

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

Thursday, the 5th day of October 2023 / 13th Aswina, 1945

WP(C) NO. 32733 OF 2023

PETITIONER:

MUBEEN RAUF, AGED 34 YEARS, S/O. ABDUL ROUF, PONNATH HOUSE,
VAZHIYAMBALAM, KAIPAMANGALAM, THRISSUR DISTRICT, PIN - 680681.

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, ROOM NO. 552, A - WING, SHASTRI BHAWAN, NEW DELHI - 110001.
2. THE DEPUTY DIRECTOR OF MEDIA COORDINATION, BROADCASTING WING, MINISTRY OF INFORMATION AND BROADCASTING, ROOM NO. 552, A - WING, SHASTRI BHAWAN, NEW DELHI- 110001.
3. THE SECRETARY OF INFORMATION TECHNOLOGY, DEPARTMENT OF E & IT, ROOM NO. 264, 2ND FLOOR, SOUTH BLOCK, SECRETARIAT, THIRUVANANTHAPURAM - 695001.
4. CENTRAL BOARD OF FILM CERTIFICATION , IIS, REGIONAL OFFICE, 1ST FLOOR, CHITRANJALI STUDIO COMPLEX, THIRUVANANTHAPURAM, 695027.
5. KERALA FILM EXHIBITORS' FEDERATION, REPRESENTED BY ITS SECRETARY, HAVING OFFICE AT 40/8147-B, NARAKATHARA ROAD, COOL HOUSE, NEAR MG ROAD, SHENOYS, KOCHI, ERNAKULAM, PIN - 682035.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue a gag order directing the respondents to ensure that the social media influencers and film reviewing vloggers do not publish any reviews of "Aromalinte Adyathe Pranayam" film directed by the petitioner in the social media for at least 7 days from the date of release of the film, pending disposal of this Writ Petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI. C.R.REKHESH SHARMA, Advocate for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for R1, R2 and R4 and of GOVERNMENT PLEADER for R3 and Adv. Sri. SYAM PADMAN, AMICUS CURIAE, the court passed the following:

ORDER

Petitioner will take out notice before admission by Special Messenger to R5.

Deputy Solicitor General of India for R1, R2 and R4 and Government Pleader for R3 will obtain instructions.

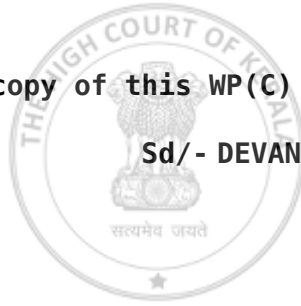
Post on 06.10.2023; at the request of the petitioner to array necessary parties.

In the meanwhile, since what is projected is a serious issue, but perhaps even beyond the perview of this Court, I deem it essential that this Court be assisted by an Amicus Curiae, and therefore, request Sri. Syam Padman to do so.

Petitioner will serve a copy of this WP(C) on Sri. Syam Padman.

05.10.2023

Sd/- DEVAN RAMACHANDRAN, JUDGE



**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

Friday, the 6th day of October 2023 / 14th Aswina, 1945
WP(C) NO. 32733 OF 2023

PETITIONER:

MUBEEN RAUF, AGED 34 YEARS, S/O. ABDUL ROUF, PONNATH HOUSE,
VAZHIYAMBALAM, KAIPAMANGALAM, THRISSUR DISTRICT, PIN - 680681.

RESPONDENTS:

1. UNION OF INDIA REPRESENTED BY THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, ROOM NO. 552, A - WING, SHASTRI BHAWAN, NEW DELHI, PIN - 110001.
2. THE DEPUTY DIRECTOR OF MEDIA COORDINATION BROADCASTING WING, MINISTRY OF INFORMATION AND BROADCASTING, ROOM NO. 552, A - WING, SHASTRI BHAWAN, NEW DELHI, PIN - 110001.
3. THE SECRETARY OF INFORMATION TECHNOLOGY, DEPARTMENT OF E & IT, ROOM NO. 264, 2ND FLOOR, SOUTH BLOCK, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001.
4. CENTRAL BOARD OF FILM CERTIFICATION CENTRAL BOARD OF FILM CERTIFICATION, IIS, REGIONAL OFFICE, 1ST FLOOR, CHITRANJALI STUDIO COMPLEX, THIRUVANANTHAPURAM, 695027, PIN - 695027.
5. KERALA FILM EXHIBITORS' FEDERATION REPRESENTED BY ITS SECRETARY, HAVING OFFICE AT 40/8147-B, NARAKATHARA ROAD, COOL HOUSE, NEAR MG ROAD, SHENOYS, KOCHI, ERNAKULAM, PIN - 682035.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue a gag order directing the respondents to ensure that the social media influencers and film reviewing vloggers do not publish any reviews of "Aromalinte Adyathe Pranayam" film directed by the petitioner in the social media for at least 7 days from the date of release of the film, pending disposal of this Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 05.10.2023 and upon hearing the arguments of SRI. C.R.REKHESH SHARMA, Advocate for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for R1, R2 and R4 and of GOVERNMENT PLEADER for R3 and Adv. Sri. SYAM PADMAN, AMICUS CURIAE, the court passed the following:

p.t.o

DEVAN RAMACHANDRAN, J.

WP(C) No.32733/2023

Dated this the 6th day of October, 2023

ORDER

Every movie is an intellectual property.

2. Apart from being so, it also entails reputation, sweat, blood and aspirations of several people, not merely the producers, lead stars, or the directors.

3. The petitioner, who is stated to be a Director, impels a concern that there is now an organized racket, particularly in the 'online spectrum', of deliberately denigrating and tarnishing a movie with intention of unjust enrichment, coupled with blackmail and extortion.

4. Noticing the afore concern of the petitioner, I had, on 05.10.2023, requested Sri.Shyam Padman - learned counsel, to assist

this Court as Amicus Curiae; and today, he also confirmed that, even as per his preliminary and *prima facie* inquiry, he has sufficient materials to establish that there are such vested interests, some of whom even think that they can 'make or break movies'.

5. While the right to 'free speech' is inherent and constitutionally guaranteed, it certainly has to be tempered with reason and restraint, as is imperatively required under Article 19(2) of the Constitution of India.

6. A fair criticism of an intellectual property - be that a movie or otherwise; in contradistinction to a pernicious attempt to blackmail and extort, are two different aspects, which have to be clearly distinguished and dealt with distinctly.

7. Just as an attack on a property is a criminal offence, a pestilential review, deliberately done solely with the afore intent, is

no less, because eventually, both are attacks on tangible properties.

8. The petitioner has, therefore, impleaded the State Police Chief; and Smt.Vidya Kuriakose - learned Government Pleader, affirms that our State has a very robust monitoring system for detecting cyber crimes, headed by competent Police and Technical Officers.

9. If, the afore be so, surely, there ought to be some measures in place where Directors, Producers or other persons associated with movies can make complaints, to trigger a proper investigation and the consequences flowing therefrom - both under the Penal Law and under the laws relating to Cyber Crimes.

10. It is well recognized, without requirement of restatement, that the internet is a very powerful medium; but unfortunately, sometimes and in exceptional cases, it becomes a play ground

for the wildest predilections of vested interests, whose intents are illegal and deleterious.

11. In fact, Sri. Shyam Padman mentioned to this Court today that there is even a word for these activities, called 'Review Bombing'.

12. That said, the other Regulatory Authorities - including those under the Government of India, may also have a role to play, particularly in instances of deliberate and confutative tarnishing activities, as detailed in this writ petition. Since the petitioner is a director, he obtains a cause to project this before this Court, particularly because, as I have already said above, it would also have an impact on him and his teammates' reputation.

13. Sri. Suvin R. Menon - learned Central Government Counsel, in fact, added that the functionaries of the Central Government are also aware of this problem - not only in Kerala but in many other parts of India; and therefore, that

they will also deliberate upon this and offer suggestions.

14. Certainly, this is a welcome offer, and the respondents are invited to provide all necessary inputs, which this Court can use in future.

In the afore circumstances, I direct the learned Government Pleader to obtain specific instructions from the State Police Chief regarding the observations of this Court above, as also the suggestions to be made, in order to ensure that the Movie Industry is not subjected to denigration on account of the illegal actions of a few people, whose intent is extortion and blackmail, among such other.

The State Police Chief, through the learned Government Pleader, will also inform this Court as to if an individual or an entity can file a complaint against such activities, including unlawful and motivated 'Review Bombing'; and the

modus for such, leading to the manner of investigation and its conclusion, apart from other suggestions.

It must, however, be specifically kept in mind by the State Police Chief that, what he is now being called to respond to, is regarding action only in the cases of motivated and calculated reviews made solely to extort and blackmail; and not those which are made *bona fide*. Obviously, a scrutiny at the stage of acceptance of complaint may be required, coupled by a preliminary enquiry or investigation, before a Crime is registered. The protocols in this regard will have to be very carefully thought of, to ensure that honest and *bona fide* 'Reviews' are distinguished, from motivated and *malafide* ones.

List on 10.10.2023, for further consideration.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

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H/o

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

Tuesday, the 10th day of October 2023 / 18th Aswina, 1945
WP(C) NO. 32733 OF 2023

PETITIONER:

**MUBEEN RAUF, AGED 34 YEARS, S/O. ABDUL ROUF, PONNATH HOUSE,
VAZHIYAMBALAM, KAIPAMANGALAM, THRISSUR DISTRICT, PIN - 680681.**

RESPONDENT:

1. UNION OF INDIA REPRESENTED BY THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, ROOM NO. 552, A - WING, SHASTRI BHAWAN, NEW DELHI , PIN - 110001
2. THE DEPUTY DIRECTOR OF MEDIA COORDINATION BROADCASTING WING, MINISTRY OF INFORMATION AND BROADCASTING, ROOM NO. 552, A - WING, SHASTRI BHAWAN, NEW DELHI , PIN - 110001
3. THE SECRETARY OF INFORMATION TECHNOLOGY, DEPARTMENT OF E & IT, ROOM NO. 264, 2ND FLOOR, SOUTH BLOCK, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
4. CENTRAL BOARD OF FILM CERTIFICATION CENTRAL BOARD OF FILM CERTIFICATION, IIS, REGIONAL OFFICE, 1ST FLOOR, CHITRANJALI STUDIO COMPLEX, THIRUVANANTHAPURAM, 695027, PIN - 695027
5. KERALA FILM EXHIBITORS' FEDERATION REPRESENTED BY ITS SECRETARY, HAVING OFFICE AT 40/8147-B, NARAKATHARA ROAD, COOL HOUSE, NEAR MG ROAD, SHENOYS, KOCHI, ERNAKULAM , PIN - 682035

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue a gag order directing the respondents to ensure that the social media influencers and film reviewing vloggers do not publish any reviews of "Aromalinte Adyathe Pranayam" film directed by the petitioner in the social media for at least 7 days from the date of release of the film, pending disposal of this Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 06.10.2023 and upon hearing the arguments of SRI. C.R.REKHESH SHARMA, Advocate for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for R1, R2 and R4, SMT.VIDYA KURIAKOSE, GOVERNMENT PLEADER for R3 and of Advocate SRI. SYAM PADMAN, AMICUS CURIAE, the court passed the following:

p. t. o

DEVAN RAMACHANDRAN, J.

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W.P.(C).No. 32733 of 2023

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Dated this the 10th day of October, 2023

ORDER

Read order dated 06.10.2023.

2. The learned counsel for the petitioner - Sri.C.R.Rekshesh Sharma, submits that, presumably, in view of the afore order, the targeted and pernicious reviews against his client's movie has been, to a large extent, controlled.

3. Smt.Vidya Kuriakose - learned Government Pleader, submitted that the State Police Chief and the other State Machinery are fully in conformity with the views of this Court in the afore interim order; and that the modalities of controlling calculated and motivated reviews, with the sole intent of extorting and blackmailing, is being thought out, but that this will require consultation with all the stakeholders involved in the industry, including producers, directors, financiers, petitioners, etc.

4. Certainly, when a protocol has been called for by this Court to be suggested by the State Police Chief, it is intended as a general one, to apply in future against all illegal tendencies. It surely will take some time to be properly drafted and settled.

In the afore circumstances, I adjourn this matter to be called

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on 25.10.2023; and in the mean while, the State Police Chief, through the competent functionalities, will ensure that the directions in the afore order are applied, not only to the case at hand, or to the movie projected herein, but to every other to be released in future, until such time, as this Court passes further orders.

However, while doing as afore, the State Police Chief will also be cognizant, that there is a marked difference between a professional review and one which is profess to be so, and a personal opinion about a product, including a movie.



Sd/-

DEVAN RAMACHANDRAN, JUDGE

(H/o)

ACR

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

**Wednesday, the 25th day of October 2023 / 3rd Karthika, 1945
WP(C) NO. 32733 OF 2023**

PETITIONER:

**MUBEEN RAUF, AGED 34 YEARS, S/O. ABDUL ROUF, PONNATH HOUSE,
VAZHIYAMBALAM, KAIPAMANGALAM, THRISSUR DISTRICT, PIN - 680681.**

RESPONDENTS:

- 1. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, ROOM NO. 552, A - WING, SHASTRI BHAWAN, NEW DELHI - 110001.**
 - 2. THE DEPUTY DIRECTOR OF MEDIA COORDINATION, BROADCASTING WING, MINISTRY OF INFORMATION AND BROADCASTING, ROOM NO.552, A-WING, SHASTRI BHAWAN, NEW DELHI- 110001.**
 - 3. THE SECRETARY OF INFORMATION TECHNOLOGY, DEPARTMENT OF E & IT, ROOM NO.264, 2ND FLOOR, SOUTH BLOCK, SECRETARIAT, THIRUVANANTHAPURAM-695001.**
 - 4. CENTRAL BOARD OF FILM CERTIFICATION, IIS, REGIONAL OFFICE, 1ST FLOOR, CHITRANJALI STUDIO COMPLEX, THIRUVANANTHAPURAM, 695027.**
 - 5. KERALA FILM EXHIBITORS' FEDERATION, REPRESENTATION BY ITS SECRETARY, HAVING OFFICE AT 40/8147-B, NARAKATHARA ROAD, COOL HOUSE, NEAR MG ROAD, SHENOYS, KOCHI, ERNAKULAM, PIN-682035.**
- ADDITIONAL R6**
- 6. STATE POLICE CHIEF, KERALA, KERALA POLICE HEADQUARTERS, VELLAYAMBALAM, THIRUVANANTHAPURAM-695010**

IS SUO MOTU IMPEADED AS ADDITIONAL 6TH RESPONDENT AS PER ORDER DATED 25.10.2023 IN WP(C)32733/2023.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue a gag order directing the respondents to ensure that the social media influencers and film reviewing vloggers do not publish any reviews of "Aromalinte Adyathe Pranayam" film directed by the petitioner in the social media for at least 7 days from the date of release of the film, pending disposal of this Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 10.10.2023 and upon hearing the arguments of SRI. C.R.REKHESH SHARMA, Advocate for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for R1, R2 and R4, GOVERNMENT PLEADER for R3, SMT.VIDYA KURIAKOSE, GOVERNMENT PLEADER for R6 and of Advocate SRI. SYAM PADMAN, AMICUS CURIAE, the court passed the following:

DEVAN RAMACHANDRAN, J.

WP(C) Nos.32733 & 33322 of 2023

Dated this the 25th day of October, 2023

O R D E R

The State Police Chief, in response to the earlier orders of this Court in WP(C)No.32733/2023, has now come out with a Protocol "to deal with cases of motivated, malicious, negative movie reviews, Review Bombing etc".

2. Smt.Vidya Kuriakose - learned Government Pleader, submitted that a copy of the afore Protocol had been handed over to the learned Amicus Curiae, as also to the learned counsel for the petitioner in the afore writ petition.

3. Sri.Sudhi Vasudevan - learned Senior Counsel, instructed by Smt.Shilpa appearing for the petitioner in WP(C)No.33322/2023, however,

highlighted the requirement of the Union of India to involve with appropriate measures based on the standards fixed by the 'Bureau of Indian Standards' (BIS), a copy of which is on record as Ext.P8 in the said writ petition.

4. The learned Deputy Solicitor General of India, appearing for the Union of India, submitted that the competent Authority will look into Ext.P8 produced along with WP(C)No.33322/2023 and will offer studied response to the requirements mentioned therein, but sought two weeks time for such purpose.

5. Sri.Shyam Padman, learned Amicus Curiae, brought to my notice a very peculiar feature in the issue this Court is now dealing with, namely the capacity of persons to act anonymously - both maliciously and criminally, and argued that this would fall foul of Sections 66(C) and 66(D), read with Section 79 of the Information

Technology Act (IT Act). He submitted that he has now obtained information regarding online platforms and pages with fictional names and operating without any credential being available, thus rendering them absolutely anonymous for all purposes. He argued that this itself is a crime under the afore provisions, which will then have to be taken note of by the competent Authority - either the police or the officials concerned of the appropriate Government.

6. I have no doubt that the controversy we are now concerned with is a dynamic one, which will evolve in the times to come. This is because, any Protocol settled; or any step taken, by the competent Authority will certainly be tried to be circumvented; and obviously, the system will also have to be alive to the challenges that will face in the times to come.

7. No doubt, the aspect now projected by the learned Amicus Curiae, namely the capacity of a person to act anonymously on an online platform, certainly requires to be treated with great amount of care and concern. This is not merely in the case of 'Film Reviews' or 'Review Bombing' as it is now called, but with respect to any other activity particularly in the business sphere, because this purely would amount to an opportunity for a person to act maliciously with intent to blackmail and to extort.

8. The protocols now suggested by the State Police Chief certainly are a welcome step, but this Court is of the view that it will require much more effort in this regard, adverting to the standards prescribed by the BIS.

I, therefore, adjourn this matter to be called on 08.11.2023; within which time, the

Union of India will respond through a proper pleading; while, the State Police Chief will ensure that the Protocols now placed on record are implicitly implemented. A close watch on the online platforms shall be maintained, to ensure that anonymous malafide content is not allowed to circulate; and necessary action under the provisions of the "IT Act" shall be taken and implemented scrupulously without delay.

I also leave liberty to the learned Amicus Curiae to suggest sufficient modification to the Protocols now suggested by the State Police Chief, if any, which will also be taken into account in due course.

That said, it is gratifying that the petitioner in WP(C)No.32733/2023 now reports before this Court that, on account of the pendency of these matters, his film had been

spared of "Review Bombing" and therefore, was able to have a decent run in the Box Office.

Sd/-

DEVAN RAMACHANDRAN,

JUDGE

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**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

**Tuesday, the 7th day of November 2023 / 16th Karthika, 1945
WP(C) NO. 32733 OF 2023**

PETITIONER:

**MUBEEN RAUF, AGED 34 YEARS, S/O. ABDUL ROUF, PONNATH HOUSE,
VAZHIYAMBALAM, KAIPAMANGALAM, THRISSUR DISTRICT, PIN - 680681.**

RESPONDENTS:

- 1. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF
INFORMATION AND BROADCASTING, ROOM NO. 552, A - WING, SHASTRI
BHAWAN, NEW DELHI - 110001 and 5 others.**

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue a gag order directing the respondents to ensure that the social media influencers and film reviewing vloggers do not publish any reviews of "Aromalinte Adyathe Pranayam" film directed by the petitioner in the social media for at least 7 days from the date of release of the film, pending disposal of this Writ Petition (Civil).

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 25.10.2023 and upon hearing the arguments of SRI. C.R.REKHESH SHARMA, Advocate for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for R1, R2 and R4, GOVERNMENT PLEADER for R3, SMT.VIDYA KURIAKOSE, GOVERNMENT PLEADER for R6 and of Advocate SRI. SYAM PADMAN, AMICUS CURIAE, the court passed the following:

P.T.O

DEVAN RAMACHANDRAN, J.

WP(C) Nos.32733/2023 & 33322/2023

Dated this the 7th day of November, 2023

O R D E R

The learned Amicus Curiae submitted that with the various orders by this Court, the menace of malicious reviewing has been controlled to some extent.

Smt.Vidya Kuriakose – learned Government Pleader, submitted that the State Police Chief has already placed on record the Protocols, in terms of the directions of this Court; and that action has already been taken on the basis of a few complaints received thereafter. She added that all anonymous posts are being watched; and that if any complaint is received, same is being investigated very seriously.

Sri.Sudhi Vasudevan, learned Senior Counsel, instructed by Smt.Shilpa – learned counsel for the petitioners in WP(C)No.33322/2023, submitted that, most of - if not all - the

persons who claim to be reviewers are neither accredited as Journalists, nor are they operating under any guidelines or parameters in law; but that many of them put out contents in denigration deliberately, in order to obtain certain confutative benefits. He submitted that, therefore, it is only if the Central Government acts in terms of Ext.P8 in WP(C)No.33322/2023, can there be a long lasting solution. He added that, perhaps, because the matters are still pending before this Court, the nature of contents uploaded in the public platforms have become more civil, decent and less anonymous.

Sri.Suvin R.Menon – learned Central Government Counsel, appearing in WP(C)No.33322/2023, submitted that the competent Authority is looking into the issues, as directed by this Court; and that response in this regard will be filed not later than two weeks from now.

I certainly propose to accede to the afore request for time; but direct the State Police Chief and the officers under his command, to ensure that the directions of this Court are

implicitly complied with, particularly against anonymous posts, which contain vituperative or virulent content. The reputation of individuals behind a film cannot be sacrificed at the alter of unbridled freedom of expression asserted by individuals, who act under the mistaken impression that they are not governed by any parameters/regulations, particularly when there is nothing on record to show that any of them are registered, akin to Journalists or such other service providers.

Reviews are intended to inform and enlighten, but not to destroy and extort. This will be kept in mind by the Police Authorities very carefully.

Post this case for further consideration on 21.11.2023.

H/o

Sd/-

DEVAN RAMACHANDRAN,
JUDGE

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