. Saseendran and other witnesses can be summarised as follows:-



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According to CW 1 R. Ajithkumar, it is not correct that the Mangalam Daily and Mangalam Television Channel has the same establishment and same C.E.O. He is the C.E.O of Mangalam Daily, but not that of Mangalam Television Channel. He is the Managing Director of Mangalam Television Channel. He is one of the Directors of GN Inform Media (P) Limited. But he is not a shareholder of the company. It is admitted that the statement filed before the Commission on 28.06.2017 was prepared by him. But, it is not correct that he is the C.E.O. of the Mangalam Television Channel as stated in the statement filed by him. Basic qualifications for journalists in Mangalam Television Channel is Degree and Diploma in Journalism. But certain journalists are given exemption from the basic qualification on the basis of their exceptional performance in interview. It is not correct that special consideration was given to CW 10 Nazila Nazimuddin. But he cannot remember that she did not possess the above basic qualification.

News are not created (Reply to the suggestion that it is not media ethics to create and public news). Whether print or electronic media the contents of news should be true. He would deny the suggestion that it is not ethical to give fabricated and imaginary news; it is relative. Impact of a news need not be the consequence of the news broadcast or the action taken on the news that was factually correct. His answer is that it is relative, to the question that it is paid news and illegal to give false news to create an impact. What does he mean by 'it is relative'? The relationship among news, its circumstances and impact. Does he mean that there is no place for truth in the publication and broadcast of news? Truth is relative.



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It is correct that accuracy is the heart of the news. What is meant by accuracy is to inform the viewers the true facts? No, being truthful is relative. They have not become a member of the NBA. NBA has published a Code of Ethics. It includes the guidelines to be followed by the electronic media and the journalists working there.

Official broadcast of Mangalam Television commenced on 26.03.2017. It is not correct to say that he was there in the office of the channel controlling the activities on the date of inauguration. They had started telecast a few days ago. He denied the suggestion that it was test telecast and curtain raisers. A group of journalists who constituted the editorial board of the channel were controlling the affairs of the day. There is no objection in producing the name and address of the members of the editorial board who were on duty on that day. They have no specific assigned duties. All the members are liable to do all the duties. He is not having the ultimate control of the editorial board. He is not a member of the editorial board. The numbers of the editorial board are not working under him. All the employees of the Mangalam Television Channel are not working under him. He cannot say the names of the members of the editorial board who were on duty on 26.03.2017. Those who are working in the Mangalam Television Channel as News Editors and News Coordinating editors are members of the editorial board.

At the time of the broadcast of the voice clipping he was not present at the console of the news room. His enquiry revealed that there was no incident of disconnecting the speaker to the news room during the telecast of the voice clipping, when it was informed that the women guests were not comfortable and they were protesting against the telecast of the voice



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clipping. He did not enquire with CW 13 Sandhya as she is a left intellectual. He did not see the e-mail communication of CW 14 Al-Neema resigning from the channel. It was not addressed to him. Resignation letter is handed by the H.R. Department. There was no necessity to inform CW 14 Al-Neema in writing that her performance was poor. She was informed of her poor performance by the concerned officers of the Channel. It is not correct to say that her performance was rated poor as she declined to become a member of the special investigation team. No such team was formed. It is wrong to suggest that he said that the performance of CW 14 Al-Neema was poor as she disclosed true facts before the Commission.

He understood from his later enquiry that what is stated in the news telecast on 26.03.2017 is correct. It was only to hide the identity of the victim that it was reported that the Minister was approached by a poor widowed housewife. The fact stated in the news was correct, it was the talk of the former Minister A.K. Saseendran. If a talk is telecast without revealing the names of the participants, they can be identified only by those who are very familiar with the voice. He would not agree to the suggestion that it is against journalistic ethics to telecast a talk of one person after editing out the talk of the other person. He did not know as to who recorded the voice of the voice clipping that was telecast. It is not correct to say that he is not revealing the name of the person who recorded the talk due to the criminal investigation that is going on. It is not correct that he tendered the apology through the Mangalam Television Channel on 30.03.2017 as there was objection from a wide spectrum of people from the public including the cultured leaders, elder journalists and women journalists in the wake of the controversial news



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on 26.03.2017. It is denied that women journalists held demonstrations in front of the offices of the Mangalam Television Channel on 30.03.2017 and 01.04.2017. He denied the specific suggestion that women journalists held a demonstration on 01.04.2017 in front of the office of the Mangalam Television Channel at Vyttila, Kochi. He tendered the apology as the presentation of the news was not proper. When he was questioned after playing the video of his apology telecast on 30.03.2017, he stated that reference to sting operation and decision of the editorial board consisting of 8 members is not correct. He was only reading a written apology and the reference to sting operation was a mistake. The note of apology was prepared by the available editorial board. He did not read the note of apology with application of mind as it was telecast live. As he was undergoing mental stress he did not appear in television so far. Therefore, he had no occasion to correct the apology. He would say that it is absolutely wrong to state that the news was created through a sting operation as previously decided and it was only to hide the identity of the reporters, it was not revealed earlier. He repeated that it is a mistake to have stated so in the apology. He is correcting it now before the Commission.

He did not see the live reporting of Renjith, Chief Reporter of Mangalam Daily, Trivandrum Bureau. He would say that it has not come to his notice that Renjith stated in his live reporting that the Mangalam Television Channel is in possession of the entire conversation of the voice clipping and its documents. The video of the news was played before CW 1 and he was specifically asked that Renjith reported so as the Channel was in possession of the unedited version of the recorded talk, the reply of CW 1 is that there was no editing of the



recording of the talk given by 'that girl' and the document referred to Renjith must be the complaint of the 'girl'. Live reporting was not given with his permission as Managing Director and he is not responsible for the contents of the live report. He did not talk to Renjith about his reporting. What is stated by him before the Commission with regard to what was meant by Renjith is only his assumption. He would say that the statement in the apology that they were waiting to reveal every thing that is stated in the apology during the judicial inquiry is also a mistake occurred when the note of apology was prepared. When it is suggested that if what he stated before the Commission is the true version he was cheating the public through a false apology, he would say that what he stated before the Commission is the true version. He admitted that if the conversation was recorded through sting operation the channel should be in possession of the entire unedited conversation.

CW 1 denied the suggestion that he lodged a false complaint with the Museum Police Station in order to avoid the production of the unedited version of the recorded conversation before the police after getting an adjournment of his bail application before the Hon'ble High Court of Kerala. When it is suggested that the voice clipping would be proved false if the unedited original version of the conversation is produced before the police or the Commission and that the same was destroyed to cause the disappearance of the evidence, and also that the Minister has no connection with the same, CW 1 denied the suggestion and stated that it is the voice of the Minister. He admitted that there are mimicry artists who could imitate voice. But, he denied the suggestion that the original voice and imitated voice could not be identified. He denied the suggestion that a voice clipping was created fraudulently and it was



telecast alleging that it was the voice of the Minister A.K. Saseendran. He denied the suggestion that the voice clipping was telecast in violation of the Code of Practice of the NBA. He stated that the general public would perceive it as their social commitment that they brought out the lascivious conversation of the Minister who outraged the modesty of a woman. He also added that if it was a sting operation, the Court of the Chief Judicial Magistrate, Trivandrum would not have taken on file the case against the former Minister on the basis of the statement of the 'girl' and witnesses.

The contention on behalf of CW 2 Sajan Varghese, CW 3 R. Jayachandran, CW 4 M.P. Santhosh, CW 7 Firoz Sali Mohammed and CW 8 S.V. Pradeep in cross-examination is also to the same effect with regard to the position of CW 1 as C.E.O. of Mangalam Television Channel, telecast of voice clipping, the apology of CW 1 telecast on 30.03.2017, and regarding the Code of Ethics relating to sting operation and broadcast of accurate news.

11.6 Statement filed on behalf of State

According to the learned Government Pleader, from the close analysis of terms of reference it is obvious that it has two limbs, though it comprised or compiled on five distinct numerical numbers having different objects.

The first limb of the said terms of reference viz. No. (i) to (iv) are directly related to broadcasting in question. Hence the finding thereupon has to be reached by the Hon'ble Commission is exclusively related to or depended upon, the evidence elucidated either oral or documentary and



all other means of allied material evidence gathered and relied on by the Hon'ble Commission in accordance with law as a statutory recognized facts finding today.

As far as the second limb is concerned viz. No.(v) of the terms of references, is exclusively under the domain of Hon'ble Commission to make an opinion and propose suggestions based upon evidence in all respect accumulated under the first limbs of terms of references viz. (i) to (iv) thereon.

Before scanning the evidence on record it is to be born in mind that the entire issue is having certain undisputed or admitted factual matrix. Those are enumerated hereunder:-

- i) the genesis of the issue is on the basis of a male voice clipping aired on 26.03.2017 by Mangalam Television Channel.
- ii) that voice clipping is a partial or unilateral conversation involving sexual connotations.
- iii) the voice clipping is an edited version of the original.
- iv) the original version of voice clipping is having both male and female voices and the same is not available in the custody of Mangalam Television Channel.
- v) investigating officer has also recovered the device or allied material objects contained edited voice clipping in question.
- vi) the alleged theft of laptop and pen drive contained unedited version of voice clipping resulted in Cr. No. 549/17 of Museum Police Station, Thiruvananthapuram wherein CW1 is the de facto



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complainant, was referred by the investigating officer as false case, ultimately it reached its finality by effluence of time.

- vii) documentary evidence was also seized from the office of Mangalam Television Channel by the investigating officer regarding the purchase of mobile phone.
- viii) CW 10 is the counterpart (female) who led the available unilateral conversation aired involving sexual connotations.
- ix) the establishment attributed to the counterpart (female) in the voice clipping in question that the CW17 'attempted to seduce a helpless widow who had approached him to ventilate her grievance' is a cooked up, 'false news'.
- x) CW 2 & CW 10 cleverly evaded to appear before the Hon'ble Commission in response to the repeated summons.
- xi) the observation in order in B.A. No. 2378 of 2017, Judgment in WP© No. 21095 of 2017 of Hon'ble High Court of Kerala and the order dated 25.08.2017 of Hon'ble Commission in disallowing the prayer made are binding to the parties of this proceeding. Since those are also remained as unchallenged by the expiry of statutory period to challenge.
- xii) the contents of the audio clipping which was telecasted are something which disturb or affect the tempo of the life of the community or the tranquillity of the society, it is a matter concerning public order.

In the backdrops of above factual matrix the evidence elucidated can be appreciated.



CW13 is an independent witness who was present in the Mangalam Television Channel as a guest/invitee in connection with a panel discussion. When CW13 and two other women viz. CW11 & CW12 participated in the panel discussion anchored by CW6, the anchor disclosed that there was a breaking news and the same will break soon after 12 O'clock. After airing the voice clipping the anchor CW6 asked CW13 to recognize the voice and in reply CW13 said she is not able to recognize the voice that she had heard.

However it is not appropriate to make an opinion by the State to what extend the evidence of CW13 is admissible and not admissible as far as CW1 & CW2 and CW17 are concerned respectively.

Any how the evidence of CW13 in all material aspect is in consonance with the exact position or situation staged at the material date and time when the voice clipping in question was aired under the title 'breaking news' as evident from the contents of compact disk handed over to the Hon'ble Commission. The same is generated from archives of the channel and submitted to Hon'ble Commission, visited there on 15.09.2017 as part of inquiry.

Hence the evidence of CW13 is worthwhile, admissible and free from all extraneous consideration. So it can be taken into account by the Hon'ble Commission as a reliable evidence for determining the issue in hand in part with the terms of reference.



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The next witness is CW14 who resigned from Mangalam Television Channel as Sub-Editor-Cum-News Reader after two days from broadcasting of news clipping in question.

From the close reading of the deposition of CW14 four material aspects can be gathered and those are admitted by other witness who were examined subsequently on different dates

So those material particulars corroborated with other witnesses are reproduced hereunder:

- i. an investigation team is formed with an intention to generate news in any manner.
- ii. due to the telecast of the edited version of voice clipping in question in Mangalam Television Channel headed by CW1 & CW2 had flouted media ethics and the same created sheer shame to the journalist in the wider professional spectrum especially females who are in the profession.
- iii. journalists are bound to uphold/respect right of privacy of an individual/citizen.
- iv. voice clipping is a by-product of flouting of existing norms and code of practice prevailed in the sphere of journalism or journalist and whereby committed offences attracting penal provisions for which they are answerable.



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In the light of the above 4 counts the Hon'ble Commission can safely accept the evidence of CW 14 in determining the issue spread over the terms of reference.

It is pertinent to notice by this Hon'ble Commission that in the midst of examination of witnesses, CW2, who failed to appear before the Hon'ble Commission in lieu of summons to appear on 19.06.2017 had filed Writ Petition © No. 21095/ of 2017 on 23.06.2017 and made a specific prayer to quash Government Notification, Notice issued by Hon'ble Commission, and summons viz. Exhibit P6, P7 and P8 respectively referred to in Writ Petition. In the above Writ Petition there are three respondents viz. Union of India represented by Secretary, Ministry of Information and Broadcasting, State of Kerala represented by its Principal Secretary, Home Department and the Commission of inquiry represented by its Secretary.

Hon'ble High Court by judgment dated 08.08.2017 dismissed the Writ Petition.

The observation made in the judgment in paragraph 6 in reproduced hereunder for the sake of consonance of their Hon'ble Commission.

.....It is beyond dispute that news channels are viewed by the society without any inhibitions and reservations. As noted above, there is no dispute to the fact that the conversation which was telecast in the news channel is a conversation involving sexual connotations and the substance of the conversation was such that the Minister had to resign on account of the telecast of the said audio clip. The liberty which is enjoyed by the media is part of the freedom of speech and expression guaranteed under



Article 19(1)(a) of the Constitution. There cannot be any doubt that the freedom of speech and expression guaranteed under the said Article is not an absolute right and the same does not include the right to tell the people what they do not want to hear. If the contents of the audio clip which was telecast are something which would disturb or affect the tempo of the life of the community or the tranquillity of the society, it is a matter concerning public order. Such a view has been taken by the Apex Court in **Kanu Biswas v. State of W.B.** [(1992) 3 SCC 831]. Paragraph 7 of the said judgment read thus :

“ 7. The question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order, according to the dictum laid down in the above case, is a question of degree and the extent of the reach of the act upon the society. Public order is what the French call “order publique” and is something more than ordinary maintenance of law and order. The test to be adopted in determining whether an act affects law and order or public order, as laid down in the above case, is : Does it lead to disturbance of the current of life of the community so as to amount to a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed ? ”

Identical is the view taken by the Apex Court in **Subramanian v. State of T.N.** [(2012) 4 SCC 699] also. Paragraph 15 of the said judgment read thus:



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15. The next contention on behalf of the detenu, assailing the detention or on the plea that there is a difference between "law and order" and "public order" cannot also be sustained since this Court in a series of decisions recognized that public order is the even tempo of life of the community taking the country as a whole or even a specified locality [Vide Pushpadevi M. Jatia v. M.L. Wadhawan', SCC Paras 11 & 14, Ram Manohar Lohia v. State of Bihar; Union of India v. Aravind Shergill, SCC para 4 & 6; Sunil Fulchand Shah v. Union of India, SCC para 28 (Constitution Bench), Commr. of Police v. C. Anita, SCC paras 5,7 & 13]''

In any angle, it is obvious that the telecast of voice clipping in question by the Mangalam Television Channel had override the cardinal principles as observed above for their "ulterior motive" which is richly available and meticulously explained by witnesses in this proceeding.

More over on behalf of the 1st respondent in the Writ Petition, a statement is filed and the same is also part of records of the writ petition. The said statement discloses certain serious issues on the part of CW1 & CW2 and the same will be discussed later when the appropriate context arises.

On 24.06.2017 CW17 was examined. Thereafter on 24.08.2017 CW17 was again examined.

From the evidence of CW17 it can be gathered that the witness emphatically denied the authorship of voice contained in voice clipping broadcasted/aired by Mangalam Television Channel on 26.03.2017.



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On the other hand CW 17 has not denied that he himself as a Minister of the State contacted many press personals on different dates and time and vice versa including CW 10. CW 17 further deposed that such type of practice is quite natural, usual and common while holding the office of Minister of State. More over CW 17 is also awaiting the net result of investigation of two crimes registered in lieu of the incident in question and also the ultimate finding of the Hon'ble Commission within the parameters of its terms of reference. CW 17 also deposed that the right to challenge the case instituted against him by CW 10 before the Chief Judicial Magistrate Court, Thiruvananthapuram, is reserved and the same would be launched when appropriate time and context arises.

In sum, the plain reading of deposition of CW 17 reveals that there is nothing unusual or improbable in the sense of any ordinary man of prudence. Hence the probative value of the same can be appreciated by this Hon'ble Commission in the lime light of other evidences on record.

CW 1 was examined on two occasions. The perusal of depositions of CW 1 i.e. on 28.06.2017 & 11.07.2017 unambiguously spells that the witness is untrustworthy and his hands are not clean. In each and every material aspects CW1 had acted hot and cold or approbate and reprobate in one and same plane and ultimately exposed his impregnated ignorance, inability and not innocence, outweighing the claim of long experience in the Forth Estate. At this juncture it is also relevant to notice the guilty mind of CW1 or the *Mens Rea*. For instance in pursuance of the complaints submitted by three persons both on individual and official capacity respectively humiliated with the broadcasting of voice clipping



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in question, the Ministry of Information & Broadcasting, New Delhi obtained necessary clippings along with reports from Electronic Media Monitoring Centre (EMMC) for initiating action against the Mangalam Television Channel. After knowing the fact CW1 appeared on television and apologized on 30.03.2017, regarding the broadcasting of voice clipping in question.

In the light of the said apology the competent authority in the Ministry opined that no further action is required to be taken.

This fact is available in the statement submitted by Under Secretary to the Government of India, Ministry of Information & Broadcasting, New Delhi, in WP© No. 21095/2017.

But before this Hon'ble Commission CW1 emphatically denied such an apology on 11.07.2017 i.e., after the date of closing of further action as averred above, by the Ministry.

From the deposition of CW1 even the incorporation of Mangalam Telecasting India (P) Limited itself is under suspicious since no valid and legally acceptable profile of one of the shareholders is not produced before the Hon'ble Commission as per law to convince the Hon'ble Commission regarding the authority or genuineness of company and its shareholders.

This fact has to be weighed and appreciated on the basis of the other aspects elucidated in evidence of CW1 and other witnesses who were



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Categorically deposed the mala fide intention behind the telecasted voice clipping in question and conduct of CW 1, CW 2 etc. before and after the incident resulted in two FIRs, wherein CW 1 is figured as accused No. 1(A1).

Above all the Call Data Records (CDR) further reveals the tower location of cell phone No. 7025159952 used to make calls to CW 17. The distance between the said tower location and office of Television Channel is also available to the investigation agency. The longitude and altitude is also available in CDR. After eliminating all other improbabilities the available probable evidence will automatically locate the exact place or spot from where the calls were made or generated in the above given number. At any rate it is an unshaken factual position that all other evidence gathered by this Hon'ble Commission and collected by the investigation agency would corroborate with each other for pinpointing exact place of conspiracy and subsequent acts resulted in telecasting of voice clipping in question. So CW 1 cannot go scot free the clutches of law but would be dealt with law. Hon'ble Commission may appreciate these aspects in its legal perspective.

On 12.07.2017 CW 4 & CW 6 were examined. Both witnesses are still working at Mangalam Television Channel as Co-ordinating Editor and News Reader respectively.

CW4 is 5th in FIRs registered by the police in lieu of the broadcasting of voice clipping in question. Though CW 4 is an interested witness his evidence corroborates with all material particulars available on records of



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Hon'ble Commission. CW 4 categorically admitted that the voice clipping in question is totally against public morality and indecent too. CW 4 further deposed that CW 10 is the female who is behind the voice clipping.

CW 6 was also examined 12.06.2017 and still working in the channel as a News Reader. Though CW 6 still working at Mangalam Television Channel this witness is not an interested witness. CW 6 expressed the actual situation that she had faced on the particular time when she anchored the panel discussion and the voice clipping was broadcast as 'breaking news'.

What the witness deposed is also in consonance with the compact disk handed over to the Hon'ble Commission.

The evidence of CW6 can be accepted as free from extraneous consideration by this Hon'ble Commission.

On 13.07.2017 CW5 & CW9 were examined and both witnesses worked as News Co-ordinating Editor and News Editor respectively and resigned from the post that they had held at Channel subsequent to the broadcasting of voice clipping in question.

The evidence of CW5 & CW9 can be accepted in toto by this Hon'ble Commission as they fairly disclosed the factual position in all aspects relating to the telecasting of voice clipping in question. There is nothing to discredit those witnesses brought out even during cross-examination.



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On 14.07.2017 CW 8 was examined. This witness is still holding the post of News Editor-cum-News Reader in the Mangalam Television Channel. CW8 is figured as 3rd accused (A3) in the crimes registered in lieu of the telecasting of voice clipping in question. Though he is an interested witness he had admitted that the voice clipping in question contained vulgarity. CW 8 further deposed that on 30.03.2017 Chief Ajithkumar (CW1) had made apology and the same was telecast live in the Mangalam Television Channel.

CW8 had also admitted before this Hon'ble Commission that intrusion into the privacy of a person is the violation of code of practice prescribed by News Broadcasters Association.

Passing through the deposition of CW 8 it is enough to provoke the memory of a person who witnessed the examination of CW 8. However it is not out of context or inappropriate to pinpoint the disorderly behaviour of CW 8 who flouted the decorum to be expected from a witness who appeared before the Hon'ble Commission in response to summons issued and served. The manner adopted to answer relevant questions put by Hon'ble Commission is also in an immature, abstract, elusive style challenging or treating the entire process and procedure of this Hon'ble Commission as mockery. It is afraid of to presume that CW 8 belongs to a member of Forth Estate.

This Hon'ble Commission may extend to make valuable suggestions to suspend or withdraw accreditation of such 'Rogue Journalists' who are a shame to others in the same sphere.



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The evidence of CW 8 has to be appreciated in the backdrops of above aspects by this Hon'ble Commission.

On 27.06.2017 CW 21 was examined. CW 21 is Dy.S.P., CBCID who is the investigating officer in Cr. 51/CR/OCW1/TVPM/2017 and 52/CR/OCW/TVPM/2017 for the offences punishable under section 120(b) of Indian Penal Code and Section 67 (A) of the Information Technology Act respectively. There are altogether 10 accused and the 10th accused is shown as unknown female. During the course of investigation CW21 submitted a report before the court incorporating Section 34 Indian Penal Code also in the said FIRs. It is also revealed in the progress of investigation and also in the deposition by CW 21 that the unknown female as shown as A10 in the FIR is Nazeela Nazimuddin i.e. CW 10 in this inquiry.

During the course of examination CW 21 had admitted that offence punishable under section 201 of the IPC is also committed by A1 viz. CW1 herein. Nothing elucidated to discredit the evidence of CW 21 and hence the deposition of CW 21 can be accepted in toto by this Hon'ble Commission.

On 22.08.2017 CW 15 was examined. CW 15 held the office of Chief Reporter of Mangalam Television Channel and resigned from the Channel subsequent to the telecasting of voice clipping in question.

The deposition of CW 15 can be accepted by this Hon'ble Commission in all respect. The witness honestly admitted before this Hon'ble Commission and shared his apprehension or genuine anxiety that in the



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absence of a well defined written law to regulate electronic media and its functioning, any person can invest or make 100% investment by any foreigner or a foreign company in the field of electronic media and thereby start a channel house and create unrest in the country or to sabotage the Government by airing any seditious or false news with a view to create turbulence in the society as a whole by using or touching any sensitive manner which is very much eagerly protected and preserved by the majority of the people of this country.

This statement/deposition of CW15 has to be read along with the deposition of CW 1 that there is no norms of professional conduct available or governing the journalist except certain guidelines of Press Council of India, and those guidelines are not applicable in Channel – Electronic Media. It is further deposed that (CW 1) National Broadcasting Association Guidelines are also available, without having any working mechanism thereon.

It is also relevant to notice by this Hon'ble Commission that the profile of the shareholders and G.N. Inform Media (P) Limited is not yet produced. In short in the absence of such genuine and authentic document an adverse inference may be drawn in the light of above elucidated and admitted fact.

However without knowing the background of the said company or lifting the veil of the company viz. G.N. Inform Media (P) Limited (its brand name Mangalam Television Channel), the apprehension shared by CW 15 in the deposition has to be visualized, appreciated and weighed impartially. The diversity existed in the social economic and cultural



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background of Indian terrain, may not be permitted or allowed to be spoiled in any manner even under the so called wide banner or label of media/press. Hence valuable suggestions and opinions of Hon'ble Commission in par with the terms of reference vide No. (v) there on is warranted.

On 21.08.2017 CW 3 was examined and who is still working as Chief Reporter in the Mangalam Television Channel. CW 3 is figured as 3rd accused (A3) in both crimes registered by police in lieu of broadcasting in question.

From the deposition CW 3 it is evident that CW 3 had antecedent of making many false story/news.

In between the lines of depositions of CW 1 & CW 3, unequivocally spell the design of conspiracy that they had entered and entrusted to CW 8 & CW 10 for executing with the aid or help of others by telecasting the voice clipping in question with the knowledge of CW 2 (A9) on the launch day of channel viz. on 26.03.2017.

This fact has to be considered by this Hon'ble Commission in its depth and width of the issue in hand. On 25.08.2017 CW 7 was examined who is still working as News Editor in the Mangalam Television Channel. CW 7 is the 4th accused (A4) in both crimes registered by police by virtue of the telecasting of voice clipping.

CW 7 is an interested witness. But on the other hand CW7 requested the Hon'ble Commission not to compel him to read the transcript of voice



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clipping while it was given for reading since witness deposed that voice clipping in question was not heard by him. This attitude of CW 7 is an admission that the contents of voice clipping is totally against public order and ethics of journalism. This has to be looked into by this Hon'ble Commission.

After closing evidence on 25.08.2017 the Hon'ble Commission posted the proceedings for hearing on 25.08.2017. Thereafter the proceedings posted to defence evidence on 13.09.2017. A witness schedule of two witnesses were filed on behalf of CW 1 but on that day those witnesses were absent and evidence was closed.

On 15.09.2017 the Hon'ble Commission visited Mangalam Television Channel and its office at Thiruvananthapuram after issuing due notices for the parties to the proceedings.

The purpose of such visit is to understand the modus operandi and internal working arrangement prevailed in the said channel in connection with its telecasting of a programme/news etc. The Hon'ble Commission also visited the archives of the channel, intended to save all the programmes aired for certain period depends upon the importance of the programme aired or forever.

The compact disk contained the programme contained the voice clipping telecast on 26.03.2017 generated from the archives is handed over to the Hon'ble Commission. The same copy is already recovered by the investigating officer during the course of investigation of crimes registered.



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In the meantime CW 10 submitted the copy of complaint filed under sections 190 & 200 of Cr.P.C against CW17 for the offences punishable under sections 354 A, 354 D & 509 of Indian Penal Code before Chief Judicial Magistrate Court, Thiruvananthapuram. CW10 specifically made a prayer along with the copy of the said complaint to accept same as her version before this Hon'ble Commission. At a glance it can be straight away submitted that the said complaint insulated with incurable defects which is sufficient to create reasonable suspicion in the mind of any prudent man. In short the said complaint is frivolous and vexatious and devoid of truth.

It is also relevant to notice by this Hon'ble Commission that the infirmity attached to the said complaint unequivocally spells its improbability and it further strengthens suspicion towards the allegation/alleged incident. Minimum material particulars regarding an incident narrated in a complaint would attribute some genuineness regarding the alleged commission of crime. Here in the said complaint wherein CW 10 stands as de facto complainant lacks those material aspects or primary evidence. Hence no court of law can act upon such complaint.

Hence this Hon'ble Commission can brush aside all contentions raised in the complaint wherein CW 10 is the de facto complainant at the threshold as frivolous, vexations and tainted with mala fide intention and devoid of truth.



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Reply to argument notes

The gist of contentions in the Argument Note of CW 1 is nothing but to fill-up the lacuna of defence evidence to be taken in the criminal case by CW 1 with the assistance of Hon'ble Commission by sending the 'edited voice clipping' to voice identification expert for determining the veracity and authorship of the available voice therein.

There is only one fact available as far as the above issue is concerned i.e., 'an edited voice clipping'. The entire lis herein is based upon that fact. Hence dividing 'that fact in issue' into two segments and styling them as 'primary fact' and 'collateral fact disputes' is absolutely stretch of imagination with mala fide intention to achieve the 'goal of defence' since CW1 herein is the first accused in two crimes registered relating to the fact in issue. However, the proposition put forward by CW 1 in the argument note is absolutely repugnant to the principles of Criminal Jurisprudence.

Hence the Hon'ble Commission can safely brush aside the same at the threshold as untenable. The contention regarding 'discharging onus' i.e. burden of proof: S. 101 of the Indian Evidence Act, 1872 defines burden of proof. The gist of the section is that, when a person is bound to prove the existence of any fact, it is said that burden of proof lies on that person. CW 1 claims the authorship and veracity of the voice clipping as it belongs to CW 17. CW 17 denies the same.



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The above legal proposition estopped to make any more explanation regarding the issue. Now the intention behind the 'onus theory' is more obvious i.e., the 'goal of defence' with the assistance of this Hon'ble Commission. In sum all the contentions in the argument note of CW1 lacks concrete legal substratum or proposition of law.

The gist of contentions of argument note of CW 2, CW4 & CW6 are also in par with the argument note of CW 1. Hence the above noted contentions (reply) is also relevant to the argument note of CW 2, CW 4 and CW 6 and that may be appreciated by this Hon'ble Commission. The gist of contention in argument note of CW 3 that the finding of the Hon'ble Commission relating to criminal liability of CW 1 or CW 3 will adversely affect the ongoing criminal investigation is out of place since the terms of reference of Hon'ble Commission (already approved and recognized by Hon'ble High Court by judgment dated 08.08.2017 in WPC No. 21095 of 2017) allows to do so in accordance with law as a fact finding body constituted under statute.

In the argument note submitted on behalf of CW17 is also noticed the denial of the veracity and authorship of voice clipping in question.

The Hon'ble Commission can consider the observation in 1995 (2) SCC 161 and make necessary opinion within the terms of reference of No. (v) in adherence with the constitutional parameters relating to the subject matter in hand.



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CHAPTER 12

Conclusions on Terms of Reference Nos. 1 to 4

12.1 Veracity of the voice clipping

This Commission has been asked to inquire into the veracity of the voice clipping said to be that of Minister of the State telecast by Mangalam Television Channel on 26.03.2017.

As part of the inquiry, this Commission issued notice to CW 1

R. Ajithkumar and CW 2 Sajan Varghese, C.E.O and Chairman respectively of Mangalam Television Channel under Section 5(2) of the Commissions of Inquiry Act, 1952 read with Rule 5(2) of the Commissions of Inquiry (Central) Rules, 1972 to submit answers to the following questions relating to the voice clipping :

19. Who recorded the conversation said to be that of a Minister of the State telecast on 26.03.2017?
20. Who is the Minister of the State the conversation of whom was recorded ?
21. State whether the conversation was recorded with the knowledge and consent of the Minister?
22. Who was the person or persons involved in the conversation with the Minister?
23. Are you ready to produce the voice clipping containing



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the entire conversation between the Minister and the person or persons involved ? (If the answer is yes, produce the voice clipping along with the transcript)

24. How long the entire conversation lasted ?
25. Are you ready to produce the phone and other electronic instruments used for recording the conversation? (If the answer is yes, produce the phone and other electronic instruments)
26. What was the circumstances in which or that lead to the above conversation?
27. State whether the recorded conversation was edited by you or others? (If others are involved, state their name and address)
28. Who was the person/persons responsible for editing or deleting any portion of the conversation recorded ? (State their name or names and address)
29. Under what constitutional provision or law the said conversation was aired in Mangalam TV Channel?
30. What was the objective in airing the said conversation stated to be that of Minister of the State ?
31. Are you facing any legal action or criminal proceedings relating to the airing of the News on 26.03.2017? (If the answer is 'yes', furnish the particulars of the legal proceedings)
32. Any other relevant facts or information regarding the above matter ? (Furnish details)



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They were also directed to produce or file the following documents and instruments :-

2. Any electronic instruments or other instruments/
devices used for recording the conversation of
the Minister on the basis of which the News was aired
in the Mangalam Channel on 26.03.2017;
3. If the aforesaid documents or electronic
instruments or other instruments/devices are not
in your possession and control, give the name
and address of the persons who have possession
and control over such documents and
electronic instruments;
4. An affidavit along with the aforesaid documents,
electronic instruments or other instruments/devices
stating that the said facts and information are true
within your knowledge and belief ;

Both CW 1 and CW 2 did not file statement/affidavit or produced instruments as per the notice issued to them and also did not furnish answers to the questions. Thereafter, both CW 1 Ajithkumar and CW 2 Sajan Varghese filed statements belatedly at the stage of evidence. They did not answer question Nos. 19, 21 to 32 regarding the voice clipping and persons involved in the recording and editing of the voice clipping and also did not produce the instruments/devices used for the recording of the alleged conversation claiming protection under Article 20(3) of the Constitution of India on the ground that they are accused in the criminal cases registered by the police regarding the telecast of the



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voice clipping said to be that of a Minister of the State in the Mangalam Television Channel on 26.03.2017.

During the inquiry, at the evidence stage, this Commission again put the above questions to CW 1 R. Ajithkumar regarding the making and whereabouts of the voice clipping and the instruments/devices used for recording and editing the conversation. CW 1 R. Ajithkumar refused to answer these questions claiming protection under Article 20(3) of the Constitution which declares that 'no person accused of an offence shall be compelled to be a witness against himself'. Thereupon, this Commission informed CW 1 R. Ajith Kumar about the protection and immunity provided to him under section 6 of the Commissions of Inquiry Act, 1952 which reads as follows:-

S. 6. Statements made by persons to the Commission. – No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement -

- (a) is made in reply to a question which he is required by the Commission to answer, or
- (b) is relevant to the subject - matter of the inquiry.

Though the Commission read out the above provision to CW 1 R. Ajithkumar, still he refused to answer the questions.



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On a careful consideration of the above provisions in the Constitution and the Commission of Inquiry Act, I am of the view that CW1 R. Ajithkumar is not justified in refusing to answer the above questions in view of the decision of the Supreme Court in *Kehar Singh v. The State* (Delhi Administration) (AIR 1988 SC 1883, per Shetty J at page 1946 – 1947)

“The Commission under the Act is given power to regulate its own procedure and also to decide whether to sit in camera or in public. A Commission appointed under the Act does not decide any dispute. There are no parties before the Commission. There is no *lis*. The Commission is not a Court except for a limited purpose. The procedure of the Commission is not a Court except for a limited purpose. The procedure of the Commission is inquisitorial rather than accusatorial. The Commission more often may have to give assurance to persons giving evidence before it that their statements will not be used in any subsequent proceedings except for perjury. Without such an assurance, the persons may not come forward to give statements. If persons have got lurking fear that their statements given before the Commission are likely to be used against them or utilized for productive use on them, in any other proceeding, they may be reluctant to expose themselves before the Commission. Then the Commission would not be able to perform its task. The Commission would not be able to reach the nuggests (sic.)



of truth from the obscure horizon. The purpose for which the Commission is constituted may be defeated ”.

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“Apart from that, it may also be noted that Section 6 contains only one exception. That is a prosecution for giving false evidence by such statement. When the Legislature has expressly provided a singular exception to the provisions, it has to be normally understood that other exceptions are ruled out”.

It has further come out from the evidence of CW 21 Shanavas, Dy.S.P. who is investigating the case that CW 1 R. Ajithkumar caused the disappearance of evidence by destroying the original recording of the conversation. On the date when CW 1 R. Ajithkumar was issued with a notice to appear before the police, that is, on 04.04.2017, CW 1 lodged a complaint that his bag containing the laptop and mobile phone were stolen from his car. Cr. No. 549/17 of Museum Police Station under section 379 IPC was registered by the police. After investigation Sub Inspector of Police, Museum Police Station referred the case as false. From the circumstances, it can be concluded that the laptop and mobile phone must have contained the original recording of the conversation and CW1 deliberately caused its disappearance to avoid producing the same before the police. A perusal of the evidence of CW 1 discussed in Chapter 7.1 and his contentions in cross-examination discussed in Chapter 11.2 reveals that he is not at all a credible witness and he is unscrupulous in stating falsehood one after another before the Commission, often mutually contradictory. He is a journalist who claims that truth is relative. Such a contention is objecting to ethics. It is relevant to quote Karen Sanders in Ethics & Journalism at page 22.



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“ Relativism argues that ethics is what each person dictates for themselves. It is subjective, personal and unable to furnish absolute and universal norms. If we are a relativist, faced with someone who believes in the rightness of child sacrifice, we would have no way of advancing an argument in our favour. We would have to maintain that they have as much right to believe that child sacrifice was acceptable as I to say that it was wrong. In a certain sense, relativism extinguishes ethics because it maintains that neither right nor wrong exist apart from the option we adopt about them. No opinion has any authority apart from the point of view of the person who adopts it. This approach, so characteristic of much modern thinking, is in fact an age-old debate going back to the ancient Greeks. Plato explores it in *Thaetetus* to show that the attempt to hold relativism as a principle is undermined by the very fact that it is relative. Bernard Williams has described relativism as ‘possibly the most absurd view to have been advanced even in moral philosophy’ (1993:20). He shows that it involves trying to establish a non- relative principle (a morality of toleration) as a means of justifying ethical relativism”.

In short, CW1 R. Ajithkumar is a journalist without any ethics.

As CW1 and CW2 have total control over the Mangalam Television Channel in their capacity as C.E.O. & Managing Director and Chairman



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of the Mangalam Television Channel respectively and as they have deliberately not produced the voice clipping said to be that of a Minister of the State telecast on 26.03.2017 in the Mangalam Television Channel before the Commission, as evidence to prove the veracity of the same, it can only be inferred by the Commission that the voice clipping that was telecast was not actually the voice clipping said to be that of a Minister of the State as claimed by the Mangalam Television Channel. It has come out from the evidence of CW 8 S.V. Pradeep that just before the commencement of the news programme at 10 a.m. on 26.03.2017 the pen drive containing the voice clipping was handed over to him by CW 1 R. Ajithkumar and CW 8 S.V. Pradeep in turn handed over it at the Edit suit to a Video Editor. It has also come out from the evidence of CW9 Manjith Varma who was News Editor at that time in Mangalam Television Channel that CW 1 R. Ajithkumar was present in PCR at the time of telecast of the voice clipping. It has also come out from the evidence of CW 8 S.V. Pradeep, who is a confident of CW 1 R. Ajithkumar that after the telecast of the voice clipping, Teena Krishnan, Secretary to C.E.O, R. Ajithkumar came to get back the pen drive. Thus there is clear evidence before the Commission that before and after the telecast of the voice clipping, CW 1 R. Ajithkumar was in possession of the pen drive containing the voice clipping and he was also present at the PCR during the telecast of the voice clipping said to be that of a Minister of the State.

Now I will proceed to discuss the kind and the nature of the evidence that was required to be produced or caused to be produced by CW 1 R. Ajith Kumar and CW 2 Sajjan Varghese to prove the veracity of the voice



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clipping said to be that of a Minister of the State telecast by the Mangalam Television Channel on 26.03.2017.

The voice clipping telecast by the Mangalam Television Channel on 26.03.2017 is an electronic record. The provisions in the Evidence Act, 1872 relating to the proof of electronic records are as follows:-

S. 22-A. When oral admissions as to contents of electronic records are relevant. – Oral admissions as to the contents of electronic records are not relevant, unless the genuineness of the electronic record produced is in question.

S. 59. Proof of facts by oral evidence. – All facts, except the [contents of documents or electronic records], may be proved by oral evidence.

S. 65-A Special provisions as to evidence relating to electronic record. – The contents of electronic records may be proved in accordance with the provisions of section 65- B.

S. 65-B. Admissibility of electronic records.- (1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the



original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible. (2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely:-

(a) The computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or proves information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

© throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and



(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information or the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub section (2) was regularly performed by computers, whether –

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, -

(a) identifying the electronic record containing the statement and describing the manner in which it was produced:



(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

© dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the persons stating it.

(5) For the purposes of this section, -

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;



© a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment”.

Explanation – For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived there from by calculation, comparison or any other process.

As held by the Supreme Court in **Anwar P.V. v. P.K. Basheer [(2014) 10 Supreme Court Cases 473]** :

“ any documentary evidence by way of an electronic record under the Evidence Act, can be proved only in accordance with the procedure prescribed under section 65-B. Section 65-B deals with the admissibility of an electronic record”.

In view of S. 59 of the Evidence Act, no oral evidence is admissible to prove the contents of an electronic record .

The inquiry of the Commission has yielded copies of the news programme telecast by the Mangalam Television Channel on 26.03.2017 which included the voice clipping. One copy of the voice clipping in compact disc (CD) is produced by CW21 Shanavas, Dy.S.P. who is one of the investigating officer of the Special Investigating Team (SIT) to investigate the crimes registered on the basis of the complaints registered in connection with the telecast of the voice clipping. CW21 has also produced the Annexure – I transcript of the voice clipping. Another



copy is received by the Commission as forwarded by the Secretary in the Ministry of Information & Broadcasting (MIB), Government of India (GOI) along with the Annexure – II report of the Electronic Media Monitoring Centre (EMMC) functioning under the MIB. MIB had received several complaints against the Mangalam Television Channel after telecasting the voice clipping containing sexually explicit contents causing annoyance to the general public who had occasion to view the news programme of Mangalam Television Channel on 26.03.2017. The third copy of the news programme was obtained by the Commission directly from the Mangalam Television Channel during the local inspection of the office of the Mangalam Television Channel on 15.09.2017. A 4th copy of the voice clipping was received from the NBA.

None of the above copies of the voice clipping are admissible in evidence as their authenticity is not established under section 65-B of the Evidence Act. In the decision referred to above in (2014) 10 Supreme Court Cases 473, it is held that :

“an electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under section 65-B are satisfied”.

It was also held that :

“.....if an electronic record as such is used as primary evidence under section 62 of the Evidence Act, the same is admissible in evidence, without compliance of the conditions in Section 65-B of the Evidence Act”.



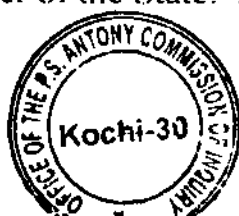
In this case the primary evidence or secondary evidence could have been produced complying with S. 65-B of the Evidence Act, only by CW1 R. Ajithkumar who is found to have been in possession of the original electronic document as proved from the evidence of CW8 S.V. Pradeep and other witnesses. CW1 also caused disappearance of the said evidence as revealed from the evidence of CW21 Shanavas, Dy.S.P. who is investigating the case.

When it is required to prove an electronic record, what is relevant is ,

- a) Direct evidence when the owner of the content deposes orally in which case he can produce the computer output as a rendition from the computer.
- b) Indirect evidence when a third party produces a print out or a digital copy of another electronic record and certified it under Section 65-B.

In this case there is neither direct evidence or indirect evidence as per law of the electronic record, i.e., the voice clipping telecast by Mangalam Television Channel on 26.03.2017.

As it is found that there is no admissible primary evidence or secondary evidence of the electronic record in question, what is to be considered next is whether there is any admissible oral evidence as to the contents of the electronic document in question, that is the voice clipping telecast by the Mangalam Television Channel on 26.03.2017. The witness competent to give oral evidence as to the contents of the voice clipping in question is CW10 Nazila Nazimuddin who allegedly recorded the original conversation which formed the contents of the voice clipping said to be that of a Minister of the State. As already discussed in Chapter



6.2 and 8.2 above , CW10 Nazila Nazimuddin did not appear before the Commission to adduce evidence in spite of several opportunities granted and an official memorandum issued warning her that the Commission will have to draw an adverse inference against her in the inquiry on her failure to appear before the Commission. Thus there is also no admissible oral evidence as to the contents of the voice clipping.

The next question to be considered is the oral evidence of CW 1

R. Ajith Kumar, CW 3 R. Jayachandran, CW 4 M.P. Santhosh, CW 7 Firoz Sali Mohammed and CW 8 S.V. Pradeep, the Mangalam journalists who have a case that they believe that the voice in the voice clipping is that of the former Minister A.K. Saseendran.

The contention of these witnesses and the Counsel appearing for them is that the voice in the voice clipping is not denied by the former Minister A.K. Saseendran till he appeared before the Commission. It is also contended that Minister A.K. Saseendran resigned before any preliminary inquiry and this conduct is an admission that the talk was by him and it was his voice.

In Chapter 4.2 of the report, it is already referred to the reason for his resignation given by CW 17 A.K. Saseendran. While announcing his resignation, CW 17 denied the allegations against him by the Mangalam Television Channel. In the statement filed by him and in answer to the questionnaire issued to him by the Commission under section 5(2) of the Commission of Inquiry Act, 1952, CW 17 stated that he did not talk as broadcast in the voice clipping and it is not his talk. He never misbehaved and talked in a lewd manner to any woman who approached



him for assistance. He also stated that the talk in the voice clipping is not that of a Minister and it is only a private talk and that too only that of a male.

In the evidence before the Commission discussed in Chapter 7.12 of this report, CW 17 categorically denied that the voice in the voice clipping aired on 26.03.2017 belongs to him. Regarding the allegations of certain witnesses before the Commission that he had admitted the voice to be his, CW 17 A.K. Saseendran denied that he ever admitted it anywhere.

Except the above interested Mangalam Television Channel witnesses, there is no evidence of any independent witnesses that they recognised or identified the voice of the voice clipping as that of the former Minister A.K. Saseendran. CW 13 Sandhya who was present in the studio after the telecast of the voice clipping was asked by CW 6 anchor whether she recognised the voice and CW 13 replied that she did know. According to CW 13 it was the voice of a male in his bedroom talking to a woman. Later she was told that it was Minister A.K. Saseendran. In the cross-examination for CW 1, CW 13 repeated that she did not identify the voice as that of the Minister A.K. Saseendran. On verifying the C.D. of the news programme obtained by the Commission it was seen that the name of Minister as that of A.K. Saseendran was first revealed by the Mangalam Television Channel by exhibiting the scroll and thereafter announced by the Chief Reporter of Mangalam Daily, Renjith that it was the voice of the Minister A.K. Saseendran. None of the above Mangalam Television Channel journalists have a case that they recorded or that they identified the voice of CW 17 A.K. Saseendran upon the telecast of the voice clipping. Only CW 10 Nazila Nazimuddin has the



case in Annexure – IV complaint that she recorded the talk of CW 17 A.K. Saseendran. Therefore, the only competent witness who can depose before the Commission regarding the identification of voice is CW 10 Nazila Nazimuddin who wilfully and deliberately did not appear before the Commission. Therefore there is no admissible identification of the voice of CW 17 A.K. Saseendran by oral evidence.

In this context the law declared by the Supreme Court on the subject of identification by voice and the necessary conditions precedent for conducting voice identification test is pertinent. In the decision reported in **(2011) 4 SCC 143 (Nilesh Dinkar Paradkar vs. State of Maharashtra)**, it is stated as follows :

“31. In our opinion, the evidence of voice identification is at best suspect, if not, wholly unreliable. Accurate voice identification is much more difficult than visual identification. It is prone to such extensive and sophisticated tampering, doctoring and editing that the reality can be completely replaced by fiction. Therefore, the courts have to be extremely cautious in basing a conviction purely on the evidence of voice identification. This court, in a number of judgments emphasised the importance of the precautions, which are necessary to be taken in placing any reliance on the evidence of voice identification.

32. In **Ziyauddin Burhanuddin Bukhari v. Brijmohan Ramdass Mehra** this court made following Observations : (SCC p.26, para 19)



"19. We think that the High Court was quite right in holding that the tape-records of speeches were 'documents', as defined by Section 3 of the Evidence Act, it stood on no different footing than photographs, and that they were admissible in evidence on satisfying the following conditions :

(a) The voice of the person alleged to be speaking must be duly identified by the maker of the record or by others who know it.

(b) Accuracy of what was actually recorded had to be proved by the maker of the report and satisfactory evidence, direct or circumstantial, had to be there so as to rule out possibilities of tampering with the record.

© The subject, matter recorded had to be shown to be relevant according to rules of relevancy found in the Evidence Act"

33. In **Ram Singh v. Col. Ram Singh**, again this court stated some of the conditions necessary for admissibility of tape-recorded statements: (SCC p. 623, para 32)

" (1) The voice of the speaker must be duly identified by the maker of the record or by others who recognise his voice. In other words, it manifestly follows as a logical corollary that the first condition for the admissibility of such a statement is to identify the voice of the speaker.

Where the voice has been denied by the maker it will require very strict proof to determine whether or not it was really the



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voice of the speaker.

- (2) The accuracy of the tape-recorded statement has to be proved by the maker of the record by satisfactory evidence – direct or circumstantial.
- (3) Every possibility of tampering with or erasure of a part of a tape-recorded statement must be ruled out otherwise it may render the said statement out of context and, therefore, inadmissible.
- (4) The statement must be relevant according to the rules of the Evidence Act
- (5) The recorded cassette must be carefully sealed and kept in safe for official custody.
- (6) The voice of the speaker should be clearly audible and not lost or distorted by other sounds or disturbance”.

In view of the above decision of the Supreme Court it is only to be found that there is no admissible evidence of voice identification in this case and also that there is no scope for a voice identification test as the alleged original conversation is admittedly edited and thereby tampered with and the maker of the record of conversation has not adduced evidence during the inquiry to prove the recording of the conversation or identified the voice. As observed by the Supreme Court above where the voice has been denied by the maker it will require very strict proof to determine whether or not it was really the voice of the speaker.



In the absence of any admissible documentary or oral evidence regarding the identification of the voice in the voice clipping, it cannot be found that the voice clipping is that of CW 17 A.K.Saseendran. Therefore, the contentions of the Counsel for CW 1 R. Ajithkumar, CW 2 Sajan Varghese and other Mangalam Television Channel witnesses for voice identification cannot be accepted. It is in the said circumstance, the Commission has rejected the application for sending the voice clipping for voice identification test. Apart from the above reasons this Commission has made it clear in the order rejecting the application for voice identification test that the conducting of such a voice identification test comes within the domain of the investigation agency. As investigation is going on, it is open to the investigating officers to take steps to conduct the voice identification test, if they deem it fit. It is for the parties who claim the veracity of the voice clipping to produce the admissible oral and documentary evidence including the original voice recording or the evidence of the person who allegedly recorded the same.

It is also pertinent to note that the contentions advanced by the Counsel for CW 1 R. Ajithkumar, CW 2 Sajan Varghese and other Mangalam witnesses is against the law of evidence and basic principles of criminal jurisprudence. When the Mangalam Television Channel has broadcast the voice clipping said to be that of Minister of the State, A.K. Saseendran, it is for the channel to produce the original and unedited recording of the conversation before the investigating agency or the Commission of Inquiry to establish that it is the voice of the former Minister. Instead of availing the immunity granted to these witnesses – CW 1, CW 2 – under Section 6 of the Commissions of Inquiry Act, 1952,



they have wrongly claimed protection under Article 20(3) of the Constitution.

It is also a strange argument that CW 17 A.K. Saseendran should undergo voice identification test to prove that it is not his voice in the voice clipping when he is entitled to protection under Article 20(3) of the Constitution of India as he is the accused in the complaint filed by CW 10 Nazila Nazimuddin on the ground that he had admitted talking to CW 10 through mobile phone. CW 17 admitted that he had talked to CW 10 Nazila as a media person. Annexure -IX Call Details Record (CDR) shows that 19 calls were made by CW 10 from her phone No. 7025159952 to the phone No. 9847001879 of CW 17 A.K. Saseendran and 16 calls by CW 17 to CW 10. CW 17 A.K. Saseendran is very friendly towards the members of the fourth estate as can be seen from the evidence of CW 15 A.M. Yazir, reporter of Mangalam Television Channel at Malappuram. On 25.03.2017 he was asked by the Channel authorities to get an interview from the Minister A.K. Saseendran. When CW 15 A.M. Yazir contacted CW 17 for the interview, CW 17 informed him to suggest a suitable place for the interview and that he would come there. CW 15 deposed that CW 17 granted the interview as promised. This shows the friendly approach of CW 17 A.K. Saseendran towards media persons whether male or female. Therefore, if 35 calls were made during a period of 3 months from 16.11.2017 to 16.02.2017 as seen from Annexure - IX CDR as deposed by CW 22 Bijumon, Dy.S.P. it could be only in the circumstance as deposed by CW 17 before the Commission in the absence of contra evidence by CW 10 Nazila before the Commission.



Though CW 10 Nazila Nazimuddin has a case in the Annexure - IV complaint and Annexure - V statement before the Court of the Chief Judicial Magistrate, Thiruvananthapuram that the former Minister A.K. Saseendran had sexually explicit talks with her, the material particulars of the said talk are not given either in Annexure - IV complaint or Annexure - V sworn statement. CW 10 deliberately abstained from appearing before the Commission even after a warning from the Commission that the Commission would be forced to draw an adverse inference against her in the inquiry, if she failed to appear before the Commission. As CW 10 Nazila has prayed for accepting as her version the Annexure - IV complaint and Annexure - V sworn statement, the Commission has to consider the complaint and the sworn statement. It is pertinent to note that CW10 has not given the date of occurrence in the complaint or in the sworn statement before the Court. The only indication is that it was after 08.11.2017 on which date CW 10 Nazila had interviewed CW 17 Minister. The phone calls started from 16.11.2017. It is seen that the first four calls were made by CW 10 Nazila. Only thereafter there was a call from CW 17 A.K. Saseendran as seen from Annexure - IX CDR.

It is stated in page 2 of the Annexure - IV complaint that it was a few days after the first interview on 08.11.2017, she again contacted the Minister A.K. Saseendran for a discussion on the subject of she-toilet facility in K.S.R.T.C and obtained an appointment to meet him at his official residence at 8 a.m., but she could not reach at the appointed time. As she did not go, he telephoned her several times and asked her to reach his official residence at about 3 p.m. A perusal of Annexure - IX CDR



shows that there are no record of CW17 calling her several times after 8 a.m. on a particular day.

CW 10 Nazila in Annexure – IV complaint has stated that she reached the house of the accused (CW 17) at about 3.30 p.m. in her office vehicle along with her colleagues. In the Annexure – V sworn statement before the Court, it is stated that she reached the official residence of the Minister at 3.30 p.m. Thus there is no consistent case regarding the time when she reached the official residence of the Minister. Thereafter it is stated that she alone entered the house of the accused and the staff present there asked her to go to the upstairs of the residence and she went upstairs. This version of the complainant is highly improbable. As a reporter of a Television Channel at least the complainant would take the cameraman or another colleague with her for the interview with the Minister. She has no case that she was asked to meet the Minister alone. Further when an appointment for the meeting with the Minister is granted and the reporter reaches the official residence, there would be official records regarding the arrival of the visitor by the staff of the Minister. But the complainant has no such case in the Annexure – IV complaint or the Annexure – V sworn statement. Again regarding the description of the alleged offence by the accused there is inconsistency regarding the alleged act by the accused in the Annexure – IV complaint and the Annexure – V sworn statement. It is stated in the complaint that the accused showed her his genitals. What is stated in the sworn statement is that the accused undressed and thereupon she left the place.

Thus a perusal of the Annexure - IV complaint and Annexure – V sworn statement shows that it is a complaint without furnishing the date of

occurrence of the crime, the correct time and inconsistency regarding the particular act which constituted the offence and without the necessary averments regarding the offences punishable under sections 354(D) of the Indian Penal Code and S. 66 of the Information Technology Act, 2000 alleged in the Annexure - IV complaint.

There is also no explanation in the complaint or sworn statement for the inordinate delay in reporting the alleged offences committed by a Minister of the State, if the alleged incident was true. CW 10 is not an ordinary woman. Being a reporter of the Television Channel she must be aware of the authorities to whom the incident could have been reported as she did on 03.04.2017 when she complained to the Chief Minister and the Director General of Police and thereafter on 05.04.2017 before the Court of the Chief Judicial Magistrate, Thiruvananthapuram. She could have also complained to the Women's Commission of Kerala which is a statutory body to protect women. She could also have taken up the matter with the Network of Women in Media Kerala which body takes up the cause of women working in the media of Kerala. Therefore, the timing of the complaint assumes importance. On 26.03.2017 Mangalam Television Channel telecast the voice clipping said to be that of a Minister of State. On the same day Transport Minister A.K. Saseendran resigned demanding an inquiry to bring out the truth. On 29.03.2017 Government of Kerala declared a judicial inquiry and the Commission of Inquiry was appointed as per notification dated 31.03.2017. On 30.03.2017 Crime No. 51 and 52/CR/OCWI/Tvpm, were registered in which CW10 complainant is a suspected accused. On 30.03.2017 CW1 R. Ajithkumar, CEO of Mangalam Television Channel tendered an apology to the general public explaining that it was a sting operation



carried out by the Television Channel through a woman journalist who volunteered for the same. Police issued notice to CW 1 R. Ajithkumar and others of Mangalam Television Channel to appear before the police on 04.04.2017 for questioning. It is in that context, CW 10 gave a complaint on 03.04.2017 to the Chief Minister and Director General of Police against the accused former Minister A.K. Saseendran and thereafter rushed to the Court of Chief Judicial Magistrate, Thiruvananthapuram with the Annexure - IV complaint dated 05.04.2017. Therefore, it can be seen that the Annexure - IV complaint was filed by CW 10 to shield herself and other accused before the Commission of Inquiry and in the two criminal cases and declared herself a victim of sexual harassment. It seems that the strategy worked for CW 10 Nazila and other accused Mangalam Television Channel journalists. The police did not even question her till 04.08.2017 as seen from the progress report of investigation filed by CW21 Shri. Shanavas, Dy.S.P.

On a careful perusal of Annexure - IV complaint and Annexure -V sworn statement of the complainant before the Court of the Chief Judicial Magistrate, Thiruvananthapuram, this Commission of Inquiry is of the considered opinion that the complaint of CW 10 will not stand judicial scrutiny with application of mind in view of the absence of the necessary ingredients of a crime like date of occurrence, correct time and occurrence witnesses, the inordinate delay in preferring the complaint and the circumstances in which the complaint was filed. Two witnesses whose sworn statements were recorded, have only hearsay knowledge of the occurrence, stated by the complainant. In this context the decision



of the Supreme Court reported in 1992 Supp (1) SCC 335 (State of Haryana & Others vs. Bhajan Lal & Others) is relevant.

It was held by the Supreme Court that :

“ (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6).....

(7) Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

Though the above legal propositions were made in a different context, they are squarely applicable to the facts of the present case.

In the light of the aforesaid discussion, this Commission of Inquiry is of the opinion that the veracity of the voice clipping telecast by the Mangalam Television Channel on 26.03.2017 is not proved by the Mangalam Television Channel before this Commission. It is to be noted that there are three different versions of the news on voice clipping stated by CW1 R. Ajithkumar, C.E.O. of the Mangalam Television Channel :



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- (i) The news was aired stating that the pornographic, obscene and sexual content in the audio was made by the Minister A.K. Saseendran to a poor housewife who approached for help. When the news became a hot debate CW1 R. Ajithkumar claimed that the audio clip was given by a helpless housewife victimised by the sexual atrocities of Minister A.K. Saseendran.
- (ii) After the appointment of Commission of Inquiry and registration of two criminal cases and widespread condemnation by the public on 30.03.2017 CW1 tendered Annexure – III apology stating that it was a sting operation by their woman journalist as decided by eight senior members of the editorial board and tendered an unconditional apology for the misleading news.
- (iii) Before this Commission of Inquiry CW1 R. Ajithkumar stated that it was not a sting operation and that the channel telecast only the voice clipping in a pendrive which was brought by CW10 reporter.

Thus it is seen that the news telecast on 26.03.2017 was a fake news. The contradictory versions of the news given by CW1 R. Ajithkumar and the evidence of the other witnesses on record proves that the voice clipping was the product of a criminal conspiracy to create a shocking news on the launching day of the new channel to boost its rating.



12.1.1 Conclusion on terms of reference No. 1.

In the result, the conclusion of the Commission of Inquiry on terms of reference No.1 "to inquire into the veracity of the voice clipping said to be that of a Minister of the State telecast by Mangalam Television Channel on 26.03.2017" is as follows:-

The veracity of the voice clipping said to be that of a Minister of the State telecast by Mangalam Television Channel on 26.03.2017 is not proved. The voice clipping appears to be a product of criminal conspiracy to create a shocking news on the launching day of the new Channel to boost its rating.

12.2 The circumstances that lead to the above conversation

This Commission of Inquiry has been asked "to inquire into the circumstances that lead to the above conversation" in terms of reference No. 2 with regard to the voice clipping referred to in terms of reference No.1. It is already found by the Commission that the veracity of the voice clipping said to be that of a Minister of the State telecast by the Mangalam Television Channel on 26.03.2017 is not proved before the Commission by the Mangalam Television Channel. It is the duty of the Mangalam Television Channel to prove the veracity of the voice clipping that was telecast on 26.03.2017 before the Commission by producing the digital equipment in which it was recorded and the original



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unedited conversation allegedly recorded by CW 10 Nazila Nazimuddin who admittedly recorded the conversation with the accused A.K. Saseendran and handed over the phone to CW 1 CEO as stated in the Annexure – IV complaint. It is the admitted case of CW 1 R. Ajithkumar, CEO of the Channel that they had only telecast the voice clipping in the pen drive which was handed over by CW 10 Nazila. It is admitted by CW 1 and other Mangalam Television Channel witnesses that the voice clipping was recorded by CW 10 Nazila Nazimuddin who is still working as a reporter in the Mangalam Television Channel. But CW 10 Nazila has not appeared before the Commission to depose that the voice clipping telecast by Mangalam Television Channel on 26.03.2017 was recorded by her. It is already found above that when the digital equipment/computer/pen drive/mobile phone or any other device using which the original conversation was allegedly recorded is not available and no conditions in S. 65 - B of the Evidence Act is complied with, the copy of any sort of electronic record would be inadmissible in evidence. Thus there is a total absence of any primary evidence in the form of the original electronic record or the evidence of the person who recorded the alleged conversation before this Commission of Inquiry. In the Annexure – III apology telecast by CW 1 R. Ajithkumar in the Mangalam Television Channel, his case is that it was a sting operation decided by the editorial board of the channel consisting of eight senior journalists and the woman journalist who conducted the sting operation who volunteered to do the same.

In this context, the norms laid down by the Press Council of India and the Code of Practice prescribed by News Broadcasters Association of



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India which the journalists and the electronic media are bound to follow are relevant.

Norms of Press Council of India

Guidelines on Sting Operations

- i) A newspaper proposing to report a sting operation shall obtain a certificate from the person who recorded or produced the same certifying that the operation is genuine and bona fide
- ii) There must be concurrent record in writing of the various stages of the sting operation.
- iii) Decision to report the sting operation should be taken by the editor after satisfying himself of the public interest of the matter and ensuring that report complies with all legal requirements.
- iv) Sting operation published in print media should be scheduled with an awareness of the likely reader in mind. Great care and sensitivity should be exercised to avoid shocking or offending the reader.

Fundamental Principles of Code of Practice of NBA

- 1) Professional electronic journalists should accept and understand that they operate as trustees of public and should, therefore, make it their mission to seek the truth and to report it fairly with integrity and independence. Professional journalists should stand fully accountable for their actions.



2) The purpose of this code is to document the broad paradigms accepted by the members of the News Broadcasters Association (NBA) as practice and procedures. That would help journalists of electronic media to adhere to the highest possible standards of public service and integrity.

3) News Channels recognize that they have a special responsibility in the matter of adhering to high standards of journalism since they have the most potent influence on public opinion. The broad principles on which the news channels should function are, therefore, as stated herein after.

4) Broadcasters shall, in particular, ensure that they do not select news for the purpose of either promoting or hindering either side of any controversial public issue. News shall not be selected or designed to promote any particular belief, opinion or desires of any interest group.

5) The fundamental purpose of dissemination of news in a democracy is to educate and inform the people of the happenings in the country, so that the people of the country understand significant events and form their own conclusions.

6) Broadcasters shall ensure a full and fair presentation of news as the same is the fundamental responsibility of each news channel. Realizing the importance of presenting all points of view in a democracy, the broadcasters should, therefore take responsibility in ensuring that controversial subjects are fairly presented, with time being allotted fairly to each point of view. Besides the selection of items of news shall also be governed by



public interest and importance based on the significance of these items of news in a democracy.

Sting operations :

As a guideline principle, sting and under cover operations should be a last resort of news channels in an attempt to give the viewer comprehensive coverage of any news story. News channels will not allow sex and sleaze as a means to carry out sting operations, the use of narcotics and psychotropic substances or any act of violence, intimidation, or discrimination as a justifiable means in the recording of any sting operation. Sting operations, will also abide by the principles of self regulation mentioned above, and news channels will ensure that they will be guided, as mentioned above, by an identifiable larger public interest. News channels will as a ground rule, ensure that sting operations are carried out only as a tool for getting conclusive evidence of wrong doing or criminality, and that there is no deliberate alteration of visuals, or editing or interposing done with the raw footage in a way that it also alters or misrepresents the truth or presents only a portion of the truth.

When CW 1 R. Ajithkumar was questioned by the Commission on norms laid down by PCI and NBA extracted above, the reply of CW 1 was that norms laid down by PCI are not applicable to electronic media. Contrary to his admission in the Annexure – III apology, CW 1 denied that it was a sting operation and it was a mistake to have stated so in the apology. Obviously CW 1 knows that the sting operation conducted by



CW 10 Nazila and the Mangalam Television Channel violated the norms laid down by the PCI and the Code of Practice framed by NBA extracted above and other guidelines. The case of CW 1 before the Commission is that the Mangalam Television Channel just telecast the contents of the pen drive which was given by CW 10 Nazila.

On a careful perusal of the entire evidence before the Commission it can be seen that the voice clipping was a created one with ulterior motive by using CW 10 Nazila. As argued by Counsel for CW 17 A.K.Saseendran:

“It is a clear case of conspiracy, mala fide intention and illegal motive on the part of the Mangalam Television Channel personals in order to increase the TRP rating of the channel on the first day of its official telecast itself. It is come out in evidence that even before the Television channel started telecast and at the time when the newly recruited journalists of the channel were given training, there was clear instruction from CW 1 and CW 3 to the effect that the news should be created making at least one of the Ministers are resigned from the Ministry. It is clear that CW 3 has given specific direction to the newly recruited journalists regarding making of exclusive bombs (exclusive breaking news). CW 1 wanted employees to create news by using any method. The evidence of CW 14 Al-Neema Ashraf, CW 5 Rishi K. Manoj,

CW 9 Manjith Varma and that of CW 15 A.M. Yazir who were the journalists working in the Mangalam Television Channel show that CW 1 and other higher-ups in the Mangalam channel wanted to create some news which gave them breaking particularly in the opening day itself. Apart from that it has come out in evidence that an investigation team was constituted by the Television channel in order to collect news using or



adopting any method. It is the case of CW14 that she did not join that group as to create or to collect news by using any method is not agreeable for her. It is also come out in evidence that the particular news item and the voice clipping is a product of the criminal conspiracy wherein CWs.1, 3, 4, 7,8 etc. are actively involved. This fact is discernable from the apology made by CW1 to the viewers. So the circumstances lead to the telecast of the fabricated voice clipping is the malicious intention of the Mangalam Television channel authorities to increase the rating even from the very beginning of its official telecasting.”

The Mangalam Television channel was planning for a big breaking news which would shock the people of Kerala on the date of inauguration of the Channel. The criminal conspiracy to create a shocking news on the date of inauguration of the Channel is apparent from the talk of CW1 R. Ajithkumar and CW3 R. Jayachandran who addressed the newly recruited journalists of the Mangalam Television channel as deposed by CW14 Al-Neema Ashraf and CW15 A.M. Yazir. According to these witnesses both CW1 and CW3 repeatedly spoke on getting news at any cost and creating news bombs and to see that the Ministers in the Government resigned on the basis of the same or to see that at least one MLA resigned. CW5 Rishi K. Manoj, News Co-ordinating Editor and CW9 Manjith Varma, News Editor and Reader also deposed before the Commission regarding the workshop organised by the channel and the talks given by CW1 and CW 3 requiring the trainee journalists to make the news bombs leading to the resignation of a Minister or MLA.



The Commission has viewed the C.D. of the news programme of Mangalam Television channel on 26.03.2017 from 8.57 a.m. to 12.30 p.m. The C.D. shows the programmes telecast by Mangalam Television channel on the date of inauguration starting with the programme "Faces of Mangalam", a programme introducing the journalists of Mangalam Television channel in which CW 1 R. Ajithkumar, C.E.O. of the Mangalam Television channel leads the discussion. In the programme the various News Readers of Mangalam Television channel introduced themselves and shared their aspirations and dreams while working for the News Channel. Notable among these news readers is CW8 S.V. Pradeep who speaks about the need to change the political scenario in Kerala which is left oriented. He advocates about an aggressive and independent stand to be taken by the new channel.

CW 1 R. Ajithkumar boasts of the role of Mangalam Daily in the resignation of three Ministers in Kerala. He calls for a change in news presentation content wise. He says that the motto of the journalists should be dedication, motivation, adventure and hard work. He predicts that this would be proved today (26.03.2017). The news programme anchored by CW 6 Lakshmi Mohan started at 10 a.m. with discussion on the subject of women's safety attended by CW 11 to CW 13. Meanwhile there is scrolling, "News will get fire", "Mangalam true stories will broadcast an important news which will shock the political Kerala". CW 6 Lakshmi Mohan then talks about the coming important news. Then another scroll on the screen : 'Mangalam Television opens eyes, Kerala will catch fire'. At 10.37 another announcement regarding the upcoming important news. After some time there was telecast of the first clipping for about 3 minutes. The guests are seen much



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embarrassed. CW 6 then gives commentary and asks the viewers to remove the children from hearing the voice clipping. CW 3 R. Jayachandran comes live through telephone (his picture shown on the screen) and announces that it was the voice of one of the prominent members of the cabinet and criticises in sharp words the conduct of the Minister without disclosing the name of the Minister. Then the second voice clipping is telecast. This voice clipping was full of sexually explicit words. CW 12 Dhanya Raman covers her face with both hands while CW 11 Soniya George and CW 13 Sandhya close their ears, and CW 6 Lakshmi Mohan drinks water. Thereafter the Chief Reporter of Mangalam Daily, Thiruvananthapuram comes live on Television and discloses the name of the Minister as A.K. Saseendran.

On a careful consideration of the sequence of the events from the time of the training camp for newly recruited journalists and the talks of CW 1 R. Ajithkumar and CW 3 R. Jayachandran, the words used by CW 1 during his interaction with the News Readers in the programme 'Faces of Mangalam Television' and the scrolls and announcement regarding the shocking news prior to the telecast of the voice clipping, it can be concluded that the news programme, anchored by CW 6 Lakshmi Mohan was the product of a criminal conspiracy to cause the resignation of the Transport Minister A.K. Saseendran who was targeted for the shocking news of the resignation of a Minister of the State for a lightening launch of the new News Channel in Malayalam where scores of news channels compete for the highest rating.



be taken on the basis of the finding on other matters. The suggestion of Counsel for CW 17 that on the first day of telecast itself Mangalam Channel was using manipulated voice recording of some person which is available in porn websites or telephone sex chatting to increase its rating and attributed it to CW 17 A.K. Saseendran in order to tarnish his image and thereby leading to his resignation from the Ministry appears to be true. CW 22 deposed that voice mixing is possible and that it is technically feasible to collect talks made on different contexts and create a voice clipping by editing with the help of software. He said that investigation is going on.

When CW 17 former Minister A.K. Saseendran denied the allegation in the press meet announcing his resignation, denied the talk in the statement filed before the Commission in reply to the notice and questionnaire issued to him and again before the Commission during inquiry, Mangalam Television channel should have produced the original unedited conversation as required and also the evidence of CW 10 Nazila Nazimuddin who is still working in the channel to prove the veracity of the voice clipping. The fact that the channel did not produce the unedited original voice recording, and the failure of CW 10 Nazila to appear before the Commission even after warning issued to her that an adverse inference will be drawn by the Commission against her in the inquiry, is sufficient to conclude that truth is not the defence of the Mangalam Television channel. It is significant to note that according to CW 1 R. Ajithkumar, CW 3 R. Jayachandran, CW 7 Firoz Sali Muhammed and CW 8 S.V. Pradeep, truth is relative. What is done by Mangalam Television channel is commerce without morality, one of the deadliest sins



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mentioned by Gandhiji in his autobiography, 'My experiments with Truth'.

In the light of the aforesaid discussion, this Commission of Inquiry is of the opinion that the circumstances that led to the telecast of the voice clipping attributed to former Minister A.K. Saseendran is the malicious intention of the Mangalam Television channel to increase the rating even from the very beginning of its official telecasting.

12.2.1 Conclusion on Terms of Reference No. 2

In the result, the conclusion of this Commission of Inquiry on terms of reference No. 2 "to inquire into the circumstances that led to the above conversation" is as follows:-

The circumstances that led to the conversation, that is the voice clipping, is the criminal conspiracy of the Mangalam Television channel management to make a shocking news to Kerala leading to the resignation of a Minister of the State so as to achieve top rating for the channel on the date of its inauguration itself.

12.3 Whether the recorded voice clipping was edited or tampered with mala fide intentions and as to who have acted behind that.

This Commission of Inquiry has been asked to "to inquire into as to whether the recorded voice clipping was edited or tampered with mala fide intentions and as to who have acted behind that". Annexure - 1 is the transcript of the voice clipping said to be that of a Minister of the State



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aired by the Mangalam Television channel on 26.03.2017. The copy of the voice clipping in C.D. form is produced before the Commission which is already discussed in 12.1 above. The Commission has viewed the C.Ds produced before the Commission by CW 21 Shri.Shanavas, Dy.S.P. and other C.Ds received by the Commission. The four C.Ds contains the Annexure - I voice clipping which is the voice of a male alone talking in reply to a woman in the privacy of a bedroom as deposed by CW 13 Sandhya. CW13 Sandhya, woman activist was present as guest to participate in the panel discussion in the studio of the Mangalam Television channel on 26.03.2017. The subject for discussion was 'Women's Safety'. The news programme was anchored by CW 6 M. Lakshmi Mohan from 10 a.m. to 12.30 p.m.

The voice clipping for the first time was telecast at 11.20 a.m. At 11 a.m. The Mangalam Television channel showed scroll and announcement in the Television screen that a big breaking news that will shock Kerala would be aired by the Mangalam Television channel. The actual telecast was also preceded by an introduction to the voice clipping by CW 3 R. Jayachandran in sharp words criticising the conduct of the Minister, without revealing his name, that the viewers were going to hear the voice of the Minister who is asking for the body of the poor housewife in return for hearing her representation. After the telecast of the voice clipping the disclosure that the voice was of the Minister of the State A.K. Saseendran was made by Renjith, Chief reporter of Trivandrum Bureau of Mangalam Daily, who came live in the news programme at 11.45 a.m.



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Conversation is an informal spoken exchange between two or more people as commonly understood. Annexure – I voice clipping contains only the talk of a male. A perusal of Annexure -I shows that there is no continuity in the talk. Apparently it is a collection of words uttered on different occasions. Therefore, the voice clipping is evidently an edited one and also by removing the voice of the other person from the conversation.

In Annexure – IV complaint CW 10 Nazila has averred that she had recorded the conversation of the accused A.K. Saseendran and handed over the phone containing the recorded conversations to the C.E.O. It is stated in the Annexure – V sworn statement of CW10 before the Court of the Chief Judicial Magistrate that she recorded the calls as different calls. It was the said phone which was handed over to the C.E.O. after removing the SIM.

CW 21 Shri. Shanavas, Dy.S.P. in his progress report of the investigation dated 03.10.2017 has reported that he has recorded the statement of CW10 Nazila Nazimuddin who stated that she had recorded her conversation with former Minister A.K. Saseendran and that she handed over the phone containing the recorded conversations and pen drive to CW3 R. Jayachandran and that the Audio clipping telecast by the Mangalam Television channel on 26.03.2017 was not in the manner recorded by her and handed over.

CW 21 also deposed before the Commission that Video Editor of Mangalam Television channel, Ebin Raj and Teena Krishnan, Secretary to A1 R. Ajithkumar gave statement to the police regarding the editing of

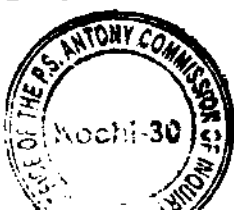


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the voice clipping. CW 21 stated that his investigation revealed that there was conspiracy and editing of the recorded talk.

CW 22 Shri. Bijumon, Dy.S.P. who has investigated the technical aspects of the case, deposed that on 03.04.2017 he had taken into custody the voice clipping copied in a pendrive provided by Shyamkumar, Technical Officer of the Mangalam Television channel on the basis of a mahazar. The copy of the mahazar has been produced before the Commission by CW 21 along with the progress report of investigation dated 03.10.2017. CW 22 also deposed that the mobile phone used for recording the talk and laptop used for editing the audio clipping could not be recovered. They must have been suppressed or destroyed by CW 1 R. Ajithkumar who gave a false complaint to the Museum Police Station. Copy of the FIR and copy of the refer report closing the investigation finding it as a false case has been produced before the Commission by CW 21 Shri. Shanavas Dy.S.P. CW 22 Shri. Bijumon, Dy.S.P. deposed before the Commission that it is technically feasible to collect talks made on different occasions or contexts and create a voice clipping by editing with the help of software.

CW 5 Rishi K. Manoj deposed before the Commission that the voice clipping was an edited one. The video editor of the Channel Ebin Raj told him that the original recording was for a duration of 29 minutes. First it was edited and reduced to 3 minutes. Then CW1 R. Ajithkumar asked him to increase the length and Ebin Raj further edited and increased the duration to 6 minutes. The female voice was edited out. An edited conversation is not at all credible. The telecast of such a voice clipping is both legally and morally wrong.



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The evidence of CW 6 Lakshmi Mohan and CW 9 Manjith Varma also show that the voice clipping was made and edited for the purpose of telecast on the date of inauguration of the channel. CW 13 Sandhya and CW 14 Al-Neema also deposed that on hearing the voice clipping they understood it as an edited version of conversation by mutual agreement between two persons in private.

On a careful consideration of the evidence before the Commission by CW 5, CW 6, CW 13, CW 14, CW 21 and CW 22 and the Annexure -I transcript of the voice clipping and on hearing the voice clipping by the Commission, the only conclusion that can be reached by this Commission is that the original recorded conversation was edited or tampered with mala fide intentions to create a shocking news leading to the resignation of a Minister as already found by the Commission in 12.2.1 above.

12.3.1 The persons who acted behind the making of the voice clipping

This subject is already dealt with partly in detail in Chapter 3 of this report. Annexure – III transcript of the apology telecast by CW 1

R. Ajithkumar on 30.03.2017 shows that the voice clipping was the product of a sting operation carried out by the Mangalam Television channel and that it was a decision taken by an editorial board consisting of eight senior journalists of the Mangalam Television channel. It is stated in the apology that “we appointed a female journalist who took up the job voluntarily”. But during inquiry the version of CW 1 R. Ajithkumar is that it was not a sting operation. He also did not disclose the names of the eight senior journalists of the editorial board. In spite of direction by this Commission to furnish the names of the editorial team in charge on



26.03.2017, CW 1 did not produce it. What is produced is only the list of the entire staff of Mangalam Television channel and another list of editorial staff of Mangalam Television channel consisting of 30 persons as on 28.08.2017 including the name of CW14 Al-Neema Ashraf who had resigned from Mangalam Television channel on 03.04.2017. As discussed in Chapter 3 above, CW 1 R. Ajithkumar, CW 2 Sajan Varghese, CW 4 M.P. Santhosh, CW 5 Rishi K. Manoj, CW 6 M. Lakshmi Mohan, CW 7 Firoz Sali Mohammed, CW 8 S.V. Pradeep, CW 9 Manjith Varma and CW10 Nazila Nazimuddin are prima facie involved either in the making or telecasting or both of the voice clipping said to be that of a Minister of the State and aired by the Mangalam Television channel on 26.03.2017. Who are all actually involved in the making and telecast or both of the Annexure - I voice clipping comes within the domain of criminal investigation – which is going on as stated by CW 21 and CW 22 investigating officers.

However, on a careful consideration of the evidence adduced before the Commission and on perusal of the documents produced before the Commission as enumerated and described in Chapter 9 of this report, this Commission can conclude that the voice clipping telecast by Mangalam Television channel on 26.03.2017 is the product of a criminal conspiracy conceived and executed by CW1 R. Ajithkumar, CW 3 R. Jayachandran and CW 10 Nazila Nazimuddin. In addition to CW 1, CW 3 and CW 10, CW 4, CW 7 and CW 8 have played an active role in the telecast of the voice clipping. Though CW 6 Lakshmi Mohan was the anchor of the news programme during which the voice clipping was first telecast, it appeared that she herself was embarrassed along with the CW11 to CW13 guests present in the news room and her evidence before the Commission shows that she was mentally broken down after



the telecast of the voice clipping and she had to undergo psychiatric treatment and counselling. But the evidence of CWs.1,3,4,7 and 8 shows that they have given false evidence before this Commission. All the questions which cannot be disputed even at the face of the facts available on record are denied and disputed by these witnesses in their attempt to justify the telecast of the voice clipping and to support the fabricated and false voice clipping as a genuine one. CWs. 1, 3, 7 and 8 also used the word relative to evade giving truthful answers to the questions by the Commission. According to CW1 truth is relative.

12.3.2 Conclusion on terms of reference No. 3

In the result, the conclusion of the Commission on terms of refence No.3 "to inquire into as to whether the recorded voice clipping was edited or tampered with mala fide intentions and as to who have acted behind that" is as follows:-

The recorded voice clipping was edited or tampered with mala fide intentions to create a shocking news regarding a Minister of the State leading to his resignation so as to gain high rating and popularity for the Mangalam Television channel on the date of its inauguration itself.

The following persons have direct involvement in the making of the voice clipping:-

- 1) CW 1 R. Ajithkumar**
- 2) CW 3 R. Jayachandran**
- 3) CW 10 Nazila Nazimuddin**



CW 8 S.V. Pradeep has active involvement in the telecast of the voice clipping on 26.03.2017 along with CW 1 R. Ajithkumar.

The following persons are prima facie involved in the telecast of the voice clipping: Their actual role has to be ascertained by the police during investigation.

- 1) CW4 M.P. Santhosh**
- 2) CW5 Rishi K. Manoj**
- 3) CW6 M. Lakshmi Mohan**
- 4) CW7 Firoz Sali Mohammed**
- 5) CW9 Manjith Varma.**

CW 2 Sajan Varghese is the Director/Chairman of the Company which owns the Mangalam Television channel and also involved in the affairs of the Channel. He has justified the voice clipping in the statement filed by him and also in W.P. (Civil) No. 21095/17 filed before the Hon'ble High Court of Kerala which was dismissed on 08.08.2017. Therefore he has abetted the crimes committed by other accused in the making and telecast of the voice clipping on 26.03.2017. As the Director of G.N. Info Media (P) Ltd., he is liable to be prosecuted representing the company in view of S. 85 of the I.T. Act.

The Company, G.N. Info Media (P) Ltd., which owns the Mangalam Television Channel is liable to be prosecuted under

section 85 of the I.T. Act, 2000. The Directors of the Company CW 1 R. Ajithkumar and CW 2 Sajan Varghese are representing the Company.

12.4 Terms of Reference No. 4

This Commission of Inquiry has been asked “to inquire into as to whether the act of airing the voice clipping is illegal and it involves illegal activities or conspiracies and if so, the legal action to be taken in this regard”.

12.4.1 Whether the act of airing the voice clipping is illegal and it involves alleged activities or conspiracies.

One thing, on which there is no dispute in this inquiry is that the voice clipping telecast by the Mangalam Television channel on 26.03.2017 consists of sexually explicit words. The reaction of CW 6 anchor and CW 11 to CW 13 guests present in the news room during the telecast of the voice clipping is already discussed in Chapter 2. Annexure – I transcript of the voice clipping is so disgusting that CW 7 Firoz Sali Mohammed, News Reader of the Mangalam Television channel requested this Commission not to compel him to read it when the Commission asked him to read it. It is such a bundle of putrefied rubbish that was thrown into the public information highway by the Mangalam Television channel on 26.03.2017. As the renowned journalist Sam Reynolds remarked on a sensational news, “**blatant sensationalism - the worst of journalism – and my sensation is disgust**”.



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There is already an observation by the Hon'ble High Court of Kerala in the bail order refusing bail to CW 1 R. Ajithkumar and CW 3 R. Jayachandran after perusing the transcript that "there cannot be any doubt that they are sexually explicit" and hence the offence punishable under section 67 A of the I.T. Act is attracted. In the judgment dated 08.08.2017 in W.P.(C) No. 21095/2017 filed by CW 2 Sajan Varghese to quash the notification appointing the Commission of Inquiry held that "if the contents of the audio clip which would disturb or affect the tempo of the life of the community or the tranquillity of the society, it is a matter concerning public order" and " a matter relating to public order is certainly a matter of public importance" and the writ petition was dismissed. Thus there is already a finding that the Mangalam Television channel violated the reasonable restrictions specified in Article 19(2) of the Constitution in the act of telecast of the Annexure – I voice clipping on the ground of violating decency, morality and public order.

There was wide spread condemnation of the airing of the voice clipping by the general public, women journalists who held demonstrations in front of the offices of the Mangalam Television channel, cultural leaders of Kerala led by veteran writers like Anand and poet Sachidanandan who issued a joint statement and the Network of Women in Media Kerala gave a representation to the Chief Minister demanding a proper investigation to bring out the truth behind the voice clipping. NWMK also sent complaint to the Ministry of I & B and later to NBA for necessary action against the Mangalam Television channel for the violations committed by them in the airing of the voice clipping. Many members of the public also sent complaints against the Mangalam Television channel to the Ministry of I & B for taking action. Many



journalists of the Mangalam Television channel including CW 14 Al-Neema Ashraf and CW15 A.M. Yazir resigned from the Mangalam Television channel on the issue. Later CW 5 Rishi K. Manoj and CW 9 Manjith Varma who deprecated the airing of the voice clipping resigned from the Mangalam Television channel. Two criminal cases were registered as CBCID Crime Nos.51/CR/OCW-1/Tvpm/2017 and 52/CR/OCW-1/Tvpm/2017 under section 120B IPC and 67 A of IT Act on the basis of the complaint filed by Adv. Sreeja Thulasi of Trivandrum and Adv. Mujeeb Rahman, State President of Nationalist Youth Congress.

It is already found in Chapter 12.2.1 of this report that the voice clipping telecast by the Mangalam Television channel on 26.03.2017 is the product of a criminal conspiracy of the Management of the Mangalam Television channel to create a shocking news to Kerala leading to the resignation of a Minister of the State so as to achieve high rating for the channel on the date of its inauguration itself.

Regarding the criminal conspiracy there is another dimension. In response to the notification of the Commission of Inquiry, CW15 A.M. Yazir sent Annexure – VIII e-mail message to the Commission stating what he knew about the telecast of the voice clipping. His evidence before the Commission is already referred to in Chapter 7.11. He stated that a panel was formed under the leadership of CW 3 R. Jayachandran on how to find news bombs. CW 15 stated that many of them kept away from the team, as the said team had a plan to investigate certain subjects which would sabotage the present Government. It came to their



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knowledge that there was an attempt to find out certain Ministers with some weaknesses and prepare a report on that. CW15 also stated that on 25.03.2017, the previous day of the launching of the new channel, he was told to conduct an interview of the Minister A.K. Saseendran and sent it urgently.

After the telecast of the voice clipping said to be that of the Minister A.K.Saseendran on 26.03.2017, he came to know many stories. One of the stories was that there was a conspiracy to make Minister A.K. Saseendran resign and make Thomas Chandy a Minister. He came to know that CW 1 R. Ajithkumar talked to Thomas Chandy in Dubai and he received something in return. According to CW15 A.M. Yazir, when the matters are examined as per law and the conspiracy he understood that three offences were committed:-

- (1) media was used to sabotage the Government;
- (2) media freedom was misused violating principles of media ethics ; and
- (3) women were used to create a media culture of blackmail in Kerala

In the cross-examination CW17 A.K.Saseendran MLA confirmed the interview given to CW15 A.M. Yazir. In the cross-examination by Counsel for CW2, CW17 A.K. Saseendran MLA stated that he never thought that the voice clipping was aired due to a conspiracy of any of the members of his party.



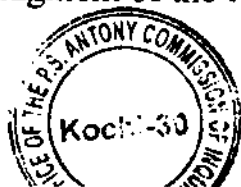
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In the making of the voice clipping and its telecast on 26.03.2017, the Mangalam Television channel company, its management and journalists committed violations of the provisions of the Constitution, violated norms of journalistic ethics and Code of Practice for the electronic media and committed various offences under the Indian Penal Code, I.T. Act and other laws. A perusal of the evidence adduced before the Commission and the documents received by the Commission during inquiry clearly show that the act of airing of the voice clipping was illegal and it involved illegal activities. Now the Commission proceeds to examine the illegalities committed by the Mangalam Television channel and the illegal activities involved.

12.4.2 Violation of the provisions of the Constitution.

In the Constitution of India the word “press” or “media” is not mentioned. The “press” or “media” derives its freedom as an interpretation of the Article 19 (1) (a) of the Constitution which states : “All citizens have the right to freedom of speech and expression”. This is not an absolute freedom, the limitations to this freedom are stated in Article 19(2). “Freedom of Speech and Expression” available to the citizen alone is available to the media which is subject to reasonable restrictions under Article 19(2) in the interests of the sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of Court, defamation or incitement to an offence.

On the basis of the order in the bail applications of CW 1, CW 3 and others and in the light of the judgment of the Hon’ble High Court of



Kerala referred to in 12.4.1 above and the evidence before the Commission during the inquiry shows that the telecast of the voice clipping on 26.03.2017 violated the restrictions under section 19(2) on the grounds of public order, preserving decency and preserving morality.

There is also violation of the Right to privacy as the voice clipping appears to be the recording of the private talk between a male and female as deposed by CW 13 Sandhya and CW 14 Al-Neema Ashraf and other witnesses. It is held by the Supreme Court that the right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution (**vide Justice K.S. Puttaswamy (Retired) v. Union of India 2017(4) KLT 1 (SC)**).

There is also violation of the Fundamental Duties under Part –IV-A of the Constitution in the making of the voice clipping and in the telecast of the voice clipping causing annoyance to women as deposed by CW 13 Sandhya.

Under Article 51-A :

“it shall be the duty of every citizen of India -(e).....; to renounce practices derogatory to the dignity of women.”

The above duty of every citizen is also applicable to media.

In short, the Mangalam Television channel violated Article 19(2), 21 and 51-A (e) of the Constitution of India.



12.4.3 Violation of Programme Code prescribed under the Cable Television Network Rules, 1994.

On the telecast of the voice clipping on 26.03.2017 by Mangalam Television channel a number of persons, Dr. Pradeep K.P., Advocate, High Court of Kerala, Kurian Benny, Saiju Menon and NWMI, Kerala complained to the Electronic Media Monitoring Centre under the Ministry of I & B, Government of India regarding the violations by the Mangalam Television channel.

On receiving the complaints, EMMC made the following report:

“ The content is extremely indecent, obscene and unsuitable to be played in a public space. By telecasting such news that is highly sexual in nature, on the very first day of its launch, channel screams nothing but sensationalism for want of viewer's undivided attention, defying ethics of journalism. Therefore by airing an explicit audio containing A.K. Saseendran's telephonic sex conversation, channel has apparently violated Programme Codes – 6[1](a), 6[1](d), 6[1](o) and 6[5] prescribed under the Cable Television Network Rules, 1994. However, the channel later issued an apology regarding the same.

ACCORDING TO PROGRAMME CODE 6[1](a) -) No programme should be carried in the cable service which offends against good taste or decency.

ACCORDING TO PROGRAMME CODE 6[1](d) -) No programme should be carried in the cable service which contains anything



obscene, defamatory, deliberate, false and suggestive innuendos and half truths.

ACCORDING TO PROGRAMME CODE 6[1](o) -) No programme should be carried in the cable service which is not suitable for unrestricted public exhibition.

ACCORDING TO PROGRAMME CODE 6[1](5) -) Programmes unsuitable for children must not be carried in the cable service at times when the largest numbers of children are viewing”.

In short, by telecasting the voice clipping, Mangalam Television channel violated Rules 6(1)(a), 6(1)(d), 6(1)(o), 6(5) prescribed under the Cable Television Network Rules, 1994.

12.4.4 Violation of Norms of Journalistic Conduct of PCI and Code of Practice adopted by NBA for self-regulation.

The violation of norms of journalistic conduct and Code of Practice adopted by NBA for self-regulation are already discussed in 12.2 above. Mangalam Television channel has violated the norms of journalist conduct regarding accuracy and fairness, right to privacy, obscenity and vulgarity and sting operations prescribed by PCI and Code of Practice of NBA regarding impartiality and objectivity in reporting sex and nudity and sting operations.



In short, the telecast of the voice clipping by Mangalam Television channel was in violation of prescribed norms of journalistic conduct and Code of Practice adopted for self-regulation by NBA.

12.4.5 Offences committed under the Information Technology Act, 2000.

By telecasting the voice clipping which is an obscene material, the Mangalam Television channel has committed the offences punishable under sections 67 and 67 A, S. 84 B and S. 85 of the I.T. Act, 2000.

“S. 67. Punishment for publishing or transmitting obscene material in electronic form. –

Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or of its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees”.



“S. 67 A. Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.-

Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees”.

S. 84 B Punishment for abetment of offences –

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act.

Explanation – An act of offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

S. 85 Offences by Companies – (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order there under is a Company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the Company for the conduct of business of the Company as well as



the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such conversation.

(2) Notwithstanding anything contained in sub-Section (1), where a contravention of any of the provisions of this Act or of any Rule, direction or order made there under has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attribute to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purpose of this section –

- (i) “Company” means any body corporate and includes a firm or other association of individuals; and
- (ii) “directors”, in relation to a firm, means a partner in the firm.”

CBCID has already registered the case against the accused for offence punishable under section 67 of I.T. Act. They have also committed the



offences punishable under section 67 A, S. 84 B and S. 85 of the I.T. Act. They are distinct and separate offences.

In short, the Mangalam Television channel and the company which owns the Mangalam Television Channel and the persons behind it and whoever participated in the telecast of the voice clipping committed the offences punishable under sections 67 and 67 A, S. 84 B and S. 85 of the Information Technology Act, 2000.

12.4.6 Offences committed under various sections of Indian Penal Code, 1860.

It is already found that the voice clipping is the product of a criminal conspiracy to create news bombs of the Mangalam Television channel management to shock the people of Kerala leading to the resignation of a Minister of the State so as to achieve high rating for the channel on the date of its inauguration itself. By making the voice clipping and editing and manipulating it with mala fide intentions and by telecasting the same leading to the resignation of the Transport Minister A.K. Saseendran and thereafter destroying the evidence, the Mangalam Television channel and the persons behind it and whoever participated in its telecast, prima facie appear to have committed the following offences punishable under the various Sections of the Indian Penal Code.

“ S. 109 IPC – Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment. –



Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

S. 120 B IPC – Punishment of criminal conspiracy.-

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [Imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

S.201 IPC – Causing disappearance of evidence of offence, or giving false information to screen offender. –

Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false;

if a capital offence. – shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;



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if punishable with imprisonment for life. – and if the offence is punishable with [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years' imprisonment. – and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

S. 294 IPC – Obscene acts and songs. –

Whoever, to the annoyance of others –

- (a) does any obscene act in any public place, or
- (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

S. 463 IPC – Forgery. –

[Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter



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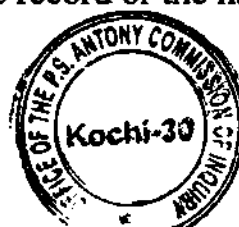
into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

S. 464 IPC – Making a false document. – [A person is said to make a false document or false electronic *First* – Who dishonestly or fraudulently -

- (a) makes, signs, seals or executes a document or part of a document;
- (b) makes or transmits any electronic record or part of any electronic record;

© affixes any [electronic signature] on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the [electronic signature] with the intention of causing it to be believed that such document or part of document, electronic record or [electronic signature] was made, signed, sealed, executed, transmitted or affixed by or by the authority or a person by whom or by whose authority he knows that it was not made, signed sealed, executed or affixed; or *Secondly* – Who, without lawful authority, dishonestly, or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with [electronic signature] either by himself or by any other person, whether such person be living or dead at the time of such alteration; or *Thirdly* – Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his [electronic signature] on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document electronic record or the nature of the alteration.



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S. 469 IPC – Forgery for purpose of harming reputation. – Whoever commits forgery, [intending that the document or electronic record forged] shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

S. 470 IPC – Forged [document or electronic record]. – A false [document or electronic record] made wholly or in part by forgery is designated “a forged [document or electronic record]”.

S. 471 IPC – Using as genuine a forged [document or electronic record]. – Whoever fraudulently or dishonestly uses as genuine any [document or electronic record which he knows or has reason to believe to be a forged [document or electronic record], shall be punished in the same manner as if he had forged such [document or electronic record].”

In short, CW1 to CW 10 who are connected with the Mangalam Television channel should be investigated for the offences punishable under sections 109, 120B, 201, 294, 463, 464, 469, 470 and 471 of the Indian Penal Code.

It has come out from the evidence of CW 1 and CW 21 and CW 22 that CW 1 lodged a false complaint with the Museum Police Station that his bag containing laptop and phone were stolen from his car in the night of 03.04.2017. Police registered crime No. 549/17 under section 379 of the



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Indian Penal Code and duly investigated the case. It was found that it was a false case and Sub Inspector of Police, Museum Police Station filed a refer report before the Judicial I Class Magistrate Court – III, Trivandrum. The police had to question several persons causing annoyance to them. Therefore, CW 1 R. Ajithkumar has prima facie committed the offence punishable under section 182 of the Indian Penal Code.

In short, CW 1 R. Ajithkumar is liable to be prosecuted separately for the offence punishable under section 182 of the Indian Penal Code.

12.4.7 The legal action to be taken in this regard.

For the violations of the Constitutional provisions, violation of Programme Code, violations of Code of Practice, discussed in 12.4.2, 12.4.3, 12.4.4 above, the appropriate authority to take legal action is the Ministry of Information & Broadcasting and NBA respectively. It has come out in inquiry that on the basis of the complaints received against the violations by Mangalam Television channel due to the telecast of the voice clipping, EMMC under the Ministry of Information and Broadcasting opened a file for necessary action as can be seen from the Annexure – II report. But as the Mangalam Television channel telecast the Annexure – III apology, no further action seemed to be taken by the Ministry and the matter was filed. But now it has come out in inquiry that CW 1 R. Ajithkumar, C.E.O. of Mangalam Television channel denied the material portions of the apology and thereby in fact retracted from the Annexure –III apology. Therefore the Mangalam Television



channel and the company which owns the channel should be proceeded against the various violations.

The Government may forward a copy of this report to the Secretary, Ministry of Information and Broadcasting, Government of India with a recommendation to reopen the file against the Mangalam Television channel for appropriate action including cancelling its broadcasting licence or the permission to run the visual channel.

It has come out in inquiry that the Mangalam Television channel is functioning without any self-regulation or peer supervision. CW19 the Secretary, Kerala Television Federation has filed affidavit before the Commission that the Mangalam Television channel is not a member of their Federation. CW 20 Secretary, Press Council of India has filed affidavit that the PCI has no control over the electronic media.

Inquiry by this Commission has also revealed that the Mangalam Television channel is not a member of the NBA. As per the News Broadcasting Standards Regulations, the News Broadcasting Standards Authority (NBSA), the independent self-regulatory mechanism set up by the NBA looks into complaints only relating to the content shown by the member channels of NBA. NBSA has informed this Commission that the said Authority could not take any action on the complaints received from various persons and NWMI, Kerala as the Mangalam News Channel is not a member of the NBA and advised the various persons who sent complaints against the telecast of the voice clipping to approach Ministry of Information and Broadcasting. The above state of affairs should also be brought to the notice of Ministry of Information and Broadcasting.



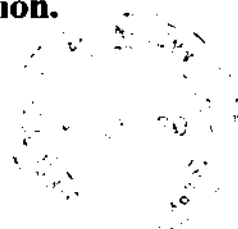
For the offences committed under the various sections of I.T. Act, 2000 and I.P.C., 1860, the investigation has to be expedited and after completing investigation the Mangalam Television channel and the persons behind the making and telecast of the voice clipping should be prosecuted before the Competent Court. This Commission has given detailed recommendations and the action to be taken against the Mangalam Television channel in the Chapter on recommendations below.

12.4.8 Conclusion on terms of reference No. (iv)

In the result, the conclusion of this Commission on terms of reference No. (iv) "to inquire into as to whether the act of airing the voice clipping is illegal and involves illegal activities or conspiracies and if so, the legal action to be taken in this regard" is as follows:-

The act of airing the voice clipping was the culmination of a well planned criminal conspiracy and therefore is illegal and it involved illegal activities including

- **Violations of the provisions of the Constitution under Article 19(2), 21 and 51-A(e).**
- **Violation of the Programme Code prescribed under Rules 6(1)(a), 6(1)(d), 6(1)(o) and 6 (5) prescribed under the Cable Television Network Rules, 1994.**
- **Violation of norms of journalistic conduct of PCI and Code of Practice adopted by News Broadcasters Association for self-regulation.**



- Offences punishable under section 67 and 67 A, 84 B and 85 of the I.T. Act, 2000.
- Offences committed under various sections of IPC punishable under sections 109, 120 B, 201, 294, 463, 464, 469, 470 and 471 of the IPC, 1860.
- Offences punishable under section 182 of the IPC against CW1 R. Ajithkumar.

The legal action to be taken in this regard are as follows:


- 1) the Government may forward a copy of this Report to the Secretary, Ministry of Information and Broadcasting, Government of India with a recommendation to reopen the complaint file against the Mangalam Television channel for appropriate action including cancelling its broadcasting licence or permission to run the visual channel.
- 2) The absence of self-regulation in the management of Mangalam Television channel and non-membership in the NBA by Mangalam Television channel should also be brought to the notice of Ministry of Information and Broadcasting.
- 3) The Mangalam Television channel and the persons behind the making and telecast of the voice clipping shall be prosecuted for offences punishable under sections 67, 67A, 84 B and 85 of I.T. Act, 2000 and under Sections 109, 120 B, 201, 294, 463, 464, 469, 470 and 471 of the IPC before the competent Court



after expediting the investigation on the basis of the two crimes already registered.

- 4) CW 1 R. Ajithkumar is liable to be prosecuted separately for offence punishable under section 182 of the Indian Penal Code.
- 5) More recommendations for the consideration of the Government and action to be taken on the basis of the finding on other matters connected with this case as the Commission observes which will be discussed in Part III of this report.

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CHAIRMAN
P.S. ANTONY COMMISSION OF INQUIRY
PAZHAMPILLY (H) NEAR THOTTIYIL TEMPLE
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PART II

THE INQUIRY AND CONCLUSIONS ON TERMS OF REFERENCE NOS. 1 TO 4



R E P O R T

ON

**THE INQUIRY INTO THE VERACITY OF THE VOICE
CLIPPING SAID TO BE THAT OF A MINISTER OF THE
STATE TELECAST BY MANGALAM TELEVISION
CHANNEL ON
26-03-2017 AND OTHER CONNECTED MATTERS**

BY

**THE COMMISSION OF INQUIRY
JUDGE P.S. ANTONY
DISTRICT JUDGE (RETD.) &
FORMER JUDGE, FAMILY COURT**

**SECRETARY
A.G.VISWAMBHARAN**

VOL - II

(Chapters 13 to End)



PART III

**INQUIRY INTO THE OTHER MATTERS CONNECTED
WITH
THIS CASE AS THE COMMISSION HAS OBSERVED
&
CONCLUSION ON TERMS OF REFERENCE No. (v)**



CHAPTER 13

The Issues Involved as Observed by the Commission**13.1 Introduction**

The veracity of the voice clipping said to be that of a Minister of the State telecast by Mangalam Television Channel on 26.03.2017 is found to be not proved and is found to be the product of a criminal conspiracy and forgery. As the voice clipping was attributed to former Minister for Transport A.K. Saseendran, he resigned on the same day. It is found that the circumstances that led to the telecast of the voice clipping by the Mangalam Television Channel was the ambition of the Mangalam Television Channel management to race ahead of other channels in rating on the date of its inauguration itself and **“only for the purpose of commercial interest and no public interest is involved in it”** as stated by NWMI, Kerala in the complaint sent to Ministry of Information & Broadcasting against the violation by Mangalam News Channel. It is also found that the recorded conversation was edited or tampered with mala fide intentions by the management and some of the journalists of the Mangalam Television Channel. It is also found that the Mangalam Television Channel flouted the provisions of the Constitution and various laws and violated Norms of Journalistic Conduct and Code of Practice adopted by the NBA for self-regulation. In the making of the voice clipping said to be that of a



Minister of the State and its telecast serious offences punishable under the various provisions of Information Technology Act, 2000 and Indian Penal Code, 1860 are too committed.

13.2 Complaints against Mangalam Television Channel

There was widespread condemnation against the telecast of voice clipping containing sexual chats between a man and a woman, where the female sound is edited out without regard to any sense of decency and morality. In addition to the protest from a wide spectrum of people including journalists, intellectuals and cultural leaders as already discussed in Part II of the report, various complaints were sent to the Ministry of Information & Broadcasting by citizens and NWML, Kerala. In this context, some of the complaints can be examined.

1) The complaint of Dr. Pradeep K.P., Advocate, High Court of Kerala:

“ Complaint on violation of programme code.

When the “news” broadcasted by an Indian Channel intrudes the privacy of a person, that too of a prominent public servant in the State, is it not the duty of the citizen of the State to protect the moral balancing and interest of the public servant. I hope I am doing so.



What is wrong when a private person had chat with a person of opposite sex, may be with indication of sex or even vulgar sex, if the both parties are under consensual mind and also neither of the party has any complaint? What is the role of media to expose the sex chat of both the parties in front of the public, that too before a large public who are the viewers of the particular channel? Apart from the act of moral policing by the visual channel, is it not a case of unethical practice by the visual channel.

As per the information contains in www.mangalam.tv, the Mangalam Television is a converged media in Malayalam with latest cutting edge technology in digital platform. Staffed 24 hours, seven days a week the largest network of correspondents in Kerala, the southernmost state of India, Mangalam Television focuses unbiased and independent news coverage. It also states that Mangalam Television features the latest multimedia technologies, from live video streaming to audio packages to searchable archives of news features and background information.

It also gives the correspondence address as

Mangalam Television, PB No. 118, Aristo Junction,
Trivandrum – 695001, Kerala, India

The said T V channel assures, any compliant relating to content of tv channel, Mangalam Television, under the code of practice and broadcasting standards and news broadcasting standards (disputes



redressal), regulations of news broadcasting association (NBA) shall be made by a person aggrieved within a reasonable time not exceeding seven days from the date of first broadcast to the following person appointed by the company whose details are reproduced below.

R. Ajithkumar
Mangalam Television
Aristo Junction, Thampanoor, Thiruvananthapuram
Pin – 695036, Kerala, India

Here is my complaint. The said channel, on 26.03.2017 has aired a news item with sound contents of an alleged telephone chat of Mr. A.K. Saseendran, the Minister of the Government of Kerala and a lady, who is even unknown, and the contents in the above verbal chats contains indications of sex and of course, may amounts to a criminal offence under Section 354A of the India Penal Code, if the lady involved in the said chat has any complaints and objections. However, there is no indication of any objection or complaint in this regard, from the side of the victim and it can only be assumed that it is a consented interaction. Even there is no scope for any complaint on offending privileges, which are protected under the Information Technology Act, 2000 to make the said phone chat as a criminal offence, in the absence of a complaint from the lady.

However, the said verbal chat with two private persons are published and aired with a caption that the verbal indecency of the Minister was against a complainant who approached him for making a complaint against state inaction. However there is no indication in this regard to prove that the said lady has called the Minister for making any



14/6/17

complaint or for any favourable action in any matters of state actions. So the news aired is nothing but false news "of inducing a complainant". The act committed by the above channel or broadcaster is nothing but an offence under section 67 and 67A of the Information Technology Act, 2000, rather than a libellous act, against private remedy is available under Indian Law. Airing obscene contents, either in the mode of images or in the mode of words, is nothing but an offence under Section 294 of the Indian Penal Code also. So the act of the broadcaster is a criminal offence too.

Apart from these, the act, which referred above is nothing but a violation of programme code formulated under the Cable Television Network Rules, 1994. Rule 6 of the said rules, denotes on programme code, which are to be mandatorily complied by the broadcasters. The programme code refers to following ethical mandates.

Rule 6. Programme Code (1) No programme should be carried in the cable service which :-

- (a) Offends against good taste or decency;
- (d) Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;
- (i) Criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country;



So the facts stated above violates the programme code, a statutory regulations issued by the Central Government and it is just and necessary to take action against the above referred Mangalam TV, by cancelling its broadcasting license or the permission to run the visual channel”.

2) The complaint of one Kurian Benny sent by e-mail:

“On 26th March 2017 Mangalam news channel (Malayalam) has published an exclusive audio clip against Kerala Transport Minister The clip is adult only. They broadcast it without any censor. It’s a news channel and all members in our family watch it together please take necessary action against the channel. The news may be true or it can be a fake but they need to control their content which is shown by a thousand of school children”.

3) The complaint of one Saiju Menon sent by e-mail:

“Mangalam Malayalam Channel has exposed a talk between one MLA Saseendran with a lady. Channel has telecasted complete sexual talk in front of child and ladies. As a tax payer it’s my right to know that who gave the permission to telecast such sexual voice clips.

Why broadcast authority is silent on such issues? These kind of programme can not watch in front of family members. Channel should be banned”.

4) The complaint by NWMI, Kerala



A detailed complaint was sent by NWMI, Kerala subscribed by 136 of the women journalists of Kerala led by M. Sarita Varma, Senior Assistant Editor, The Financial Express, as follows:-

“ At 11 a.m. on 26th March, 2017, the Mangalam News Channel in Malayalam language has telecasted a news programme along with an audio clipping claimed to be of one Mr. Saseendran, the then Minister of Kerala State, containing sexual, obscene and explicit pornographic content. The entire news programme was based on this audio tape which was repeatedly telecasted on that day, several times stating that the pornographic, obscene and sexual content in the audio was made by Mr. Saseendran to a housewife who approached the minister for help. While telecasted the said audio for the second time between 11 a.m. and 11.30 a.m. the programme presenter warned the viewers to keep the children away from television reach, as it contains adults only content. While telecasting the said sexual content, even one of the woman guests who were present at the studio, namely Mrs. Dhanya Raman, a social activist, had closed her eyes and ears, as the content being indecent, obscene, defamatory and unbearable to be heard in a public space.

The audio tape was containing sexual chats between a man and woman, where the sound of the woman was removed by editing, it seems. At the time it was aired first, i.e. 11 a.m. on 26th March, there was no statutory warning to keep the children away. They added a warning only when it was aired for the second time between 11.00 a.m. and



11.30 a.m. on the same day. Several children were exposed to such an obscene content which was aired in day time between 11 a.m. and 11.30 a.m. This happened only because of the utter irresponsibility and illegality committed by Mangalam television in violation of Rule 6 of the CTN Rules. Such broadcast was done by the Mangalam Channel as part of their launch, only for the purpose of commercial interest and no public interest is involved in it.

When the news became a hot debate, the C.E.O. of Mangalam channel Shri R. Ajithkumar claimed that this audio was given by a helpless housewife victimized by the sexual atrocities of Mr. Saseendran, the minister. The State of Kerala has announced a judicial enquiry on the issue and State police has registered a criminal case against the news channel authorities. Though it was initially claimed so, after three days, the Channel CEO Mr. Ajithkumar has come up with a declaration that the said audio was recorded by one of the staff of Mangalam Channel as a sting operation, and sought unconditional apology for giving misleading news. It is further confirmed that such a highly indecent, obscene audio content was edited and manipulated version of the original audio, a forged one only for the purpose of inviting public attention to the newly launched news channel.

It is reliably known that the Kerala Police has registered a case against the C.E.O., Reporter and other persons worked behind such an illegal telecast, under section 67 A of I.T. Act along with Section 120 B of the Indian penal Code, and the investigation is going on (Ps: CBCID, District, Thiruvananthapuram, Crime No.52/CR/OCW 1/TVM). It is now an admitted fact that the Mangalam Channel has purposefully



violated Rule 6 of the CTN Rules, and facing serious prosecution under 67 A of I.T. Act for using electronic information knowing to be false, but for the purpose of creating annoyance, insult and injury. As women aggrieved, we request your good self to conduct a fair and sincere enquiry into the above mentioned matter and take strict, appropriate penal action against the Mangalam Television Channel for the above mentioned violation, so that such serious violations should not be repeated in future. We also request you to take appropriate steps to suspend the broadcasting license of Mangalam channel at least for 7 days, as a model punishable for all violators. We do hereby put a copy to the Electronic Media Monitoring Centre, Soochana Bhavan, New Delhi”.

13.3 What is the action taken?

From the above complaints from a wide spectrum of the people of Kerala, it can be seen that the Mangalam Television Channel committed serious illegality and indulged in criminal activities flouting all norms of journalistic conduct and Code of Practice applicable to electronic media. In spite of such serious illegality in the telecast of the voice clipping and criminal activities committed by the Mangalam Television Channel giving a complete go-by to all canons of ethics, absolutely no penal action is taken by the Ministry of Information & Broadcasting. On a mere tendering of the apology by CW1 C.E.O. of Mangalam Television Channel which was telecast on 30.03.2017, the file was closed without any action – without even issuing notice to the Mangalam Television Channel and without even informing the complainants, at the level of Joint Secretary.



13.4 Withdrawal by NWMI, Kerala.

The subsequent action by NWMI, Kerala is more intriguing. After sending the above extracted complaint to Ministry of Information & Broadcasting on 03.04.2017, they withdrew the complaint on 04.04.2017 on the ground that they "have decided to approach the NBA with our petition instead".

On 12.04.2017 NWMI, Kerala sent the complaint to NBA by e-mail. NBSA responded on the same day as follows:-

"NBSA would like to inform you that as per the News Broadcasting Standards Regulations, the News Broadcasting Standards Authority (NBSA), the independent self-regulatory mechanism set up the News Broadcasters Association (NBA) looks into complaints only relating to the content shown by the member channels of the NBA.

On 10.04.2017 at 14.00 hrs., NBA received a complaint by e-mail only from Network of Women in Media (NWMI), Kerala regarding violations of Mangalam news channel. NBSA replied to (NWMI) by e-mail only dated 10.04.2017 at 14.41 hrs., that Mangalam News Channel is not a member of NBA. Hence, NBSA cannot take action on the complaint. NWMI may write to the Ministry of Information & Broadcasting (MoI&B). In the letter, itself we gave the details of the Joint Secretary (Broadcasting) and the Director in the Ministry of Information & Broadcasting with whom they should communicate and both these officials of the Ministry of Information & Broadcasting were



marked/copied in the mail itself. With this action, the complaint was closed by NBSA”.

It appears that the NWMI, Kerala did not take any action thereafter. This Commission sought to know the action taken by them in the matter. But there was no response.

It is already discussed in Chapter 8.4 above, the failure of CW16 Geetha Nazir, who is one of the signatories in the representation given by NWMI, Kerala to the Chief Minister on 29.03.2017, to appear before the Commission or to file an affidavit or even a statement in reply to the notice and summons issued by the Commission.

The question lingers, why did the NWMI, Kerala became quiet after the vociferous protests in the beginning and the representation and complaint? Or who silenced them ?!

13.5 The issues that arise for consideration from the conduct of the Mangalam Television Channel

The scope of Inquiry by this Commission also includes other matters connected with this case as the Commission observes.

The Commission has considered that the following issues are connected with this case:-



- invasion of Right to privacy of citizens;
- the extent of freedom of Media as a whole;
- questions of journalistic ethics and professional standards; and
- measures to prevent the misuse of the freedom of media.

The consideration of these issues necessitates an examination of the current media law and ethics which is done in the next chapter.

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CHAPTER 14

Media Law & Ethics at Present

14.1 Introduction

Media includes the press - news papers and other periodicals, radio and television. They are the means of mass communication in modern societies. Mass media is generally classified into print and electronic media and broadcast media. They are also the means of information, education and entertainment for the masses. Right to information, right to education and right to entertainment are fundamental social and cultural rights of people of a modern society.

In his book, **Mass Communication Theory**, **Denis McQuail** has identified the following features of the mass media institution:

- The media institution is located in the 'public sphere', meaning especially that it is open in principle to all as receivers and senders, the media deal with public matters for public purposes – especially with issues on which public opinion can be expected to form, the media are answerable for their activities to the wider society (accountability takes place via laws, regulations and pressure from state and society).



- By virtue of their main publishing activity on behalf of members of a society, the media are institutionally endowed with a larger degree of freedom as economic, political and cultural actors.
- The media institution is formally powerless (there is a logical relation between the absence of power and media freedom).
- Participation in the media institution is voluntary and without social obligation, there is a strong association between media use and leisure time and a dissociation from work or duty.

It is in the above context, the necessity for media law and ethics is to be considered. Media law is necessary for the enforcement of the rights of the people and regulate the functioning of the media institutions while media ethics is necessary for self-regulation.

14.2 Constitutional basis of the freedom of the media.

Unlike in the Constitution of U.S.A. where freedom of speech is equated with freedom of press, there is no express mention of "the press" or 'media' in the Constitution of India. Freedom of media in India stems from Article 19(1) (a) which states that, '**all citizens shall have the right to freedom of speech and expression**'. This is not an absolute freedom, the limitations to this freedom are stated in the Article 19(2). Article 19(2) states that even though freedom of speech and expression is guaranteed in 19(1) (a) it shall not affect the



operation of any law or prevent the State from making any law, insofar as such law imposes reasonable restrictions on the freedom of expression in the interests of the sovereignty and integrity of India, security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

“There are three concepts which are fundamental in understanding the reach of this most basic of human rights. The first is discussion, the second is advocacy, and the third is incitement. Mere discussion or even advocacy of a particular cause how so ever unpopular is at the heart of article 19(1) (a). It is only when such discussion or advocacy reaches the level of incitement that article 19(2) kicks in. It is at this stage that a law may be made curtailing the speech or expression that leads inexorably to or tends to cause public disorder or tends to cause or tends to affect the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, etc.” Vide **Shreya Singhal vs. Union of India (2015) 5 SCC 1**.

In **Secretary, Ministry of Information and Broadcasting, Government of India and Others vs. Cricket Association of Bengal and Others (1995) 2 (Supreme Court cases 161)** the Supreme Court has emphasised the need for reasonable restrictions under Article 19(2) of the Constitution in the national interest as well as in the interest of society.



14.3 Regulatory Mechanism and Self-Regulation

The necessity for a regulatory mechanism and self-regulation can be best understood from the following quotation of Mahatma Gandhi :

“The sole aim of journalism should be service. The newspaper press is a great power, but just as unchained torrent of water submerges the whole countryside and devastates crops, even so an uncontrolled pen serves but to destroy. If the control is from without, it proves more poisonous than want of control. It can be profitable only when exercised from within”.

It is universally recognised that in a democratic country direct Government control is anathema to freedom of the media. That is why an autonomous regulatory body like the Press Council was established in India under the Press Council Act, 1978. The purpose of the Act was to establish a Press Council for preserving the freedom of the Press and of maintaining and improving the standards of news papers and news agencies in India.

Some of the powers and functions of the Press Council are given below :



Powers and functions of the council**Section 13. Objects and functions of the Council**

(1) The objects of the Council shall be to preserve the freedom of the press and to maintain and improve the standards of newspapers and news agencies in India.

(2) The Council may, in furtherance of its objects, perform the following functions, namely;

(a) to help newspapers and news agencies in maintaining their independence;

(b) to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;

(c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and promote a due sense of both the rights and responsibilities of citizenship;

(d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;

(e) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.

(f) to keep under review cases of assistance received by any newspaper or news agency in India from any



foreign source including such cases as are referred to it by the Central Government or are brought to its notice by an individual, association of persons or any other organization.

(g) to undertake studies of foreign newspapers, including those brought out by any embassy or other representative in India of a foreign State, their circulation and impact.

(h) to promote a proper functional relationship among all classes of persons engaged in the production or publication of newspapers or in news agencies.

(i) to concern itself with developments such as concentration of or other aspects of ownership of newspapers and news agencies which may affect the independence of the Press.

(j) to undertake such studies as may be entrusted to the Council and to express its opinion in regard in any matter referred to it by the Central Government.

(k) to do such other acts as may be incidental or conducive to the discharge of the above functions '.

Section 14. Power to Censure

The Council may conduct an inquiry with the newspaper, or news agency, the editor or journalist – on the receipt of a complaint or otherwise- if the Council has reason to believe that they have offended against the standards of journalistic ethics or public taste or that an editor or working journalist has committed any professional



116

misconduct. If the Council is satisfied that it is necessary to do so, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist.

At the same time, the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry. If the Council is of the opinion that it is needed in public interest to do so, it may require any newspaper to publish any particulars relating to any inquiry under section against the newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist. In the above two instances, the decision of the Council shall be final and not be questioned in a court of law.

At the same time, the Council is not empowered to hold an inquiry into any matter the proceeding of which is pending in a court of law.

Section 15. *General powers of the Council*

(1) For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout India as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of persons and examining them on oath;



16

- (b) requiring the discovery and inspection of documents;
- © receiving evidence on affidavits;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter, which may be prescribed

(2) Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or journalist to disclose the source of any news or information.

(3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code.

(4) The Council may, if it considers it necessary for the purpose of carrying out its objects or for the performance of any of its functions under this Act, make observations in any of its decisions or reports, regarding the conduct of any authority, including Government.

Section 26. Power of the Council to make regulations

The Council may, by notification in the Official Gazette, make regulations not inconsistent with this Act.

In reply to the summons issued to the Secretary, Press Council of India as a witness in terms of Rule 4 of the Commissions of Inquiry (Central) Rules, 1972 seeking views of the Council by way of an



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affidavit on the issue of rights and privacy vis-à-vis press freedom on model ethics and professional standards of journalism, it is stated in the affidavit that it has no jurisdiction over electronic media.

It is also stated in the affidavit that the Press Council in keeping with its mandate has built on case to case basis a Code of Journalistic Ethics as per Section 13 (1) (b) of the Press Council Act, 1978 for the print media contained in the booklet "Norms of Journalistic Conduct – Edition 2010."

It is further stated in the affidavit,

"Relevant norms & guidelines framed by the Press Council of India in regard to the views raised by the Hon'ble Commission are quoted as below along with adjudications and copy thereof are also annexed to this affidavit for ready reference of this Hon'ble Commission.

Norm No.7: Privacy of Public Figures

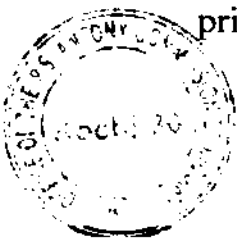
- (i) Right to privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public person who functions under the public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct are of public interest ('public interest' being distinct and separate from 'of interest to public') even if conducted in private may be brought to public knowledge through



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the medium of the press. The press has however, a corresponding duty to ensure that the information about such acts and conduct of public interest of the public person is obtained through fair means, if properly verified and then reported accurately. For obtaining information in respect of acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussion while the press is expected not to badger the public persons, the public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives.

- (ii) The interviews/articles or arguments pertaining to public persons which border on events that are in public knowledge, if reported correctly, cannot be termed as intrusion into private life. There is a very thin line between public and private life and public persons should not be too thick skinned to criticism.
- (iii) Newspapers are allowed latitude in criticising persons who are in seats of power because their conduct discloses public interest provided their criticism is not motivated to gratify private spite of opponent/rival of public figure.
- (iv) The family of public figures are not valid journalistic subject, more so if its reporting covers the minors. If "public interest" overrides the minor's right to privacy it will be proper to seek prior consent of the parents.
- (v) When the individual concerned himself or herself reveals facts about private life before a large gathering then the shield of privacy should be deemed to be abandoned by the individual.



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Norm No. 8: Recording Interviews and Phone Conversation

- (i) The Press shall not tape-record anyone's conversation without that person's knowledge or consent except where the recording is necessary to protect the journalist in a legal action, or for other compelling good reasons.
- (ii) The Press shall, prior to publication, delete offensive epithets used during such conversation.

Norm No. 41(B) : Guidelines on Sting Operations

- (i) A newspaper proposing to report a sting operation shall obtain a certificate from the person who recorded or produced the same certifying that the operation is genuine and *bona fide*.
- (ii) There must be concurrent record in writing of the various stages of the sting operation.
- (iii) Decision to report the sting operation should be taken by the editor after satisfying himself of the public interest of the matter and ensuring that report complies with all legal requirements.
- (iv) Sting operation published in print media should be scheduled with an awareness of the likely reader in mind. Great care and sensitivity should be exercised to avoid shocking or offending the reader".

Thus it is seen that there is a specific law and a statutory body for maintaining and improving the standards of the print media and news agencies in India.



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14.3.1 Inadequate law and statutory body to regulate private electronic media/broadcast media

In India, radio broadcasting (All India Radio) started in the year 1936 and television broadcasting (Doordarshan) was introduced in the year 1959. For a long time, broadcasting in India was under the control of Government till Prasar Bharti (Broadcast Corporation of India) Act, 1990 was enacted to provide autonomy to All India Radio and Doordarshan.

A change in the policy of Government of India in the early 1990 resulted in mushrooming of private television channels. The Cable Television Networks (Regulation) Act was framed to regulate them.

In exercise of the powers conferred by sub-section (1) S. 22 of the Cable Television Networks (Regulation) Ordinance, 1994 the Central Government has made the Cable Television Network Rules, 1994.

Rule 6 provides for a Programme Code.

The main provisions of the Programme Code are as follows:-

Section 6. Programme code

(1) No programme should be carried in the cable service which -

- (a) offends against good taste or decency ;
- (b) contains criticism of friendly countries ;



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- © contains attack on religion or communities or visuals or words contemptuous of religious groups or which promote communal attitudes ;
- (d) contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths ;
- (e) is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote antinational attitudes.
- (f) contains anything amounting to contempt of court.
- (g) contains aspersions against the integrity of the President and Judiciary;
- (h) contains anything affecting the integrity of the Nation; (i) criticise, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country ;
- (j) encourages superstition or blind belief ;
- (k) denigrates women through the depiction in any manner of the figure of a woman, her form of body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals ;
- (l) denigrates children ;
- (m) contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic, linguistic and



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regional groups ;

(n) contravenes the provisions of the

Cinematograph Act, 1952 (37 of 1952) ;

(o) is not suitable for unrestricted public exhibition.

(2) The cable operator should strive to carry programmes in his cable service which project women in a positive, leadership role of sobriety, moral and character building qualities.

(3) No cable operator shall carry or include in his cable service any programme in respect of which copyright subsists under the Copyright Act, 1957 (14 of 1957) unless he has been granted a license by owners of copyright under that Act in respect of such programme.

(4) Care should be taken to ensure that programme meant for children do not contain any bad language or explicit scenes of violence.

(5) Programmes unsuitable for children must not be carried in the cable service at times when the largest number of children are viewing.

All the powers for the enforcement of the provisions of the Act and Rules are vested in the Central Government. There is no law and statutory body like the Press Council Act, 1978 and a body like the Press Council for maintaining and improving the standards of the private broadcast media.



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It is already seen in Chapter 13 above that the Ministry of Information and Broadcasting, Government of India is not serious in enforcing the Programme Code. The complaints filed against the Mangalam Television Channel which violated many provisions of the Programme Code by the telecast of the voice clipping, which in the words of EMMC, is "crime-worthy and distasteful", "contains explicit words that are sexual in nature and verbal description of sexual acts, which was repeatedly telecast throughout the day" – were closed on the mere tendering of an apology on 30.03.2017 by the C.E.O of Mangalam Television Channel, without issuing even a show cause notice. The complainants are not even informed about the closure of the file.

In its letter dated 14.09.2017, the Ministry of Information and Broadcasting, Government of India has informed this Commission that in so far as specific cases of violation or otherwise of the Programme & Advertising Codes are concerned, the matter is disposed of without issuing show cause notice (SCN) at the level of Joint Secretary. As such Joint Secretary has the authority to decide what action needs to be taken against Television Channels in such cases. In the present case it was approved at the level of Joint Secretary (B-1) that since Mangalam Television Channel had already telecast the apology on 30.03.2017, no further action seemed to be taken by the Ministry.

It is also informed that "the Ministry has constituted a Composite Inter Ministerial Committee (IMC) comprising officers from Ministries of Home affairs, Defence, External Affairs, Law, Women & Child Development, Health & Family Welfare, Consumer Affairs



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and a representative from Advertising Standards Council of India, to take cognizance suo moto or to look into specific complaints regarding content on private Television Channels on any platform including FM Radio. The IMC functions in a recommendatory capacity. The final decision regarding penalties and its quantum against Television channels is taken on the basis of the recommendations of IMC.

In view of the telecast of apology on 30.03.2017 by Mangalam Television Channel C.E.O. R. Ajithkumar it was decided that no further action seemed to be taken by the Ministry. Hence the matter was not referred to IMC".

The above state of affairs shows that there is no effective law and machinery at the level of Ministry of Information and Broadcasting, Government of India to discipline the erring private electronic media unlike in the case of print media where the Press Council has power to censure under section 14 of the Press Council Act.

14.3.2 Self-Regulation by private electronic media.

The News Broadcasters Association (NBA) of India has adopted a Code of Practice for self-regulation and published in August, 2008. The Code of Practice is given in Annexure – X. In reply to the letter issued by this Commission, the NBA has informed as per letter dated 22.09.2017 that it has set up News Broadcasting Standards Authority (NBSA), the independent self-regulatory mechanism to



look into complaints relating to the content shown by the member channels of the NBA.

It is informed that as Mangalam News Channel is not a member of NBA, NBSA cannot take action on the complaint.

The above reply of the NBA shows that membership of NBA is not mandatory for the functioning of a private News channel. **In effect there is no effective law or mechanism to control the private electronic media.**

14.4 Broadcasting Services Regulation Bill, 2006.

The above Bill is pending with the Parliament. The objectives of the Bill are as follows:-

To promote, facilitate and develop in an orderly manner the carriage and content of broadcasting.

To provide for regulation of broadcasting services in India for offering a variety of entertainment, news, views and information in a fair, objective and competitive manner and to provide for regulation of content for public viewing and connected therewith or incidental thereto.

To provide for the establishment of an independent authority to be known as the *Broadcast*



Regulatory Authority of India for the purpose of regulating and facilitating development of Broadcasting Services in India.

Whereas airwaves are public property and it is felt necessary to regulate the use of such airwaves in national and public interest, particularly with a view to ensuring proper dissemination of content and in the widest possible manner ;

Whereas Government has issued guidelines from time to time, with the approval of the Union Cabinet, for regulating the Broadcasting Services and it is felt necessary to give a statutory effect in these guidelines with retrospective effect.

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CHAPTER 15

Need for Enactment of Law for Regulating Private Electronic Media and Machinery for Enforcement of Ethical Standards

15.1 Introduction

The various violations of Law and Rules of self-regulation involved in the telecast of the voice clipping on 26.03.2017 by the Mangalam Television Channel has already been discussed in Chapter 12.2 above and the lack of necessary law and machinery to regulate private electronic media has been discussed in Chapter – 14 above.

In his prophetic work, “**Understanding Media**” on the influence of media in the modern world written in 1964 by **Marshall McLuhan**, it is stated that “as electrically contracted, the globe is no more than a village” and “medium is the message”. Contrasting Radio and Television, McLuhan observed: “Radio will serve as background – sound or as noise-level control, as when the ingenious teenager employs it as a means of privacy. Television will not work as background. It engages you. You have to be with it”. This shows the extent of influence of Television in the daily lives of the people.

In a study conducted by **David Walsh**, a renowned psychologist, it was found that while a child watches Television for 1680 minutes a



week parents watch it only for 38 minutes. It was also found that while a child spends, 30 hours a week in school, he is spending 32 hours for Television, Video and Internet. It is now a common knowledge that women and children spend most of their time at home before the Television and for social media. Such a media, if left unregulated would create anarchy in the society.

15.2 Inadequacy of the present law and directions by the Supreme Court.

The necessity for a specific law governing the broadcast media was stressed by the Supreme Court in (1995) 2 Supreme Court Cases 161 which is already referred to above.

The Supreme Court has observed in paragraph 200 of the judgment as follows:-

“ 200. Now, coming to the Indian Telegraph Act, 1885, a look at its scheme and provisions would disclose that it was meant for a different purpose altogether. When it was enacted, there was neither radio nor, of course, television, though it may be that radio or television fall within the definition of ‘telegraph’ in Section 3(1). Except Section 4 and the definition of the expression ‘telegraph’ no other provision of the Act appears to be relevant to broadcasting media. Since the validity of Section 4(1)



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has not been specifically challenged before us, we decline to express any opinion thereon. The situation is undoubtedly unsatisfactory. This is the result of the legislation in this country not keeping pace with the technological developments. While all the democracies in the world have enacted laws specifically governing the broadcasting media, this country has lagged behind, rooted in the Telegraph Act of 1885 which is wholly inadequate and unsuited to an important medium like radio and television, i.e., broadcasting media. It is absolutely essential, in the interests of public, in the interests of the freedom of speech and expression guaranteed by Article 19 (1) (a) and with a view to avoid confusion, uncertainty and consequent litigation that Parliament steps in soon to fill the void by enacting a law or laws, as the case may be, governing the broadcasting media, i.e., both radio and television media. The question whether to permit private broadcasting or not is a matter of policy for Parliament to decide. If it decides to permit it, it is for Parliament to decide, subject to what conditions and restrictions should it be permitted. (This aspect has been dealt with supra.) The fact remains that private broadcasting, even if allowed, should not be left to market forces, in the interest of ensuring that a wide variety of voices enjoy access to it".



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In (2011) 13 Supreme Court Cases 155 referred to above, the Supreme Court observed as follows:-

“ The media, be it electronic or print media, is generally called the fourth pillar of democracy. The media, in all its forms, whether electronic or print, discharges a very onerous duty of keeping the people knowledgeable and informed. The impact of media is far-reaching as it reaches not only the people physically but also influences them mentally. It creates opinions, broadcasts different points of view, brings to the fore wrongs and lapses of the Government and all other governing bodies and is an important tool in restraining corruption and other ill-effects of society. The media ensures that the individual actively participates in the decision making process. The right to information is fundamental in encouraging the individual to be a part of the governing process. The enactment of the Right to Information Act, 2005 is the most empowering step in this direction. The role of people in a democracy and that of active debate is essential for the functioning of a vibrant democracy. With this immense power, comes the burden of responsibility. With the huge amount of information that they process, it is the responsibility of the media to ensure that they are not providing the public with information that is factually wrong, biased or simply



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unverified information. The right to freedom of speech is enshrined in Article 19(1) (a) of the Constitution. However, this right is restricted by Article (19) (2) in the interest of the sovereignty and integrity of India, security of the State, public order, decency and morality and also Contempt of Courts Act and defamation. The unbridled power of the media can become dangerous if checks and balances are not inherent in it. The role of the media is to provide to the readers and the public in general with information and views tested and found as true and correct. This power must be carefully regulated and must reconcile with a person's fundamental right to privacy. Any wrong or biased information that is put forth can potentially damage the otherwise clean and good reputation of the person or institution against whom something adverse is reported. Pre-judging the issues and rushing to conclusions must be avoided".

15.3 Need for change in Licensing Policy

The function of the media is to inform, to educate and to provide entertainment to the viewers. Media can function only as a business/industry. Basically objective information is the product of the media business. The license given to a news channel is to sell accurate and true news. No license is given to sell a false information. Just like a hotel which is not given a license to sell adulterated, poisonous and



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putrid food items, a media house/news channel has no licence to sell half-truths and false news.

While exercising the freedom of speech and expression under Article 19(1) (a) of the Constitution, the exercise of that freedom is subject to the reasonable restrictions laid down under Article 19(2) of the Constitution, namely,

- i) the sovereignty and integrity of India,
- ii) the security of the State,
- iii) friendly relations with foreign States,
- iv) public order,
- v) decency or morality or
- vi) in relation to contempt of Court,
- vii) defamation, or
- viii) incitement to an offence

In short, a new programme or any other programme published or telecast/broadcast should not be against the interest of the State and of the society. A false news will create problems in the society and anarchy in public administration.

In the landmark judgment in (1995) 2 SCC 161 referred to above, it was held that airwaves constitute public property which must be utilised for advancing public good. In paragraph 192 of the judgment the Supreme Court held as follows:



" 192. **The Importance and Significance of Television in the Modern World** needs no emphasise. Most people obtain the bulk of their Information on matters of contemporary interests from the broadcasting medium. The television is unique in the way in which it intrudes into our homes. The combination of picture and voice makes it an irresistibly attractive medium of presentation. Call it idiot box or by any other pejorative name, it has a tremendous appeal and influence over millions of people. Many of them are glued to it for hours on end each day. Television is shaping the food habits, cultural values, social mores and what not of the society in a manner no other medium has done so far. Younger generation is particularly addicted to it. It is a powerful instrument, which can be used for greater good as also for doing immense harm to the society. It depends upon how it is used. With the advance of technology, the number of channels available has grown enormously. National borders have become meaningless. The reach of some of the major networks is international; they are not confined to one country or one region. It is no longer possible for any government to control or manipulate the news, views and information available to its people. In a manner of speaking, the technological revolution is forcing internationalism upon the world. No nation can remain a fortress or an island in itself any longer. Without a doubt, the technological revolution is presenting new issues, complex in nature – in the words of Burger, C.J "complex problems with many hard questions and few easy answers". Broadcasting media by its very nature is different from press. Airwaves are public property. The fact that a large number of frequencies/channels are available does not make them anytheless public property. It is the obligation of the



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State under our constitutional system to ensure that they are used for public good”.

As seen from the case of Mangalam Television Channel it is easy to invest money in media and create anarchy in the country through false news. In the absence of any statutory body or self regulatory mechanism for the audio visual media, the private electronic media is proving to be capable of causing havoc as well as mischief as opined by Dr. Sebastian Paul. In the case of Mangalam Television Channel the telecast of the voice clipping on 26.03.2017 violated the restriction of decency or morality and public order. What would have been the result, if a telecast was made against the interest of the State adversely affecting the sovereignty and integrity of India, friendly relations with foreign States, security of the State and public order. As India is a plural society where people speaking diverse languages and believing in different religions and held together by the idea of India which is unity in diversity, a telecast of a false news relating to communal harmony, linguistic differences or a ‘son of the soil’ campaign would cause serious law and order problems even affecting the national integrity.

Though hundred percent foreign direct investment in media industry is allowed in India there is no adequate law for regulating the private electronic media or self regulatory mechanism in place as proved in the case of the telecast of the voice clipping by Mangalam Television Channel. Though complaints were made against the violations of the Programme Code, absolutely no action was taken against the erring



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channel. Media is used by various interest groups to advance their agenda.

The audio visual media market has become crowded. In their craze for breaking news in a 24 x 7 time schedule, there is a tendency to create news and sensationalise every issue in the society for a breaking news.

The Readers' Editor of the **Hindu Daily**, **Shri A.S. Panneerselvan** observed as follows:

"The ubiquitous 24 x 7 news channels do not understand the rigorous of serious investigative journalism. The moment they access a sheet of paper coming from officials, they think they have unearthed a scam, and their decibel levels reach a crescendo, only to be lost following the discovery of another sheet of paper, to proclaim another exclusive expose. In 2008, **Aidan White** wrote an excellent handbook, *To Tell You The Truth*, in which he laid down the ground rules for journalism to remain a trustworthy endeavour. "Fierce competition and a lack of regulation have created a dangerously competitive environment in which ethical and professional standards have been sidelined. In broadcasting, for instance, 40 television news channel compete for viewers in one of the world's most crowded media market, 'sting journalism' – some might call it voyeurism and entrapment – has come to dominate the news mix," he wrote about Indian television channels. Now, with numbers of channels going up, the downward spiral in standards seems to be touching a new low".



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All the above factors indicate not only a necessity for a statutory body for regulating the private electronic media, but also a change in the licensing policy of the Union Government. Unrestricted granting of licenses to new and more news channels would create unhealthy competition resulting in a situation of 'bad money driving out the good money'.

This situation calls for a change in the licensing policy of the Union Government to limit the number of news channels in regional/vernacular languages. The policy can be on the basis of a particular State/language along with other parameters to be decided by the Government considering the interest of the State and the society under Article 19(2) of the Constitution.

15.4 Towards a comprehensive law for regulating the Electronic/Broadcast media

In the book, "**Law, Ethics and the Media**" by **Sebastian Paul**, it is observed as follows:

" Being a nascent media with none to guide and control, the electronic media is proving to be capable of causing havoc as well as mischief. Taking into account its tremendous reach and influence, it is high time to think of a self regulatory mechanism for the audio-visual media. The broadcasting industry, as we all know, has no equivalent of the Press Council



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though the television channels, including the government-owned Doordarshan and All India Radio, have never been above criticism. With more and more channels, both foreign and national, crowding our airwaves, the formation of a controlling agency has become imperative".

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" Legislative intervention is an urgent necessity because the present policy has led to grave misuse of power and blatant irresponsibility - media trials, invasions of privacy and grief, sensationalism, loss of civility and trivialization. What we see on TV channels should be deemed unpardonable in any civilized society. The exclusive footage on actor Govinda's wife and children in the hospital after a road accident followed by stories on Aamir Khan and Karisma Kapoor show how insensitive our channels have become while reporting traumatic events in the lives of celebrities. The exploitation of the grief and humiliation of celebrities and ordinary people like Gudiya and Imrana cannot be justified as a legitimate quest for truth

The News Broadcasters Association repelled a suggestion made by PCI Chairman Markandey Katju that the Press Council be allowed to regulate television channels as well. The suggestion was to convert the Press Council as a Media Council with sufficient teeth. Both the Editors Guild of India and



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the Indian Newspaper Society wanted the Press Council to have its brief limited to the print media. According to the Guild, the issues and drivers of the electronic media are such that they call for separate regulation. Whatever be the form and manner, the need for regulating the electronic media is manifested in many ways as the experiments in self-regulation, such as the News Broadcasters Association and the Broadcast Editors Association, are not working well in the mad race of television channels for profit and high TRP ratings.

The Supreme Court's blunt rebuke of television channels for their careless and competitive feeding frenzy while covering the Mumbai 26/11 terror attack was generally welcomed as a moderate criticism. The live coverage of 26/11, continuously for sixty hours, set a low in TV journalism with the most basic of norms – objectivity, verification, dispassion – making way for a heated, overzealous and inconsiderate jumble of words and images. At times the frenzied coverage risked the lives of people trapped in the two Mumbai hotels and endangered the security forces. The Pakistani handlers were issuing instructions to the terrorists on the basis of what they were watching on television”.

The Central Government must seriously consider the enactment of a comprehensive law repealing the Indian Telegraph Act, 1885, The



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Indian Wireless Telegraphy Act, 1933, The Cable Televisions Networks (Regulation) Act, 1995 and the Telecom Regulatory Authority Act, 1997 on the model of Communications Act, 2003 of U.K. under which The Office of Communications ("OFCOM") is the regulatory body for the broadcast media.

The Central Government shall also consider converting the Press Council as Media Council with sufficient teeth as suggested by Justice Markandey Katju when he was the Chairman of the Press Council of India. This can be easily done by amending the Press Council Act, 1978 by the Parliament and renaming it as Media Council Act to cover the electronic/broadcast media.

As seen in the present case when regulation by Ministry of Information and Broadcasting and self-regulation by NBA is ineffective, autonomous and statutory body like Media Council with sufficient teeth – as suggested by Justice Mankandey Katju, is a must for the purpose of preserving the freedom of the Media and of maintaining and improving the standards of both print and broadcast media and news agencies in India.

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CHAPTER 16

Other Matters Observed in connection with this Case

16.1 Introduction

The Government has asked this Commission "to inquire into the other matters connected with this case as the Commission observes". The Commission has considered that the following issues are also connected with this case:-

- invasion of Right to Privacy of citizens;
- the extent of freedom of media as a whole;
- questions of journalistic ethics and professional standards; and
- measures to prevent the misuse of the freedom of media

The above issues already mentioned in Chapter 5.2 and 13.5 above and other matters which are noticed by the Commission during the course of inquiry are discussed in this Chapter.

16.2 Invasion of Right to Privacy of Citizens and Freedom of Media

In view of the importance of these issues to the media and the general public this Commission had issued notice to CW18 Narayanan,



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General Secretary of KUWJ, CW 19 The Secretary, Kerala Television Federation, CW 20 The Secretary, Press Council of India seeking to know their views on the above specific issues and also issued summons to file affidavits as witnesses in inquiry. CW 16 Geetha Nazir, representing NWMI, Kerala was also directed to file an affidavit on these issues as the witness did not file any reply to the notice issued and failed to appear as witness.

The Commission also addressed the following media experts seeking to know their views on the above issues:

- 1) Mr. N. Ram, Former Editor, The Hindu Daily
- 2) Mr. Arun Shourie, Former Editor, Indian Express Daily & Ex-Central Minister
- 3) Mr. Sanjay Vishnu Tambat, Asst. Professor, H.O.D, Department of Communication & Journalism, JNU
- 4) Mr. Adoor Gopalakrishnan, Veteran Director of Internationally Recognized Malayalam Films
- 5) Mr. Sasikumar, Former Chairman, Asianet Communication
- 6) Mr. S. Prasannarajan, Editor, Open Magazine.
- 7) Dr. Sebastian Paul, Ex- M.P., Lawyer, Journalist and Author of 'Law Ethics and the Media'
- 8) Secretary, Kerala Media Academy



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Of the above media experts only Shri Adoor Gopalakrishnan and Dr. Sebastian Paul sent their views/opinion on the above issues.

The absence of CW 16 Geetha Nazir and her failure to file statement or affidavit before the Commission is already discussed in Chapter 8.4. The conduct of NWMI, Kerala is also discussed there and in Chapter 13.3 above.

16.2.1 Statement of CW 18 Narayanan C., General Secretary, KUWJ

CW 18 Narayanan has given general remarks on the issue of journalistic ethics as a representative of the KUWJ. He has made it clear that his views are not given as approved guidelines or that his statement means that it is a rule to be followed. Sting operation in public interest is recognized by the Supreme Court. From the Tehelka case sting operation is used as a tool to gather news. But CW18 has not referred to the guidelines on sting operations in 41(B) of Norms of Journalistic Conduct, 2010 Edition of PCI or to the Code of Practice adopted by NBA.

He has referred to Privacy of Public figures and the public interest involved. CW 18 has stated that

- 1) the private activities of public figures which they want to keep it as private, but affecting the taxpaying public and
- 2) though private and personal matters, the private acts done by



a public figure misusing his capacity, authority, status and influence are matters of public interest and the media is entitled to inform the public such private activities of public figures.

The public figures are entitled to privacy which is a

Fundamental right in respect of other private activities.

The Commission is in total agreement with the views of CW 18 Narayanan in respect of his statement on the right to privacy of public figures.

16.2.2 Affidavit of CW 19, The Secretary, KTV Federation

The relevant portion of the affidavit of CW 19 is as follows:-

“With respect to the “invasion of right of privacy of citizens” the accepted trade practice is that the journalist should not tape record anyone’s conversation without his knowledge and consent except where the recording is necessary to protect the journalist in any legal action or for other compelling reason. The Television industry in India is functioning under a Licensing regime of the Government of India. It is a basic condition of the License to operate a television channel that the entity functions strictly according to the Programme Code and Advertisement Code issued by the Government of India. Further, as a measure of self regulation, there is Broadcast Standards Authority functioning under the auspices of News Broadcasters Association which looks



Into complaints regarding any item of News broadcast in a News Channel. The Advertising Standards Council of India oversees compliance as a self regulation measure in respect of advertisements aired in any television channel licensed by the Government of India. This is the framework with regard to the content broadcast in a television channel. The Ministry of information and Broadcasting is the nodal Ministry of the Government of India functioning as the Licensing Authority. If the Licensing conditions are violated by any television channel, the complainant can approach either of the abovementioned authorities for redressal.

A successful democracy is a government of well informed people. To achieve this end the press is in dispensable. As regards the disputed item, while I reiterate that Kerala Television Federation did not have a role or occasion to oversee the matter, the dispute being discussed in media was about the methods adopted by Mangalam Channel in collecting a particular item of news allegedly involving acts of moral turpitude on the part of a Minister of the Government of Kerala. This is a matter related to the freedom of the Press in a democratic country. The methods adopted by Press in a 'sting operation' can be justified only within the framework of Law of the land. As regards ethical interpretation of the incident, I am not competent to pass an opinion. In democracy, Press is the watchdog of



The people but it cannot assume the role of a bloodhound for purposes other than the well being of the nation.

With respect to the measures to “prevent the misuse of freedom of media involved and arising in the telecast of the voice clipping said to be that of a minister of the state in Mangalam Television Channel on 26.03.2017”, it may be submitted that this federation was not having any knowledge as to the intention of Mangalam Television channel to publish such a matter and that Mangalam channel is not a member of the federation. We were not expected to take any preventive measures nor was we having any control over the said channel.

In these circumstances the federation is not having any responsibility in the above said telecast”.

16.2.3 CW 20, the Press Council of India

The affidavit filed by the PCI and the views expressed is already discussed in Chapter 14.3 above.

16.2.4 Statement of Shri . Adoor Gopalakrishnan, Media Expert

Shri.Adoor Gopalakrishnan has given the following statement:-



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1. What the Mangalam Television had done in telecasting a part of the Minister's conversation over the phone was a clear intrusion and violation of a citizen's right to privacy.
2. The act was proven to be hideous as it turned out to be part of an operation to trick the minister into a conversation with a woman planted by the Channel. The intention as well as the *modus operandi* were most foul.
3. The media - print or electronic - should not assume a role that is not assigned to it. Its role as I understand is to report and not create sensational reports with intention mala fide.
4. The act was not in keeping with journalistic ethics.
5. No media should enjoy unbridled, unquestioned freedom in the execution of its duty. Our Constitution should guide them in their deeds.

16.2.5 Opinion of Dr. Sebastian Paul

Dr. Sebastian Paul has given the following opinion:

"I am genuinely and seriously concerned with issues which journalists face in their everyday lives - from the media's supposed obsession with sex, sleaze and sensationalism to issues of regulation, control and censorship. The telecast of the voice clipping by *Mangalam Television* on 26.03.2017 which resulted in the ignominious exit of a Minister from the State Cabinet was highly objectionable as it cannot be



Justified on the ground of public interest. Apart from being extremely indecent and immoral, the telecast was an unjustifiable invasion of fundamental right of personal privacy.

It is very important that people be able to protect their privacy on television as well as on the internet. This is a difficult issue when matters of public interest are involved. However, it is a fundamental value that should be respected. The unauthorised recording and telecast of a private conversation in the very personal and confidential situation is a matter of serious concern. It is evident from the published matter that the Minister was not the originator of the conversation. The Minister was answering a call from a seemingly familiar person. When the long-distance midnight call went away, the woman had the option to terminate the call. She did not. Instead she instigated the unwary Minister to continue the lascivious talk with vigour. Apart from the impropriety involved in the matter, the legal question is whether the law permits anyone, including the participant in the conversation, to record the conversation without the knowledge and consent of the other participant, in my opinion the recording itself was impermissible.

The television channel's nasty inaugural proffer was described as a real conversation between the Minister and a widow in need of assistance from the Minister. Apart from the vulgarity in the televised conversation, it is an instance of fake news. It was a lie. A vulgar news was created by the channel, employing its own woman journalist, for commercial exploitation. Vulgarity is a punishable offence but there is no safeguard against fake, false or fabricated news. The Minister was not trying to exploit the vulnerability of a helpless widow.



45

The prurient programme evoked harsh public criticism which prompted the head of the channel to appear in person on the screen and make a clarification that it was a sting operation. There is no clarity on whether it was a genuine expose following an investigation supported by a sting operation. If it were a sting operation, the channel ought to have presented the news as such in the beginning itself. The unethical camouflage in the presentation of a patently fake news was against the canons of civilised journalism.

Sting operation by its very nature is violative of the principles of privacy. No public interest is served to justify the clandestine activity. The channel itself was in embarrassing doubt about the nature of its ribaldry. For more clarity on this issue I am respectfully suggesting a reading of pp 123 – 125 and p. 219 from my book *Law, Ethics and the Media (3rd edition)*, published by Lexis Nexis.

Being a nascent media with none to guide and control, the electronic media is proving to be capable of causing havoc as well as mischief. There is no self regulatory mechanism for the audio visual media. The broadcasting industry has no equivalent of the Press Council. The electronic media is being the ambit of the Press Council. It is functioning in a free for all atmospheres. Broadcasting content and practice is scarcely regulated by law and the independent Broadcasters Association, a regulatory body, is functioning without any statutory authority. The establishment of a statutory body to sit in public in order to investigate and decide upon complaints from the public is a necessity. The British experience in establishing a Broadcasting Complaints Commission in 1981 can be taken into account in this regard.



Governmental interference in the affairs of the media is a constitutionally impermissible thing. Prior restraint is anathema; so also is subsequent action. No action can go beyond the permissible parameter delineated in Article 19(2) of the Constitution. The police action against *Mangalam Television*; including the raid on the premises and the arrest of senior editors, were perilously on the verge of unconstitutionality. They were arrested and paraded with handcuffs in front of jeering advocates in the court premises. This is not the way we should treat our journalists.

The Union Ministry of Information and Broadcasting is functioning as a restraining force. But the recent order suspending the licence of NDTV for a few hours was criticised vehemently as an attempt on the part of the executive to hamper free functioning of the media. Executive action, howsoever good the intention may be, is no substitute for judicial or quasi judicial security.

Remedial measures, including the creation of a quasi judicial regulatory body for the visual media, are completely within the legislative competence of the Union. The Kerala Media Academy can be pressed into service for raising the awareness level with regard to ethical journalism. Apart from Television Rating Points (TRP), the veracity of which is not conclusively established, there is another rating based on credibility. It is done by the public though it may not be counted. The erring media should be taught this important lesson. Let the media function in an atmosphere of unfettered freedom. Aberrations will be checked and corrected by a vigilant public in due course."



16.3 Journalistic ethics and professional standards

The journalistic ethics and professional standards expected of journalists working in India are already discussed in Chapter 14.3 and contained in 'Norms of Journalistic Conduct 2010 Edition' of PCI and Annexure – X Code of Practice of NBA published in 2008.

Considering the conduct of CW 1 R. Ajithkumar, CW 3

R. Jayachandran, CW 4 M.P. Santhosh, CW 7 Firoz Sali Mohammed, CW8 S.V. Pradeep and CW 8 Nazila Nazimuddin (who filed only an affidavit) before the Commission, having directly or indirectly involved in the making of the voice clipping and the telecast of the same is totally against the journalistic and professional standards expected of journalists. When CW 1 R. Ajithkumar states that the norms of journalist conduct is not applicable to electronic media, it is **true only in the sense that Press Council has no jurisdiction over the electronic media as an establishment. But those norms are applicable to every journalist who calls himself one.**

As sworn by CW 19 and as informed by NBA, Mangalam Television Channel has not become a member of these bodies and NBSA cannot take any action against a non-member. By tendering a live apology on the telecast of the voice clipping, the Mangalam Channel escaped any action by Ministry of Information and Broadcasting. CW 1

R. Ajithkumar denied the material averments in the Annexure – III apology regarding the sting operation and the eight member editorial board. Thus he has cheated the entire public to whom the apology was addressed and also the Ministry of Information and



Broadcasting who closed the file regarding the complaints filed against the violations of Mangalam Television Channel in view of the apology. Thus it is seen that not only the voice clipping, but also the apology is false.

The Mangalam Television Channel and its CEO CW 1 R. Ajithkumar and other journalists are like outlaws in the world of electronic media.

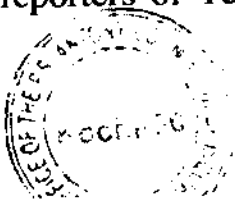
As pointed out by Counsel for CW 17, journalism is a profession. Be it the print media or the electronic media is considered to be the 4th pillar of the democratic State. It is also called the 4th estate. Like any other profession the journalism also should be guided by principles and ethics in their profession. The underlying principle that governs the Press either print or electronic, is that gathering and selling of news and views is essentially a public trust. It is the same kind of trust which is implied in the relationship between a doctor and patients. Though medical men work under discipline of professional code which is statutorily recognized and they are applied to hold recognized medical degrees, journalism is a free profession subject to the external restrictions of the laws of the land. But a dishonest doctor can harm and worst only a few dozen or a few score of his patients while the dishonest journalist may poison the minds of hundreds or thousands or millions of the general polity.

Every news item prepared by the journalists and published by the media should be accurate and fair. The basic object of the journalism is to serve the public with news, views, comments, analysis, critics, appraisals and information on matters of public interest in a fair,



accurate, objective, unbiased, sober, rational, wholesome and decent manner. The media can cause much harm if baseless, misleading or distorted news about an individual, community, programme or organization is published. This peculiar nature of the media underscores the importance of accuracy and fairness in the material published. The famous author Mr. Thomas W. Kooper in his work *Communication, Ethics and Global Change* says that a study of more than 100 media ethics codes around the world revealed that almost all media system are committed to truth telling and preventing harm. In regard to the news item, it should be 100% truthful without allowing imagination to play any mischief. It is the principle adopted by the media of all the countries in the world that the media shall not intrude upon or invade the privacy of an individual unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. This has been codified by the Press Council of India in the guidelines evolved by it. It is the accepted principles of journalistic ethics that while reporting the person's statement, interpolation of words is highly objectionable. It is always open to media to make its comment on a person's statement, but it is not proper to report the statement in secretly or add something which may convey any different meaning or subtract from it.

It is an accepted principle of journalistic ethics that journalist should not tape record anyone's conversation without his knowledge or consent except where the recording is necessary to protect the journalist in any legal action or for other compelling reasons. With the advent of Television, sting operation is being carried out by the reporters of Television channels. But in some cases, the journalists



42

indulge in sting operations just to create for sensationalism sells. It is also established principle of journalism conduct that no obscene or vulgar journal or offensive matter in any forum should be published. Though the expressions obscenity or vulgarity are not capable of precise definition, these aspects are to be judged with reference to the facts and circumstances of the particular case depending upon the totality of the impression that created in the minds of the readers/viewers.

The act of Mangalam Television Channel and its officials is clearly unethical. This Hon'ble Commission may be pleased to see that they have conspired with malicious and criminal intention to malign and defame CW 17 to get a high rating to their channel in the opening day itself and for that matter they have forged and manipulated electronic documents and aired false and incurable materials. Their acts are offences attracting various penal provisions also”.

16.3.1 The Conduct of some of the Journalists before the Commission

The evidence and conduct of CW 1 R. Ajithkumar, CW 3 R. Jayachandran, CW 4 M.P. Santhosh, CW 7 Firoz Sali Mohammed and CW 8 S.V. Pradeep is already referred to in Chapter 7 and Chapter 12 above. These witnesses were not ready to tell the truth. The answers to the questions put by this Commission were vague uncertain and evasive. Decisive questions put by the Commission to these witnesses were met by the answer “it is relative”.



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CW 1 R. Ajithkumar went to the extent of saying that truth is relative. These witnesses were as if determined not to tell the truth.

One of these witnesses went to the extent of being disrespectful to the Commission and attempted to stall the proceedings of the Commission by quarrelling with the advocates present. When the Commission intervened, he started dictating as to how the Commission should conduct its proceedings. His conduct amounted to disorderly behaviour. But this Commission is experienced enough to shrug off such conduct of witnesses. As the Commission is functioning within a time limit, the prime object of the Commission is to complete the inquiry within the time schedule. In spite of such conduct of the witnesses, this Commission could complete the proceedings as per schedule. Gross immaturity of the said witness was complete when he put up a face book post justifying and glorifying himself and finding fault with the advocates and Commission. But it is also to be noted that in the last paragraph of the face book post, the witness showered encomium by stating that the Commission was just in its proceedings and he was satisfied with himself !

16.4 Social Media and Cyber crimes

It has come out in the inquiry that the Mangalam Television Channel and the men behind it also committed cyber crimes. Cyber crimes or electronic crime is linked with a computer and internet. A computer is used as a means or as a tool to commit a crime. It is already found in Chapter 12.4.5 and 12.4.6 that the Mangalam Television Channel and CW1 to CW10 committed the offences



punishable under section 67, 67 A, 84 B and S. 85 of the Information Technology Act, 2000 and under sections 109, 120B, 201, 294, 463, 464, 469, 470 and 471 of the Indian Penal Code, 1860 by the making of the voice clipping said to be that of a Minister of the State and telecasting it on 26.03.2017.

In the complaint dated 29.03.2017 of Adv. Sreeja Thulasi addressed to DGP, it was clearly stated that the voice clipping aired by the Mangalam Television Channel was spreading in the social media and produced a copy of the same in a pen drive as evidence. It is alleged that the voice clipping is a forged one, edited, manipulated and tampered with and this would be clear, if the original record is seized and compared with the voice clipping.

In the complaint dated 29.03.2017 of Adv. Mujeeb Rahman on the basis of which another crime was registered it is stated that the voice clipping is cyber pornography and in telecasting the voice clipping the accused committed cyber stalking, hacking and forgery. It is also stated that the voice clipping was also published in the Face book account of Mangalam Television Channel at 5.46 p.m. on 26.03.2017.

From the above it is seen that the Mangalam Television Channel and the men behind also used social media to spread the voice clipping with the intention to gain popularity for the Mangalam Television Channel. It has come out in inquiry that the voice clipping was also posted in the You Tube as complained by one Saiju Menon who sent a complaint to the Ministry of Information and Broadcasting and



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to the NBA. NWMI, Kerala in its complaint stated that such broadcast was done by the Mangalam Television Channel as a part of their launch, only for the purpose of commercial interest and no public interest is involved in it. It is further stated that "such a highly indecent, obscene audio content was edited and manipulated version of the original audio, a forged one only for the purpose of inviting public attention to the newly launched news channel".

Statistics from the National Crime Records Bureau (NCRB) shows that Kerala tops in cyber crimes. The statistics of cyber crimes in Kerala during the year 2016 is shown in Annexure – XI. It is seen that a total number of 283 cases were registered under the provisions of I.T. Act, 2000, IPC and other special laws. Out of which only in 130 cases charge sheet have been filed in different Courts. It is also seen that the highest pendency of cyber crimes is in the Ernakulam District, i.e. 56 cases. It appears that creation of a cyber crimes division for the investigation of cyber crimes and a Special Court for the trial of cyber crime cases are necessary to deal with the situation.

16.5 Misuse of the freedom of Media

Media has a privileged position (commonly called the enlightenment function) in democratic countries based on rule of law. As observed by the authors of '**Media Ethics Cases and Moral Reasoning**', democratic theory gives the press a crucial role. In traditional democracies, education and information are the pillars on which a free society rests. Informed public opinion is typically believed to be a weapon of enormous power - indeed, the cornerstone of legislative



government. But in the 21st century media has emerged as a major industry with all associated vices.

While commitment to truth and accuracy in news reporting is recognized as a fundamental obligation of journalistic ethics, the quest for breaking news in 24 x7 News Channels result in a search for sensational news with scant regard for truth and accuracy in news reporting. **Dale Jacquette** in his book, '**Journalistic Ethics Moral Responsibility in the Media**' observes as follows:-

"THE MIDAS TOUCH OF TELEVISION NEWS

There are vast profits to be made in television broadcasting including television news programmes. At first this fact might seem paradoxical. While there are around – the- clock news channels, a few daily hour-long news programmes, and documentary and investigative journalism shows that usually air once a week available today on American television and throughout the developed world, one would think that news reporting on television in particular occupies only a tiny part of the broadcasting schedule.

This is true, but the fact is that news remains a major source of income for network television where most of the profits are currently to be made. The reason is that news programming is comparatively less expensive to produce than any other type of



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programming, with a higher percentage of viewer attraction per programme production cost. We need only think of how many people make a point of watching the evening half-hour nightly news programmes on television. These are deliberately scheduled to coincide with the time most persons have arrived home from work and are either eating or about to eat their dinner. This is the perfect opportunity to get viewers to tune in and, hence, the perfect time to advertise goods and services. It is, moreover, as we all know, advertisers who finally pay the bills for commercial television production costs, including the news. It is the news, however, where the greatest marketing window allows advertisers to reach more potential buyers than any other single hour of the television broadcasting day for a comparable investment".

Now, examining the Mangaalam Channel's voice clipping in the light of the above it can be seen that a channel would go to any extent to create a sensational news for profits and TRP rating with scant regard for accuracy and ethics. Wiretapping without authority of law by employing a woman journalist and thereafter airing the voice clipping, which was edited, manipulated and tempered with using computer, in the process of which several offences are committed, also constitute gross violation of the constitutional right to privacy as guaranteed under Article 21 of the Constitution of India. The decision of Supreme Court in **Justice K.S. Puttaswamy (Retired) v.**



Union of India (2017 (4) KLT 1 (SC) referred to above has declared that privacy is a constitutionally protected right which emerges primarily from the guarantee of life and personal liberty in Article 21 of the Constitution.

In the present case, there are three versions of the news on voice clipping as stated by CW 1 R. Ajithkumar, CEO of the Mangalam Television channel:

- i) The news was aired stating that the pornographic, obscene and sexual content in the audio was made by the Minister A.K. Saseendran to a poor housewife who approached him for help. When the news became a hot debate CW 1 claimed that the audio clip was given by a helpless house wife victimized by the sexual atrocities of Minister A.K. Saseendran.
- ii) After the appointment of the Commission of Inquiry and registration of 2 criminal cases and widespread condemnation from the public, on 30.03.2017 CW 1 tendered an apology stating that it was a sting operation by their woman journalist and tendered unconditional apology for the misleading news.
- iii) Before this Commission CW 1 R. Ajithkumar stated that it was not a sting operation and that the channel telecast only the voice clipping in a pen drive which was brought by CW10 the reporter.



It is only to be found that what is telecast by Mangalam Channel on 26.03.2017 is only a fake news created for profits and TRP rating. While doing so the ground rules of ethical journalism is given a complete go-by sidelining professional standards and morality. Broadcasting has become a crowded market place where Television channels vie with one another for viewers. In such an unhealthy scenario 'sting journalism' and entrapment has come to occupy a pivotal position. Now with number of channels spiralling up, the downward spiral in standard of journalism seems to be touching a new low. **Dr. Samuel Johnson** was right when he said, "A reporter is a man without virtue who writes lies.....for his profit" (Quoted by **Karen Sanders in Ethics & Journalism**). The authors of **Media Ethics** states that the latest Gallup Polls (2005) reveal press credibility at 13 percent in the United States. In Britain it is 15 percent, according to **Karen Sanders**. It must be lower in Kerala after the Mangalam channel news of 26.03.2017.

16.6 Media Justice

The unbridled freedom exercised by the media, especially the electronic media amounting to misuse of the freedom of speech and expression is also obstructing the administration of justice in our Country. The media has assumed the role of the accuser, prosecutor and the Judge through media trial. The reporting of court proceedings and the queries put by the Judges to the Bar are also reported as order of the court and subject of breaking news. In (2010) 5 Supreme Court Cases 600 (**S. Khusboo v. Kannammal and Another**) the Supreme Court cautioned the media to be a little more



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careful, responsible and cautions in this regard. The Supreme Court observed as follows:-

“53. Admittedly, all those persons who have sent letters to us were not present on that particular date but must have gathered information from the print and electronic media which evoked their sentiments to such an extent that they prayed for review. It is, therefore, not only desirable but imperative that electronic and news media should also play positive role in presenting to general public as to what actually transpires during the course of the hearing and it should not be published in such a manner so as to get unnecessary publicity for its own paper or news channel. Such a tendency, which is indeed growing fast, should be stopped. We are saying so as without knowing the reference in context of which the questions were put forth by us, were completely ignored and the same were misquoted which raised unnecessary hue and cry. We hope and trust in future, they would be a little more careful, responsible and cautious in this regard.”

Media also interferes with enforcement of law and order. Dr. Sebastian Paul has noted in **Law, Ethics and The Media** as follows:-

“ The Supreme Court’s blunt rebuke of television channels for their careless and competitive feeding



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frenzy while covering the Mumbai 26/11 terror attack was generally welcomed as a moderate criticism. The live coverage of 26/11, continuously for sixty hours, set a low in TV journalism with the most basic of norms – objectivity, verification, dispassion – making way for a heated, overzealous and inconsiderate jumble of words and images. At times the frenzied coverage risked the lives of people trapped in the two Mumbai hotels and endangered the security forces. The Pakistani handlers were issuing instructions to the terrorists on the basis of what they were watching on television”.

In Kerala the media's refusal to adhere to the rules of court reporting has led to a rift between the media and the lawyer community, which is a subject matter of a Commission of Inquiry and cases are also pending before the Hon'ble High Court of Kerala and Supreme Court.

The situation is succinctly summoned up by **K.P. Chandran**, the author of “**Judiciary, A Panacea With No Cure**” as follows:-

“ It is to be seen that this is one of the areas where media, knowingly or unknowingly, play its negative role and indirectly intermeddles with the administration of justice by giving undue publicity to the emotional content involved in certain incidents of crimes. They play the prime role in sensationalising such emotive



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issues. Impelled by the sensation so created, we see judges 'struggling' to justify even pre-trial detention of persons who are accusatively pointed as culprits. Judges do so even in those incidents where they know that they are not legally justified in detaining such persons. The prejudice which starts at the bail stage in this manner continues to influence them until they pronounce sentences. Therefore, media persons cannot wriggle out from their obligation to maintain through self-restraint and a sharp sense of discrimination while they deal with emotionally sensitive issues. If they are not showing the prudence to adopt such self-restraint and sense of discrimination, then, for saving the administration of justice from being stultified as noted above, the system will have to turn to the last resort of making law for harnessing the media. Law should be the last resort only as far as media is concerned because freedom of the Fourth Estate is the freedom of the people".

16.7 The Conduct of the Media towards the Commission

Every right has a concomitant duty. While the media has the freedom of speech and expression under Article 19(1) (a) subject to the restrictions under Article 19(2) of the Constitution, it has the duty to inform the matters of public interest. The Public have a right to information for which they rely on the media. But the media often fail to report matters of public importance and on which the public have a



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right to know. In their quest for profits Print and Electronic Media concentrate on getting maximum advertisements which they publish or broadcast by getting the people's attention to sensational news.

When the voice clipping alleged to be of a Minister of the State was telecast and led to the resignation of Transport Minister A.K. Saseendran, not only the general public, the other channels as well were shocked by the low level of journalism and the immorality. The Mangalam Channel was isolated. Government declared appointment of Commission of Inquiry and two criminal cases were registered and C.E.O, Chairman and Senior journalists of the Mangalam Channel were arrested. It was a celebration of a sensational news for the News Channels of Kerala. The appointment of this Commission and the initial functioning of the Commission were well-covered by the Media. But when the Commission issued notice to CW 18 and CW 19 on the issues of extent of freedom of media as a whole, invasion of right to privacy, questions of journalistic ethics etc., the media ceased covering the functioning of the Commission. Even when the former Minister A.K. Saseendran appeared twice before the Commission to give evidence, the same was not covered by the media. Normally such appearance of a former Minister is news for the media. On the following day of the appearance before this Commission, the former Minister had to appear before the Chief Judicial Magistrate, Trivandrum to face the case filed by CW10 against him. That was reported by the media !



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Media has a responsibility to collect newsworthy facts about what is happening in the world and report them accurately and in time in the interest of the public, honouring the right to information of the public.

16.8 Media Education with Emphasise on Media Law & Ethics

It has come to the notice of the Commission during the inquiry that journalism being a free profession, there is no uniform standard of qualification for a working journalist. On being asked by the Commission to furnish the educational and technical qualifications of the journalists of the Mangalam Television Channel, the reply given by CW 1 R. Ajithkumar, C.E.O and CW 2 Sajan Varghese, Chairman respectively is that all staffs have required experience in television journalism. From the examination of the journalist who worked in the Mangalam Television Channel, it is seen that only a few of them have a University level education in journalism. It is seen that many of them have only a Diploma in journalism which is obtained after a six months or one year part-time course imparted by Press Clubs. These journalists have little grasp of media law and ethics. CW 1

R. Ajithkumar, C.E.O. of Mangalam Television Channel admitted that he had experience only in the print media and that he is not conversant with the electronic media.

As the Indian Media and Entertainment Industry is a sunrise sector for the economy and is making high growth strides, students of media have a variety of options to choose from as far as their career choice is concerned. Print, Electronic, the Internet and also the Film media provide them with a plethora of opportunities. Whichever media and



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whichever type of job they choose, all of them need to possess some basic knowledge of media law. Failing to do so will not only cost them dear but also their employers and the media organisations to which they belong – the defamation and contempt of court cases pending against media organisations in various courts of India being just a small example.

This is an era in which the importance of professional ethics, and also the lack of it, is being increasingly felt in all the professions. Comparatively speaking media professionals have all the more responsibility to adhere to ethics in their profession as the unethical content in media has the capacity to affect the psyche and norms of the entire nation. The present case of the Mangalam Television Channel telecasting the voice clipping with explicit sexual contents in violation of the Programme Code on 26.03.2017 is a telling example of the ignorance of media law and scant disregard for Code of Ethics and professional standards. CW 14 Al-Neema was a Postgraduate in Journalism and Communication from the University Centre of M.G. University. She was aware of norms of ethics and professional standards unlike other journalists of the Mangalam Television Channel who justified the telecast of the voice clipping. CW 14 objected to the telecast of the voice clipping and resigned from the Channel protesting against the unethical conduct of the Mangalam Television Channel Management.

There is a necessity to revamp media education. Besides the Diploma courses conducted by the Press Club, some media houses like Malayala Manorama has their own School of Journalism to train their journalists



for the print and electronic media. Kerala Media Academy is conducting Diploma courses in Print , Electronic Media and Public Relations. To achieve professionalism, media education at the University level should be encouraged with emphasise on media law and ethics which is hardly given any emphasise at the diploma level journalism education and training given by Press Club.

Media play an important role in the socialization of young people, a phenomenon which has been gaining in momentum. The public make informed decisions mainly on the basis of information passed on by media. As **Dale Jacquette** observed in **Journalism Ethics Moral Responsibility in the Media :**

"Journalists are morally responsible to the public whose informed decision making and other aspects of their welfare can depend essentially on the relevant truth content of news reports. It is in terms of the news audience that journalistic ethics must primarily speak, for the sake of those whom the reporting of news events is ultimately meant to serve and on whose lives its content can exert a profound influence for good or bad."

The Government can take initiative to encourage journalism with responsibility and accountability by introducing media education at the School level onwards so as to make the young generation aware of the benefits and perils of the media in general and the necessity to take precautions while using the media especially social media. The media houses should be persuaded to follow ethical journalism. As



Dr. Sebastian Paul opined, the Kerala Media Academy can be pressed into service for raising the awareness level with regard to ethical journalism among the working journalists. All the journalists from Print and Electronic Media should undergo an annual refresher course in media law and ethics as part of a continuing media education programme to be conducted by the Kerala Media Academy as a precondition for renewal of accreditation on an annual basis.

16.9 Code of Conduct for Ministers

It has come out in inquiry that CW 17 A.K. Saseendran MLA has been very accessible, friendly and liberal as a Minister of the State in dealing with members of the "Fourth Estate". It is seen that he had permitted CW 10 Nazila Nazimuddin to contact him in his personal mobile phone number. It is seen that CW 10 was only a journalist trainee/Sub editor on probation of a new channel which was yet to start functioning. CW 10 Nazila Nazimuddin joined the Mangalam Television channel only on 01.07.2016. CW 10 interviewed the Transport Minister on 08.11.2016. This is admitted by CW 17. Thereafter CW 10 started contacting the Minister from 16.11.2017 on the pretext of having a discussion on the she-toilet facility in K.S.R.T.C. as part of the programme of women's safety. The journalist could very well get information and other details of the project from the M.D. of K.S.R.T.C. or Transport Commissioner or from Public Relations Department. It does not appear to be a subject a Minister himself should deal with.



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Similarly when CW15 A.M. Yazir, Reporter of Mangalam Television Channel contacted CW 17 Minister A.K. Saseendran on 25.03.2017 through telephone for an interview, CW 17 readily agreed to the request and asked CW 15 to arrange a place convenient to him and that he would come there for the interview. According to CW 15 A.M. Yazir, the interview was held at a friend's place.

The above conduct of CW 17 A.K. Saseendran MLA shows that he was very much accessible and friendly to the members of the fourth estate whether male or female. Sometimes such friendly approach and familiarity of Ministers are likely to be misused by media persons for their personal gain and against public interest.

The above incident and the conduct of CW 17 A.K. Saseendran MLA as Transport Minister shows that there should be a Code of Conduct for the Ministers especially in dealing with the Media. Ministers need to talk to the media only on important matters of public importance. Information/news on routine matters and on going projects/programmes can be obtained by the media from the concerned departmental heads or from the public information bureau. Ministers need to speak only to senior and accredited journalists/reporters. It does not appear that a raw junior journalistic like CW 10 Nazila had even accreditation as a journalist/reporter. Even if the media approaches a Minister for an interview, it should be done through the office of the Minister concerned.



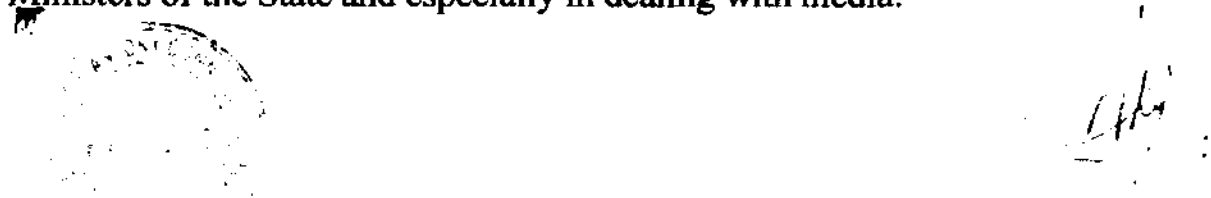
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When asked on the existence of a Code of Conduct for Ministers, CW 17 replied that he did not know about it.

There is a demand for a Code of Conduct for the Ministers even from the side of media. In the argument note filed by the Counsel for CW 2 Sajan Varghese, Chairman of Mangalam Television Channel and others, it is stated as follows:-

“ The terms No. (iv) of the reference is that to inquire into the other matters connected with this case as the Commission observes. CW 17 categorically denied during the cross-examination by the Counsel for CW 2, CW 4 and CW 6 that there is no Code of Conduct to the Ministers and other representatives of people. One of the major threats against the Democratic system in our country is the moral turpitude of the elected representatives. Our State was frozen for long periods pursuant to the solar scam. The judicial commission appointed for conducting inquiry on solar scam submitted reports pointing to the abuse of powers by the rulers for the consideration of sex and woman. Hence it is necessary to recommend for framing Code of Conduct to the Ministers and other representatives of people from the part of government.”

Therefore, it appears to be in the interest of public administration and in public interest that a Code of Conduct should be framed for the Ministers of the State and especially in dealing with media.



CHAPTER 17

Voice Clipping & Criminal Cases

17.1 Telecast of the voice clipping

The voice clipping said to be that of a Minister of the State was telecast by the Mangalam Television Channel on 26.03.2017 at 11 : 11.33 to 11 : 14.10 and thereafter there was repeat telecast of the same 18 times till 23.35 : 30 on the same day as reported by the EMMC in Annexure – II report. Annexure – I voice clipping was telecast in front of children and ladies. Annexure – I contents of voice clipping contains sexual, obscene and explicit pornographic content. Before the second telecast CW6 Anchor Lakshmi Mohan warned the viewers to keep the children away from Television reach as it contains adults only content. While telecasting the said sexual content, even one of the women guests who were present at the studio, namely,

CW 12 Dhanya Raman, a young social activist had closed her eyes and ears, as the content being indecent, obscene, defamatory and unbearable to be heard in a public space. The said telecast of the voice clipping prima facie makes out offences punishable under section 294 of the Indian Penal Code and under sections 67 and 67A of the Information Technology Act. It is also in violation of the Programme Code in Rule 6 of the Cable Television Network Rules, 1994.



17.2 Responsibility of the State Police

In this context, the following questions, arise for consideration:-

- 1) Why did not the State Police register a case suo motu against the Mangalam Television Channel and the people behind the telecast of the obscene voice clipping, which is a cognisable offence?
- 2) Why the State Police did not prevent the repetition of the offences 18 times on the same day ?

Two criminal cases were registered only on 30.03.2017 as CBCID Crime No. 51/CR/OCW1/TVPM and Crime No. 52/CR/OCW1/TVPM under section 120 B IPC and S. 67 A of the I.T. Act, 2000 on the basis of the complaints addressed to DGP by Adv. Sreeja Thulasi of Trivandrum and Adv. Mujeeb Rahman, State President of National Youth Congress on 29.03.2017.

Under section 149 of the Code of Criminal Procedure, 1973, every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent the commission of any cognizable offence.

- i) Is there no machinery or division/team of police authorized to register a case suo motu, on the basis of an obscene telecast or a broadcast like a call for rioting and violence in the Television channels?



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- ii) Is there no machinery/division/team of police authorized to prevent repeated commission of cognizable offences committed by News Channels?

The State police are liable to answer the above questions for their omission to discharge their duty under section 149 of the Cr.P.C., 1973.

17.3 Progress of Investigation

The progress of the investigation is already discussed in Chapter 7.16 and 7.17 of this report. CW21 Shanavas, Dy.S.P., CW22 Bijumon, Dy.S.P., Hi-Tech Cell are the main investigating officers of the above criminal cases. The two criminal cases mentioned above are clubbed and investigated as one case. CW21 filed three progress reports of the investigation on 14.06.2017, 30.08.2017 and 03.10.2017 respectively. CW 21 and CW 22 were also present to assist the Commission on 15.09.2017 during the local inspection of Mangalam Television Channel premises at Trivandrum.

From the evidence of CW 21 and CW 22 before this Commission and from the three progress reports mentioned above, this Commission is of the opinion that there is no proper investigation of the above criminal cases registered on the telecast of the voice clipping and the offences committed by CW1 to CW 10 as found by this Commission in Chapter 12.3.2, 12.4.5 and 12.4.6 above.



It appears that the case is not being investigated with the seriousness it deserves and with any sense of direction. The following omissions in investigation are serious and conspicuous:-

i) As per Order dated 30.03.2017 the State Police Chief constituted a Special Investigation Team (SIT) headed by Inspector General Shri Kashyap including two S.Ps. and Dy.S.Ps. including CW 21 and CW 22 and one Woman Sub Inspector. But till 03.10.2017, the date of filing of the last progress report, Nazila Nazimuddin, woman reporter of Mangalam Television Channel who was employed by CW 1 and CW 3 to conduct the alleged sting operation, is not seen made an accused, though her name was mentioned in the complaint dated 29.03.2017 of Adv. Sreeja Thulasi. She was not even questioned by the investigating officers till 04.08.2017. It has come out in inquiry from the evidence of CW 1 and others of the Mangalam Television Channel before the Commission that Nazila Nazimuddin has been working in the Channel. What is the reason for this delay ? !

ii) On 04.08.2017 CW 21 Shanavas, Dy.S.P questioned Nazila Nazimuddin and recorded her statement as seen from the evidence of CW 22 Bijumon, Dy.S.P and from the progress report dated 03.10.2017. But she is not yet arrayed as accused and report given to the court. What is the reason for this perfunctory investigation?



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iii) After the questioning of Nazila Nazimuddin by CW 21 Shanavas, Dy.S.P., she published the Annexure – VI face book post. During the inquiry CW 3 R. Jayachandran admitted that he had read this face book post. Questions were put to CW 3 R. Jayachandran regarding the contents of the face book post of Nazila Nazimuddin. She stated that she was cheated by CW 3 and others and that she would have made a disclosure as done by the woman journalist who resigned from the Channel. But she was restrained by attractive offers. CW 22 Dy.S.P. also admitted that the face book post was noticed by them.

On 16.08.2017 the face book post was withdrawn by Nazila Nazimuddin. Daily Indian Herald Online news portal reported the withdrawal of the post. The news portal has also reported that Nazila Nazimuddin was about to make a complete disclosure against CW 1 R. Ajithkumar and CW 3 R. Jayachandran and thereupon they rushed to meet Nazila and pacified her with fresh offers and it was thereafter the Annexure - VI face book post was withdrawn. Annexure -VII Daily India Herald news was also put to CW 3 R. Jayachandran. The above developments also indicate the criminal conspiracy to make the voice clipping to get the resignation of a Minister of the State. If the Annexure – VI face book post and Annexure – VII Daily Indian Herald news are true, it is clear that CW 10 Nazila Nazimuddin was used as a woman



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to commit offences and in that case she will have to be made an accomplice. Why the investigation is not conducted from that angle?

iv) The telecast of the voice clipping said to be that of a Ministry of the State led to the resignation of Transport Minister. CW 17 A.K. Saseendran denied in the press meet announcing his resignation and also before the Commission that he talked as in the voice clipping. But, the investigating officers have not questioned CW 17 A.K. Saseendran and recorded his statement to ascertain whether or not he talked as alleged by the Mangalam Television Channel news and about his voice. This is a serious omission in investigation. What is the reason for not recording the statement of CW 17 A.K. Saseendran ? Who is responsible for this omission?

v) In Chapter 12.4.5, it is found that offences under sections 67, 67A, 84B and 85 of the I.T. Act, 2000 are made out against the Mangalam Television Channel which is owned by the Company G.N. Info Media Private Limited and against the persons behind the making and the telecast of the voice clipping. But the police has not so far conducted a proper investigation. As a result, the police has reported offence only under section 67 A of the I.T. Act. Police has also not investigated the role of the company in



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the Commission of the offences under sections 67, 67A and 84B and under section 85 of the I.T. Act, 2000. The owner of the Mangalam Television Channel, G.N. Info Media Private Limited is liable to be made an accused under section 85 of the I.T. Act. This is another serious omission on the part of the investigating officers.

vi) The case is not at all investigated from the angle of forgery committed by CW 1 R. Ajithkumar and others of the Mangalam Television Channel in the making and telecast of the voice clipping. It is already found by this Commission that prima facie S. 463, 464, 469, 470 and S. 471 of the Indian Penal Code, 1860 are made out against the accused in the criminal cases.

vii) Though a Special Investigation Team was formed under the leadership of an I.G. and two S.Ps., there is no whisper in the three progress reports submitted by CW 21 Shanavas, Dy.S.P. that the SIT ever met and discussed the progress of the case and assessed the evidence/materials collected in the case and given any direction to CW 21 and CW 22 the main investigating officers. The above omissions show that so far no proper investigation is conducted by the police, though very serious offences were committed against the State by the telecast of the voice clipping which is found to be the product of a



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criminal conspiracy and forgery. Investigation should be conducted with a sense of direction and completed expeditiously. The special investigation team is expected to function with efficiency and competence and achieve the purpose for which it was formed.

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CHAPTER 18

Conclusions on Terms of Reference No. 5

This Commission of Inquiry has been asked 'to inquire into the other matters connected with this case as the Commission observes'.

On the basis of the terms of reference Nos. 1 to 4, inquiry conducted and the documents produced before the Commission and the documents obtained from the Ministry of Information and Broadcasting, Government of India and NBA, the Commission has considered that the following matters are connected with this case and that they also involve the following issues:-

- i) invasion of Right to Privacy of citizens;
- ii) the extent of freedom of media as a whole;
- iii) measures to prevent the misuse of the freedom of the media; and
- iv) questions of journalistic ethics and professional standards.

This Commission has observed that the following matters are connected with this case:-

- 1) Media law is necessary for the purpose of preserving freedom of the media, enforcement of the rights of the people and regulate



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the functioning of the media institutions while media ethics is necessary for self-regulation.

- 2) There is a specific law, that is, Press Council Act, 1978 and a statutory body, that is, the Press Council of India for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of news papers and news agencies in India.
- 3) There is no specific law and no statutory body to regulate the private electronic media and for maintaining and improving the standards of private electronic/broadcast media.
- 4) The Press Council has no jurisdiction over the electronic media.
- 5) The Cable Television Networks (Regulation) Act, 1995 and Cable Television Network Rules, 1994 are not effective to regulate the private electronic media. There is no effective machinery at the level of Ministry of Information & Broadcasting to discipline the erring private electronic media which violates the Programme Code under Rule 6 of the CTN Rules, 1994 unlike S. 14 of the Press Council Act, 1978 and a statutory body like Press Council of India.



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6) Ministry of Information and Broadcasting, Government of India closed the complaints against the Mangalam Television Channel which telecast the voice clipping in violation of the Programme Code under Rule 6 of CTN Rules, 1994 without conducting any inquiry and without notice to the complainants.

7) There is no effective machinery for self-regulation in private electronic media. Though NBA published a Code of Practice in 2008 and set up NBSA to look into complaints only relating to the contents shown by the member channels of NBA, the Mangalam Channel not being a member of the NBA, no action was taken on the complaints received against Mangalam Television Channel. Membership of NBA is not made mandatory for new channels.

8) Insufficiency of the present law has been taken note of by the Supreme Court and there are directions to enact a comprehensive law to regulate electronic media as reported in **(1995) 2 Supreme Court Cases 161 and (2011) 13 Supreme Court cases 155.**

9) In U.K. there is a comprehensive law to regulate the electronic media. Communications Act, 2003 is an Act to confer functions of the Office of Communications, to make provision about the regulation of the provisions of electronic communications, networks and services and of the use of the electro-magnetic spectrum; to make provision about the regulation of broadcasting



and of the provision of television and radio services; to make provision about mergers involving newspaper and other media enterprises etc.

By virtue of this Act all the functions in par with the above objectives transferred and assigned to Office of Communications – OFCOM.

10) In compliance with the directions of the Supreme Court referred to above, the Union Government shall seriously consider the enactment of a comprehensive law repealing the Indian Telegraph Act, 1885, The Indian Wireless Telegraphy Act, 1933, The CTN (Regulation) Act, 1955 and the Telecom Regulatory Act, 1997 on the model of Communications Act, 2003 of U.K. under which the Office of Communications (“OFCOM”) is the regulatory body for the broadcast media.

11) The Union Government can also consider converting the Press Council as a Media Council with sufficient teeth as suggested by Justice Markandey Katju when he was the Chairman of the Press Council of India. This can be easily done by amending the Press Council Act, 1978 by the Parliament renaming it as Media Council Act to cover the electronic/broadcast media.

12) There was violation of Right to Privacy which is declared as a fundamental right of the individual to be let alone in the telecast of a



part of the conversation said to be that of a Minister of the State. The act was also not in keeping with journalistic ethics and professional standards.

13) There is misuse of the freedom of the media which is an industry violating journalistic ethics and professional standards. Broadcasting has become a crowded market place where news channels vie with one another for viewers bringing down the standard of journalistic ethics to rock bottom.

14) The unbridled freedom exercised by the media interferes with enforcement of law and order and administration of justice through media trial.

15) There is a necessity for a change in the licensing policy of the Union Government in respect of private electronic/broadcast media. As the audio visual media market has become crowded resulting in unhealthy competition and lowering of standards of programme, the number of news channels in regional/vernacular languages should be restricted. The policy can be on the basis of the population strength of a particular State or language along with other parameters to be decided by the Government of India considering the interest of the State and the society under Act 19(2) of the Constitution.

16) There are serious omissions in the investigation of the criminal cases registered in connection with the telecast of the voice



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clipping said to be that of a Minister of the State. There is unexplained delay in questioning the prime accused who admittedly recorded the conversation. The statement of former Minister A.K. Saseendran is not yet recorded.

17) The Mangalam News Channel also committed cyber crimes by posting the voice clipping in the Face Book and You Tube.

18) There is necessity for amending Section 294 of the Indian Penal Code, 1860 as the present Section does not include the word 'broadcast' so as to cover specifically the offence of annoyance caused by broadcast of obscene acts, words, songs etc., through electronic media.

19) Kerala tops in cyber crimes. There is necessity for cyber crimes division at least at the district level manned by police personnel with special training in the prevention and investigation of cyber crimes.

20) There is also necessity for a Special Court for the expeditious disposal of cyber crime cases.

21) There is a necessity for revamp of media education in Kerala. The Government can take initiative to encourage journalism with responsibility and accountability by encouraging media education at the school level onwards. The media houses should be persuaded to follow ethical journalism. The Kerala Media Academy can be



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pressed into service for raising the awareness level with regard to ethical journalism.

22) There is a necessity for a Code of Conduct for the Ministers of the State/the Union in general and especially in dealing with the journalists/media for the efficient and effective functioning of the democratic system of Government.

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CHAPTER 19

Recommendations of the Commission

On the basis of the conclusions reached by this Commission of Inquiry on terms of reference of No. 1 to 5, the following recommendations are made for the purpose of taking action by the Government :-

- 1) The Government may forward a copy of this Report to the Secretary, Ministry of Information and Broadcasting, Government of India with a recommendation to reopen the complaint file against the Mangalam Television channel for appropriate action including cancelling its broadcasting licence or permission to run the visual channel.
- 2) A copy of this Report may be forwarded to the Press Council of India for information and necessary action.
- 3) The absence of self-regulation in the management of Mangalam Television channel and non-membership in the NBA by Mangalam Television channel should also be brought to the notice of the Ministry of Information and Broadcasting.



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- 4) The Mangalam Television channel and the company which owns the channel and the persons behind the making and telecast of the voice clipping shall be prosecuted for offences punishable under Sections 67, 67A, 84 B and S. 85 of I.T. Act, 2000 and under Sections 109, 120 B, 201, 294, 463, 464, 469, 470 and 471 of the IPC before the competent Court after expediting the investigation on the basis of the two crimes already registered.
- 5) CW 1 R. Ajithkumar is liable to be prosecuted separately for offence punishable under section 182 of the Indian Penal Code.
- 6) There are serious omissions in investigation as discussed in Chapter 17.3 of this report. SPC, Kerala may be directed to take steps to complete the investigation of the criminal cases registered in connection with the telecast of the voice clipping and the criminal conspiracy behind it including its political dimension etc., if any.
- 7) A Special Court for the trial of cyber crime cases in the rank of an Additional Chief Judicial Magistrate shall be created and established at Ernakulam, Kochi which tops in cyber crime cases, for the expeditious trial of the accused in this case. This Court shall be allowed to continue as a Special Court for the



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trial of cyber crime cases in view of the increasing trend in cyber crime cases in Kerala.

- 8) A cyber crimes division in police may be formed at least at the district level manned by police personnel with special qualification and training for the prevention and investigation of cyber crime cases.
- 9) In view of the absence of an effective and comprehensive law to regulate the private electronic/broadcast media, the Government of Kerala may request the Union Government to enact such a law repealing the Indian Telegraph Act, 1885, The Indian Wireless Telegraphy Act, 1933, The Cable Television Networks (Regulation) Act, 1995 and The Telecom Regulatory Act, 1997 on the model of the Communications Act, 2003 of U.K under which the office of Communications ("OFCOM") is the regulatory body for the broadcast media.
- 10) In the alternative to a comprehensive law, for the time being, the Central Government may be requested to consider converting the present Press Council as a Media Council to cover the private electronic media with sufficient teeth as suggested by Justice Markandey Katju when he was the Chairman of the Press Council of India, by suitably amending the Press Council Act, 1978 by the Parliament and renaming it as Media Council Act to cover the electronic/broadcasting media also.



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- 11) While forwarding a copy of this report to the Ministry of Information & Broadcasting, the observations of this Commission in Chapter 19 regarding Media and Media Ethics may also be brought to the notice of Ministry of Information & Broadcasting for necessary action.
- 12) A Code of Conduct should be framed for the Ministers of the State in general and especially in dealing with the journalists/media.
- 13) Kerala State Legislature may pass a resolution asking the Central Government for enactment of necessary law for regulating the private electronic/broadcast media in execution of Recommendation No. (9) above as the subject 'broadcasting and other like forms of communication' is included in Entry 31 in the List 1 – Union List.
- 14) State Legislature may amend S. 294 of the Indian Penal Code, 1860 as follows:-
 - a) Insert a new clause, “(c) broadcast through audio visual media or any electronic device any obscene act, scene, song or words”,
 - b) for the words “ which may extend to three months”, substitute the words “which may extend to 3 years”
 - c) At the end of the present S. 294 IPC, add an explanation as follows, “Explanation - mere airing or broadcasting



is sufficient to constitute the offence”

- 15) The Government can take initiative to encourage journalism with responsibility and accountability by introducing media education at the school level onwards so as to make the young generation aware of the benefits and perils of using the media and especially the social media. The media houses should be persuaded to follow ethical journalism. The Kerala Media Academy can be pressed into service for raising the awareness level with regard to ethical journalism. All the journalists should undergo an annual refresher course in media law and ethics as part of a Continuing Media Education (CME) to be conducted by the Kerala Media Academy as a precondition for renewal of accreditation on an annual basis.
- 16) It is left open to the Government to take appropriate decision and take steps to realise liquidated damages from the Company G.N. Info Media Private Limited which owns the Mangalam Television Channel and the persons directly liable for the telecast of the false news (voice clipping) and causing breach of public order and loss to public exchequer in accordance with law.

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CONCLUSION

The inquiry is now duly completed and the report is ready. It is my belief that I have discharged the duty entrusted to me to the best of my ability. The report is based on facts disclosed before the Commission during the inquiry. As Gandhiji said in his "My Experiments with Truth", facts are truth. When facts are in issue, I have followed the cardinal principle of justice, – that no man is to be condemned on suspicion. There must be evidence which proves his guilt before he is pronounced to be so.

In this context, it is apposite to recall the words of Lord Denning in his report of inquiry in his book, "The Due Process of Law" as follows:-

"To those who in consequence will reproach me for "white-washing" I would make this answer: While the public interest demands that the facts should be ascertained as completely as possible, there is a yet higher public interest to be considered, namely, the interest of justice to the individual which over rides all other. At any rate, speaking as a Judge, I put justice first".

The report now belongs to the Government which shall cause the report to be laid before the Legislature of the State with a memorandum of the action taken thereon under section 3 (4) of the Commissions of Inquiry Act, 1952.



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Considering the public importance of the matter, the report deserves to be discussed by the public at large, especially by all those who stand for the cause of freedom of the media with responsibility and ethical standards.


Judge P.S. Antony
District Judge (Retd.) & Former Judge, Family Court
Commission of Inquiry

21 .11.2017



68

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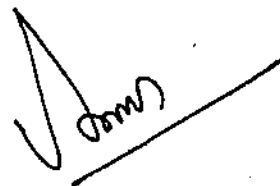
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സമീപം

1. ശ്രീ അരുൺ എ. കെ.
റവന്യൂ സെക്ഷൻ
താഴെ വാടക,
തിരുവനന്തപുരം, 9447696987

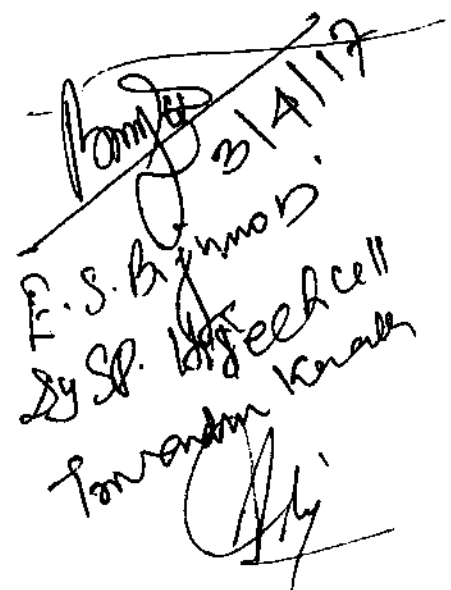


2. രാജേഷ് പി. പി

തിരുവനന്തപുരം റവന്യൂ സെക്ഷൻ
റവന്യൂ E-Linking വിഭാഗം
കോളിറ്റിവിഷൻ, Ph: 8547640007.

Ph: 8547640007.
3/4/2017.




3/4/17
F.S. K. K. K.
S.S. K. K. K.
T. K. K. K.

358
ANNEXURE - II

Government of India
ELECTRONIC MEDIA MONITORING CENTRE
(Min. of Information & Broadcasting)
10th floor, Sookhna Bhawan,
CGO Complex, Lodhi Road
New Delhi 110003


Subject: Complaint from M Sarita Varma & others against telecast of alleged objectionable programme by Mangalam news TV channel

Reference Ministry of Information and Broadcasting Letter No. N-41015/33/2017-BC-III dated 18th April, 2017.

It is stated that the content mentioned in the complaint against Mangalam TV has been looked into. EMMC has scanned the programme and found that the channel violates programme codes 6[1](a), 6[1](d), 6[1](o) and 6[5] by leaking the private telephonic conversation of Kerala State Transport Minister A.K. Saseendran.

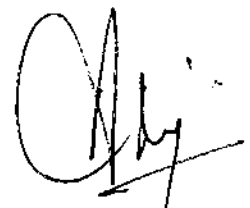
A CD containing clip and report pertaining to the programme is attached herewith.

This issues with the approval of the ADG, EMMC.


(Parvathy Rahul)
Deputy Director

Shri Sudesh Kumar, Section Officer (BC-III), Ministry of I&B, New Delhi.
EMMC ID No. 11011/2/2014-Spl. Ref. Pt-XU/83 /Dated: 25.04.2017





Government of India
Electronic Media Monitoring Centre
(Min. of Information & Broadcasting)
10th Floor Sookhna Bhawan, C.G.O Complex
New Delhi 110003

COMPLAINT AGAINST MANGALAM CHANNEL FOR OBJECTIONABLE CONTENT

Newly launched Malayalam channel 'MANGALAM' telecast a programme 'TRUE STORIES' under a sub title "Sthree Mizhineeralla" on 26th March, 2017 - the launch day of the channel during which an alleged sordid telephonic conversation by Kerala State Transport Minister A. K. Saseendran was aired continuously. The programme includes panel discussion and opinion of people from various places and of different social status. In this episode, the channel discusses on the topic 'Women's safety' with 3 panellists named Sonia George (Advocate), Smt. Sandhya (Social worker) and Dhanya Raman (Activist). Pertaining to the given topic, the channel conducts a discussion on the telephonic conversation between Saseendran and an unknown woman, which eventually led to the resignation of the minister later on the same day. The channel kept airing the audio conversation multiple times throughout the day.

Excerpts from the programme are noted below:

Anchor (11:11:15): We are moving towards Kerala's most awaited and shocking news; the people who treat those coming to them for help as their prey; may be those who sit inside the temple of democracy should answer this; in the hours to come, Kerala will discuss about this news. That shocking news we can hear now.

(11:11:32) Telephonic conversation begins (Only A. K. Saseendran's voice): - "Now I am in Goa for Election work. I thought that my girl forgot me, not calling me, kissing me, hugging me. Tightly hug me and lay on my chest. Oh my Girl, hold me tightly and comfortably lay on, few minutes more, put your face on my chest, let me cuddle you. Oh my kitty, oh my sweetie, what do you want my sweetie, bite it and eat it, I like it very much. Why you biting like this? (Makes kissing sound) Did you get it? Tell me my beautiful, do you want more? Remove your clothes; I want to see your chest and buttocks. Let me see your breasts and buttocks. It is your breasts... It is your buttocks...remove your clothes and let me see your breasts and buttocks... and lay on my chest. Kiss me fervently. I will hold your buttocks tightly and you kiss all parts of my body. Let me put my gun (private part) on your breasts, your body and between thighs. Sweetie, hug me tightly and keep my private part between your thighs then push it inside you. Oh.... how good is this feeling!!!!"



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Government of India
Electronic Media Monitoring Centre
(Min. of Information & Broadcasting)
10th Floor Sookhna Bhawan, C.G.O Complex
New Delhi 110003

(He makes some sensual noises). Kitty.... there is no chance to do it now..... then I will bend you over, kiss your breasts, bite your buttocks and I will try to push my private part in between your buttocks. Lie on your back, spread your thighs, let me put it inside and push it slowly..... then fuck me quickly and entertain me. Then let's hug and lie down, and after some time, let's do it again.... again.... and again....do it ten times (Makes kissing sound)."

The channel aired this audio recording 18 times on the same day. The repeat counters are given below:

DATE	TIME
26-03-17	11:11:33 – 11:14:27 (First telecast)
	11:18:10 – 11:21:10 (Repeat)
	11:28:20 – 11:31:15
	12:55:48 – 12:58:43
	14:29:03 – 14:32:00
	14:55:29 – 14:57:23
	15:08:28 – 15:11:07
	15:37:40 – 15:40:40
	15:59:12 – 16:02:04
	16:24:01 – 16:28:16
	16:58:00 – 17:00:55
	17:02:00 – 17:06:14
	17:44:00 – 17:44:55
	18:00:49 – 18:04:05
	18:05:49 – 18:07:07
	19:59:05 – 20:02:10
	21:41:02 – 21:43:56
	22:26:45 – 22:29:40
	23:32:40 – 23:35:30

However, days after the telecast of sexually explicit conversation of Transport Minister A. K. Saseendran, Mangalam channel finally admitted that the Minister was the target of a sting operation. The channel's CEO R. Ajithkumar appeared on television and apologised on 30/03/2017 at 21:19:46 to 21:22:55 hrs. His brief apology on behalf of the channel is given below:-



(Signature)

26

Government of India
Electronic Media Monitoring Centre
(Min. of Information & Broadcasting)
10th Floor Soochna Bhawan, C.G.O Complex
New Delhi 110003

This is an explanation to the news telecast on launching day of Mangalam channel. We had made some mistakes while telecasting that news and Mangalam Television genuinely apologises for that. Many cultural leaders, who are like teachers to us, made statements on this issue. We respect them and accept their criticism. There was criticism from social media and other media houses as well. We deeply apologise for the inconvenience caused to the media fraternity, especially women journalists. This was a sting operation which is a part of journalism. Since it was a sting operation, we had earlier decided not to reveal the identity of the person involved during the sting operation. No one was forced to take the job as it is being alleged by our rivals. Eight senior editorial members were part of the investigation. We appointed a female journalist who took up the job voluntarily. Nobody knew about it. We will reveal the truth before the judicial probe. We promise that we will not repeat the mistake again. We will include a special editorial system to prevent such mistakes. Mangalam is determined to fight against wrongdoing and will continue to do so. We request everyone not to stand against the channel for this single mistake, and expect everybody's cooperation.

Repeat telecast of the apology

Date	Time
30-03-2017	21:19:46 – 21:22:55 (First telecast)
	21:57:18 – 22:00:26 (Repeat)
	23:00:49 – 23:03:55

COMMENT: The channel had aired the telephonic sex conversation of A.K. Saseendran speaking to an anonymous lady, which is cringe-worthy and distasteful. However, the female voice has been edited out of the recording aired by the channel. The audio clip contains explicit words that are sexual in nature and verbal description of sexual acts, which was repeatedly telecast throughout the day. Channel had earlier alleged that the obscene and sexual content of the audio was made by Mr. Saseendran to a housewife who approached the minister for help. The original version telecast by the channel is raw and unedited, excluding the woman's voice. Channel carried the original version without any warning. However, in its repeat telecasts, channel advises viewers' discretion, especially to children for its adult content. The channel played the original audio many times throughout the day, but later omitted objectionable words and beeped the obscene words; however the words are still audible. It also bears mentioning that one of the panellists shut her eyes and ears as soon as she heard the recording.



24

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Electronic Media Monitoring Centre
(Min. of Information & Broadcasting)
10th Floor Sookna Bhawan, C.G.O Complex
New Delhi 110003

25

The content is extremely indecent, obscene and unsuitable to be played in a public space. By telecasting such news that is highly sexual in nature, on the very first day of its launch, channel screams nothing but sensationalism for want of viewer's undivided attention, defying ethics of journalism. Therefore by airing an explicit audio containing A.K. Saseendran's telephonic sex conversation, channel has apparently violated Programme Codes – 6[1](a), 6[1](d), 6[1](o) and 6[5] prescribed under the Cable Television Network Rules, 1994. However, the channel later issued an apology regarding the same.

ACCORDING TO PROGRAMME CODE 6[1](a) -) No programme should be carried in the cable service which offends against good taste or decency.

ACCORDING TO PROGRAMME CODE 6[1](d) -) No programme should be carried in the cable service which contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths.

ACCORDING TO PROGRAMME CODE 6[1](o) - No programme should be carried in the cable service which is not suitable for unrestricted public exhibition.

ACCORDING TO PROGRAMME CODE 6[5] - Programmes unsuitable for children must not be carried in the cable service at times when the largest numbers of children are viewing.



അതിൽ മംഗളം ടെലിവിഷൻ നിർവ്വഹണം വേദിക്കുന്നു. കേരളത്തിലെ സാംസ്കാരിക നായകർ ഇന്നലെ ഇതു സംബന്ധിച്ച് ഒരു പ്രസ്താവന പുറപ്പെടുവിക്കുകയുണ്ടായി. അതിൽ മിക്കവാറും ഞങ്ങളുടെ ഗുരുസ്ഥാനീയരാണ്. ഞങ്ങൾ അത് പൂർണ്ണ മനസ്സോടെ സ്വീകരിക്കുന്നു. അവരുടെ വിമർശനങ്ങൾ ഉൾക്കൊള്ളുന്നു. സോഷ്യൽ മീഡിയയിലും മറ്റ് മാധ്യമങ്ങളിലും ഇതു സംബന്ധിച്ച് നിരവധി വിമർശനങ്ങൾ ഉണ്ടായി. മാധ്യമ പ്രവർത്തകർക്കും KUWJ ഉൾപ്പെടെയുള്ള മാധ്യമ പ്രവർത്തകരുടെ സംഘടനകൾക്കും പ്രത്യേകിച്ച് വനിതാ മാധ്യമ പ്രവർത്തകർക്കും ഉണ്ടായ ബുദ്ധിമുട്ടുകളിൽ ഞങ്ങൾ നിർവ്വഹണം വേദം പ്രകടിപ്പിക്കുന്നു. ഈ വാർത്തയിൽ ഞങ്ങളുടെ അഭ്യൂഹകാക്ഷികൾ ചൂണ്ടിക്കാണിച്ച ചില പിശകുകൾ ഉണ്ട്. ഒന്നാമതായി ഈ വാർത്ത പൂർണ്ണരൂപത്തിൽ മറ്റ് മുൻ കരുതലുകൾ എടുക്കാതെയാണ് സംപ്രേഷണം ചെയ്തത്. അത് പിശകാണെന്ന് ഞങ്ങൾ തിരിച്ചറിയുന്നു. അതുപോലെ ഇത് സാധാരണ മാധ്യമ പ്രവർത്തനത്തിൽ കാണാവുന്ന sting operation ആണ്. ഇത് ഞങ്ങൾ നേരത്തെ വെളിപ്പെടുത്താതിരുന്നത് അതിൽ പങ്കെടുത്തവരുടെ ഐഡന്റിറ്റി പുറത്താക്കാതിരിക്കാനാണ്. അത് നേരത്തെ തീരുമാനിച്ചതുമായിരുന്നു. എന്നാൽ ഞങ്ങളെ തകർക്കുവാൻ ആഗ്രഹിക്കുന്നവർ പ്രചരിപ്പിക്കുന്നത് മാധ്യമ പ്രവർത്തകരെ നിർബന്ധിച്ച സ്റ്റീംഗ് ഓപ്പറേഷൻ വിട്ടുവെന്നാണ്. അത് സത്യമല്ല. മുതിർന്ന 8 മാധ്യമ പ്രവർത്തകർ അടങ്ങിയ എഡിറ്റോറിയൽ ടീ കൂട്ടായി എടുത്ത തീരുമാനമാണിത്. സ്വയം ഏറ്റെടുത്ത ഒരു മാധ്യമ പ്രവർത്തകയെയാണ് ഇതിനു വേണ്ടി നിയോഗിച്ചത്. മറ്റ് ആരും ഇത് അറിഞ്ഞിരുന്നില്ല. വ്യപകമായ സത്യവിരുദ്ധ പ്രവർത്തനങ്ങൾ നടത്തുന്നതിനാലാണ് ഈ ഘട്ടത്തിൽ ഇക്കാര്യങ്ങൾ പൊതു സമൂഹത്തിന് മുമ്പിൽ വെളിപ്പെടുത്തുന്നത്. ജൂഡീഷ്യൽ അന്വേഷണ വേളയിൽ അവിടെ വെളിപ്പെടുത്താനിരുന്നവയാണ് ഇവയെല്ലാം. സംഭവിച്ച തെറ്റുകൾ ആവർത്തിക്കില്ല എന്ന് ഞങ്ങൾ ഉറപ്പ് നൽകുന്നു. തെറ്റുകൾ ആവർത്തിക്കാതിരിക്കാനുള്ള പ്രത്യേക സംവിധാനം ഞങ്ങളുടെ എഡിറ്റോറിയൽ ഏർപ്പെടുത്തുന്നതാണ്. മംഗളം എല്ലാ കാലത്തും തിരുക്കൈതിരെ പോരാടിയിട്ടുണ്ട്. ഇനിയും ആ പോരാട്ടം തുടരും. ഒരു വിഴ്ചയുടെ പേരിൽ ഈ മാധ്യമ സംഭരണത്തെ തകർക്കാൻ അരും കൂട്ടുനിൽക്കരുതെന്ന് അഭ്യർത്ഥിക്കുന്നു. ഏവരുടെയും സഹകരണം തുടർന്നും പ്രതീക്ഷിക്കുന്നു. നമസ്കാരം.



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ANNEXURE - IV

ബഹുമാനപ്പെട്ട തിരുവനന്തപുരം ചീഫ് ജുഡീഷ്യൽ

മജിസ്ട്രേറ്റ് കോടതി മുമ്പാകെ

CP 54/12

CMP No. of 2017

വാദി

നാസില നസീമുദ്ദീൻ

D/o. നസീമുദ്ദീൻ, 29 വയസ്സ്

നാസില മൻസിൽ, വർണ്ണം, മണക്കാട്ട്വിളാകം

പടിഞ്ഞാറ്മുക്ക്, ചിറ്റാറ്റുമുക്ക് പി.ഒ.,

കണിയാപുരം, തിരുവനന്തപുരം

(മൊബൈൽ 7025159952)

പ്രതികൾ

എ.കെ. ശശീന്ദ്രൻ

മുൻഗതാഗത വകുപ്പ് മന്ത്രി

കാവേരി, കന്യാശ്ശമെന്റ്, ഹൗസ് റോഡ്

തിരുവനന്തപുരം.



വാദി ക്രിമിനൽ നടപടി ക്രമം 190, 200 വകുപ്പുകൾ പ്രകാരം

ബഹുമാനപ്പെട്ട കോടതി മുമ്പാകെ ബോധിപ്പിക്കുന്ന അന്യായം

1. വാദി ടി മേൽവിലാസത്തിൽ സ്ഥിര താമസക്കാരനാണ്. ഞാൻ മംഗളം ടി.വി. ചാനൽ അരിസ്റ്റോ ജംഗ്ഷനിൽ സബ് എഡിറ്റർ കം റിപ്പോർട്ടർ ആയി ജോലി ചെയ്യുന്നു. ഞാൻ വിവാഹിതനും, ഒരു മകനുമായി കുടുംബ സമേതം താമസിച്ചു വരുന്നതാകുന്നു.

2. സബ് എഡിറ്റർ റിപ്പോർട്ടർ ജോലിയുടെ ഭാഗമായി വാദി നിരവധി പ്രമുഖരെയും മറ്റും ദിനം പ്രതി കാണുന്നതും, ഇന്റർവ്യൂ എടുത്ത് ജോലി നിർവ്വഹിച്ച് വരുന്നതുമാകുന്നു.



1/1/17

3. അപ്രകാരം ജോലി നോക്കി വരവെ 08.11.2016 തീയതിയിൽ മംഗളം മോണിംഗ് ഷോയുടെ ഭാഗമായി ശ്രീ. എ.കെ. ശശീന്ദ്രൻ (പ്രതി)അവർകളെ ഇന്റർവ്യൂ ചെയ്യുകയും, അദ്ദേഹവുമായി നേരിട്ട് പരിചയപ്പെടുകയും ചെയ്തിട്ടുള്ളതാകുന്നു. പിന്നീട് കുറച്ച് ദിവസങ്ങൾക്ക് ശേഷം സ്ത്രീ സുരക്ഷാ പദ്ധതിയുമായി ബന്ധപ്പെട്ട കെ.എസ്.ആർ.ടി.സി യിലെ ഷീ ടോയ്ലെറ്റ് സംവിധാനം എന്നിവയെ കുറിച്ച് സർക്കാർ സ്വീകരിക്കുന്ന നടപടികളെയും നയങ്ങളെയും കുറിച്ച് വിശദമായി ചർച്ച ചെയ്യുന്നതിനായി ഞാൻ ബഹു. മുൻ മന്ത്രി എ.കെ. ശശീന്ദ്രൻ അവർകളെ ബന്ധപ്പെടുകയും, അദ്ദേഹം അതനുസരിച്ച് അദ്ദേഹത്തിന്റെ ഔദ്യോഗിക വസതിയിൽ രാവിലെ 8 മണിയ്ക്ക് അപ്പോയിന്റ്മെന്റ് നൽകുകയും, എന്നാൽ ആ സമയത്ത് എനിക്ക് എത്തുവാൻ സാധിച്ചില്ല. വാദി ചെല്ലാതിരുന്നതിനാൽ നിരവധി തവണ എന്നെ ഫോണിൽ വിളിക്കുകയും അദ്ദേഹം തിരുവനന്തപുരം മെഡിക്കൽ കോളേജിൽ ബോധി ചെക്കപ്പിനായി നിൽക്കുകയാണ്. അതുകൊണ്ട് അന്നു തന്നെ വൈകിട്ട് 3 മണിയോട് കൂടി, ടിയാന്റെ ഔദ്യോഗിക വസതിയിൽ വരാൻ ആവശ്യപ്പെടുകയും ചെയ്തു. അപ്രകാരം ഞാൻ 3.30 മണിയോട് കൂടി പ്രതിയുടെ ഔദ്യോഗിക വസതിയിൽ ഓഫീസ് വാഹനത്തിൽ സഹപ്രവർത്തകരോടൊപ്പം എത്തിച്ചേരുകയും, ഞാൻ മാത്രം ടിയാന്റെ വസതിയിൽ കയറിപ്പോവുകയും, അവിടെ ഉണ്ടായിരുന്ന അദ്ദേഹത്തിന്റെ സ്റ്റാഫ് മുകളിലെ നിലയിലേക്ക് എന്നോട് ചെല്ലാൻ ആവശ്യപ്പെടുകയും, മുകളിലെ നിലയിലേക്ക് വാദി കയറിപ്പോവുകയും ചെയ്തു.

4. ടി മുറിയിൽ കടന്നു ചെന്നപ്പോൾ പ്രതി കസേരയിൽ കാലുകൾ ടീപ്പോയിൽ കയറ്റി വച്ച് ഇരിക്കുകയും, എന്നോട് ടിയാൻ ടിയാൻ അഭിമുഖമായി ഇരിക്കുവാൻ ആവശ്യപ്പെടുകയും ചെയ്തു. അപ്രകാരം ഇരുന്നപ്പോൾ എന്നെ തന്നെ നോക്കി ഇരിക്കുകയും, പ്രതി കുറെ നേരം എന്റെ മുഖത്ത് നോക്കിയിട്ട് "നീ സുന്ദരിയാണെന്നും, എത്ര വയസ്സുണ്ടെന്ന് ചോദിക്കുകയും", ഞാൻ 29 വയസ്സ് എന്ന് പറ

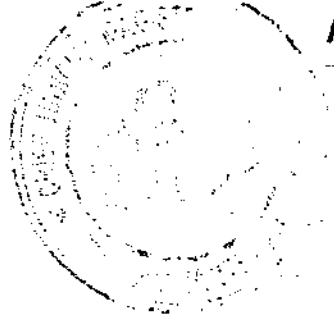


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ഞ്ഞപ്പോൾ അദ്ദേഹം എന്നോട് വിദേശ യാത്രയെ കുറിച്ച് സംസാരി
 ക്കുകയും, ഇനി വരുന്ന ദിവസത്തിൽ ചിലപ്പോൾ ഒരു വിദേശ യാത്ര
 ചെയ്യേണ്ടി വരുമെന്നും, എന്നോടൊപ്പം ശ്രീലങ്കയിലെ സ്ത്രീകളുടെ
 അവസ്ഥ റിപ്പോർട്ട് ചെയ്യുന്നതിനായി വരുണോ എന്നും ചോദിച്ചു.
 ഞാൻ അദ്ദേഹത്തോട് സർ ഞാൻ വന്നത് ഇന്ന് കേരളത്തിൽ ബസ്സ്
 യാത്ര ചെയ്യുന്ന യുവതികൾക്ക് ടോയിലെറ്റ് പ്രശ്നങ്ങൾ അഭിമുഖീക
 രിക്കുന്നതിനെ കുറിച്ച് ഒരു ഫീച്ചർ തയ്യാറാക്കാനാണ് എന്ന് ഞാൻ
 പറഞ്ഞപ്പോൾ അതൊക്കെ അവിടെ നിൽക്കട്ടെ എന്നും, ഇന്ന് എന്റെ
 കുടുംബം പുറത്ത് പോയിരിക്കുകയാണ്, സുന്ദരിക്കുട്ടി പറയുന്നത്
 എന്തും ഞാൻ ചെയ്ത് തരും എന്നും പറഞ്ഞു. എന്നിട്ട് അദ്ദേഹം
 എന്റെ അടുത്തേക്ക് വരികയും, എന്റെ തോളിൽ കൈവച്ച് ഇനി പറയു
 എന്നും പറഞ്ഞു. ഞാൻ ആകെ പരുഭിച്ച് ഞാൻ പോകേണ്ട എന്ന്
 ചോദിച്ചു. അപ്പോൾ നിന്റെ ജീവിതമാകെ മാറിമറിയുവാൻ പോകുക
 യാണ് എന്നും, നല്ല സമയം നിനക്ക് വരികയാണെന്നും, ഞാൻ നിനക്ക്
 സ്ഥിരമായി എന്റെ വകുപ്പിൽ ഒരു സർക്കാർ ഉദ്യോഗം തരപ്പെടുത്തി
 തരാമെന്നും നീ എന്നോടൊപ്പം നിൽക്കണമെന്നും പറഞ്ഞു. ഇത്രയും
 പറഞ്ഞതിന് ശേഷം, നീ ഇങ്ങോട്ട് നോക്കിക്കെ എന്ന് ആവശ്യ
 പ്പെടുകയും ഞാൻ നോക്കിയപ്പോൾ എന്നോട് അദ്ദേഹത്തിന്റെ പേഴ്സ
 നൽ റൂമിലേക്ക് കയറി ഇരിക്കുവാൻ ആവശ്യപ്പെട്ടു. ടി റൂമിലേക്ക്
 കയറിയ പ്രതി ഇതാണെന്റെ കൊട്ടാരം എന്ന് പറയുകയും, നിന്നെ
 ഒന്ന് കെട്ടിപ്പിടിച്ച് ചുംബിച്ചോട്ടെ എന്നും ചോദിച്ചു. പ്രതി ടിയാന്റെ
 മുണ്ടഴിച്ച് ജനനേന്ദ്രിയം കാണിക്കുകയും, യെന്ന ഞാൻ ഹാളിൽ
 നിന്നും പെട്ടെന്ന് ഇറങ്ങി ഓടി ഓഫീസ് വാഹനത്തിൽ കയറി എന്റെ
 സഹപ്രവർത്തകയോട് കാര്യം പറയുകയും, പരിഭ്രമിച്ച് യെന്ന ഞാൻ
 എന്തു ചെയ്യണമെന്ന് അറിയാതെ ഇരുന്നപ്പോൾ പിന്നീട് എപ്പോഴോ
 പ്രതി എന്റെ മൊബൈലിൽ വിളിക്കുകയും നീ കാണിച്ചത് ശരിയാ
 യില്ലാ എന്നും, നിന്നെ ഞാൻ ചാനലിൽ നിന്നും പുറത്താക്കും എന്നും
 പറഞ്ഞു. ഞാൻ സാർ ഉദ്ദേശിച്ച വ്യക്തിയല്ലായെന്നും, എനിക്ക് അങ്ങ
 യോട് അപ്രകാരം പെരുമാറാൻ സാധിക്കില്ലാ എന്നും പ്രതിയോട് പറ
 ഞ്ഞു. അദ്ദേഹം അപ്പോൾ ശരി ഞാൻ നിന്നെ നല്ല രീതിയിൽ
 കണ്ടോളം എന്ന് പറയുകയും ഫോൺ കട്ട് ചെയ്യുകയും ചെയ്തു.





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5. ഞാൻ ഈ വിവരം ചാനൽ മേധാവിയെ അറിയിച്ചു. ഞാൻ വനിതാ കമ്മീഷനിൽ പരാതി പെടണം എന്നും അദ്ദേഹത്തോട് ആവശ്യപ്പെട്ടു. എന്നാൽ സി.ഇ.ഒ. എന്നോട് വെയിറ്റ് ചെയ്യാൻ ആവശ്യപ്പെടുകയും, പുതിയ ചാനൽ വരുകയല്ലെ, വനിതാ കമ്മീഷനിൽ പരാതി നൽകിയാൽ പേരും മറ്റും പത്രത്തിൽ അച്ചടിച്ച് വരുമെന്നും, ഇനിയും പ്രതി വിളിക്കുകയാണെങ്കിൽ നമുക്ക് നോക്കുമെന്നും പറഞ്ഞു.

6. ഞാൻ മാനസികമായി തളരുകയും, എനിക്ക് വിഷമം തോന്നുകയും ചെയ്തു. എന്റെ മാനസിക വിഷമം തീർക്കാൻ ഞാൻ പ്രതിയെ വിളിക്കുകയും, സർ എന്നോട് ചെയ്തത് ശരിയായില്ല എന്നും, സാറിനെ പിതൃ തുല്യനായിട്ടാണ് കണ്ടതെന്നും, എന്റെ മനസ്സ് തകർന്നിരിക്കുകയാണ്, ഞാൻ പോലീസിൽ പരാതി നൽകുമെന്നും പറഞ്ഞു. അപ്പോൾ പ്രതി എന്നെ സാന്ത്വനിപ്പിച്ച് അപ്രകാരം ഒന്നും ചെയ്യരുതെന്നും, എന്നാൽ സംഭവിച്ചതിന് ക്ഷമ ചോദിക്കുന്നു എന്നും, തനിക്ക് എപ്പോൾ വേണെങ്കിലും എന്നെ വിളിക്കുമെന്നും, എന്ത് വേണമെങ്കിലും ചെയ്ത് തരാനുമെന്നും എന്നെ അറിയിച്ചു.

7. ടി പ്രതിയുടെ ക്ഷമാപണത്തിൽ വിശ്വസിച്ച് ഞാൻ ടി സംഭവം ക്ഷമിക്കുകയും, ഞാൻ എന്റെ ജോലിയിൽ മുഴുകുകയും ചെയ്തു. പിന്നീട് പല പ്രാവശ്യം പ്രതി 9847001879 എന്ന നമ്പറിൽ നിന്നും മറ്റൊരു നമ്പറിൽ നിന്നും അർദ്ധരാത്രിയിലും വെളുപ്പാൻ കാലവും പലപ്പോഴും എന്നെ ഫോണിൽ വിളിച്ച് പല വിഷയങ്ങളെ കുറിച്ച് പ്രതി സംസാരിക്കുകയും, ഇത് ഒരു പതിവായി മാറുകയും ചെയ്തു. പലപ്പോഴും ടിയാനോട് ഞാൻ വിളിക്കരുതെന്ന് ആവശ്യപ്പെട്ടിട്ടുള്ളതും, ഫോൺ വരുമ്പോൾ ഞാൻ കട്ട് ചെയ്യാറുമുണ്ടായിരുന്നു. എന്നാലും എന്നെ വിളിച്ച് കൊണ്ടിരുന്ന പ്രതി പലപ്പോഴും ലൈംഗിക ചുവയുള്ള കാര്യങ്ങൾ എനിക്ക് അറപ്പും വെറുപ്പും ഉണ്ടാക്കുന്ന രീതിയിൽ സംസാരിക്കുകയും, എന്നെ ടിയാനോടൊപ്പം വിദേശത്തേക്ക് ടൂർ പോകുവാൻ നിർബന്ധിക്കുകയും, ആവശ്യപ്പെടുകയും ചെയ്തു. പ്രതി വീണ്ടും എന്നെ വിളിച്ച് ലൈംഗിക ചുവയുള്ള സംഭാഷണങ്ങൾ നടത്തി കൊണ്ടേയിരുന്നു. ഇതിൽ മനം മടുത്ത ഞാൻ ചാനൽ മേധാവിയെ അറിയിക്കുകയും, അദ്ദേഹം സഹപ്രവർത്തകനായ ജയചന്ദ്ര



[Handwritten signature]



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നോട്ട് ഇക്കാര്യം പറയുകയും, നിങ്ങൾ വേണ്ടത് ചെയ്യാൻ ആവശ്യപ്പെടുകയും ചെയ്തു. ടി സംഭാഷണങ്ങൾ നടത്തിയതിന് എന്നോട് തെളിവുണ്ടോ എന്ന് ജയചന്ദ്രൻ ചോദിക്കുകയും ഞാൻ ടി സംഭാഷണങ്ങൾ റിക്കോർഡ് ചെയ്തിട്ടുണ്ട് എന്ന് പറയുകയും ചെയ്തു. അങ്ങനെയൊന്നെങ്കിൽ പോലീസിൽ പരാതിപ്പെടണമെന്ന് ആവശ്യപ്പെട്ടു. അപ്രകാരം റിക്കോർഡ് ചെയ്ത് സംഭാഷണങ്ങൾ അടങ്ങിയ ഫോൺ ഞാൻ സി.ഇ.ഒ. യ്ക്ക് കൈമാറുകയും ചെയ്തു. എന്നാൽ ഇന്ന് എന്റെ ജീവിനും സ്വത്തിനും ഭീഷണി നേരിടുന്നു. എനിക്ക് സംരക്ഷണം ആവശ്യമാണ്. എന്റെ സ്ത്രീത്വത്തെ അപമാനിച്ച വ്യക്തിക്കെതിരെ നിയമനടപടി സ്വീകരിക്കണം. പോലീസിൽ പരാതിപ്പെട്ടാൽ എതിർകക്ഷിയുടെ പദവി ഉപയോഗിച്ച് പ്രതി മക്ഷപ്പെടുകയും, എന്റെ കുടുംബ അപമാനപ്പെടുമെന്നും, ചാനൽ ജോലി പോകുമെന്നും ഞാൻ ഭയപ്പെട്ടു. എന്നെയും എന്റെ കുടുംബത്തെയും ഇല്ലായ്മ ചെയ്യും. ഈ വിഷയം നേരത്തെ മംഗളം ചാനലിൽ സംപ്രേഷണം ചെയ്തപ്പോൾ ഞാൻ ലൈവ് ആയി ഞാൻ റിപ്പോർട്ട് ചെയ്യാമെന്ന് ചാനൽ മേധാവിയെ അറിയിച്ചുവെങ്കിലും എന്തൊക്കെയോ കാരണങ്ങളാൽ എനിക്ക് അനുമതി ലഭിച്ചില്ല. വാർത്തയായതിന് ശേഷം എനിക്ക് ഒറ്റയ്ക്ക് പുറത്ത് ഇറങ്ങാൻ ഭയമാണ്, ആയതിനാലാണ് ഞാൻ ഈ പരാതി നൽകുവാൻ താമസിച്ചത്. ഈ വിവരവുമായി ബന്ധപ്പെട്ട് വാദിയുടെ പരാതി പെറ്റീഷൻ നമ്പർ 55231/2017/PHQ ആയി ബഹുമാനപ്പെട്ട ഡയറക്ടർ ജനറൽ ഓഫ് പോലീസ് അവർകൾക്ക് നൽകിയിട്ടുള്ളതും, ആയത് യാതൊരു വിധ തീരുമാനവും നടപടിയും കൈപ്പറ്റിയിട്ടില്ലാത്തതുകൊണ്ടുമാകുന്നു.

25

8. പ്രതികളുടെ ടി പ്രവൃത്തികൾ ഇന്ത്യൻ ശിക്ഷാനിയമം 354 D പ്രകാരവും, Section 66 of Information and Technology Act 2000 പ്രകാരം കുറ്റകരവും ശിക്ഷാർഹവുമാണ്. പ്രതി കുറ്റം ചെയ്തിട്ടുള്ളത് നേരിട്ടും, വാദിയുടെ മൊബൈൽ ഫോൺ മുഖാന്തിരവും ആകയാൽ സൈബർ പോലീസ് തിരുവനന്തപുരം അതിർത്തിയിലും ടി പ്രകാരം പ്രതികൾ കുറ്റം ചെയ്തിട്ടുള്ളത് മ്യൂസിയം പോലീസ് സ്റ്റേഷൻ അതിർത്തിയിലും, ആയത് ബഹുമാനപ്പെട്ട ഈ കോടതിയുടെ അധികാര പരിധിയിൽ പെടുന്നതാണ്.



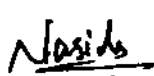
ആകയാൽ ബഹുമാനപ്പെട്ട കോടതിയുടെ ദയവുണ്ടായി അനുമത
 ഫയലിൽ സ്വീകരിച്ച് പ്രതികൾക്കെതിരെ cognizance എടുത്ത് തുടർ
 നടപടികൾ കൈക്കൊള്ളേണ്ടതും, അല്ലാത്ത പക്ഷം ക്രിമിനൽ നടപടി
 ക്രമം 156 (3) വകുപ്പ് പ്രകാരം കേസ് രജിസ്റ്റർ ചെയ്ത് അന്വേഷണം
 നടത്തി നിയമ നടപടികൾ കൈക്കൊള്ളുന്നതിന് തിരുവനന്തപുരം
 സൈബർ പോലീസിൽ അയച്ച് ഉത്തരവുണ്ടാകണമെന്ന് താഴ്മയായി
 അപേക്ഷിച്ചു കൊള്ളുന്നു.

2017-മാണ്ട് ഏപ്രിൽ മാസം 5-ാം തീയതി


 അഡ്വക്കേറ്റ്


 ഹർജിക്കാരൻ/വാദി

മേൽ വിവരിച്ച വസ്തുതകൾ എന്റെ അറിവിലും വിശ്വാസത്തിലും
 പെട്ടിടത്തോളം ശരിയും സത്യവുമാകുന്നു.


 ഹർജിക്കാരൻ/വാദി

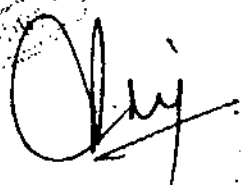
ഹാജരാക്കുന്ന രേഖകൾ

✓ 03.04.2017 ൽ ഡി.ജി.പി യ്ക്ക് നൽകിയ പരാതിയ്ക്ക് കീഴിലെ രസീദ്

സാക്ഷികൾ

- സിബി
 മംഗളം, അരിശ്ശോ ജംഗ്ഷൻ
 തമ്പാനൂർ, തിരുവനന്തപുരം.





In the Court of Chief Judicial Magistrate
Thiruvananthapuram

Statement of CW in CMP 899/2017

നാഫില നസരൂദ്ദീൻ, D/O. നസരൂദ്ദീൻ 24 years.
പത്നീ മെർട്ട് ബോധിയിരിക്കുന്നത്.

ഞാൻ മറയൂർ ചാമ്പലിൽ July 1st ന്ത് join ചെയ്തത്. അപ്പോൾ ജോലിയുടെ ഭാഗമായി പ്രമുഖരുടെ 15 minutes family talk ഉൾപ്പെടെ ഒരു programme ഉണ്ടായിരുന്നു. അതിൽ അനിൽക്കു assignment ഉണ്ടായിരുന്നു. അതിൽ പ്രകാരം ഞാൻ പ്രതിരോധം ഉണ്ടാക്കി. ഞാൻ 1st day interview നടത്തേണ്ട. അതുകൊണ്ട് രണ്ടു നാളുകൾക്കു ശേഷം സ്ത്രീ സുരക്ഷ project മായി ബന്ധപ്പെട്ട് Public place 'e' toilet-ന്റെ സൗകര്യം വാഗ്ദാനം ചെയ്ത് details അറിയാൻ പ്രതിരോധം ഞാൻ വിളിച്ചിരുന്നു. അപ്പോൾ ടിയാൻ അന്നോട് 8 മണിക്ക് മുൻപ് വരാൻ പറഞ്ഞു. പക്ഷേ എന്ന് 8 മണിക്ക് ~~കൊടു~~ പോകാൻ കഴിഞ്ഞില്ല. പ്രതിരോധം അന്നു തിരിച്ചു വിളിച്ചു. 2 മണിക്ക് ശേഷം അന്നു പറഞ്ഞു. ഞാനും അതേ സഹപ്രവർത്തകരും 3 1/2 ക്ക് ശേഷം ഓഫീസ് വാഗ്ദാനത്തിൽ ടിയാൻ കൗൺസിലിംഗ് വാർഡിൽ അത്ത്. ടിയാൻ അന്നോട് മുൻകൂട്ടിലാണെന്ന് നിലയിൽ ചെയ്യാൻ പറഞ്ഞു. ഞാൻ ചെയ്യാൻ പോകാൻ ടിയാൻ ടിയാൻ കൗൺസിലിംഗ് ചെയ്യാൻ

(..... 2)

01.02



[Handwritten signature]

ഇരിക്കുകയായിരുന്നു. അന്നോട് ഇരിക്കാൻ അവശ്യപ്പെട്ടു.
 ഞാൻ ഇരുന്നു. അപ്പോൾ ടിയാൻ എന്റെ ഡയറക്ടറായ
 ചുറ്റിക്കിട്ടുവന്നു comments പറയുകയായിരുന്നു. ഞാൻ
 വന്നു ക്രി. സ്കീ ഫുൾ പ്രജക്ട് മാലി ബഡ്ജറ്റ്
 എന്നു പറഞ്ഞു. തന്നെ ഉള്ള കിടന്നാന്നാൻ കൂട്ടിൽ
 വരാൻ പറഞ്ഞാൽ എന്നു പറഞ്ഞു. ഞാൻ Sri Lanka
 പോകുകയാൽ എന്നും എന്റെ കൂടെ അവിടെ വരുന്ന-
 എന്നും നിന്നെ എന്നും ഞാൻ ചെയ്തതൊന്നും എന്നും
 പറഞ്ഞു. ^{എന്റെ വർദ്ധിച്ച കൂലി തരാമെന്ന് പറഞ്ഞു.} ടിയാൻ എന്റെ അടുത്തുവന്നു എന്റെ
 തോളിൽ നെക്കവച്ചു. ഞാൻ അന്നിട്ടു ടിയാൻ ഇരുന്നു
 ഡലക്ക് അന്നി. അപ്പോൾ ആദ്യം ഇരുന്ന Chair-
 opposite അരിട്ടാൻ ടിയാന്റെ നന്ന. ടിയാൻ ആ
 നന്ന-ലോട്ട് ചെയ്തു. അതാൻ എന്റെ കൊട്ടാരം
 എന്നു പറഞ്ഞു. പിന്നെ ഒരു ഡാഡാരിച്ചു.
 ഞാൻ പിന്നിട്ടു വരാം എന്നു പറഞ്ഞു. ഉടനെ
 ടിയാൻ എന്ന നന്ന-ലേക്ക് വിളിച്ചു. ഞാൻ
 പോയില്ല. അന്നിട്ട് ടിയാൻ dress അളിച്ചു. ഞാൻ
 താഴേക്ക് ഇറങ്ങിപ്പോയി. അന്നിട്ട് വച്ചാൽ Shock
 അരിച്ചോയി. ഞാൻ എന്റെ ഡയറക്ടർക്കുവേണ്ടി
 കാര്യം പറഞ്ഞു. Complaint ചെയ്യാം എന്നു പറഞ്ഞു
 അന്നു തന്നെ ഞാൻ ഓഫീസിനലത്തി ചാകൻ
 മേധാവി C.E.O R. അന്റണിന്റെ ഓഫീസിലേക്ക് പറഞ്ഞു.
 ഡയറക്ടർ ഉള്ളവൻ പറഞ്ഞു. നടപടി അടുത്തു

പി
 21/11/17



(... 3)

- 3 -

കേസ് രജിസ്ട്രേഷൻ എന്നു പറഞ്ഞു. മന്ത്രിമാരുടെ കീഴിൽ
 കേസ് രജിസ്ട്രേഷൻ നിർമ്മിച്ചു. തെളിവിലൂടെ എന്നു
 പറഞ്ഞു. ഞാൻ മന്ത്രിയെ വിളിച്ചു. വളരെ ദാരുണ-
 മാലി്താൻ പെരുമാറ്റമുണ്ട് എന്നു പറഞ്ഞു. ഞാൻ
 Complaint ചെയ്തതും എന്നു പറഞ്ഞു. ടിയാൻ എന്നു
 വിളിച്ച് ചുറ്റണുന്നാൻ പ്രവർത്തിക്കുക എന്നു
 പറഞ്ഞു. ഭീഷണിപ്പെടുത്തി. നിർമ്മിക്കുക എന്നു
 പറഞ്ഞു ഭീഷണിപ്പെടുത്തി. പിന്നീട് ടിയാൻ
 മകൻ പറഞ്ഞു. അമ്മയ്ക്കിന്ന് രക്തസ്രാവം സംഭവി-
 ക്കുന്നു എന്നു Call വന്നു. ടിയാൻ അറിച്ച്
 അറിയാത്ത നമ്പറിൽ നിന്നും. ഞാൻ ടെലോണിലൂടെ
 വേറെ നമ്പറിൽ നിന്നും വിളിച്ച് വളരെ ദാരുണമാ-
 സംഭവിച്ചു. പിന്നീട് ഫ്രീം പതിവായി. ഞാൻ
 ഓഫീസിൽ പറഞ്ഞു. ഓഫീസിൽ നിന്നും Hidden
 Camera വച്ച് record ചെയ്ത് ടെലോണിനെ എന്നു
 പറഞ്ഞു. Hidden Camera വച്ച് record ചെയ്യാൻ
 ഞാൻ പ്രതിരോധം ചെയ്തുകൊണ്ടിരുന്നു. അപ്പോൾ
 വിളിയപ്പോൾ ടിയാൻ സംസാരിക്കാൻ തുടങ്ങി.
 ഇതും അതേപടി ഓഫീസിൽ അറിയിച്ചു. അപ്പോൾ
 വിളിക്കുന്ന phone record ചെയ്യാൻ പറഞ്ഞു. ചെയ്ത്
 ടിയാൻ Call record ചെയ്യാൻ പറഞ്ഞു. ചെയ്ത്
 ഞാൻ അന്ന് ഓഫീസിൽ ആയിരുന്നു. പല പല
 Call കളായിട്ടാണ് record ചെയ്തത്. ഞാൻ ഇതും
 ഓഫീസിൽ ആയിരുന്നു. Since ഇതിൽ ആയിട്ടാണ്

(- 4)



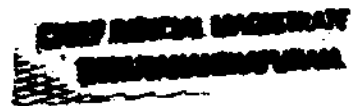
-4-

Phone C.E.O യുപി. അന്നാൻ 91 issue
അതി Telecast ചെയ്തത്.

കൊട്ടി വായിച്ചു കേട്ടു - നശി

Sd/-
Nasila Nazimudheen

Sealed and Signed



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True Photocopy
(By Order)

Sr. Superintendent.

B.





Nasila Nasimudheen

ANNEXURE - VI

മംഗളത്തിലേക്ക് ഇനിയൊരു തിരിച്ചുവരവ് തീരെ ആഗ്രഹിച്ചതല്ല. എന്തിനായിരുന്നു അനിയത്തിയെന്നും സഹോദരിയെന്നുമൊക്കെപ്പറഞ്ഞ് കൂടെ നിർത്തി ചതിച്ചത്? ഒരു തെറ്റു ചെയ്താൽ അത് ഏറ്റുദുക്കണം. അല്ലാതെ മറ്റുള്ളവരുടെ തലയിൽ വെച്ചു കെട്ടി രക്ഷപ്പെടുകയല്ല ചെയ്യേണ്ടത്. ഓ... അതെങ്ങനെയോ... DGP യും ADGP യും ഒക്കെ സ്വന്തം പോക്കറ്റിൽ അല്ലേ... അപ്പോൾ ആരുടെ തലയിൽ വെച്ചും രക്ഷപ്പെടാമല്ലോ അല്ലേ R .ജയചന്ദ്രാ. അന്നു നീ വന്നു കാലു പിടിച്ചില്ലായിരുന്നെങ്കിൽ മംഗളത്തിലെ സഹപ്രവർത്തക മറ്റു ചാനലുകളിൽ പോയി പറഞ്ഞ പോലെ എനിക്കും രക്ഷപ്പെടാമായിരുന്നു. അന്നു നീ പറഞ്ഞത് ഒന്നും സംഭവിക്കില്ല മോളേ എന്നാണ്. ഇനിയൊരാളെയും ഇങ്ങനെ ചതിക്കരുത് .ഇതല്ല മാധ്യമ പ്രവർത്തനം എന്നു നീ മനസ്സിലാക്കണം. ഓരോ സ്ഥാപനത്തിലും ഓരോരുത്തർ ജോലിക്ക് കയറുന്നത് ഒരു പാട് സ്വപ്നങ്ങളും പ്രതീക്ഷകളുമായിട്ടായിരിക്കും. അതൊക്കെ സ്വന്തം പദവിയും വൃത്തികെട്ട മനസ്സും ഉപയോഗിച്ച് നശിപ്പിക്കരുത്. നിനക്കും ഉള്ളത് ഒരു പെൺകുട്ടിയാണ്. നാളെ അതിനെയും ചതിക്കരുത്. വൈകിയെങ്കിലും ഇങ്ങനെ ഒരു പോസ്റ്റ് ഇട്ടില്ലെങ്കിൽ നീ കരുതും ഞാൻ നിന്നെ പേടിച്ച് ഇരിക്കുകയാണെന്ന്. ആരൊക്കെ വെറുതെ വിട്ടാലും ദൈവത്തിന്റെ കോടതി നിന്നെ വിടില്ല...

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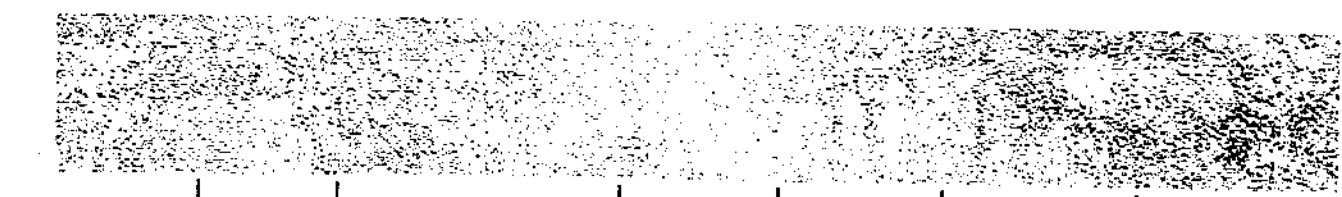


2010-04-15

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 MALABAR

August 30, 2017


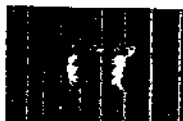






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**കാന്യാക്കരിയിലൂടെ
മംഗളത്തിന് പുതു വിഴുന്ന്! ..
മംഗളം ചാനലിനെ തെറ്റിച്ച
പോസ്റ്റ് നസീല
പിൻവലിച്ചു. എല്ലാം
പോലീസിൽ പറയും എന്ന്
പറഞ്ഞപ്പോൾ പാതിരാവിൽ
മംഗളം സി.ഇ.ഒ നസീലയുടെ
വീട്ടിലെത്തി കേണപേക്ഷിച്ചു..**

August 18, 2017

LATEST

-  **കേസിലെ കാന്യാക്കരി തന്നെ; എല്ലാം വെളിപ്പെടുത്തി; തെറ്റിച്ചോടെ**
-  **അബുദാബിയിൽ തടവുകാർക്ക് ഇനി കൂടുതലായും നേരിട്ട്**
-  **മോഷണ പ്രകാരം തടയ്ക്കൽ; കള്ളൻ ഒന്നര വയസ്സുകാരനെയും**
-  **1.40 കോടി ദിർഹം മോഷണം; കള്ളൻമാരെ മുഖാമുഖം പോലീസ്**
-  **സിൾസ ആശുപത്രിയിൽ നിന്ന് മോചിപ്പിച്ചത് 18 പെൺകുട്ടികളെ**
-  **നടൻ ബിജു മേനോന്റെ കാർ ഇടിച്ചു; അപകടം വട്ടുപറയിൽ**
- നടൻ അജു വർഗീസിനെ**





689
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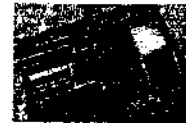
Tweet

തിരുവനന്തപുരം: മംഗളത്തിന്റെ ഹണി ട്രാപ്പ് കേസിലെ നിർണ്ണായക വിവരങ്ങൾ പുറത്തുവിട്ട മംഗളം ചാനൽ ജീവനക്കാരി നസീല നസുമുദ്ദീൻ തന്റെ വിവാദ ഫേസ്ബുക്ക് പോസ്റ്റ് പിൻ വലിച്ചു. മംഗളം ചാനൽ മേധാവികൾ കൂടാടെ കൂടുങ്ങുന്ന ഫേസ്ബുക്ക് പോസ്റ്റ് ഓഗസ്റ്റ് 15നായിരുന്നു ഇറക്കിയത്. ഹണി ട്രാപ്പിലെ അതീവ രഹസ്യങ്ങൾ തുറന്ന് പറയുന്ന ഫേസ്ബുക്ക് പോസ്റ്റ് കണ്ട് ഞെട്ടിയത് മംഗളം ചാനൽ സി.ഇ.ഒ അജിത്കുമാറും ചീഫ് റിപ്പോർട്ടർ ആർ ജയ ചന്ദ്രനും ആയിരുന്നു.

മന്ത്രിയെ ഹണി ട്രാപ്പിൽ കുടുക്കിയ ഗുവോലോചന പോലീസിനോട് പറയാൻ തയ്യാറെടുത്ത ഇതേ കേസിലെ 10മത് പ്രതികൂടിയായ നസീലയുടെ നീക്കം തടഞ്ഞില്ലായിരുന്നു എങ്കിൽ മംഗളം മേധാവികൾ വീണ്ടും ജയിലിൽ ആകുമായിരുന്നു.



പോലീസ് അറസ്റ്റ്



ആധാർ- പാൻ ബന്ധിപ്പിക്കൽ ആഗസ്റ്റ് 31 വരെ മാത്രം



അയാൾക്ക് വേറെ വിവാഹം കഴിക്കണം; മതം മാറി പിന്തു



സംഗീത സംവിധായകൻ ബിജിപാലിന്റെ ഭാര്യ അന്തരിച്ചു



ജോലിയല്ല മനുഷ്യ ജീവനാണ് വെട്ടത്; റിപ്പോർട്ടിംഗിനിടെ റിപ്പോർട്ടറും



ഫോട്ടോ എടുക്കൽ അതിരൂപിച്ച്; ആരാധകനോട് ജയാ ബച്ചൻ



ബോണക്കാട്ടെ വനഭൂമിയിലെ കോൺക്രീറ്റ് കുരിശുകൾ



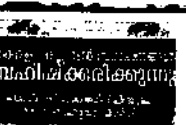
മുംബൈ മഴയിൽ മുങ്ങി; തുരന്തോ എക്സ്പ്രസ് ട്രെയിൻ പാളം



സ്വകാര്യത; സുപ്രീംകോടതി വിധിയെ വെല്ലുവിളിച്ച്



നടിയുടെ പേര് വെളിപ്പെടുത്തിയ കേസിൽ അജു വർഗീസ് അറസ്റ്റിൽ



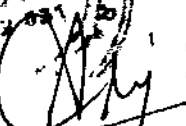
കല്യാൺ ബഹിഷ്കരണവുമെ: കേരളം; മുട്ടുമടക്കാത്ത



50 രൂപയുടെയും 200 രൂപയുടെയും നോട്ടുകൾ ആദ്യം സുന്തമാക്കി



മഹാബലി പ്രതിമയ്ക്ക് ഭിഷണി; ഓണം വാമന ജയന്തി;



സബ് കലക്ടറുടെ വാഹനം 30 അടി



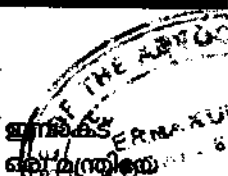
സുനിതാ ദേവ
മംഗളത്തിൽ

ഹണിട്രാപ്പ് യ
വെളിപ്പെ

മംഗളം എന്നെ ചതിച്ചു

നസീല തുറന്ന പോർമുഖം

മംഗളം ചാനൽ ലോഞ്ച് ചെയ്തപ്പോൾ ചാനലിന് നെഗറ്റീവ് ഇമേജ് ഉണ്ടാക്കി എങ്കിലും വെടിക്കെട്ട് വഴക്കം സമ്മാനിച്ചു കയ്യും, ബ്ലോക്ക് മന്ത്രിയെ



[Handwritten signature]

ചെയ്ത ആസൂത്രകരിൽ ഒരാളായിരുന്നു നസീല. ജീവൻ പണയം വെച്ച് തന്നെ എല്ല്പിച്ച ഭാര്യ നിർവഹിച്ചപ്പോൾ നസീലയ്ക്ക് ചില ഓഫറുകൾ മാനേജ്മെന്റ് നൽകിയിരുന്നു. അത് ഒന്നും നടപ്പിലാക്കിയില്ല. അതിനിടെ ജേണലിസം ഭ്രാന്തിനി മാത്രമായിരുന്ന ഒരാളെ ചീഫ് ഓപ്പറേറ്റിങ്ങ് ഓഫീസറായി നിയമിച്ചപ്പോഴാണ് നസീല പൊട്ടിത്തെറിച്ചത്.

താൻ പറഞ്ഞിട്ടില്ലാത്ത എല്ലാം തുറന്ന് പറഞ്ഞ് പോലീസിൽ മൊഴി കൊടുക്കാൻ പോകുന്നു എന്ന് പറഞ്ഞപ്പോൾ ഇന്നലെ രാത്രി മംഗളം ചാനൽ മേധാവിമാർ ഉറങ്ങിയില്ല. ഒരിക്കൽ കേസിൽ ഒരുമാസത്തോളം ജയിലിൽ കിടന്ന അജിത് കുമാറും, ചീഫ് റിപ്പോർട്ടർ ആർ. ജയ ചന്ദ്രനും വീണ്ടും അകത്താക്കുമെന്നും ജോലി നഷ്ടമാകുന്ന സാഹചര്യവും വന്നു. ഇതോടെ പാതിരാത്രി ഉറക്കം ഉപേക്ഷിച്ച് അജിത് കുമാറും സംഘവും നസീലയുടെ വീട്ടിൽ പാഞ്ഞു ചെല്ലുകയായിരുന്നു.

നസീലയുടെ ചോദ്യങ്ങൾക്ക് മുന്നിൽ മംഗളം ചാനൽ പതറി

എന്റെ ജീവൻ ഇപ്പോഴും അപകടത്തിലാണ്. ജീവൻ അപകടത്തിലാക്കി ഞാൻ നടത്തിയ സ്ത്രീയ്ക്ക് ഓപ്പറേഷനാണ് രാജ്യത്തേ തന്നെ തെടുക്കിയ ഒരു മന്ത്രിയുടെ രാജിയിലെത്തിയത്. മംഗളം ചാനലിനെ ഒറ്റ ദിവസം കൊണ്ട് തന്നെ റേറ്റിങ്ങിൽ ഞാൻ മുന്നിൽ എത്തിച്ചു. കേരളത്തിൽ മറ്റാരും എടുക്കുവാൻ തയ്യാറാകാത്ത ഏറെ റിസ്കുള്ള ജോലി. നിങ്ങൾ എനിക്ക് തരാമെന്ന് പറഞ്ഞ ഓഫറുകൾ എവിടെ? എനിക്ക് തരാമെന്ന് പറഞ്ഞ ചാനൽ സ്കൂപ്പ് എവിറ്റർ പോസ്റ്റ് എവിടെ? എന്റെ ജീവൻ പണയപ്പെടുത്തി, ജീവിതം തന്നെ ഇല്ലാതാക്കി തുടക്കമിട്ട മംഗളം ചാനലിൽ എന്റെ തസ്തിക എന്താണ്? നസീല മുഖത്ത് നോക്കി അവരുടെ വീട്ടിൽ പാതിരാത്രിയിൽ ഓടിയെത്തിയ മംഗളം അജിത് കുമാറിനോട് ചോദിച്ചു. നസീലയുടെ ചോദ്യങ്ങൾ അവിടെ തീർന്നില്ല.

മറിഞ്ഞു; അപകടം

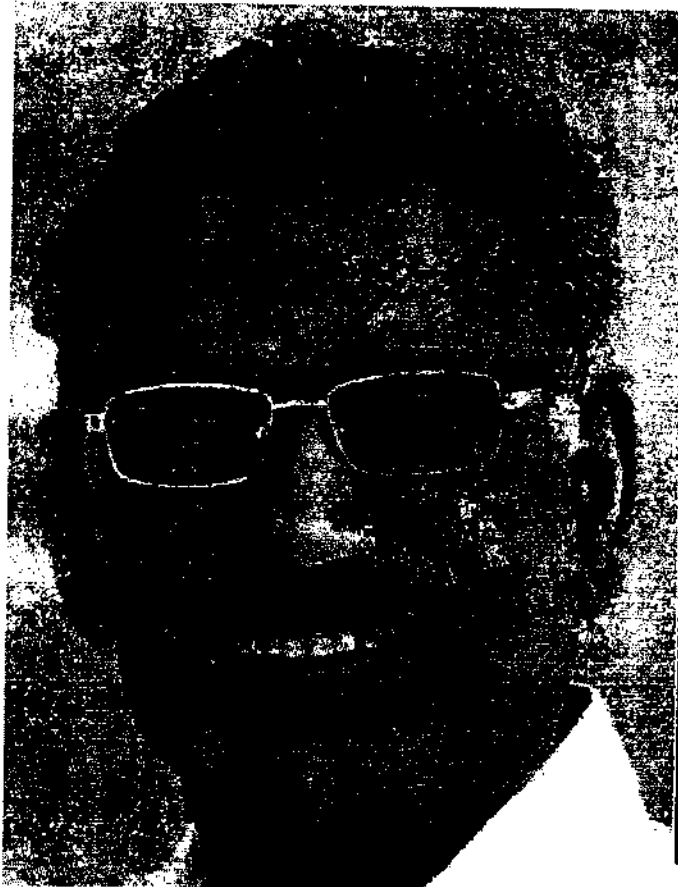
വയനാട്ടിൽ കനത്ത മഴ; മണ്ണിടിഞ്ഞു വീണ് ഒരാൾ മരിച്ചു; രണ്ട് പേർ കൂടുതൽ

കാവ്യയോടൊപ്പമുള്ള ദിലീപിന്റെ ആദ്യ ഓണം കലണ്ടി; ഇത്തവണ ജയിൽ

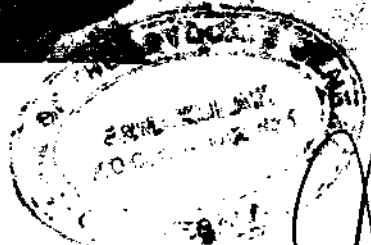
ദിലീപിനെതിരായ എല്ലാ തെളിവുകളും കുറ്റപത്രത്തിൽ ഉണ്ടാകുമെന്ന്

ദിലീപിനെ കാവ്യ കൂടുക്കി ! ദിലീപേട്ടാ കൂടുങ്ങി എന്ന ശബ്ദ സന്ദേശം

ജയിലിൽ കരഞ്ഞ് തളർന്ന് ആൾക്കൈവം



അർദ്ധരാത്രി നസീലയുടെ വീട്ടിൽ ചർച്ചക്കായി പുതിയ തസ്തികയിലേക്ക് നിയമിതയായ ആളും ഉണ്ടായിരുന്നു. ഇതിന്റെ ചാനലിൽ വരാനും ഉന്നത പദവിയിൽ ഇരിക്കാനും എന്തു



ചോദിച്ചുവത്രേ.മാധ്യമം പുത്രത്തിൽ വെറുമൊരു ഭ്രമിനി മാത്രമായിരുന്ന അതും അവിടെ നല്ല നിലയിൽ പൂർത്തീകരിക്കാതെ വാർത്തകൾ എഴുതാൻ അറിയില്ലെന്ന് പറഞ്ഞ് ഒഴിവാക്കിയ ഒരാളെ ചാനലിന്റെ തലപ്പത്തേക്ക് എടുത്തപ്പോൾ എന്നെ മറന്നു, എനിക്ക് നൽകിയ ഓഫർ നടപ്പാക്കിയില്ല. ഹണി ട്രാപ്പ് വിഷയത്തിൽ എന്നെയും ചാനലിനേയും ഏറെ അപമാനിച്ച ഇവരേ എനിക്കും മുകളിൽ കയറ്റി ഇരുത്തിയപ്പോൾ എന്നെയാണ് മറന്നത്. സുനിതാ ദേവദാസ് ഇരിക്കെ നസീല തുറന്നടിച്ചു.

അനുരഞ്ജന നീക്കങ്ങൾ വിജയിക്കാതെ വന്നപ്പോൾ നാളെ തന്നെ പോലീസിൽ താൻ മൊഴി കൊടുക്കാൻ പോകുന്നു എന്ന് നസീല പറഞ്ഞു. ഉടൻ അജിത് കുമാർ പാതിരാത്രി തന്നെ അഭിഭാഷകരേ ഫോണിൽ വിളിച്ച് ചർച്ച നടത്തി. നസീല എല്ലാം തുറന്ന് പറഞ്ഞാൽ ജാമ്യം റദ്ദാക്കി വീണ്ടും അജിത് കുമാറും ജയചന്ദ്രനും ജയിലിൽ പോകും എന്ന് ഹൈക്കോടതി സീനിയർ അഭിഭാഷകരുടെ ഉപദേശം വന്നു.

നസീലയുടെ പിൻ വലിച്ച ഫോസ്ബറക്ക് പോസ്റ്റ്



Nasila Nasimudheen

5 hrs ·

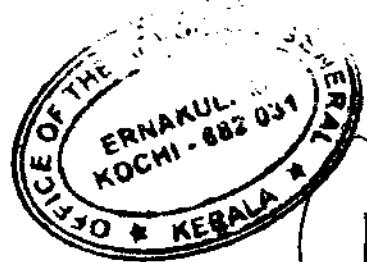
മംഗളത്തിലേക്ക് ഇനിയൊരു തിരിച്ചുവരവ് തിരെ ആഗ്രഹിച്ചതല്ല. എന്തിനായിരുന്നു അനിയത്തിയെന്നും സഹോദരിയെന്നുമൊക്കെപ്പറഞ്ഞ് കൂടെ നിർത്തി ചതിച്ചത്? ഒരു തെറ്റു ചെയ്താൽ അത് ഏറ്റടുക്കണം. അല്ലാതെ മറ്റുള്ളവരുടെ തലയിൽ വെച്ചു കെട്ടി രക്ഷപ്പെടുകയല്ല ചെയ്തേണ്ടത്. ഓ... അതെങ്ങനെയോ... DGP യും ADGP യും ഒക്കെ സ്വന്തം പോക്കറ്റിൽ അല്ലേ... അപ്പോൾ ആരുടെ തലയിൽ വെച്ചും രക്ഷപ്പെടാമല്ലോ അല്ലേ R ജയചന്ദ്ര. അന്നു നീ വന്നു കാലു പിടിച്ചില്ലായിരുന്നെങ്കിൽ മംഗളത്തിലെ സഹപ്രവർത്തക മറ്റു ചാനലുകളിൽ പോയി പറഞ്ഞ പോലും എനിക്കും രക്ഷപ്പെടാമായിരുന്നു. അന്നു നീ പറഞ്ഞത് ഒന്നും സംഭവിക്കില്ല മോളേ എന്നാണ്. ഇനിയൊരാളെയും ഇങ്ങനെ ചതിക്കരുത്. ഇതല്ല മാധ്യമ പ്രവർത്തനം എന്നു നീ മനസ്സിലാക്കണം. ഓരോ സ്ഥാപനത്തിലും ഓരോരുത്തർ ജോലിക്ക് കയറുന്നത് ഒരു പാട് സ്വപ്നങ്ങളും പ്രതീക്ഷകളുമായിട്ടായിരിക്കും. അതൊക്കെ സ്വന്തം പദവിയും വ്യക്തികെട്ട മനസ്സും ഉപയോഗിച്ച് നശിപ്പിക്കരുത്. നിനക്കും ഉള്ളത് ഒരു പെൺകുട്ടിയാണ്. നാളെ അതിനെയും ചതിക്കരുത്. വൈകിയെങ്കിലും ഇങ്ങനെ ഒരു പോസ്റ്റ് ഇട്ടില്ലെങ്കിൽ നീ കരുതും തൊൻ നിന്നെ പേടിച്ച് ഇരിക്കുകയാണെന്ന്. ആരെക്കെ വെറുതെ വിട്ടാലും ദൈവത്തിന്റെ കോടതി നിന്നെ വിടില്ല...

Like Comment Share

Pradeep Siv

ഉടൻ നസീലക്ക് മംഗളം മാനേജ്മെന്റ് വഴങ്ങുകയാണുണ്ടായത്. എന്നാൽ നസീലയ്ക്ക് നൽകിയ പുതിയ ഉറപ്പുകൾ എന്തായിരിക്കും? വൻ ഓഫറുകൾ, സ്ഥാനങ്ങൾ, വേതനം എന്നിവ എന്തൊക്കെ? വീണ്ടും ആ പെൺകുട്ടിയെ ചതിക്കുമോ? ഒത്തു തീർപ്പുകൾ ഉന്നതർക്ക് കേസും ജയിലും ഒഴിവാകാനുള്ള തന്ത്രമോ?

നസീലക്ക് ഇപ്പോൾ മംഗളം ചാനലിൽ എന്ത് പദവിയാണുള്ളത്? ഒരു സ്റ്റാഫ് എന്ന് പരിഗണന പോലും അവർക്ക് രേഖാമൂലം നൽകാത്തത് എന്തുകൊണ്ട്. ഹൺ ട്രാപ്പ് കേസിൽ അവരേ ഭാവിയിൽ ഒറ്റപ്പെടുത്തി ചാനലിനേയും, മേധാവികളേയും രക്ഷിക്കാനുള്ള കൂടീല തന്ത്രമോ? നിരപരാധികളായ പെൺകുട്ടികളെ വയ്ച്ചുള്ള ഈ വേട്ട ന്യായമോ നീതിയോ? യഥാർഥ കുറ്റവാളികൾ ശിക്ഷിക്കപ്പെടുമോ? അതെല്ലാം



[Handwritten signature]

നിഷ്പക്ഷമാക്കുന്ന വൻ ശക്തികൾ നസീലക്ക് പിന്നിൽ ഉണ്ട്. നസീലയേ മംഗളം ചാനൽ ചതിച്ചാൽ അന്ന് ചാലനിന്റെ ഷട്ടർ താഴ്ത്തുമെന്നു വരെ ഇവർ വ്യക്തമായ മുന്നറിയിപ്പ് നൽകുന്നു. സാമുദായികമായും, രാഷ്ട്രീയമായും ഏത് സഹായവും ചെയ്യാൻ ശക്തമായ കരുങ്ങൾ നസീല നസീമുദ്ദീനു പിന്നിൽ ഉണ്ടെന്ന് വ്യക്തം. അതായത് ജീവിതം തന്നെ പാഴാക്കി ഒടുവിൽ വലിച്ചെറിയാമെന്നും ചതിക്കാമെന്നും വിചാരിച്ച മംഗളം ചാനൽ ഉന്നതർക്ക് കിട്ടിയ കടുത്ത കോക്ക് ട്രിഗ്ഗറാണിത്.

സുനിതാ ദേവദാസ് മംഗളം ചാനൽ ഓപറേറ്റിങ്ങ് ഓഫീസറായി ചുമതല ഏറ്റെടുത്തപ്പോൾ മുതലാണ് നസീലയുടെ പൊട്ടിത്തെറി. 2 സ്ത്രീകൾ തമ്മിലുള്ള പോരാട്ടം. ആരു ജയിക്കും..അർക്ക് പിടിച്ചു നിൽക്കാനാകും? മംഗളത്തിനായി ജീവത്യാഗം വരെ തയ്യാറായി ചാനലിനെ ഒരു ദിവസം കൊണ്ട് റേറ്റിങ്ങിൽ എത്തിച്ച നസീലക്കോ, അതോ സുനിതാ ദേവദാസിനോ? ഇത് ഇനി തീരുമാനിക്കുക ചിലപ്പോൾ മംഗളം പോലും ആയിരിക്കില്ല..അതിനും മീതെയുള്ള ചില ശക്തമായ നീക്കങ്ങളാണ് ചാനലിൽ.

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ANNEXURE - VIII

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ബഹുമാനപ്പെട്ട സാർ,

എപ്രിൽ 27ന് മാതൃഭൂമി ദിനപത്രത്തിൽ ജസറ്റിസ് പി.എസ് ആന്റണി അമ്പലക്കുന്ന് വിജ്ഞാപന വിജ്ഞാപനത്തോടുള്ള പ്രതികരണമാണിവിടെ കുറിക്കുന്നത്.

മംഗളം ടിവിയിലൂടെ പ്രക്ഷേപണത്തിന്റെ പ്രഥമദിനം മുൻമന്ത്രി എ.കെ ശശീന്ദ്രന്റേതെന്നു കരുതുന്ന ശബ്ദരേഖ പുറത്തുവിട്ടത് കേവലം ഒരു വാർത്ത പ്രക്ഷേപണം ചെയ്യുക എന്നതിലുപരി മറ്റു ചില ഗൂഢലക്ഷ്യങ്ങൾ മുന്നിൽകണ്ടായിരുന്നു.

ആദിവാസം തന്നെ സ്ത്രീസുരക്ഷയുമായി ബന്ധപ്പെട്ട അദ്ദേഹത്തിന്റെ (എ.കെ ശശീന്ദ്രന്റെ) അഭിപ്രായവും പ്രക്ഷേപണം ചെയ്തിരുന്നു. ആ അഭിമുഖം തലേ ദിവസം മലപ്പുറത്ത് വെച്ച് എടുത്തത് എ.എം യാസർ എന്ന ഞാനായിരുന്നു. സംഭവത്തിനും ശേഷം ജോലി രാജിവെച്ച ഞാൻ മംഗളം ടീവി മലപ്പുറം ബ്യൂറോയിലെ ചീഫ് റിപ്പോർട്ടറായിരുന്നു.

സംഭവം നടന്നതിന്റെ തലേ ദിവസം അതായത് 25-03-2017ന് ന്യൂസ് ഡസ്കിൽ നിന്നും വിളിച്ചാവിശ്യപ്പെട്ടതനുസരിച്ചായിരുന്നു ഞാൻ അദ്ദേഹത്തെ ഉന്റർവ്യൂ ചെയ്തത്. മേൽതട്ടിൽ നടന്ന ആസൂത്രണത്തിന്റെ അടിസ്ഥാനത്തിലായിരുന്നു അത്. ഈ സംഭവത്തിനുപിന്നിൽ മാധ്യമപ്രവർത്തനം എന്നതിലുപരി മറ്റു ചിലകാര്യങ്ങൾ ലക്ഷ്യം വെച്ചുരുന്നു. അത് തികച്ചും രാഷ്ട്രീയലക്ഷ്യമായിരുന്നു. ഇതുതെളിയിക്കാൻ ചാനൽ തുടങ്ങുന്നതിന് മുമ്പ് അതായത് 02-05-2016 മുതൽ 10-05-16 വരെ തിരുവനന്തപുരത്ത് വെച്ചു നടന്ന പരിശീലന ക്യാമ്പിൽ വെച്ച് ചാനൽ സിഇഒ ശ്രീ ആർ അജിത്ത്കുമാർ ആവർത്തിച്ച് വ്യക്തമാക്കിയിരുന്ന കാര്യ ശ്രദ്ധിച്ചാൽ മനസ്സിലാക്കാം (ഉദ്ദേശ്യം)

അത് അദ്ദേഹത്തിന്റെ ഭാഷയിൽ നമ്മുടെ ഒരോ ദിവസവും ഒരോ ബോംബ് വേണം. ചുരുങ്ങിയത് ഒരു എം.എൽ.എ എങ്കിലും രാജിവെപ്പിക്കണം. ഈ ആശയത്തോട് അന്നു തന്നെ ഞങ്ങളിൽ പലരും വിരോധിച്ച് പ്രകടിപ്പിച്ചിരുന്നു.

മാധ്യമ പ്രവർത്തനത്തിന്റെ ധർമ്മത്തിനും അപ്രവർത്തനാധികാരത്തിനു അപ്പുറത്തുള്ള ചില രാഷ്ട്രീയ ലക്ഷ്യങ്ങളായിരുന്നു അദ്ദേഹം വ്യക്തമാക്കിയതിലേന്ന് ഞങ്ങൾക്കു മനസ്സിലാക്കാനായി. അന്നു അതിനെ പറ്റി അന്വേഷിച്ചപ്പോൾ ഇടതുസർക്കാറിനെ ഏതുവിധേയനെയും അട്ടിമറിക്കണമെന്നാഗ്രഹിക്കുന്നവർ ശ്രീ അജിത്ത്കുമാറിനെ ചാനൽ പ്രവർത്തനത്തിനുള്ള സഹായം വാഗ്ദാനം ചെയ്തിരുന്നുവെന്ന് ബോധ്യമായി. അതിൽ മലബാറിൽ വടകരയിൽ ആർ.എം.പിയും തിരുവനന്തപുരത്ത് യുഡിഎഫിലെ ചിലരുമുണ്ടായിരുന്നു. വടകരയിൽ ആർ.എം.പി 500 കോടി പത്രം വരിചേർത്തുനൽകുകയും ചെയ്തു. സർക്കാറിനെ അട്ടിമറിക്കാനുള്ള ഗൂഢനീക്കത്തിന്റെ ഭാഗമാണിതെന്ന് അകത്തുനിന്നുതന്നെ ചിലർ അന്നുമുതലെ വ്യക്തമാക്കിയിരുന്നു.



SECRETARY

അതേ സമയം വിവാഹമോചിതരായ യുവതികളെ പ്രത്യേകം പരിഗണിച്ചുകൊണ്ടുള്ള പരിശീലനം കണ്ട് ചില അപാകതകൾ കണ്ട് മുതിർന്ന ഒരു മാധ്യമപ്രവർത്തകനും കൊച്ചിയിലെ യുവ മാധ്യമപ്രവർത്തകനും രാജിവെച്ചു. ഇവിടെ കൂട്ടിക്കൊടുപ്പ് നടക്കുന്നുവെന്നായിരുന്നു കൊച്ചിയിലെ അന്നത്തെ ചീഫ് റിപ്പോർട്ടർ രാജിവെച്ചുപോവുമ്പോൾ ഞാനടക്കമുള്ള സഹപ്രവർത്തകരോട് പങ്കുവെച്ചത്.

ഇതിനുപുറമെ ലൂബായിൽ വെച്ച് എൻസിപി നേതാവും ഇപ്പോഴത്തെ ഗതാഗതവകുപ്പുമായി ശ്രീ തോമസ് ചാണ്ടി ചാനൽ സി.ഇ.ഒ ശ്രീ അജിത് കുമാറുമായി ഗൂഡാലോചന നടത്തിയതായും ചില അലുപങ്ങൾ പരന്നിരുന്നു. മൻമന്തി ശ്രീ ശശീന്ദ്രനെ വീഴ്ത്താൻ പെൺകുട്ടികളെ ഉപയോഗിച്ചാൽ മതിയെന്ന നിർദ്ദേശം തോമസ് ചാണ്ടിയിൽ നിന്ന് ലഭിച്ചതിനെ തുടർന്നാണ് സ്വന്തം സ്നാനപനത്തിലെ മാധ്യമപ്രവർത്തകരായ യുവതിയെ ലൈംഗികമായി സംസാരിപ്പിച്ച് ശശീന്ദ്രനെ വംശപ്പെടുത്താൻ കേണിയൊരുക്കിയത്. അതിനായി യുവതി നിരന്തരം ശ്രമിച്ചു. ആ യുവതി ഞങ്ങളുടെ കൂടെ പരിശീലനസമയത്ത് തിരുവനന്തപുരത്തുണ്ടായിരുന്നു. പലതവണ യുവതിയെ ബധ്നയിലേക്കും തിരിച്ച് ഡസ്കിലേക്കും മാറ്റിക്കൊണ്ടിരുന്നു. സ്ഥിരമായി ആരുമായി അടുപ്പമുണ്ടാവരുതെന്നായിരുന്നു ഉദ്ദേശ്യമെന്ന് പിന്നീടാണ് ഞങ്ങൾ സബപ്രവർത്തകർക്കു ബോദ്ധ്യമായത്.

ജ്യാക്കമെയിലിങ്ങ് വഴി മാധ്യമപ്രവർത്തനം നടത്തി സംവാദിക്കാനുള്ള സാദ്ധ്യതയാണ് ശ്രീ അജിത് കുമാർ മുന്നോട്ട് വെയക്കുന്നതെന്ന് അപ്പോൾ തന്നെ പലരും പറഞ്ഞിരുന്നു. നിരവധി ചാനലുകൾ ഉള്ള മലയാളത്തിൽ നമ്മുടെ മുന്നോട്ട് പോവാൻ പല നവീനസംരംഭനങ്ങളും പലരും മുന്നോട്ട് വെച്ചപ്പോൾ അതൊന്നു അംഗീകരിക്കാതെ തന്റെ കൈയ്യിൽ ബോംബുണ്ടെന്ന് അപകാരഭാവമായിരുന്നു സി.ഇ.ഒ പ്രകടിപ്പിച്ചത്. മറ്റ് ബോംബ് കണ്ടപ്പോൾ തന്നെ കോഴിക്കോട് റിജ്യണൽ ഓഫീസിൽ നിന്നും ഡെപ്യൂട്ടി സൂപ്പർ എഡിറ്റർ രാജിവെച്ചു.

ഇത്രയും പറയുന്നത് ഇടതു സർക്കാറിനെ അട്ടിമറിക്കാൻ മോശമായ വഴികൾ സ്വീകരിച്ചുകൊണ്ടുള്ള അതിജീവനമാർഗ്ഗം ശ്രീ അജിത് കുമാർ സ്വീകരിച്ചത് സോദ്ദേശ്യത്തോടയാണെന്ന് വ്യക്തമാക്കാനാണ്.

കേരളീയസമൂഹത്തിന് ജ്ഞാനമുലധനം നൽകേണ്ട ഉത്തരവാദിത്തം മറ്റുചാനലുകളും മാധ്യമങ്ങളും ചെയ്യാത്ത സാഹചര്യത്തിൽ പുതിയ ചാനലുകൾക്ക് വലിയ സാദ്ധ്യതയാണുള്ളത്. അത് പ്രയോജനപ്പെടുത്തുന്നതിനുപകരം മാധ്യമപ്രവർത്തനത്തെ ഒളിഞ്ഞുനോട്ടത്തിന്റെ മനോവൈകല്യത്തിലേക്ക് തള്ളിയിടുകയാണ് ചെയ്തത്.

ഉയർന്ന നിലവാരത്തിലുള്ള പൊതുബോധത്തെയും പൊതുസ്വരപണങ്ങളെയും പൊതുമനസിന്റെയും മൂല്യം വർദ്ധിപ്പിക്കാനുള്ള ഔത്യം നിലവാരമില്ലാത്ത ഉപാധികളിലൂടെ തകർത്തുകളഞ്ഞു. എല്ലത്തരത്തിലുള്ള നിയമങ്ങളുടേയും സകല സാദ്ധ്യതകളും ഉപയോഗിച്ച് ഇത്തരം നീപ്രവർത്തനങ്ങൾ തടയിടണമെന്ന് താഴ്യാൽ അഭ്യർത്ഥിക്കുന്നു.

എ.എം യാസർ
(Quoted text hidden)



ANNEXURE - IX

	A	B	C	D	E	F	G	H
1	Prosoft e-solutions. All rights reserved. www.prosoftesolutions.com							
2	DETAILS Of Suspect 1 - Phone No.: 919847001879							
3	Case No. & Description: 144A2017 - PS Antony Commission							
4	CDR Data From :08-11-2016 To :25-03-2017							
5								
6	Sl.No.	CDRPhoneNo	CalledPhoneNo	CallDate	CallTime	TypeofCall	Duration	IMEI
7	1	917025159952	919847E+11	15-11-2016	12:43:32	CALL-OUT	576	35573006898364
8	2	917025159952	919847001879	16-11-2016	07:24:00	CALL-OUT	170	35573006898364
9	3	917025159952	919847001879	16-11-2016	11:41:13	CALL-OUT	42	35573006898364
10	4	917025159952	919847001879	16-11-2016	13:47:27	CALL-OUT	50	35573006898364
11	5	917025159952	919847001879	16-11-2016	14:00:54	CALL-IN	36	35573006898364
12	6	917025159952	919847001879	16-11-2016	15:27:50	CALL-OUT	8	35573006898364
13	7	917025159952	919847001879	18-11-2016	07:15:44	CALL-OUT	265	86180803675275
14	8	917025159952	919847001879	18-11-2016	22:42:03	CALL-OUT	52	86180803675275
15	9	917025159952	919847001879	18-11-2016	22:43:16	CALL-IN	66	86180803675275
16	10	917025159952	919847001879	20-11-2016	06:10:01	CALL-IN	13	86180803675275
17	11	917025159952	919847001879	20-11-2016	06:12:21	CALL-IN	126	86180803675275
18	12	917025159952	919847001879	21-11-2016	06:09:58	CALL-IN	221	86180803675275
19	13	917025159952	919847001879	22-11-2016	07:25:38	CALL-IN	148	86180803675275
20	14	917025159952	919847001879	22-11-2016	22:35:44	CALL-OUT	175	86180803675275
21	15	917025159952	919847001879	23-11-2016	18:39:49	CALL-OUT	25	86180803675275
22	16	917025159952	919847001879	23-11-2016	22:20:23	CALL-IN	106	86180803675275
23	17	917025159952	919847001879	01-12-2016	07:34:03	CALL-IN	168	86180803675275
24	18	917025159952	919847001879	01-12-2016	12:40:29	CALL-OUT	41	86180803675275
25	19	917025159952	919847001879	01-12-2016	12:41:31	CALL-IN	13	86180803675275
26	20	917025159952	919847001879	01-12-2016	12:41:55	CALL-OUT	206	86180803675275
27	21	917025159952	919847001879	03-12-2016	15:54:13	CALL-OUT	21	86180803675275
28	22	917025159952	919847001879	05-12-2016	07:34:47	CALL-IN	455	86180803675275
29	23	917025159952	919847001879	06-12-2016	00:28:56	CALL-OUT	59	86180803675275
30	24	917025159952	919847001879	11-12-2016	20:48:37	CALL-IN	89	86180803675275
31	25	917025159952	919847001879	12-12-2016	09:52:15	CALL-OUT	29	86180803675275
32	26	917025159952	919847001879	13-12-2016	13:09:05	CALL-OUT	50	86180803675276
33	27	917025159952	919847001879	16-12-2016	22:45:06	CALL-IN	214	86180803675276
34	28	917025159952	919847001879	20-12-2016	07:04:21	CALL-IN	234	86180803675276
35	29	917025159952	919847001879	23-12-2016	18:00:18	CALL-OUT	29	86180803675276



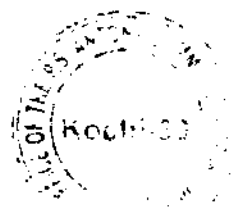
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37	31	917025159952	919847001879	18-01-2017	21:58:27	CALL-OUT	99	86180803675276
38	32	917025159952	919847001879	19-01-2017	07:27:42	CALL-IN	312	86180803675276
39	33	917025159952	919847001879	19-01-2017	07:33:31	CALL-IN	136	86180803675276
40	34	917025159952	919847001879	31-01-2017	06:34:36	CALL-OUT	471	86180803675276
41	35	917025159952	919847001879	16-02-2017	18:56:09	CALL-OUT	128	86180803675276



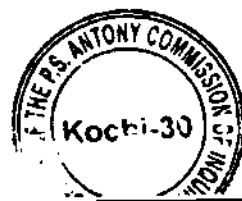
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1					
2					
3					
4					
5					
6	CellSite	TowerName_A	TowerAddress_A	Latitude_A	Longitude
7	40419-363-40962	TVM-OOTUKUZH	(General Secretary Salafi	8.4965	76.9524
8	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
9	40419-363-47532	OVERBRIDGE	Ismail Building, M.G. Road	8.48997	76.9474
10	40419-363-18741	THYKKADUHOSPITAL_A	Lal Tourist Home, New th	8.48786	76.9548
11	40419-363-47021	PTCTOWER_A	PTC Towers, Thampanoor	8.49145	76.9523
12	40419-363-18741	THYKKADUHOSPITAL_A	Lal Tourist Home, New th	8.48786	76.9548
13	40419-38032-6197				
14	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
15	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
16	40419-38032-6197				
17	40419-38032-6197				
18	40419-38032-6197				
19	40419-38032-6197				
20	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
21	40419-363-18743	THYKKADUHOSPITAL	Lal Tourist Home, New th	8.48786	76.9548
22	40419-38032-6197				
23	40419-38032-6198				
24	40419-38033-18747	THYKKADUHOSPITAL	Lal Tourist Home, New th	8.48786	76.9548
25	40419-38033-18747	THYKKADUHOSPITAL	Lal Tourist Home, New th	8.48786	76.9548
26	40419-38033-18747	THYKKADUHOSPITAL	Lal Tourist Home, New th	8.48786	76.9548
27	40419-38033-18747	THYKKADUHOSPITAL	Lal Tourist Home, New th	8.48786	76.9548
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29	40419-38032-6197				
30	40419-38032-6197				
31	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
32	40419-363-40962	TVM-OOTUKUZH	(General Secretary Salafi	8.4965	76.9524
33	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
34	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
35	40419-363-18741	THYKKADUHOSPITAL_A	Lal Tourist Home, New th	8.48786	76.9548



	I	J	K	L	M
36	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
37	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
38	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
39	40419-305-7912	PADINJATTEMUKKU	Trivandrum Taluk, Kadinal	8.58214	76.8465
40	40419-305-6192	PADINJATTEMUKKUHOSPITAL	ROSY C/o Vimal Ladhari,	8.5748	76.8439
41	40419-363-18741	THYKKADUHOSPITAL_A	Lal Tourist Home, New th	8.48786	76.9548

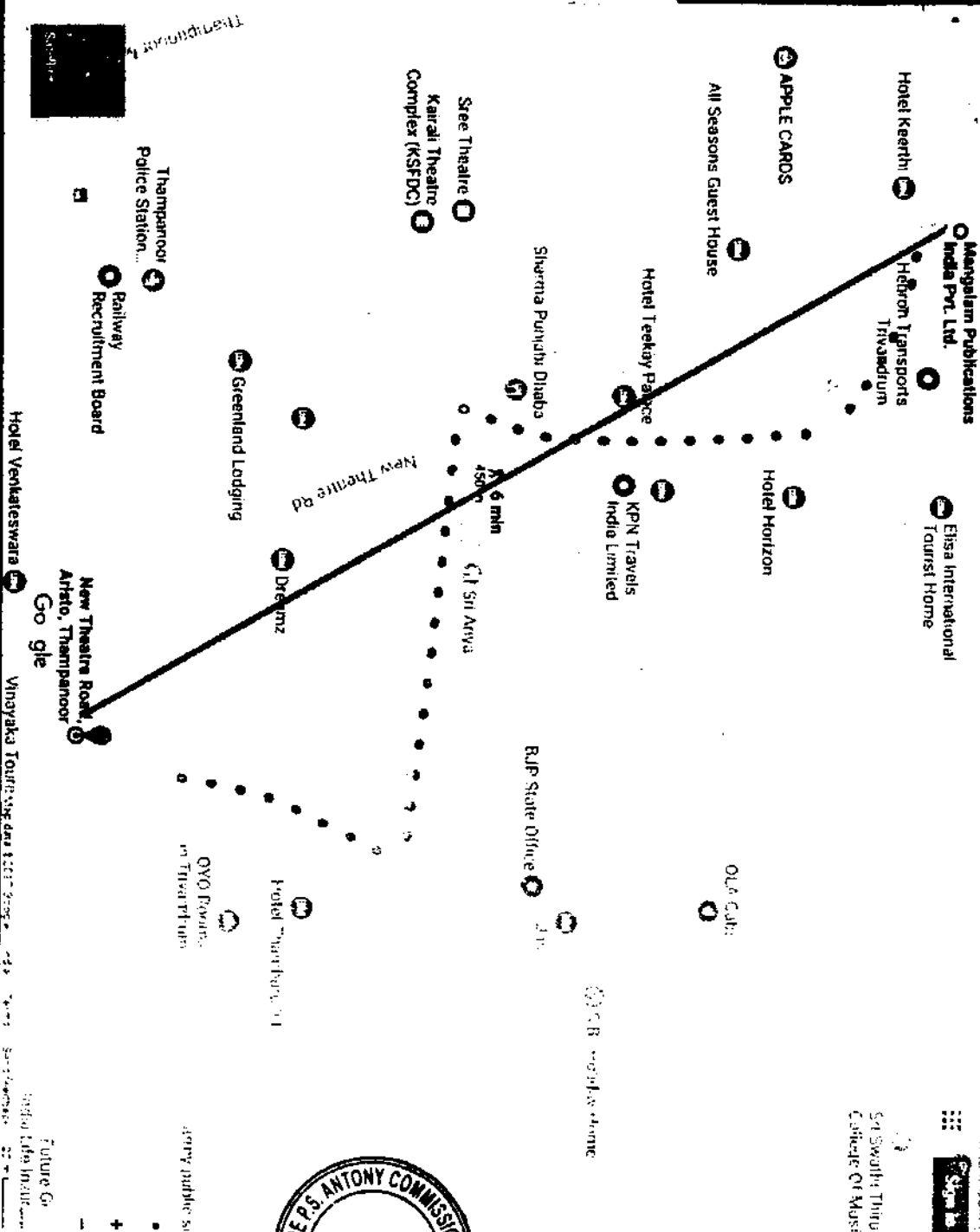
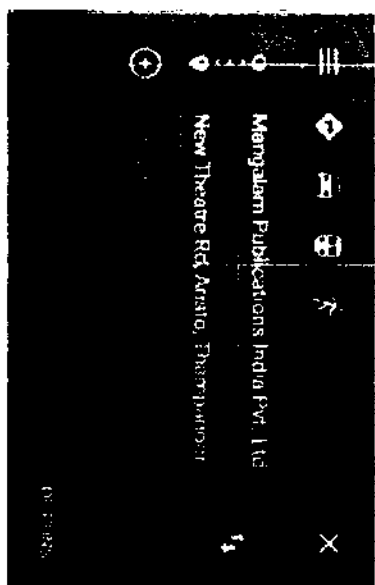


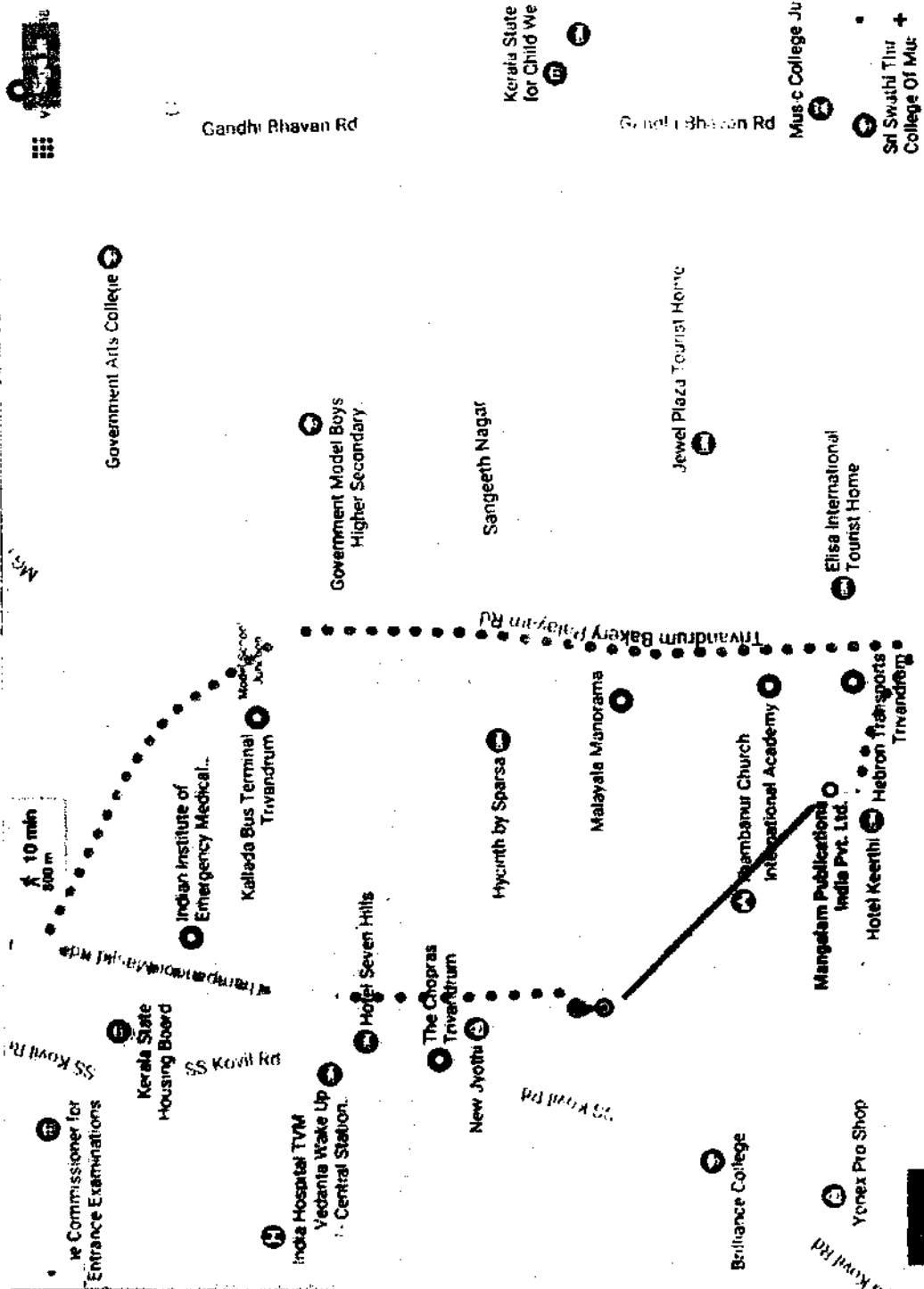
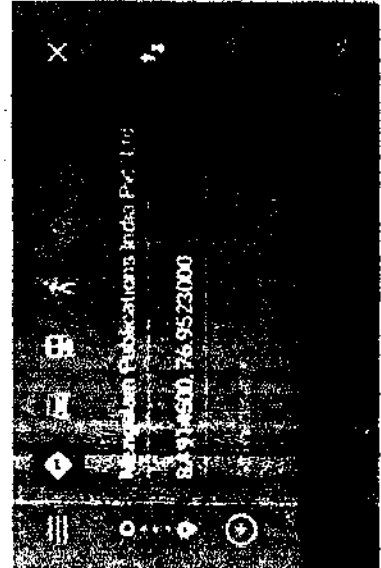
	N	O	P
1			
2			
3			
4			
5			
6	LastCellSite_A	IMSI_A	PP_PO
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8	40419-305-7912	404194006718076	PP
9	40419-363-18741	404194006718076	PP
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11	40419-363-47022	404194006718076	PP
12	40419-363-18741	404194006718076	PP
13	40419-305-7912	404194006718076	PP
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15	40419-305-7912	404194006718076	PP
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17	40419-305-7912	404194006718076	PP
18	40419-38032-6197	404194006718076	PP
19	40419-38032-6197	404194006718076	PP
20	40419-305-7912	404194006718076	PP
21	40419-363-18743	404194006718076	PP
22	40419-305-7912	404194006718076	PP
23	40419-305-7912	404194006718076	PP
24	40419-363-18741	404194006718076	PP
25	40419-38033-18747	404194006718076	PP
26	40419-363-40962	404194006718076	PP
27	40419-38033-18749	404194006718076	PP
28	40419-38032-6197	404194006718076	PP
29	40419-305-30241	404194006718076	PP
30	40419-305-7912	404194006718076	PP
31	40419-305-7912	404194006718076	PP
32	40419-363-40962	404194006718076	PP
33	40419-305-7912	404194006718076	PP
34	40419-305-7912	404194006718076	PP
35	40419-363-18741	404194006718076	PP



	N	O	P
36	40419-305-7912	404194006718076	PP
37	40419-305-7912	404194006718076	PP
38	40419-305-7912	404194006718076	PP
39	40419-305-7912	404194006718076	PP
40	40419-305-7912	404194006718076	PP
41	40419-363-18741	404194006718076	PP







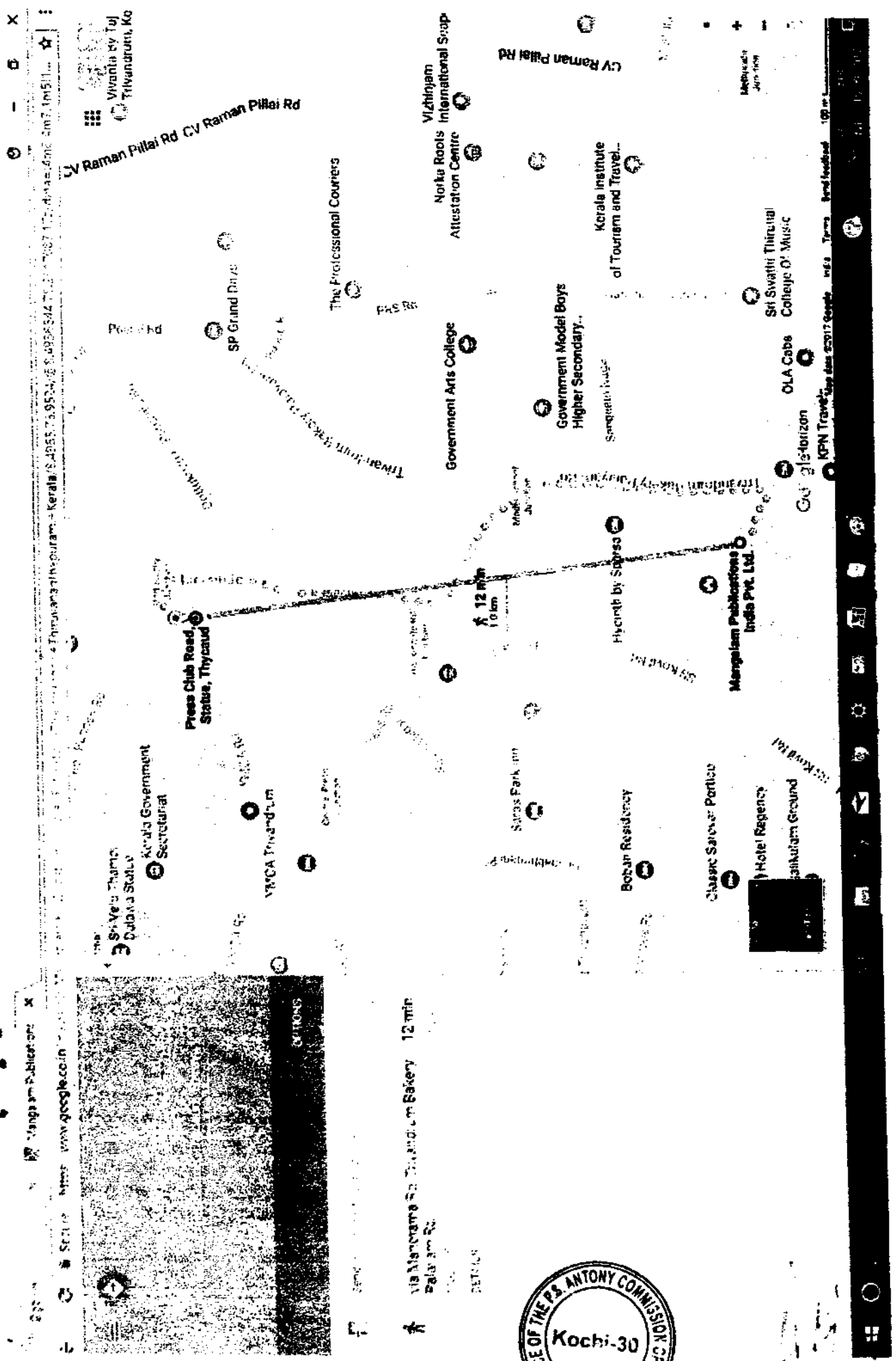
Via Manorama Rd/Trivandrum Bakery
Palayam Rd and Thampoor Masjid
Rd

DETAILS



Sub Rd

391



ANNEXURE - X

News Broadcasters Association of India
Code of Practice
Published August 2008

Background

- 1) The Constitution of India guarantees to all its citizens, the right to free speech, which right has been liberally construed by our Supreme Court as encompassing not just the freedom of press, but also the right of the citizen to be informed of matters of public moment and concern.
- 2) The fundamental premise of a democracy is the accountability of all its institutions to the political sovereign, viz the people. It is axiomatic that for democracy to survive and flourish, freedom must live in the hearts of people, and the citizenry must be ever vigilant against all attempts to subvert the rule of law. Democracies have decayed into anarchy not merely on account of major events such as coups, but also by insidious erosion caused by egregious corruption and abuse of power. Exposing the threat within itself has become one of the most important roles of the news media, particularly the electronic media whose reach and penetration has the promise to make democracy a living reality for those who do not have access to the print media for want of literacy or otherwise, and giving them a sense of involvement in the process of governance.
- 3) India is the worlds largest democracy, demographically marked by diversity in religion, language and caste, and undoubtedly has problems that are significantly peculiar to it. Yet at the same time, it shares certain common values with other vibrant democracies, and one of them is balancing the freedom of the press with putting in place checks and balances that seek to instill a sense of responsibility and to prevent abuse of this freedom, without the "chilling effect" that would impair journalistic freedom.
- 4) It is the duty of media to keep the citizenry informed of the state of governance, which mostly puts it at odds with the establishment. A media that is meant to expose the lapses in government and in public life cannot obviously be regulated by government - it would lack credibility. It is a fundamental paradigm of freedom of speech that media must be free from governmental control in the matter of "content" - censorship and free speech are sworn enemies. It therefore falls upon the journalist profession to evolve institutional checks and safeguards, specific to the electronic media, that can define the path that would conform to the highest standards of rectitude and journalistic ethics and guide the media in the discharge of its solemn constitutional duty.
- 5) There are models of self governance evolved in other countries who have seen an evolution of the electronic media including the news media much before it developed in India. The remarkable feature of all these models is self governance, and a monitoring by a "jury of its peers".
- 6) There are undoubtedly limitations in any model of self governance in which compliance is entirely voluntary. However this does not suggest that such models are



ineffective. Their efficacy flows from the fact that the basic strength of a news channel lies in its credibility, from which flows its ability to influence public opinion. A censure emanating from a jury of its peers would indisputably affect the credibility of a channel. Besides, such a process is not without its legal ramifications. One of the important defenses to civil and criminal actions (based on defamation) is "fair comment" and bona fide attempts to unravel the truth. The difference between inaccuracy and falsehood lies many a time in the motive. A channel acting in breach of established guidelines could hardly defend its motives or suggest that it was acting fairly, if it is censured by a jury of its peers.

7) The interference by the government, however well intentioned, would imperil not just this method of independent journalism, but the very process of investigation itself. It therefore has become imperative that the news channels lay down guidelines, procedural safeguards and establish a body that would act as a watchdog and a grievance redressal forum.

SECTION - 1

FUNDAMENTAL PRINCIPLES

1) Professional electronic journalists should accept and understand that they operate as trustees of public and should, therefore, make it their mission to seek the truth and to report it fairly with integrity and independence. Professional journalists should stand fully accountable for their actions.

2) The purpose of this code is to document the broad paradigms accepted by the members of the News Broadcasters Association (NBA) as practice and procedures that would help journalists of electronic media to adhere to the highest possible standards of public service and integrity.

3) News channels recognize that they have a special responsibility in the matter of adhering to high standards of journalism since they have the most potent influence on public opinion. The broad principles on which the news channels should function are, therefore, as stated hereinafter.

4) Broadcasters shall, in particular, ensure that they do not select news for the purpose of either promoting or hindering either side of any controversial public issue. News shall not be selected or designed to promote any particular belief, opinion or desires of any interest group.

5) The fundamental purpose of dissemination of news in a democracy is to educate and inform the people of the happenings in the country, so that the people of the country understand significant events and form their own conclusions.

6) Broadcasters shall ensure a full and fair presentation of news as the same is the fundamental responsibility of each news channel. Realizing the importance of presenting



all points of view in a democracy, the broadcasters should, therefore, take responsibility in ensuring that controversial subjects are fairly presented, with time being allotted fairly to each point of view. Besides, the selection of items of news shall also be governed by public interest and importance based on the significance of these items of news in a democracy.

SECTION - 2 PRINCIPLES OF SELF REGULATION

The News Broadcasters Association (NBA) have established commonly accepted content guidelines as a way of practicing self regulation. The purpose is to define editorial principles which are consistent with the tenets of the freedom of speech articulated in the constitution of India; the regulatory framework; common sensibilities of television viewers.

The purpose of these principles of self regulation is to serve as an affirmative declaration of understanding of, and compliance with, the basic values and objectives that news channels enshrine. It is to ensure that these principles are observed in spirit, and not just in the letter.

The purpose of putting together the principles of self regulation is to avoid compromising the genre of television news by broadcasting content that is malicious, biased, regressive, knowingly inaccurate, hurtful, misleading, or aimed at willfully concealing a conflict of interest.

The purpose of these principles of self regulation is to empower the profession of television journalism by an abiding set of values, which will stand the test of time, and ensure that balanced and comprehensive journalism flourishes, to strengthen India's democracy

Detailed below are some of the areas where the broadcasters seek to self regulate.

1. Impartiality and objectivity in reporting:

Accuracy is at the heart of the news television business. Viewers of 24 hour news channels expect speed, but it is the responsibility of TV news channels to keep accuracy, and balance, as precedence over speed. If despite this there are errors, channels should be transparent about them. Errors must be corrected promptly and clearly, whether in the use of pictures, a news report, a caption, a graphic or a script. Channels should also strive not to broadcast anything which is obviously defamatory or libelous. Truth will be a defense in all cases where a larger public interest is involved, and in even these cases, equal opportunities will be provided for individuals involved to present their point of view. This also applies in cases where television channels report on those holding public office, though by virtue of doing so, no person can claim immunity from scrutiny from or criticism by news channels.



2. Ensuring neutrality:

TV News channels must provide for neutrality by offering equality for all affected parties, players and actors in any dispute or conflict to present their point of view. Though neutrality does not always come down to giving equal space to all sides (news channels shall strive to give main view points of the main parties) news channels must strive to ensure that allegations are not portrayed as fact and charges are not conveyed as an act of guilt.

3. Reporting on crime and safeguards to ensure crime and violence are not glorified:

Television news has greater reach, and more immediate impact than other forms of media, and this makes it all the more necessary that channels exercise restraint to ensure that any report or visuals broadcast do not induce, glorify, incite, or positively depict violence and its perpetrators, regardless of ideology or context. Specific care must be taken not to broadcast visuals that can be prejudicial or inflammatory. Equally, in the reporting of violence (whether collective or individual) the act of violence must not be glamorized, because it may have a misleading or desensitizing impact on viewers. News channels will ensure that such reconstructions will not cross boundaries of good taste and sensibility. This includes taking adequate precaution while showing any visual instance of pain, fear or suffering, and visuals or details of methods of suicide and self harm of any kind and will not cross boundaries of good taste and decency

4. Depiction of violence or intimidation against women and children:

As an elaboration of Point 3, news channels will ensure that no woman or juvenile, who is a victim of sexual violence, aggression, trauma, or has been a witness to the same is shown on television without due effort taken to conceal the identity. In reporting all cases of sexual assault, or instances where the personal character or privacy of women are concerned, their names, pictures and other details will not be broadcast/divulged. Similarly, the identity of victims of child abuse and juvenile delinquents will not be revealed, and their pictures will be morphed to conceal their identity.

5. Sex and nudity:

News channels will ensure that they do not show, without morphing, nudity of the male or female form. Channels will also not show explicit images of sexual activity or sexual perversions or acts of sexual violence like rape or molestation, or show pornography, or the use of sexually suggestive language. (As a qualifier however, channels are not expected to be moralistic or prudish, and this self regulation is aimed not at moral policing, but rather at ensuring that overtly regressive and explicit acts and visuals do not slip into broadcasts).

6. Privacy:



As a rule channels must not intrude on private lives, or personal affairs of individuals, unless there is a clearly established larger and identifiable public interest for such a broadcast. The underlying principle that news channels abide by is that the intrusion of the private spaces, records, transcripts, telephone conversations and any other material will not be for salacious interest, but only when warranted in the public interest. However, it is also understood that the pursuit of the truth and the news is not possible through the predetermined principle of prior permission; hence door stepping individuals or authorities for the purpose of newsgathering may be used only in the larger purpose of public interest.. Further, in the case of minors, in any broadcast that intrudes on their privacy, the channel should attempt, where possible, to seek the consent of the parent or legal guardian. However, the defense of the premise of privacy cannot be misconstrued as the denial of access, and this applies to all individuals, including those in the public eye and public personalities. It does however apply in its entirety, as per the provisions mentioned above, to their children and kin who are minors.

7. Endangering national security:

In the use of any terminology or maps, that represent India and Indian strategic interests, all news channels will use specific terminology and maps mandated by law and Indian government rules. (The depiction of the map of the territory of India will reflect official guidelines, as detailed in official literature). News channels will also refrain from allowing broadcasts that encourage secessionist groups and interests, or reveal information that endangers lives and national security. However, it is in the public interest to broadcast instances of breach of national security and loopholes in national security and reporting these cannot be confused with endangering national security.

8. Refraining from advocating or encouraging superstition and occultism :

News channels will not broadcast any material that glorifies superstition and occultism in any manner. In broadcasting any news about such genre, news channels will also issue public disclaimers to ensure that viewers are not misled into believing or emulating such beliefs and activity. Therefore news channels will not broadcast "as fact" myths about "supernatural" acts, apparitions and ghosts, personal or social deviations or deviant behavior, and recreations of the same. Wherever references are made to such cases, news channels will issue on air riders/disclaimers/warnings to ensure that such beliefs or events are not passed off "as fact" since they can hurt rational sensibilities.

9. Sting operations:

As a guiding principle, sting and under cover operations should be a last resort of news channels in an attempt to give the viewer comprehensive coverage of any news story. News channels will not allow sex and sleaze as a means to carry out sting operations, the use of narcotics and psychotropic substances or any act of violence, intimidation, or discrimination as a justifiable means in the recording of any sting operation. Sting operations, will also abide by the principles of self regulation mentioned above, and news channels will ensure that they will be guided, as mentioned above, by an identifiable



larger public interest. News channels will as a ground rule, ensure that sting operations are carried out only as a tool for getting conclusive evidence of wrong doing or criminality, and that there is no deliberate alteration of visuals, or editing, or interposing done with the raw footage in a way that it also alters or misrepresents the truth or presents only a portion of the truth.

10. Corrigendum:

All news channels will keeping with the principle of due accuracy and impartiality, ensure that significant mistakes made in the course of any broadcast is acknowledged and corrected on air immediately. Corrections should also be scheduled in such a way that they attract enough viewer attention and are not concealed. This, like the other principles, must be observed in spirit, and not just in letter, to avoid any compromise to the reputation of the news broadcasting industry in India.

Viewer feedback:

All News Channels will on their website, create provision to receive consumer feedback. Further any specific viewer complaints will be responded to. In the event any news channel gets a specific complaint if found to be true it will admit to the same on air and will respond in fullness and fairness to the viewer. In the event, a viewer/body perceives prejudice by any specific report carried by the News channel, it will respond in fullness and without impartiality to the viewer.



Cases reported During the Year (CR), Cases ChargeSheeted (CCS) Under Various Crimeheads (Cyber Crimes) During 2016

SL	District	Total Offences under IT Act			Total Offences under IPC			Total SLL Offences		
		CR	CCS	CR	CCS	CR	CCS	CR	CCS	CCS
1	Alapuzha	15	4	0	0	0	0	0	0	0
2	Ernakulam Commr.	15	14	18	5	0	0	0	0	0
3	Ernakulam Rural	16	10	0	0	7	0	4	0	0
4	Idukki	8	8	0	0	0	0	0	0	0
5	Kannur	4	9	0	0	3	0	1	0	0
6	Kasaragod	2	2	3	0	0	0	0	0	0
7	Kollam Commr.	10	7	0	0	0	0	0	0	0
8	Kollam Rural	11	7	0	0	0	0	0	0	0
9	Kottayam	15	7	0	0	0	0	0	0	0
10	Kozhikode Commr.	5	2	11	2	0	0	0	0	0
11	Kozhikode Rural	5	2	0	0	0	0	0	0	0
12	Malappuram	9	15	0	0	0	0	0	0	0
13	Palakkad	1	0	5	2	1	0	1	0	0
14	Pathanamthitta	10	3	0	0	0	0	0	0	0
15	Railways	0	0	0	0	0	0	0	0	0
16	Thrissur Commr.	5	3	0	1	0	0	0	0	0
17	Thrissur Rural	7	5	12	9	0	0	0	0	0
18	Trivandrum Commr.	25	16	1	0	0	0	0	0	0
19	Trivandrum Rural	21	13	0	0	4	0	4	0	0
20	Wayanadu	5	3	0	0	0	0	0	0	0
21	Crime Branch	29	1	0	0	0	0	0	0	0
TOTAL KERALA		218	131	50	19	15	10			

Source: Crime in India

Abbreviations

A.I.R	- All India Reporter
C.E.O	- Chief Executive Officer
C.W	- Commission's Witness
C.J.M	- Chief Judicial Magistrate
C.B.C.I.D	- Crime Branch Crime Investigation Department
C.D	- Compact Disk
C.O.O	- Chief Operating Officer
C.M.E	- Continuing Media Education
D.G.P	- Director General of Police
E.M.M.C	- Electronic Media Monitoring Centre
I.T. Act	- Information Technology Act
K.U.W.J	- Kerala Union of Working Journalists
L.D.F	- Left Democratic Front
M.D	- Managing Director
N.W.M.I	- Network of Women in Media India
N.B.A	- News Broadcasters Association
N.B.S.A	- National Broadcasting Standards Authority
O.M	- Official Memorandum
P.C.R	- Production Control Room
P.C.I	- Press Council of India
S.C.	- Supreme Court
S.I.T	- Special Investigation Team
S.P.C	- State Police Chief
W.P©	- Writ Petition (Civil)

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This Report is dedicated to all who stand for the cause of freedom of the media with responsibility and ethical standards.



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