

**BEFORE THE HON'BLE CHIEF JUDICIAL MAGISTRATE
COURT, ERNAKULAM.**

C.M.P.No. of 2016

Complainant:

Oommen Chandy, aged 72 years.
S/o.K.O.Chandy,
Presently residing at Cliff House,
Thiruvananthapuram and having permanent
address at Puthupally House, Jagathy,
Thiruvananthapuram.

Address for service on the complainant is that of his counsel M/s Sreejith S. Nair & Anil Vincent. Advocates Ms G. Shrikumar Associates, Mulloth Buildings, Ravipuram Jn, Ernakulam or is as stated above

Accused :

1. M.G.Radhakrishnan,
Editor, Asianet News, ,
Puliyarakonam,
Thiruvananthapuram.
2. Vinu.V.John, Senior News Editor,
Asianet News, ,
Puliyarakonam,
Thiruvananthapuram
3. Manoj.K.Varma, Chief News Editor,,
Kairali.T.V, Malayalam Communications,
Kairali Towers,
Asan Square.
University.P.O,
Palayam, Thiruvananthapuram.
4. K.Rajendran, Senior News Editor,
Kairali T.V., Malayalam Communications, Kairali Towers,
Asan Square, University.P.O, Palayam Thiruvananthapuram.
5. Saritha.S.Nair, aged 36 years, D/o.Somarajan, Vattapara Padinjarethil
House, Chengannur

Address for service on the accused is as stated above.

MEMORANDUM OF CRIMINAL COMPLAINT SUBMITTED UNDER
SECTION 199 (1) R/W. SECTION 200 OF THE CODE OF CRIMINAL
PROCEDURE

1. This complaint is instituted in respect of offences under Sections 499 of the Indian Penal Code relating to the offence of defamation and punishable under Section 500 thereof. In view of the complicity of the accused, they are also guilty of offence of criminal conspiracy as defined under Section 120 B of the Indian Penal Code.

2. The complainant is the present Chief Minister of the State of Kerala. He has an impeccable record of honesty and integrity; which though have been attempted to be impeached by his adversaries, did not evoke success as the complainant was always truthful and honest through out his political career and personal life.

3. The complainant ventured into the political arena as an activist of the Kerala Students Union. He was the unit president of the Kerala Students Union at St.George High School, Puthuppalli, Kottayam District and he went on to become the State President of the respective organization. He completed his collegiate education from CMS College, Kottayam and SB College, Changanassery. He also took a bachelors degree in law from a Government Law College, Ernakulam.

4. The complainant was the President of the Kerala Students Union from 1967 to 1969. He is the 21st Chief Minister of Kerala at present. He has represented the Puthupalli Constituency for decades; having

been elected to the Kerala Legislative Assembly in 1970, 1977, 1980, 1982, 1987, 1991, 1996, in 2001, 2006 and 2011. During his legislative career, he also served as the Chairman of the Public Accounts Committee during 1996- 1998.

5. On 18/05/2011, the complainant took oath as the Chief Minister of Kerala and started serving his second term as the Chief Minister. He could steer Kerala to an enviable position by strengthening people's access and participation in human development and governance. The complainant was instrumental in implementing an innovative approach to ensure transparency and accountability in governance, particularly to web stream the functioning of the Chief Minister's Office.
6. As an impartial administrator, the complainant had earned several adversaries and such adversaries were consistently on the move to tarnish the reputation of the complainant, especially at turning points including general elections.
7. Accused 1 and 2 herein are the news editors of the Asianet TV Channel which concerns mainly into visual communications. The 3rd accused is the Chief News Editor of Kairali Television Channel and Accused 4 is a senior news editor of the said Television Channel. Asianet and Kairali TV functioned under the Cable Television Networks Regulation Act, 1995 and the Rules framed thereunder.

8. There are several news channels operating in the State of Kerala. They work competitively and selectively seeking to distinguish each from the other. The news items telecast by such channels are scrutinized carefully by the respective principal officers and it is only after their approval that the news channels/interviews are published/telecast.

9. The 1st accused is the Editor of Asianet News. He professes to have over 32 years of journalistic experience. He was the associate editor of India Today and he also had a long stint at Mathrubhumi News Paper. He is the present Editor of Asianet News Channel and he is responsible for the selection of the respective news items including the news items which is the subject matter of this complaint. The 2nd accused is the senior news editor of Asianet News Channel and he is also responsible for selection of news items to be published in the Asianet News. The 3rd accused is the Chief News Editor of Kairali TV, Malayalam Communications and accused 4 is a senior news editors of Kairali T.V. Accused 1 to 5 are the only persons who are responsible for selection, publication and airing of news items and without their consent and connivance, no news items can be published in the respective channels.

10. The 5th accused is an infamous lady who is indicted in 32 criminal cases across the state for having cheated various innocent persons of their hard earned money on the promise of providing Solar Energized Panels. She has undergone, judicial incernation for

several months for having resorted to the process of cheating innocent people.

11. In collusion with certain vested interests, Accused 1 to 5 have hatched a conspiracy to defame the complainant in the eyes of the general public. The specific motive of the accused persons was to antagonize the complainant and to project him before the general public as an unworthy individual. Accused 1 to 5 have eyed the general elections of 2016 which is slated to be held on 16/05/2016 and to tarnish the image of the complainant, they have resorted to a process of "*mud slinging*" on him. Such acts of the accused persons in resorting to publication of untrue statements against the accused squarely amounts to the offence of defamation, forming the foundational cause of action for this complaint.
12. As stated earlier, the 5th accused is stated to be the Director of a Company viz Team Solar Renewable Energy Solutions. The other Director of this Company was one Biju Radhakrishnan, who is presently undergoing imprisonment for life for having murdered his own wife.
13. The duo, ie the 5th accused and Biju Radhakrishnan have resorted to *en-masse* cheating of various persons in the State promising them that solar projects will be set up and that the 5th accused will obtain government subsidy for such solar projects. It is respectfully

submitted that the complainant was in nowhere connected with the projects promised by the 5th accused.

14. One Sreedharan Nair, S/o.Raghavan Pillai of Kozhencherry Taluk had filed a complaint against the 5th accused alleging that the latter had sophisticatedly cheated him of approximately 40 Lakhs of rupees on the promise of establishing a solar project. The investigation in to the respective crime revealed a chain of fraudulent activities committed by the 5th accused and her partner Biju Radhakrishnan referred to above. In Public interest, the ministry headed by the complainant, constituted a special team to investigate into the respective allegations and it was revealed that the 5th accused in an eve with a flair for cheating innocent men of their hard earned money soliciting them into a web of false promises. The 5th accused presently, stands indicted in approximately 32 cases over the State of Kerala.

15. On being released from judicial incarceration, the 5th accused became the property of certain vested interest and she started resorting to the process of blackmailing innocent politicians. Such process of blackmailing was used by political agents to destabilize the ministry in the State. However, truth prevailed on all occasions and the ministry and its members were unscathed by such false accusations.

16. In the meantime, to enquire into the allegation raised in the state assembly that the government had suffered loss on account of the illegal activities committed by the 5th accused, (commonly referred to as the solar panel scam) (such commission is referred to in common parlance as the "Solar Commission") a judicial commission as appointed the Commission of Enquiries Act. The principal witness before the respective commission was the 5th accused and she was subjected to a comprehensive and exhaustive cross examinations by various counsel and by the commission. Nowhere in her cross examination or her statement did the 5th accused cast any acts of immorality on the complainant
17. On the basis of an interlocutory application filed by a 3rd party viz, R.Reghunathan, the Commission referred to above directed the 5th accused to produce a letter which she allegedly had written while in judicial custody. Such order was challenged by the 5th accused by instituting W.P.(C) No.2843/2016 before the Hon'ble High Court of Kerala. In the respective writ petition, the grievance of the 5th respondent was that the letter so written by her was only a communication made by her to her counsel and therefore the same is a privileged communication in terms of Section 126 of the Indian Evidence Act. The above writ petition is still pending on the Hon'ble High Court of Kerala.
18. Thereafter the 5th accused instituted CrI.M.C.No.1784/2016 before the Hon'ble High Court of Kerala contending that the present

complainant had a role to play in the offences registered against her and therefore there ought to be a re-investigation of the case by the Central Bureau of Investigation. On 04/04/2016, the said CrI.M.C was dismissed by the Hon'ble High Court of Kerala finding that the above CrI.M.C is nothing but a malafide exercise, and an attempt to secure a political mileage (at the instance of vested interests) and that being an accused approximately 32 cases, the integrity of the 5th accused was doubtful.

19. Even in the recitals in the above CrI.M.C, the 5th accused did not have a case that the complainant had in any manner behaved with her immorally or had outraged her dignity.
20. However, on 03/04/2016, acting in collusion with accused 1 to 4, the 5th accused released a truncated letter (allegedly written by her while she was in judicial incarceration) wherein it is stated that she was raped by the complainant in his official residence viz, Cliff House, Thiruvananthapuram. Common sense fails to comprehend as to how such an incident can occur in the Cliff House, where the complainant is residing with his family, and several security guards.
21. The enquiries made by the complainant thereafter revealed that the above letter was the original letter referred to by the 5th accused in W.P.(C) No. 2843/2016 and that the respective letter is a newly drafted one made at the instance of the adversaries of the complainant to tarnish the image and reputation of the complainant

and to ensure that the political party represented by him meets with defeat in the on coming elections. The enquiries of the complainant further reveals that such letter was never written by the 5th accused while in jail as claimed by her and that the same was drafted later on in conjunction with accused 1 to 5 who had definite political intentions to ensure that the complainant is defamed in the eyes of the general public.

22. It is respectfully submitted that the 5th accused has a penchant for giving public interviews. In all such interviews she only referred to the complainant as a person with a fatherly affection and she never had a case that the complainant had behaved in an indecent manner to her on any occasion.
23. It was beyond doubt that the 5th accused did not have any modesty in changing her tunes and she was constantly hip-hopping from one version to another with oblique intentions. Resultantly, the findings of the Hon'ble High Court of Kerala in CrI.MC No. 1784/2016 that the 5th accused was a lady who did not have an iota of integrity were proved to be true.
24. Simultaneously, on 03/04/2016, the 5th accused stated that she had paid an amount of Rs.1.10 crores to the complainant and an amount of Rs.80 Lakhs to Thomas Kuruvila. Before the Commission of Enquiries, a former minister, K.Balakraشنا Pillai (*who was taken into confidence by the 5th accused and to whom the 5th accused had*

allegedly entrusted the letter which is purported to have been written by her while in judicial incarnation) was examined as to the contents of the letter transmitted to him by the 5th accused. Even the said personality did not deposed before the commission that the 5th accused had written in the letter that she was molested by the complainant. The above Minister also gave a different version regarding the transmission of amount to Thomas Kuruvila. As a matter of fact even when examined before the above commission, the 5th accused could not give a convincing version regarding the fact that she had given any amount to Thomas Kuruvila at the instance of the complainant.

25. All these facts unerringly point out to the contumacious, dishonest, malicious and vexatious mind of the 5th accused to tarnish the image of the complainant for having been instrumental in constituting a special investigating team to enquire into the offences against her.
26. Accused 1 to 4 were aware of the fact that the 5th accused was not speaking the truth as they were in possession of the previous interviews and the entire history of the 5th accused. However, in conjunction with vested interest, they have prevailed on the 5th accused to fabricate a sensational news and on 03/04/2016, and 04/04/2016, accused 1 to 4 have caused to telecast news items to the effect that the complainant had raped the 5th accused and that the complainant had received illegal gratification from the 5th accused. The above telecasts were made in such a manner as to

cause the general public to believe that the complainant is a loathsome character who is guilty of the offence of rape.

27. Rule 6 (i) of the Cable Television Network Rules 1994 specifically prohibits carrying of news items which criticizes, maligns or slanders any individual in person. Accused 1 to 4 were bound by the above rules. They were aware of the fact that the 5th accused is not speaking the truth and that she is a lady who cannot be trusted. They ought to have refrained themselves from maligning the complainant by airing news items to the effect that the complainant had raped the 5th accused and that he had received illegal gratification from the 5th accused. By refraining themselves from not doing so, with definite malafide intention of defame the complainant, accused 1 to 5 have rendered themselves liable for prosecution in terms of Section 499 of the Indian Penal Code.

28. Accused 1 and 2 are responsible for the selection and telecasting of news items in Asianet news. Likewise, accused 3 to 4 are liable for selection and telecasting of news items in Kairali TV channel. As a matter of fact, Kairali TV channel is the mouth piece of the Communist Party of India and which party is in the fray for the oncoming elections. The said party is bent on ensuring the defeat of the political party represented by the complainant. Asianet News Channel is also an un-independent channel which is interested to ensure that the political party represented by the complainant, viz, the Indian national Congress does not win in the oncoming elections.

It is with this specific intention that the accused 1 to 4 have set up the 5th accused and together they have aired defamatory statements against the complainant on 03/04/2016 and on 04/04/2016.

29. Accused 1 and 2 carefully scrutinize each and every news item, understanding its implications, and only thereafter do they proceed to air the respective news items. They were aware of the fact that the respective aspersions of the 5th accused are untrue and if telecast, it will adversely affect the reputation of the complainant. It was with this specific intention that accused 1 and 2 have aired the impugned news item in Asianet television on 03/04/2016 and 04/04/2016 to the effect that the complainant had raped the 5th accused and that he was guilty of receiving illegal gratification from the 5th accused.
30. Accused 3 & 4 ~~are~~ also carefully scrutinize each and every news item, understanding its implications, and only thereafter do they proceed to air the respective news items. They were also aware of the fact that the respective aspersions of the 5th accused are untrue and if telecast, it will adversely affect the reputation of the complainant. Accused 3 & 4 wanted to ensure the defeat the complainant in the oncoming elections as the Kairali TV is an establishment of the Community Party of India, which is the arch rival of Indian National Congress in the State of Kerala. It was with this specific intention that accused 3 & 4 have aired the impugned news item in Kairali television on 03/04/2016 and 04/04/2016 to the

effect that the complainant had raped the 5th accused and that he was guilty of receiving illegal gratification from the 5th accused.

31. The substantial evidence in this case is the electronic record which contains the impugned news items maligning the complainant. These records are not in the possession of the complainant and therefore the complainant undertakes to file a petition for summoning the respective records, including the fabricated letter written by the 5th accused.
32. The cause of action for this complaint has arisen on 03/04/2016 and on 04/04/2016 when the accused persons have, in criminal conspiracy, aired the news item to the effect that the complainant has raped the 5th accused and that he has received illegal gratification from her within the jurisdiction of Central Police Station, Ernakulam, where also the news item was available to be viewed in television and on the internet.
33. It is respectfully submitted that the above news item was first aired simultaneously by accused 1 to 4 alone through Asianet and Kairali TV Channel. The acts of the defamation committed by the accused have a tendency to harm the reputation of the complainant, his family and other near relatives and it has the tendency to lower the reputation of the complainant in the mind of general public especially persons who are on the anvil of casting their franchise. The acts of the accused do not fall within any of exceptions to Section 499 of the Indian penal Code and it is submitted accordingly.

34. In view of the facts mentioned above it is prayed that this Hon'ble Court may be pleased to take cognizance of this complaint and proceed against the accused in accordance with law for having committed the offence of defamation as defined in Section 499 of the Indian Penal Code and Section 120 (B) therefore and punishable under Section 500 of the said court, in the interest of justice and equity,

Dated this the 7th day of April, 2016

Complainant.

Counsel for complainant.

Verification

I, Oommen Chandy, aged 72 years, S/o K.O.Chandy, Presently residing at Cliff House, Thiruvananthapuram and having permanent address at Puthupally House, Jagathy, Thiruvananthapuram, do hereby solemnly affirm and state that all that is stated above are true and correct to the best of my knowledge, belief and information

Dated this the 7th day of April, 2016

Complainant.

Counsel for complainant

LIST OF DOCUMENTS

1. True copy of CrI.MC No. 1784/2016 on the files of the High Court of Kerala.
2. True copy of W.P.(c) No. 2843/2016 on the files of the High Court Kerala. .

Dated this the 7th day of April, 2016

Complainant.

Counsel for complainant.

**BEFORE THE HON'BLE CHIEF JUDICIAL MAGISTRATE
COURT, ERNAKULAM.**

C.M.P.No. of 2016

Oommen Chandy : Complainant

Vs.

M.G.Radhakrishnan & others : Accused

AFFIDAVIT

I, Oommen Chandy, aged 72 years, S/o.K.O.Chandy. Presently residing at Cliff House, Thiruvananthapuram and having permanent address at Puthupally House, Jagathy, Thiruvananthapuram., do hereby solemnly affirm and state as follows:

I am the complainant in the above complaint and I am conversant with the facts of the case.

1. The above complaint is instituted against the accused persons in respect of offences under Sections 499 and 120 B of the Indian Penal Code, made punishable under Section 5000 thereof.
2. I submit that the entire statements contained in the above complaint are all true and correct to the best of my knowledge, belief and information. I submit that I have not suppressed any facts in the complaint and the complaint is based on truth.
3. The documents produced along with the complaint are true copies of the original. The impugned news items aired by the accused 1 to 5 are in their custody in their form of electronic records. I undertake to file an application to call for the above records in the process of the enquiry by this Hon'ble Court. I pray that the complaint may be accepted on file. in the interest of justice and equity.
4. All the facts stated above are true and correct.

Dated this the 7th day of April, 2016.

Deponent.

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 7th day of April, 2016 at Kozhikode in my presence.

Advocate.