

# **SOLAR INQUIRY COMMISSION REPORT**

**BY**

**HON'BLE MR. JUSTICE G. SIVARAJAN (RETD.)**

**VOLUME II**

**26<sup>TH</sup> DAY OF SEPTEMBER, 2017**

# **VOLUME II**

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CONSTITUTING OF THE SIT AND ITS FUNCTIONING

The State Police Chief, Kerala, Thiruvananthapuram by his order No.D1/57609/2013 dated 14-06-2013 has constituted a Special Investigation Team under Sri.A.Hemachandran, IPS, ADGP (South Zone) to conduct a thorough investigation in all cases in which Biju Radhakrishnan and Saritha S.Nair the main accused and their associates are involved. It was also ordered that investigation should be completed within a period of 3 months and final report submitted accordingly. 7 such cases which have come to his notice are mentioned in this order itself.

Those 7 cases are:

- Crime No.368/13 U/s 406, 419, 420 IPC of Perumbavoor PS
- Crime No.1065/13 U/s 406, 420 IPC of Chenganassery PS
- Crime No.629/13 U/s 406, 420 IPC of Ernakulam Town North PS



- Crime No.951/13 U/s 406, 420 IPC of  
Thampanoor PS
- Crime No.1647/12 U/s 420 IPC r/w 34 IPC of  
Thalassery PS
- Crime No.916/13 U/s 420 IPC r/w 34 IPC of  
Kannur Town PS
- Crime No.748/12 U/s 420 IPC r/w 34 IPC of  
Kasaba PS, Kozhikode

This SIT is entrusted with the investigation of the other cases also in which those two persons are involved.

The circumstances for constituting the SIT are stated in the order thus:

It has come to the light that under the guise of providing solar renewable energy solutions, a company by name "Team Solar Renewable Energy Solutions Company" has committed a number of criminal offences in several Police Station limits in the State. A large number of public have been cheated by the Company by giving false promise that they will provide renewable energy



solution through solar power. One Biju Radhakrishnan and Saritha S.Nair are the main accused in all these cases. They have also used different names as Dr.R.B.Nair and Lekshmy Nair respectively. At least in the following 7 cases, these two persons figure as accused.

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Considering the wide spread nature of these cases and a large number of citizens have been cheated by these accused persons it is felt essential to constitute a Special Investigation Team to investigate all the cases in which these accused were involved.

The State Police Chief has also included the following officers in the Special Team.

- Shri K.Harikrishnan, Dy.SP,  
Perumbavoor
- Shri V.Ajith, Dy.SP, Kottayam
- Shri Reji Jacob, Asst. Commr., DCRB,  
Thiruvananthapuram City
- Sri.V.Roy, Circle Inspector of Police,  
Perumbavoor

*lrb*



On the same day another order NO.159(A)/CAMP/ADGPSZ/2013 dated 14-06-2013 was issued by him.

It is stated therein that at present eight cases are identified to be investigated and the following members of the Special Investigation Team are assigned as Investigating Officers as indicated below:

Crime No.368/13 U/s 406, 419,420 IPC of Perumbavoor PS	Sri.K.Harikrishnan, DySP, Perumbavoor
Crime No.1065/2013 u/s 406, 420 IPC Changanassery PS Kottayam	Sri.V.Ajith, Dy.SP, Changanassery PS, Kottayam
Crime No.629/13 U/s 406, 420 IPC of Ernakulam Town North PS	Sri.K.Harikrishnan, Dy.SP, Perumbavoor
Crime No.951/13 U/s 406, 420 IPC of Thampanoor PS	Sri.Reji Jacob, AC, DCRB, Thiruvananthapuram City
Crime No.1647/12 U/s 420 r/w 34 IPC of Thalassery PS	Biju John Lukose, Sub-Inspector
Crime No.916/2013, U/S 420 r/w 34 IPC of Kannur Town PS	Sri.K.S.Sudarsanan, Dy.SP, Thalipparambu
Crime No.718/2012 U/S 420 r/w 34 IPC of Ksaba	Sri.Jaison K.Abraham Dy.SP, Thamarassery

*lnr*

PS, Kozhikode	
Crime No.816/2013 U/s 406, 420 & 34 IPCof Ambalappuzha PS	Sri.B.Prasannan Nair, Dy.SP Chengannoor.

It is further said:

~~Concerned District Police Chiefs will provide~~  
supporting staff as required by the Investigating  
Officers.

The Investigating Officers will take over the  
investigation of these cases forthwith. They  
will investigate the cases meticulously in a  
speedy and efficient manner under the supervision  
of ADGP, South Zone The Special Investigation  
Team will meet at regular intervals to review the  
progress and for ensuring proper co-ordination.

On 16-06-2013 the ADGP issued another order  
No.159(A)/CAMP/ADGP SZ/2013 dated 16-06-2013 by  
which the 6 cases newly received from  
Pathanamthitta and Ernakulam Town North Police  
Stations are allotted for investigation thus:

*[Handwritten signature]*



Crime No.767/13 U/s 406, 420 IPC of EKM Town North PS	Sri.K.Harikrishnan, Dy.SP, Perumbavoor
Crime No.627/13 U/s 406, 420 & 34 IPC of EKM Town North PS	
Crime No.318/13 U/s 420 IPC of Ranni PS	Sri.V.Ajith, Dy.SP, Kottayam
Crime No.601/2013 U/s 420 IPC of Koipuram PS	
Crime No.633/2013 U/s 420 & 34 IPC of Keezhvaipur PS	Sri.B.Prasannan Nair, Dy.SP, Chengannoor
Crime No.656/2013, U/s 420 & 34 IPC of Konny PS	

The ADCP by orders allotted 19 more cases from various Police Stations to different members of the SIT on similar terms. The details of those cases are stated in the Government Order No. G.O. (Rt) No.2263/2013/Home dated 17-08-2013 issued by the State Government.

Altogether 33 Crime cases registered by different police stations in the State where the main accused are Biju Radhakrishnan and Saritha S.Nair thus entrusted for investigation by the SIT.



This Government Order dated 17-08-2013 only says that the State Police Chief, Kerala in his letter No.D5-26478/2013/PHQ dated 17-08-2013 has requested the Government to ratify the action of the State Police Chief and subordinate officers in constituting Special Investigation Team for the investigation of cases registered in connection with the cheating and other offences committed by "Team Solar Renewable Energy Solutions Company".

The letter referred to is not before the Commission. Hence the reasons for seeking Government ratification are not discernible. However, the State Police Chief who issued the order dated 14-06-2013 constituting the SIT in his deposition before this Commission on 03-11-2016 has stated that the Kerala High Court while considering a similar situation held that the State Police Chief has no powers to issue an order of the nature of 14-06-2013 and that it is in view of the said decision of the High Court he



wrote to the Government by way of abundant caution for ratification of his action in constituting the SIT for investigating the solar scam cases.

The Government, as already stated, issued orders G.O. (Rt) No.2263/2013/Home dated 17-08-2013. Regarding the powers of the State Police Chief and the ADGP it is stated in the order thus:

Government have examined the matter in detail and also the facts and circumstances that led to the constitution of a Special Investigation Team by the State Police Chief and his subordinate officers for investigation of the crime cases mentioned in the proposal and found that they have acted in exercise of the powers vested with them as police officers superior in rank, as contemplated in section 36 and 157 of the Criminal Procedure Code. As per section 21 (2) (b) of the Kerala Police Act, Government have powers, to create units or make special



arrangements for the investigation of complicated, heinous, sensational or specially important crimes.

"In the circumstances, Government hereby ratify the action of the State Police Chief and subordinate officers in having constituted the Special Investigation Team for investigation of cases registered in connection with the cheating and other offences committed by the Team Solar Renewable Energy Solutions Company as per the details given in the table below by acts done by the officers concerned in pursuance of the under mentioned orders are also hereby ratified.

Sl. No.	Crime No. and Police Station	Order No. and date	By whom order issued
1	Crime No. 368/13 of Perumbavoor Police Station	D1/57609/13 dated 14-06-2013	State Police Chief
2	Crime No. 1065/13 of Chengannassery Police	D1/57605/13 dated 14-06-2013	State Police Chief



	Station		
3	Crime No.629/13 of Ernakulam Town North Police Station	D1/57609/13 dated 14-06-2013	State Police Chief
4	Crime No.951/13 of Thampanoor Police Station	D1/57609/13 dated 14-06-2013	State Police Chief
5	Crime No.1647/12 of Thalassery Police Station	D1/57609/13 dated 14-06-2013	State Police Chief
6	Crime No.916/13 of Kannur Town Police Station	D1/57609/13 dated 14-06-2013	State Police Chief
7	Crime No.748/12 of Kasba Police Station, Kozhikode	D1/57609/13 dated 14-06-2013	State Police Chief
8	Other members of the Special Investigation Team were co- opted	159/Camp/ADGP SZ/13 dated 14-06-2013 and 16-06-2013	ADGP South Zone
9	Crime No.816/13 of Ambalapuzha Police Station	159/Camp/ADGP SZ/13 dated 14-06-2013	State Police Chief
10	Crime No.1466/13 of	D5/26478/13 dated 06-07-2013	State Police



	Thrissur Town East Police Station	159/Camp/ADGP SZ/13 dated 11-07-2013	Chief and ADGP (South Zone)
11	Crime No.769/13 of Ernakulam Town North Police Station	159/Camp/ADGP SZ/13 dated 16-06-2013	ADGP South Zone
12	Crime No.627/13 of Ernakulam Town North Police Station	159/Camp/ADGP SZ/13 dated 16-06-2013	ADGP South Zone
13	Crime No.318/13 of Konni Police Station	159/Camp/ADGP SZ/13 dated 16-06-2013	ADGP South Zone
14	Crime No.601/13 of Koipuram Police Station	159/Camp/ADGP SZ/13 dated 16-06-2013	ADGP South Zone
15	Crime No.633/13 of Keezhvaipur Police Station	159/Camp/ADGP SZ/13 dated 16-06-2013	ADGP South Zone
16	Crime No.656/13 of Konny Police Station	159/Camp/ADGP SZ/13 dated 16-06-2013	ADGP South Zone
17	Crime No.630/13 of Ernakulam Town South	159/Camp/ADGP SZ/13 dated 19-06-2013	ADGP South Zone



	Police Station		
18	Crime No.788/13 of Ernakulam Town North Police Station	159/Camp/ADGP SZ/13 dated 19-06-2013	ADGP South Zone
19	Crime No.474/13 of Rajakkad Police Station	159/Camp/ADGP SZ/13 dated 19-06-2013	ADGP South Zone
20	Crime No.754/13 of Pandalam Police Station	159/Camp/ADGP SZ/13 dated 19-06-2013	ADGP South Zone
21	Crime No.482/13 of Pulikeezhu Police Station	159/Camp/ADGP SZ/13 dated 19-06-2013	ADGP South Zone
22	Crime No.817/13 of Aranmula Police Station	159/Camp/ADGP SZ/13 dated 19-06-2013	ADGP South Zone
23	Crime No.480/13 of Rajakkad Police Station	159/Camp/ADGP SZ/13 dated 22-06-2013	ADGP South Zone
24	Crime No.798/13 of Ernakulam Town North Police Station	159/Camp/ADGP SZ/13 dated 22-06-2013	ADGP South Zone
25	Crime	159/Camp/ADGP	ADGP South



	No.274/13 of Vazhakkulam Police Station	SZ/13 dated 22-06-2013	Zone
26	Crime No.526/13 of Binanipuram Police Station	159/Camp/ADGP SZ/13 dated 22-06-2013	ADGP South Zone
27	Crime No.771/13 of Hosdurg Police Station	159/Camp/ADGP SZ/13 dated 22-06-2013	ADGP South Zone
28	Crime No.1081/13 of Thampanoor Police Station	159/Camp/ADGP SZ/13 dated 24-06-2013	ADGP South Zone
29	Crime No.219/13 of Elathur Police Station	159/Camp/ADGP SZ/13 dated 24-06-2013	ADGP South Zone
30	Crime No.1333/13 of Thodupuzha Police Station	159/Camp/ADGP SZ/13 dated 24-06-2013	ADGP South Zone
31	Crime No.1487/13 of Chalakkudy Police Station	159/Camp/ADGP SZ/13 dated 29-06-2013	ADGP South Zone
32	Crime No.943/13 of Perinthalmann a Police Station	159/Camp/ADGP SZ/13 dated 29-06-2013	ADGP South Zone
33	Crime	159/Camp/ADGP	ADGP South

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	No.1348/13 of Kalamassery Police Station	SZ/13 dated 08-07-2013	Zone
34	Crime No.1054/13 of Vadakara Police Station	159/Camp/ADGP SZ/13 dated 10-07-2013	Dist. Police Chief, Kozhikode Rural

By virtue of this Government Order, the SIT as constituted by the State Police Chief and the subsequent action of the ADGP, it must be noted, became the decision of the Government for, under Section 21(2) (b) of the Kerala Police Act State Government alone have got the power to issue such orders. In other words, it is doubtful, whether, after the Government Order, it can be said that the SIT is constituted by the State Police Chief.

The only relevant thing to be noted is that the State Government in the Government Order has not widened the scope of the investigation directed by the State Police Chief in his order dated 14-06-2013.



What is ordered is only to conduct a thorough investigation of the 33 cases in which Biju Radhakrishnan and Saritha S.Nair the main accused and their associates are involved, to complete it within 3 months and to submit the Report.

Section 36 of the Cr.P.C. deals with the powers of superior officers of police as per which Police Officers Superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Sections 154 to 176 (Chapter XII) Cr.P.C. deal with the powers of the police to investigate cases based on information.

Section 157 prescribes the procedure for investigation. Reading Sections 156 and 157 together it is clear that the power to investigate a case on information received or otherwise is available only to an officer- be he-



the lowest officer the SHO of a police station or the superior officer contemplated under Section 36 having territorial jurisdiction over the area at which the offence is completed. The final report has also to be filed by such an investigating officer before the Magistrate Court having territorial jurisdiction. Section 158 is also relevant in that the report contemplated under Sections 157, if the Government so directs, be submitted through such superior officer of police as the State Government, by general or special order appoints in that behalf.

Section 173(1) mandates that the investigation shall be completed without unnecessary delay and sub-section (2) says that 'the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report.

Going by the provisions of Sections 154, 156, 157, 158, 173 and Section 36 of the Cr.P.C. only an officer who has got territorial jurisdiction -



be he the lower or superior officer can be the investigating officer - or the officer in charge of the police station entitled to file report after investigation before Magistrate. Under the code, it would appear, the Government have no power to give the investigation of a case to any other authority.

In this context, it must be stated, the Commission is not unmindful of the provisions of Section 156(2) of the Cr.P.C. which says - "No proceedings of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this Section to investigate".

This provision, it must be noted, is made with respect to a matter covered by Section 156(1).

Section 156(1) states 'any officer in charge of a police station may, without the order of a magistrate investigate any cognizable case which

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a court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under provisions of Chapter XIII.

The provisions of Section 156(2) Cr.P.C., it has only to be said, is a special provision to meet a peculiar situation. It does not provide for bypassing the territorial jurisdiction of the police officers under the Code.

Sri.A.Hemachandran, IPS, ADGP (SZ) was in charge of maintenance of Law and Order which according to him is a heavy responsibility. The Chief Minister in the Assembly has stated that "cases are registered in different districts. Therefore, a Special Team will be constituted for investigation of these cases alone. (Assembly Proceedings Vol.IV Page 15).

Whether Section 21(2) (b) of the Kerala Police Act authorises conferment of jurisdiction different from what is provided under the code.



The Addl. Director General of Police, South Zone, Thiruvananthapuram submitted an interim report dated 23-06-2013. (Ext.X 393 - Vol. XI).

The opening paragraph of the said report is revealing. It reads:

A Special Investigation Team under Addl. Director General of Police, South Zone was constituted vide Proceedings cited above for conducting investigation into criminal cases involving one Saritha S.Nair and Biju Radhakrishnan, under the cover of a company called Team Solar Renewable Energy Solutions. At present 25 criminal cases are under investigation by the Special Investigation Team. These investigations will be pursued in accordance with the provisions of Criminal Procedure Code and reports will be submitted to the Criminal Courts having jurisdiction from time to time.

The circumstances for submitting this report is stated thus:

A handwritten signature in dark ink, appearing to be 'G. J. J.', is written over a horizontal line.

In the course of these investigations, omissions and commissions on the part of certain staff members of the office of the Chief Minister and security came to notice. Simultaneously allegations on this matter appeared before the Hon'ble Kerala Legislative Assembly and in the print and electronic media.

The subject matter of the Interim Special Report, it must be noted, is misdemeanour by officials in Chief Ministers' Office. The circumstances and scope of this enquiry and report is stated in paragraph 3 as:

03. In the course of the interrogation of the accused Saritha S. Nair, it came out that she was having frequent telephonic interaction with one Tenny Joppan, Clerical Assistant, one Jikkumon Jacob, Addl. Personal Assistant and one Salim Raj, who was part of security. On exploring the nature and character of these conversations with the accused Saritha S. Nair, it came out that some of the conversation with Salim Raj and Jikkumon



Jacob were inappropriate and had sexual overtones. The present report deals with this matter. The transactions between the accused Saritha S.Nair and Sri.Tenny Joppan are being dealt with separately, as it requires deeper probe.

In this regard, statements are taken from Saritha S.Nair @ Lakshmi Nair (Age 35), Salim Raj.S., Senior CPO (Grade) U 1960, at SBCID, Pattom, Thiruvananthapuram and Jikkumon Jacob (Age 36) by the ADGP and some of the Members of the SIT jointly - Tenny Joppan's statement was not taken. It was deferred.

The version of accused Saritha S Nair regarding her interactions with Salim Raj and Jikkumon Jacob are summarized paras 5 and 6 of the Report thus:

05. Salim Raj got himself introduced to her when she went to Chief Minister's office for donating Rs.2, 00,000/- to the Relief Fund in the year 2011. After a few months, at a public





meeting place, Salim Raj saw her and asked for her mobile number which she gave. He started phoning her from that night onwards. He asked her if she has acted in any serial. This kind of conversation continued for three-four months. Mostly he would Telephone during night time. After this, the nature of telephone calls started crossing limits. He started talking about her body, sex, etc. On many occasions she tried to avoid it by pretending to be busy. He would call from Cliff House from the land phone and also from a personal number. He would talk for half an hour on an average. She has returned the call seeing a missed call. She has also co-operated in the conversation as she did not want to antagonize him. He persuaded her over phone for having sexual relation. However she had declined the same; such a thing has never happened. His telephone calls continued till she was arrested.

06.Regarding Jikkumon Jacob, she got introduced him through Joppan towards the end of

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year 2011. According to the accused Saritha S.Nair, he started telephoning about a week later. He would call only in a while. Mostly he spoke on family matters. However for the last seven-eight months, the conversation slightly crossed the limits. He spoke things like losing control on seeing me', friends are asking if she is friend of Jikku' etc. Though he showed interest in physical relation she never yielded. Whenever she protested, Jikkumon Jacob would not call her for quite some time. His last call was sometime in the middle of May 2013.

It is stated in Para 7 that the accused Saritha S.Nair further stated that she has no interest in pursuing the matter with a petition. According to her neither she nor her company has derived any advantage from these two persons.

However, the Report proceeds to state in Paragraph 8 thus:

For verifying the veracity of the version of the accused Saritha S.Nair the relevant Telephone



details were checked. The mobile phone number of Salim Raj is 9048098977 and that of Jikkumon Jacob is 9447452350. During the period from 01-06-2012 till arrest of Saritha S.Nair on 03-06-2013, it is seen that there are a total of 413 calls between Salim Raj and the accused Saritha S.Nair. Out of this, 230 calls are from Salim Raj to the accused Saritha S.Nair and remaining 183 calls are from Saritha S.Nair to Salim Raj. There are 456 telephonic conversations between Jikkumon Jacob and the accused Saritha S.Nair. Out of these 364 calls are from Saritha S.Nair to Jikkumon Jacob and remaining 92 calls are from Jikkumon Jacob to Saritha S.Nair.

09.It is in these circumstances, Salim Raj and Jikkumon Jacob, were questioned to ascertain, their side of the fact in issue. The versions of Salim Raj and Jikkumon Jacob are summarized in paras 10 to 14 thus:

10.According to Salim Raj, as far as he remembers, he met her some time towards the end



of the year 2011. At that time she was known as Lakshmi Nair. There was a public meeting of the Chief Minister at that time in Kottayam. While Chief Minister was addressing the crowd he went to the VIP car for keeping some of the petitions received there. Then this lady, Lakshmi Nair sent her driver with two diaries to him. After a while, the driver took his mobile number. Afterwards, within a month she rang up in his mobile number. She asked his location and checked if he was on duty. She used to call like this now and then. At a certain stage he told her about a Solar Panel work for one Majeed of Kozhikode, who is a friend of his relative. Though he told several times, Lekshmi Nair did not meet Majeed. She neither took any money nor executed any work. Further he asked her if she can help in getting a job for a relative of his for a scientist post. She readily agreed for the same. He did not know if she has helped any

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person for getting any job. He fell into her glib talk.

11. On specifically questioning about conversation with sexual overtone, initially he denied. Then he added that he has made 'conversations which are natural towards a lady'. He added that he had spoken about "beauty, dressing, etc'. Then he said that words with sexual overtones were not used. However a little later he stated that he has spoken to her about sexual act. Then he qualified that what he has spoken to her about sexual acts. Then he qualified conversations that what he occurred. He further stated that now he feels that even those conversations should have been avoided. He does not remember to have seen or spoken to Biju Radhakrishnan. He has not made any recommendation or help to Lekshmi Nair or her company.

12. Jikkumon Jacob, Addl. Personal Assistant to Chief Minister stated that he first met



Saritha S.Nair who was then known as Lekshmi Nair when she came to give donation to Chief Minister's Relief Fund. After a few months, he saw her talking to Joppan in the office. Then Joppan introduced her to Jikkumon. One month later, she telephoned him. She would enquire about the location of the Chief Minister and if it is possible to meet the Chief Minister. As far as he knows she has never met the Chief Minister. She established friendship with him through telephone calls and messages. He never knew that she was involved in criminal cases till the news about her started coming.

13. One day she telephoned him and told that her husband Biju would come to meet the Chief Minister for talking ill of her. She wanted Jikkumon Jacob to inform the Chief Minister that it was baseless. Afterwards, she started talking more about her family matter. She told about her husband and that they have arrived at an agreement for separation under the mediation of



an advocate. In her talks she would mention that she has got high contacts. On some occasions he indicated that he was busy. Then she would say she has something important and urgent to talk. On such occasions he has returned the telephone calls. He has not made any recommendation for her. She had never told any important matter to him. Now he felt that she might have telephoned him in the presence of others to show that she has connection with the office of the Chief Minister. On some occasions they have spoken in the night also.

14. In her talks, she would praise herself about her beauty and that others are troubling her. When she mentioned things like 'some are staring'; 'are making physical contacts', etc, he has responded to that. He has spoken things like 'who doesn't feel that way'. Beyond that he has not maintained any relation or spoken anything. It is wrong to allege that he has persuaded her for any wrong kind of relation. She succeeded in



creating an impression that she has got very big contacts. That is why he did not feel suspicious about her. He has neither rendered any concession nor made any recommendation for her.

Based on the above the issue was considered in paragraphs 15 onwards thus:

15. On a scrutiny of the material on record the following fact emerge without any ambiguity. Both Salim Raj and Jikkumon Jacob have maintained regular telephonic contact with Saritha S. Nair. The volume of communication itself is significant. There are a total of 413 to and from communication with Salim Raj and 456 with Jikkumon Jacob. This would suggest that there was regular telephone communication between Saritha S. Nair and Salim Raj as well as Jikkumon Jacob. Many of the communications are for very short duration. There is also significant number of telephone calls during night time.

16. Regarding the nature of telephone calls, the accused Saritha S. Nair has clearly alleged





that the telephonic conversations at certain stage had crossed the limits. They started talking about sex and matters connected therewith. She even alleges that she was persuaded for having sexual relation. However she has not yielded to that persuasion.

17. Considering the background of Saritha S.Nair, particularly taking into account her criminal history, her version raising serious allegations against these two officers needs to be examined carefully. One significant fact which stand out as a stark reality is the frequency of the telephonic conversations. It may be noted that the telephone calls considered here are from the mobile phones alone, over which there is greater certainty regarding the identity of the caller. There could also be many telephone calls from the landline in Cliff House as revealed in the statement of Saritha S.Nair. Even if we take into account the mobile telephone calls alone the volume is significant.



18. In the statement of Salim Raj, though initially he denied having made sexually colored conversations, later he modified it. He admitted to have spoken about beauty, dressing, etc. At some stage he admits to have spoken about sexual acts. He has not admitted to persuading her for having sex with him.

19. When pointedly asked about similar allegation, Jikkumon Jacob mentioned that she would praise herself connected with her beauty. On such occasions he has responded to it. His comment that 'anyone would feel like to do so', in response to her words that people are staring at her and touching her, is certainly indicative of the nature of the communications. He has denied the allegation of any kind of persuasion for any sexual favour.

20. From the above discussions it is clear that the character of the communication between Saritha S. Nair and these two persons had clearly transgressed the red line of decency and



morality. The extent of transgression appears to be more severe in case of Salim Raj compared to Jikkumon Jacob.

Report in paragraph 21 proceeds to state that Saritha S.Nair has stated that she has no interest in proceeding with any legal action. The report however says that these transgressions on the part of the officers need to be viewed seriously, for this cannot be brushed aside or explained away as innocuous light hearted communication between two adults. Both Sri.Salim Raj and Sri.Jikkumon Jacob ought to have always kept in mind that they are responsible officers working in the office of the Chief Minister. Even if their failure in recognizing the criminal past of the woman they were in contact with is ignored, there can be no justification whatsoever for such frequent communication without having any official business to be transacted with. Salim Raj had admittedly gone to the extent of

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seeking favours from Saritha S.Nair. This aggravates the gravity of his misdemeanour.

The conclusion reached is stated in Para 22 thus:

The conduct of Sri.Salim Raj and Sri.Jikkumon Jacob is unbecoming of any Government servant working in any Government office. They ought to have observed high standards of decorum and discipline in their personal and official conduct in the position held by them in an exalted office. Failing to exercise due vigilance and caution they came under a magic spell cast by Saritha S.Nair, leading to the misdemeanour. The misdemeanour on their part, while working in the Office of the Chief Minister has resulted in lowering the esteem of a high office before the eyes of the public. Hence I recommend that Sri.Salim Raj and Sri.Jikkumon Jacob may be dealt with in a deterrent and exemplary manner.

The sequence of events may be noted.

A handwritten signature in dark ink, appearing to be 'Jm' or similar, with a long horizontal stroke extending to the right.

Saritha S.Nair @ Lakshmi Nair, one of the prime accused in the solar scam case was arrested by police in Perumbavoor Police Station Crime Case No.368/13 on the complaint of Sri.Mudickal Sajjad of Perumbavoor. News regarding the contacts of Saritha S.Nair with the personal staff, security, the land phones in the official residence of the C.M came in the media in late May and early June, 2013. Sri.Raju Abraham, MLA and others on 13-06-2013 moved an urgent resolution based on the telephone contacts and other circumstances alleging that the office of the Chief Minister was the epicentre of solar scam and demanded that the C.M should resign and order a judicial inquiry. This was by issuing notice to the C.M. (Assembly proceedings Vol.IV P 13) Financial cheat who was kept in jail for such cheating earlier and is searched for both inside and outside the State, for settling her cases had contacts with the C.Ms. office (may be referring to media reports). In this matter the



Assembly must discuss. For this Rule 50 notices given by Sri.Raju Abraham and 4 others (PP 13 and 14 of Vo.IV).

The Chief Minister Sri.Oommen Chandy, based on those allegations called for an interim report from Sri.T.P.Sen Kumar, IPS, ADGP (Int.) on 13-06-2013 itself. Interim Report was also submitted on 13-06-2013 itself.

Under the caption 'Connection of the C.M with Solar Scam cheat', C.M. in the Assembly replied thus:


Saritha S.Nair @ Lekshmi Nair who had cheated many persons Crores of rupees undertaking to establish Solar Plants, Wind Mills etc. was arrested by the police from her rented house in Edapazhanji, Thiruvananthapuram on 03-06-2013. On enquiry by police it has come out that Saritha S.Nair and her husband cheated so many other persons in this manner and secured crores of rupees from them. 13 such cases, it is stated, are registered. All these cases will be



investigated properly and in detail and accused will be brought before law. These cases are registered in different districts. Therefore, a Special Team is being constituted exclusively for investigating these cases. He also indicated that his office has not done anything for interference by his office.

Sri.Raju Abraham elaborated the allegations. All, point to the involvement of the Chief Minister, his office, his personal staff, security etc. He referred to the phone calls in the office, official residences, his personal phone etc. The antecedent criminal activities of Saritha S.Nair and the failure, if any, of police was mentioned.

The C.M. re-iterated that the Government have decided to constitute a Special Investigation Team. He said he has no mobile phone. He uses the phones of persons who are with him. Mostly he uses other phones. Now there is facility for ascertaining the number of the phone call, the



time and other details. That is why an independent enquiry was suggested.

Sri.Kodiyeri Balakrishnan, MLA has said the problem is not the investigation of solar scam cases by Government. The problem is regarding the connections of the Chief Minister's office with the accused in so many cheating cases. He asked whether any enquiry is ordered in this regard. (Vol.IV Page 23). He said not only the staff but the Chief Minister himself has a role in this. He said though the C.M. had a mobile phone 9495655500, he would not be available in that number. Calls are from 9447274799 of Tenny Joppan who is always with C.M. (Page 24).

The C.M. answered. All these matters are under investigation by the Special Investigation Team. All these matters will be included. All the allegations raised by Sri.Raju Abraham are under investigation. As such no scope for any anxiety. (Page 25).





He also said phone calls came in the Kairali TV is stated to be for a short period and therefore phone calls both prior and after this can also be examined. Each call, time of call and other matters can be examined for which a Special team is being constituted. (Page 25 - 26). The calls from the C.M.'s official residence who called have to be examined. (Page 27).

The C.M. said (page 30 of the Paper Book Vol.IV Assembly Proceedings).

He will not protect anybody. He is particular that nobody shall be made scapegoat for him to escape. Action can be taken against anybody only on being satisfied that one has committed offence or not.

In view of the strong stand of Opposition Deputy Leader Sri.Kodiyeri Balakrishnan, the C.M. said an Interim Report on this can be obtained.

In reply to another resolution moved by M/s Mathews T.Thomas and others with reference to C.Ms. meeting with Solar scam main accused Biju



Radhakrishnan in the Government Guest House, Ernakulam and Saritha S.Nair in Vijyan Bhavan, Delhi, the C.M. said the Government views this matter seriously.

When the matter was initiated ADGP (Int.) Sri.Sen Kumar was entrusted with the enquiry and he submitted the report. In the report it was suggested that a detailed enquiry keeping away two persons from the personal staff has to be made. For detailed enquiry, South Zone ADGP was entrusted which is in process. Mere calling, one cannot be treated as a criminal. What was the subject of talk has to be examined. It is for that a detailed enquiry was ordered.

In order to understand the manner and method of investigation of the 33 solar crime cases entrusted to the SIT for investigation with reference to the allegations which are the subject matter of Inquiry by this Commission initially all the members of investigation team in the SIT and its Head Sri.A.Hemachandran were



examined before this Commission. Since orders constituting the SIT was issued by the State Police Chief, Kerala initially he was also examined.

Reading the order dated 14-06-2013 issued by the State Police Chief, Kerala, simply stated, it was for a thorough investigation of 33 solar scam cheating cases against Biju Radhakrishnan, Saritha S.Nair and their associates, within 3 months and to submit report accordingly.

The allegations briefly stated are that Biju Radhakrishnan and Saritha S.Nair under the garb of providing solar renewable energy solutions, in the name of a company by name 'Team Solar Renewable Energy Solutions Company' has committed a number of criminal offences in several police station limits in the State by cheating a large number of persons by giving fake promise that they will provide renewable energy solution through solar power. In short, Biju Radhakrishnan and Saritha S.Nair by using



different names as Dr.R.B.Nair and Lakshmi Nair had by giving false promises like acquaintance//connections with senior dignitaries like Central and State Ministers, C.M. and his office etc. persuaded their customers to enter in to MOU for establishing Solar Plants, Wind Mills, its dealership etc. and obtained Crores of Rupees from them. Whether the aforesaid two persons and their associates had cheated the victims was the subject matter of investigation in those cases.

Criminal cases for the offence of cheating are compoundable offences. Irrespective of the stake involved those cases before court can be settled by payment of the money alleged to have been cheated. Complaints filed before police or before criminal courts can be settled between the parties.

Offences under the penal code are considered to be offences against the society and that is why the cases are prosecuted by the Government. Needless to say, cheating cases, if not settled



between parties, and/or the money repaid, the offence of cheating, if established beyond doubt, the person found to have committed the offence can be punished with imprisonment also.

Now, two out of the 33 cases charge sheeted before the court are disposed of by Court. One case Crime No.817/2013 of Aranmula Police Station was disposed of by the Judicial Magistrate Court, Pathanamthitta by its order dated.18/06/2015 (CC 1300/2013 JFMC, Pathanamthitta). The other case Cr.No.368/2013 of Perumbavoor Police Station was also disposed by the Judicial Magistrate Court, Perumbavoor by order dated 06-12-2016 in CC No.102/2014. This is for the reasons that the accused could not settle the matter before the judgement in those cases.

So far as cheating cases are concerned, complaint if any, by a party has to be before the police station having jurisdiction and it is for the Station House Officer - Officer in charge of



the Police Station-to conduct the investigation and to file report before Court.

But, by virtue of Circular issued by the Superior Officer, where the stake involved, viz. the amount alleged to have been cheated is Rs.25 lakhs and above the investigation has to be conducted by the Inspector of Police having jurisdiction over the area.

Out of the 33 cases, in the majority of cases the amount cheated is below Rs.25 lakhs. In cases, the amount exceeded Rs.25 lakhs section 158 of the Cr.P.C. provides for the Superior Officer to give such instructions as he thinks fit to the officer in charge of the police station. As such in the ordinary circumstances there is no need for adopting a different course of action in the manner done.

Is it because the materials and records based on which the aforesaid two persons have cheated their customers are common and therefore a set of person in the form of an SIT must consider all



the materials together and to conduct the investigation?.

We have seen that the ADGP (SZ), head of the SIT had distributed all the 33 cases to M/s.K.Harikrishnan, Dy.S.P., Perumbavoor, V.Ajith, Dy.S.P., Kottayam, Sri.Reji Jacob, Assistant Commissioner, DCRB, Thiruvananthapuram City, Sri.B.Prasannan Nair, Dy.s.P., Chengannoor, Sri.K.S.Sudarsan, Dy.S.P., Thaliparamba and Jaison K.Abraham, Dy.S.P., Thamarassery. Though Sri.V.Roy, Inspector of Police, Perumbavoor who was the investigating officer in Cr.No.368/13 of Perumbavoor Police Station was made a member of the SIT by the State Police Chief he was not given any specific charge in this matter.

Sri.A.Hemachandran, IPS, presently Director General, Kerala State Fire and Rescue Service, former ADGP (SZ) and head of the SIT has filed an affidavit purporting to be under Section 4(c) of the Commissions of Inquiry Act.



He had earlier filed an affidavit on 20-01-2016 on which date he was examined as a witness under Section 4(a). This was treated as part of the deposition. In the present affidavit dated 08-01-2017 he has stated thus:

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The activities of the Commission and the investigation of the SIT are parallel and independent. This is based on basic principles. He had supervised the investigation of the cases. He was issued, contrary to the basic principles, notice under Section 8B on 21-11-2016. It is for the judicial courts alone to evaluate the merits and demerits of the case, which are pending before courts and not for the Inquiry Commission constitutionally, legally and on practicability. Commission is not expected to evaluate, not even to touch or deal with statutory investigation. He has also stated that the merits and demerits are determined by judicial courts and not under the Commissions of Inquiry Act and that this matter is not even included in the terms of





reference. These statements were made in his earlier affidavit. He wanted to submit more about it.

The police officers who investigated the crime cases and himself who supervised the investigation had appeared before the Commission many times to assist the Commission by giving evidence though they are not parties in the Commission. He is under the impression that this Commission is conducting trial of the criminal cases investigated by them which is beyond the scope of inquiry of the solar scam and connected financial transactions.

The Commission had kept the case diaries of the 33 cases investigated by the SIT for a long period and by narrating the details contained in the case diary and the statement under Section 161 Cr.P.C. obtained from the witnesses evidence is taken from the witness and based on such statements the Commission put questions to the investigating officers. The prosecutor of the



case is not before the Commission for cross examining the witnesses. Attempts are being made by the Commission by pressuring the investigating officers to give explanations and also asking them why such and such questions are not asked.

The basic principles of criminal justice that it is for the investigating officers to conduct investigation of cases within the four corners of the Cr.P.C. taking into account the facts in issue of the criminal cases. This Commission has deviated from the basic principles.

In criminal cases, accused are brought before court and get them convicted and sentenced is the responsibility of the Investigating Officers whereas the responsibility of the Commission in a matter of public importance is to give favourable report to the Executive to form an opinion. These are different.

It is highly improper for the Commission to ask the investigating officers to suggest that particular questions should have been asked to



the witness. This will amount to interference with the freedom/independence of the investigation.

Beyond collecting evidence regarding solar scam and connected financial transactions attempts are being made by the Commission to blame the investigating officers by exaggerating certain matters which have no evidentiary value at all. This leads to misunderstanding.

He cited as an example the case of a victim of solar scam - Mr.T.C.Mathew, Thiruvananthapuram with reference to his deposition before this Commission on 16-01-2015 and 19-12-2016. He blames the Commission by stating that regarding question put to Sri.T.C.Mathew it is said 'ഈചോദ്യത്തിൽഒരുഅസത്യംഒളിഞ്ഞുകിടക്കുന്നു'

കാരണംശ്രീ.ടി.സി.മാത്യു

16-01-2015

തീയതിയിൽനൽകിയമൊഴിയിൽവിവരങ്ങൾഎഴുതിനൽകി' എന്ന് പറഞ്ഞിട്ടില്ല - അതാണ്.



After raising misunderstanding questions T.C.Mathew was asked whether the ADGP had taken any action on his complaint and obtained a reply that he does not know whether any action taken. These facts are quite misunderstanding.

He also stated that the Commission had suppressed the facts that at the time when T.C.Mathew met the ADGP the judicial court under Section 202 Cr.P.C. were directly taking steps and that at that time the demand of T.C.Mathew was that steps must be taken for the certain of the cheated.

The wilful attempt of the Commission, from the above circumstances, it is clear was to find fault with the investigation.

He also found fault with the Commission for not asking Gunman Salim Raj the circumstances under which he made statements on 14-12-2016 different from the one stated on the earlier occasion. According to him if the object was to



find out the truth naturally such questions should have been asked.

But, from the Commission which is expected to maintain high judicial justice and anxiety to find out the truth, no such questions came.

He has cited as instance the above two circumstances which have come to his notice unexpectedly points to the fact that the Commission did not do justice to the police. He said there may be other instances also.

Acting on the basis of the depositions of disgruntled persons, in an inquiry where police is not a party, observations about the investigation made by this Commission regarding cases pending trial before court, apart from being serious legal, constitutional and practical problems, is entirely amount to denial of justice.

In order to establish the criminal liability of the accused in the investigation police has the duty to ensure that the provisions of the



Cr.P.C. has been strictly complied with. But the Commission, as if no regard for this, had asked questions to the investigating officers.

He, as an example, cites questions put to the investigating officers based on the interim report 159/Camp/ADGP SZ/2013 dated 23-06-2013. He was finding fault with the Commission. He said this report happened to be issued when, in the course of the investigation of the criminal cases, certain wrong deeds have come to the notice. Statements of persons connected with that were recorded and along with the signed statements report was submitted. In such signed statements which are not part of the criminal investigation, if facts leading to the criminal liability are included the benefit of the same would go to the accused. It is without keeping these basic principles the Commission asked blaming questions to them.

He wanted to cite one more example for blaming the Commission for the alleged evaluation



of the criminal cases which is the duty of the judicial courts.

This is regarding enquiry of higher connections. So far as SIT is concerned, according to him, in a case there is neither higher nor lower people. On the other hand there are only victims of the scam/complainants, accused who committed the crime and witnesses alone. As a supervisory officer, the officers in the SIT viz., Dy.S.Ps. entrusted with the investigation were given full freedom to conduct independent investigation in accordance with the Cr.P.C. and to find out the accused and gave full support. They had the capacity to do so. It is only because of that they were able to find out the criminal liability of a person close to the then Chief Minister and to arrest him. He has stated that this was not in the contemplation of the Opposition or media. It was a quite unexpected step. This is clear evidence that the Investigating Officer was bold enough ignoring



all extraneous pressures based on concrete evidence acted without fear. He doubted whether there are how many persons in the State Police to act in the same manner as done by Dy.S.P., Sri.Prasannan Nair. He also stated that the orders of the Hon'ble High Court in CrI.M.C.No.3536/2013 dated 11-10-2013 and CrI.M.C.No.1784/2013 dated 04-04-2016 fully supports the investigation and inferences about the investigation of Cr.No.656/13 of Konni Police Station involving the then Chief Minister.

According to him criminal liability and higher connections are different. The prime accused in the solar cases had connections with the executives, legislature, and judiciary and media people in all spheres of the society. It will be evident from telephone calls, details of public functions, installation of solar panels in houses, media programmes etc. If such details come to knowledge on the ground that it raises doubts regarding their participation in the





offence to summon them in the police stations and question them such a steps cannot be taken. If done, will amount to misuse of the detailed power of investigation available to police it will be downgraded as Moral Policing. The SIT conducted investigation in accordance with Cr.P.C. and not moral policing.

CDR, Pen drive etc, and other documents, seized and after considering the remote possibility of involvement in the criminal case, they were produced before court. The details of higher connections based on this have been recorded in the judgment in the Aranmula case. Cr.No.817/2013 of Aranmula Police Station.

He asserted that in the investigation of criminal cases only fact, which come within the purview of criminal liability can be considered.

The SIT constituted by the State Police Chief and subsequently ratified by Government had only a Special jurisdiction. It is important to note that it did not have the original jurisdiction.



Consequently, it had only that Special Jurisdiction - viz., Investigation of the 33 criminal cases. The SIT did not get any other order beyond that.

The Commission had asked certain questions to the investigating officers of the SIT with reference to the statements made by the then Chief Minister and by the then Home Minister including the telephone calls of the accused and other matters and asked them whether those aspects are not matters of investigation by the SIT. The investigation team is not concerned with any instructions or statements made by the Ministers or others as to what are all matters to be done, what should be done once the investigation of a case is entrusted to them. They are not bound by any such instructions or statements. If anything more than the investigation of the 33 cases is to be entrusted to the SIT it is for the Government to issue appropriate orders. This is the established

*lpr*

practice in a democratic Government. The statements of Ministers and Government Orders are different. The statement of Ministers will not be a substitute for Government Orders.

He had further stated certain questions creating uncertainty regarding the responsibilities of the Investigating Officers and the Supervisory Officer.

Investigation and supervision are made in accordance with the Cr.P.C. and the decisions of Constitutional Courts. At this stage when certain cases in which judgments are pronounced and other cases the trial is almost towards the end the judicial courts in this matter has no doubts. In the orders issued by him pursuant to the order dated 14-06-2013 of the State Police Chief it is specifically stated that the investigation is by the officers and he will supervise. The attempt of the Commission was to pick out a sentence from a statement filed in B.A.No.5497 of 2013 before the High Court and to



create confusion. The investigating officers have clearly stated before this Commission that in the investigation of cases they had the full freedom under the Cr.P.C.

He cited a sentence - Proof of the pudding in the eating and said the efficiency of the investigation is determined by the trial court ultimately the question is whether the accused are convicted.

There is importance in the evaluation of the trial court which examines the entire facts of a case. The trial court apart from convicting the accused held that fair and fool proof investigation.

According to him, even in the procedure similar to the trial of a criminal case is followed no factual deficiencies in the investigation of cases came to his knowledge, for, if there was any deficiency it would have come in the form of questions. There is no allegation that in the investigation SIT had



committed breach of any law, Rule or Court orders. None of the complainants had raised any such objection. No protest petition filed. None of the victims of the offence had a complaint that accused other than those charge sheeted are involved. Charge sheets were accepted by the courts after due consideration. The vibrant courts in the State particularly the Kerala High Court on many occasions' documents including case diaries were examined and evaluated the investigation. He cited in support of the orders dated 11-10-2013 in CrI.M.C.No.3536/2013 and 04-04-2016 in CrI.M.C.No.1784/2013.

It is stated that the Investigating Officers have completed the investigation within 6 months in spite of their busy schedule of responsibilities.

Very serious allegations are raised against the functioning of this Commission when the Commission was inquiring into the way in which the SIT had conducted the investigation.



The scope of inquiry as per the terms of reference was considered by this Commission wherein the contention of the SIT head was considered and observed thus:

Sri.A.Hemachandran, IPS, ADGP (SZ) who was the head of the SIT constituted by the State Police Chief for investigating the solar scam criminal cases in which Saritha Nair, Biju Radhakrishnan and their associates are involved, had a case that the SIT and its investigation of the 33 criminal cases entrusted to it for investigation and report is outside the purview of Inquiry by this Commission. According to him, investigation of criminal cases is the exclusive duty of police and the trial after submission of the investigation report is for the concerned Magistrate Court. No other forum has the rights or responsibility for investigation or trial of a criminal case registered. If there are any flaws in the investigation it is the concern of the Court. The court has the power to accept or



reject, order re-investigation of the case and so on. The Commission has no right to sit in judgment over either the investigation or the trial.

The allegations, as already settled by the order dated 07-11-2014, are extracted supra: There is a specific allegation that the SIT has been constituted for destroying the evidence and for protecting the C.M. and others.

It is important to note in this connection that there are very serious allegations against the SIT in the matter of investigation of cases in the Legislative Assembly.

Apart from the fact that Sri.Kodiyeri Balakrishnan asked the C.M. whether an ADGP can question the C.M. who is the head of the administration on allegations raised against him (Page 53 Paper Book IV) allegations against the SIT under the head 'Solar Scam Sabotage' was the subject matter of discussions. (Pp 139 - 142 Paper Book IV) .



It is important to note that the investigating officers were sitting in the gallery of the Assembly hearing all these and the C.M. has admitted it is evident from his reply. (P 53 of Paper Book IV). The State Police Chief in his deposition (DW Vol.XIX Pp 279- 280) has admitted that he used to be there in the Assembly when the solar scam issue was discussed there. According the SIT head Sri.A.Hemachandran, IPS and some of the members of the SIT they are not aware of the Assembly proceedings and they have heard of it in news reports. Very shocking statements.

Whatever it may be, they are not justified in saying that there is no allegation against the SIT or its members either in the Assembly or outside.

There are serious allegations against the SIT. When the Government had entrusted the task of finding out the truth of the allegations made against the investigation of the solar scam





criminal cases of Saritha S.Nair by the SIT to this Commission, it is the duty of the Commission to conduct an inquiry in to those matters by affording opportunity to the Government, the State Police Chief and to the members of the SIT including its head ADGP (SZ) Sri.A.Hemachandran, IPS. When it is understood that this Commission is inter alia entrusted with this task it was for the State Police Chief and the SIT to make necessary arrangements to substantiate before this Commission, at least prima facie, that the allegations are totally baseless and that they have acted strictly in accordance with the Constitution and the laws.

True, criminal cases are investigated as provided under the Code of Criminal Procedure. The SIT had the option to join as a party to the proceedings before the Commission and adduce evidence, if any, to substantiate their stand rather than blaming the Commission for issuing notice U/s Section 8B of the Act. The Principle



of natural justice demand that nobody shall be condemned unheard. Section 8B of the Act only gives statutory effect to this principle of natural justice. Section 8B provides that if at any stage of the inquiry, the Commission considers it necessary to inquire into the conduct of any person or is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence. In this context, Section 8C gives to such a person right to cross-examine witness other than a witness provided by it or him, to address the Commission and to represent in the Commission by a legal practitioner. As held by the Supreme Court, in an Inquiry when conduct of an officer is sought to be inquired, it is the right of the officer to appear before the Commission and to seek all remedies as are available to him under the Act.

*lyf*

(Smt.Kiran Bedi & Jinder Singh V.

The Committee of Inquiry and another- AIR 1989 SC 714). In this view of the matter, when the allegations inquired in to by this Commission contains allegations against the investigation conducted by the SIT, the investigating officers had the right to appear before this Commission and to establish their innocence, if they choose to do so. It is optional.

So far as inquiry by this Commission regarding the functioning of the SIT with reference to the allegations settled by this Commission, no doubt, it will come within the inquiry directed by the Government under the terms of reference Item 1. However, it has to be made clear that since investigation in all 33 solar scam criminal cases of Saritha S.Nair, Biju Radhakrishnan and their associates including Tenny Joppan, former Clerk in the Personal Staff of the then C.M. are over and reports filed before courts and trial in all those cases except



in the case of Baburaj and Sajaad in which judgments are delivered, the inquiry will be confined to matters other than relating to the accused in those cases. Section 6 of the Act is also relevant in that it says '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 proceedings except a prosecution for giving false evidence by such statement'.

CRIME NO.368/2013 - PERUMBAVOOR POLICE STATION

AND ARREST OF SARITHA S.NAIR.

Saritha S.Nair, though was a Director of Team Solar Renewable Energy Solutions Pvt. Ltd. in which Sri.Biju Radhakrishnan is the Managing Director, she had only a minor role in the solar deal between Team Solar Company and Mudickal Sajjad of Perumbavoor who entered into MOU for establishment of Solar Plant and Wind Mills and parted with Rs.40.5 lakhs. He was cheated. The Deed on behalf of Team Solar is signed by Biju



Radhakrishnan and the consideration except Rs.6 lakhs as directed by Biju was paid to Saritha was received by him. It is admitted by Sajjad that a sum of Rs.7,40,000/- in instalments was returned to him in his bank account. These instalment remittances were made by Saritha, according to her. Sri.Biju Radhakrishnan had all dealings with Sajjad, executed the MOU and received Rs.34,50,000/- lakhs from Sajjad. Thus Biju Radhakrishnan is the main accused in Sajjad's case. Certainly Saritha S.Nair has also a role in the deal.

Sri.K.Harikrishnan, Dy.S.P., Perumbavoor said that he considered it only as an ordinary cheating case without any significance.

The MOU in this case was executed on 01-10-2012. For getting the balance amount he made a representation to the Superintendent of Police, Ernakulam (Rural), Aluva on 27-02-2013 (Ext.X 726).



This was enquired into by Dy.S.P., Narcotic Cell, Sri.A.C.Joseph and based on a report submitted by him, the Superintendent of Police directed Sri.Sajjad to file statement before the Station House Officer, Perumbavoor Police Station. He accordingly, approached the S.H.O., Perumbavoor who took the statement of Sajjad and registered Crime No.368/2013 on 20-03-2013.

The complaint filed by Sajjad before the Superintendent of Police (Rural) and the report of the Dy.S.P, Narcotic Cell are marked as Ext.X 726 and 727 respectively.

Both the Superintendent of Police (Rural), Aluva and Dy.S.P., Narcotic Cell, Aluva before whom complaint was filed and Dy.S.P. who conducted enquiry and submitted the report were examined before the Commission as CWs 182 and 186 on 14-10-2016 respectively and their deposition recorded. (DW Vol.IX Pp 174 -193 and DW Vol.XX Pp 1 - 38 respectively).



A perusal of the complaint Ext.X 726 submitted to the Superintendent of Police (Rural) would show that Dr.R.B.Nair and Lakshmi S.Nair as CEO and Director and Executive Vice-President both representing Team Solar Renewable Energy Solution (P) Ltd. as counter petitioners therein. It is stated that the complainant Sajjad was led to believe that they have connections with the Kerala Chief Minister Sri.Oommen Chandy and Central Minister Sri.Farooq Abdulla, that R.B.Nair is the Principal Adviser of Sri.Farooq Abdulla and that he has Doctorate in Renewable Energy. It is also stated that they are doing Solar projects throughout Kerala and that in Tamil Nadu, near Nagarcoil establishing Wind Mills having capacity of 850 KW. It is also stated that R.B.Nair is the Personal Adviser of Kerala Chief Minister. There are further statements that Solar Plant in his residential premises can be got done by the Government by including it in the Emerging Kerala Programme and



the stone laying ceremony can be got inaugurated by C.M. Sri.Oommen Chandy. Believing all these, it is stated, he parted with Rs.40.5 lakhs to them for establishing Solar Power Plants and Wind Mills. He was cheated. His request was to conduct mediation by summoning them and to take steps for getting back the money paid by him.

The mobile phone numbers of the complainant, the counter petitioners and also the staff of Team Solar company were furnished.

It would appear, the S.P., noting the seriousness of the nature of allegations, instead of summoning the counter petitioners, ascertaining the actual state of facts and making efforts as requested by Sri.Sajjad, made an endorsement in the complaint 'Dy.S.P. (Narcotics) for NA and report discuss'.

The report dated 11-03-2013 (Ext.X 727) perused. There was absolutely no mention in the report regarding the circumstances under which the complainant was led to believe the Team Solar





Company and its Directors. No reference to the connections with Central Minister Sri.Farooq Abdulla and the State Chief Minister Sri.Oommen Chandy. A stray observation regarding the higher-up connections in the complaint. No enquiry whatsoever except the details furnished by the complainant though it is stated that enquiry was made. One thing was clear that out of Rs.40.5 lakhs paid by Sajjad to them Rs.7.15 lakhs was returned to him in 18 instalments between 26-11-2012 and 14-02-2013, in his bank account by Saritha S.Nair. Another important thing, Saritha S.Nair was available to him in the phone on all the occasions the Dy.S.P. contacted her. Only reason for seeking for time to appear is that she is busy with establishing Wind Mills in Tamil Nadu. Since she was available over phone, if he was serious, he could have met her and ascertained all matters personally. He said, he did not wait for it for, they may destroy the evidence.



He said, the allegation is true, and therefore direction must be issued to the SHO, Perumbavoor to take the statement of the complainant and to register case against the counter-petitioners.

If this is the true state of enquiry conducted by the Dy.S.P., something stands projected.

The Dy.S.P. was not inclined to ascertain the genuineness or otherwise of the influencing factors stated by Sri.Sajjad.

- 1.They have got connections with the Central Minister Sri.Farooq Abdulla - Whether R.B.Nair is the Principal Advisor of Sri.Farooq Abdulla.
- 2.Connection with the Kerala Chief Minister Sri.Oommen Chandy - Whether R.B.Nair, Personal Advisor of Sri.Oommen Chandy.
- 3.Whether the C.M. had undertaken to get the solar plant established for Sajjad in the



Emerging Kerala Project and its stone laying function inaugurated by the C.M.

4. Whether the statement of Saritha S.Nair over phone that she is busy with establishing Wind Mills near Nagarcoil in Tamil Nadu is genuine. If there is basis why not the Superintendent of Police mediate with her for settlement of the amount particularly when it is found that Saritha S.Nair had paid a sum of Rs.7.15 lakhs between 26-11-2012 and 14-02-2013.

5. What did the Dy.S.P. mean by destruction of evidence?

6. What was the necessity for filing a crime case when it was found to be only a case of breach of contract.

When there is an allegation that on enquiry made by Sajjad it is understood that the counter petitioners are cheating many persons in this manner was it not a matter for enquiring and to inform the higher-ups in the police.'



The Superintendent of Police (Rural) wanted the Dy.S.P. to discuss with him. It would appear that what the S.P. has done is to intimate Sajjad to do as suggested by the Dy.S.P. Did he apply his mind to the allegations made in the complaint about the investment of higher-ups?

As already stated, both the Dy.S.P. and the S.P. were examined by the Commission. Many details which have not been stated in the report have come out from the deposition of the Dy.S.P.

He contacted Lakshmi Nair over phone. She said that she is busily engaged in establishing Wind Mills in Tamil Nadu and on all the days fixed for her presence before him she was avoiding it by telling excuses. He could understand from the telephone talks with her, she had cheated many others just as Sajaad and that due to heavy financial liabilities, the possibility of settling the case is removed.

At that time Lakshmi Nair told him that it necessary he can be called from the Chief



Minister's office. She also told that the A.G. (Advocate General) told her not to go and therefore she did not attend. He, in answer to a question said that he felt in the enquiry that Lakshmi Nair had connections with Chief Minister and other higher ups.

He was asked whether he had discussed this matter with the Superintendent of Police. He said does not remember it now. He further said.

He did not see Saritha S.Nair either at that time or subsequently. But, since, she did not appear before him, he over phone thrice contacted her and collected certain details from her.

He was asked, in the circumstances that he could get Saritha over phone, having regard to the seriousness of the matter, should he not find out her location and meet her to collect her statements. He was also asked whether there was any reason for not doing so. During that period, if it is required to talk to a person outside Kerala, permission of the DGP has to be obtained.



Considering delay likely to occur he did not make any attempt.

He was asked whether he was not obliged to intimate the S.P. who entrusted the case for enquiry to him when Saritha S.Nair neglected the request for her appearance on the pretext that he can be called from the office of the C.M. and that the A.G. had told her that she need not go. He answered that he did not think at that time, that it is required.

It was suggested to him that when he had informed the S.P. about Saritha telling him that he can be called from the C.M's office and that the Adv. General had told her not to attend the police, the Dist. Police Superintendent told him that he need not conduct more enquiry in the matter which will create a situation of dragging the C.M. and the Adv. General in it and therefore without mentioning the name of the C.M. and A.G. a report and prepared and submitted.



He did not record this in his report for the reason that he did not believe what she had said. As already stated he did not tell the details given by Saritha to the S.P. The S.P. did not give any instructions and the report was filed on the basis of the enquiry conducted by him.

The former Superintendent of Police (Rural) Sri.Satheesh Bino, IPS in his deposition stated that he noted the connection of the higher ups and the criminal nature of the complaint for finding out the steps that can be taken in the matter he requested the Dy.S.P. (Narcotic Cell) to take necessary action and report and to discuss the matter with him. He said that it is only in view of the seriousness of the allegations made in the complaint that he got the matter enquired into by a Dy.S.P. He further said that the officer who enquired with reference to the facts available before him was of the view that there is no evidence to support the higher connections. He denied knowledge about all other



matters stated by the Dy.S.P. in his deposition before the Commission when put to him. He also denied knowledge about the detailed circumstances of the arrest of Saritha S.Nair.

These matters, it must be remembered, happened in February, March 2013. FIR in this case Cr.No.368/2013, Perumbavoor Police Station was registered on 20-03-2013.

The complaint filed by Sajjad before the Superintendent of Police and the report and its enclosures are known to the SHO who registered the FIR and to his superior officers - the Inspector of Police who initially investigated the case and to the Superior Officer, Dy.S.P. Perumbavoor, who took the initiative to arrest Saritha S.Nair.

It is interesting, rather surprising to note that efforts have been made through Cyber Cells to locate Saritha for the purpose of arresting her. The report of Dy.S.P. (Nartotic Cell) Ext.X 726 states Saritha was always available over





phone and she was interacting with Dy.S.P. (Narcotic Cell).

Here, in spite of the serious allegations as revealed from the complaint of Sajjad before the Superintendent of Police, that revealed from the deposition of the Dy.S.P. (Narcotic Cell) and the filing of the FIR on 20-03-2013, Perumbavoor Dy.S.P. Sri.Harikrishnan, Inspector of Police, Perumbavoor Sri.V.Roy, and the Station House Officer did not take any serious efforts (1) to take measures either to prevent any crime being committed by Team Solar or to conduct investigation in the manner provided under Section 157 read with Section 36 of the Cr.P.C up to June, 2013.

Sri.Sajjad aired his grievances before the Home Minister, and the Food and Civil Supplies Minister. The latter Minister contacted the I.G. (P), Ernakulam Range Sri.Padmakumar, IPS. It is pursuant there to superior officer of this crime case 368/2013, at the instance of the I.G. (P)



moved for arresting Saritha S.Nair. He sends 2 of his CPOs to Thiruvananthapuram to locate Saritha and her residence and then sends a team of police officers under the S.I. of Police, Perumbavoor who is not the I.O. of this case to Thiruvananthapuram for arresting Saritha and he also making himself available at Thiruvananthapuram for ensuring the arrest of Saritha S.Nair.

Does some foul smells in the procedure adopted in a cheating case, particularly when the Dy.S.P. Sri.Harikrishnan has a case that that at that time it was only an ordinary cheating case without any seriousness.

This is all the more so when another police team from Thalassery, after obtaining permission from the Superior Officers - Thalassery Police Station S.I. Sri.Biju John Lukose and team reached Thiruvananthapuram at about 7 A.M. on 02-06-2013 to arrest Saritha S.Nair in Crime Case No.1647/2012 of Thalassery Police Station.



Knowing this fact the Perumbavoor Police, by passing the said police team in violation of the constitutional and the legal procedure provided in the Code of Criminal Procedure arrests Saritha S.Nair from near to her house in an uncereemonious manner, as if arresting an absconding accused.

The Officers who arrested Saritha S.Nair is not the I.O. The Dy.S.P. who is the superior officer came at the spot immediately after arrest. The DyS.P., Narcotic Cell, in his report, has said he did not afford further time for Saritha S.Nair to appear, for, he apprehended, destruction of evidence. The Dy.S.P. says, though Saritha was arrested from close to her house, her house was not searched at that time. The answer is that the S.I. and team was sent only for arresting Saritha. He was not the investigating officer. In cheating cases search is not made immediately and so on. Saritha has got a case that she was arrested by stopping the car in which, herself and her mother



with the driver was coming to her house after meeting her advocate Phenny Balakrishnan to discuss about the settlement of debts at Edappazhanji. The mother and the driver were sent out from the car. There was a laptop, 5 mobile phones and a bag in which CD and cash were there. All these were taken by police without preparing any Mahazar. As per the mahazar only 2 mobile phones were found in her possession on body search. She said, she understood from her mother that Sri.Harikrishnan conducted search of her house on that day and took lap top, mobile phones, business records etc. without preparing any seizure mahazar.

Sri.Biju John Lukose has deposed before the Commission that he found another team from Perumbavoor waiting at Edappazhanji junction for arresting Saritha S.Nair and since it was after sunset if they arrest Saritha S.Nair they were asked to inform him about it as otherwise he will go and arrest Saritha next day morning.



He said, he was informed by about 11 P.M. that Saritha S.Nair was arrested and took her to Perumbavoor. He therefore returned next day through Kollam, went to Perumbavoor, met Saritha with the permission of the I.O. before whom Saritha was present.

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Saritha S.Nair, it is an admitted position, had only a small role in the deal with Sajjad. She received Rs.6 lakhs out of 40.5 lakhs paid by Sajjad towards the deal and it has come out that Saritha S.Nair had been making repayment of this amount in instalments Rs.7.15 lakhs. In these circumstances, it is beyond one's comprehension, why all these untoward, hasty and illegal exercise on the part of the police.

This shows that all is not well with the dealings of the police in Crime No.368/2013 even before the constitution of the SIT. It requires proper probe at the hands of Competent Agencies.

It is this Dy.S.P., Sri.Harikrishnan, who is entrusted with the investigation of Crime



No.368/13 of Perumbavoor P.S. as a member of the SIT. Though the I.O. of this case Sri.V.Roy is also made a member of the SIT by the State Police Chief, the ADGP (SZ) he had no role in the further investigation of that case or any other case investigated by the SIT.

Sri.A.Hemachandran, IPS, it would appear had no confidence in him. He was not entrusted with any duty. All the cases were allotted to Dy.S.Ps. for investigation. ADGP took the supervisory jurisdiction. The I.O's. were directed to seek the assistance from the S.P's concerned. Sri.V.Roy was made a scapegoat? Sri.Roy in his deposition has stated that he was not associated in the investigation of any of the solar scam cases nor did he participate in any of the meetings of the SIT.

Sri.Reji Jacob, AC, CB CID Thiruvananthapuram City deposed that he had been to Delhi, went to MNRE enquired about the connection of BIju Radhakrishnan with Central Minister Sri.Farooq



Abdulla and also collected evidence through Dy.S.P. Harikrishnan by searching the press of Ferny to ascertain whether the letter shown by Biju Radhakrishnan to Sajjad, Baburaj etc. are forged.

No effort is seen made by Sri.Harikrishnan, Dy.S.P. to question the C.M. Sri.Oommen Chandy to ascertain the matters stated in the complaint of Sajjad.

ADGP felt aggrieved for the reason that this Commission did not ask a question to Sri.Salim Raj Gunman of the former C.M. Sri.Oommen Chandy when he had deposed something different from the statement recorded by him from Salim Raj in connection with the misdemeanour which was the subject matter of his interim special report.

Sri.G.R.Ajith, a Civil Police Officer of the lowest rank in the police force had been making very serious allegations for no valid reasons, about the very functioning of this Commission highlighted in the Writ Petition No.5555/2016



filed by him in the High Court. This officer did not take any action against that police officer. It would appear that Sri.G.R.Ajith was encouraged to file an argument note attacking the Commission which are alien to the purpose for which he appeared before this Commission. The discipline in the police force in this matter is evident. Very serious allegations are raised against Sri.G.R.Ajith, State General Secretary of the Kerala Police Association. The way in which the matter was investigated by a member of the SIT, Sri.Reji Jacob, Assistant Commissioner, CB CID, Thiruvananthapuram City by another Dy.S.P. with reference to allegations made in the Assembly, the complaint of District Committee of AILU, Thiruvananthapuram and also by G.R.Ajith would show how the allegation was dealt with in a casual manner. Was it not a case against the terms of recognition of the Association and also for examining the application of the provisions of the Prevention of Corruption Act.





Is it the uprightness of an efficient and dynamic police officer, was there not a direction to enquire in to the complaints mentioned above. Had he exercised any supervision in the matter except to accept the reports filed by those officers.

Now let us see the stand of the State Police Chief, Kerala in regard to the constitution of the SIT and the scope of the order dated 14-06-2013 issued by him explained by him before this Commission in his depositions dated 20-10-2016, 03-11-2016 and 11-11-2016 (Deposition Vol.XIX Pp 194 - 303).

Ans:- Probably around the last week of May, 2013, or early June 2013, this news has received wide coverage in the media.

Based on the media reports, I made enquiry through subordinate police officers, and understood that there were a number of cases, in which Saritha S.Nair, Biju Radhakrishnan and a few others are registered, mostly in the central



and Southern parts of Kerala. Since the allegations were against senior dignitaries and other such persons, I thought of those cases being closely supervised by a senior officer. It is in those circumstances, I constituted the SIT, under ADGP(SZ) Sri.A.Hemachandran, IPS, by my order dated 14/06/2013.

Question:- Did you in this Connection consult the Government, in the Home Department, prior to the issuance of the order?

Ans:- I have informed the Government.

Question:- You have said that, since complaints against the 2 persons, mentioned earlier, particularly involving senior dignitaries were there, took a decision to constitute the SIT, for investigating those cases, since the normal rule is that, investigation in view of a complaint has to be conducted by the lowest police officer, having jurisdiction, under what authority you have decided to entrust the investigation of those



cases mostly to police officers, having no jurisdiction at all?

Ans:- The complaints were registered in the various police stations in the State having jurisdiction. The ADGP (SZ) as the superior officer has got jurisdiction over all the police stations under his zone. That is why I have constituted the SIT, for investigating those cases under him.

Question:- Do you mean to say that, it was for the jurisdictional authority viz. the ADGP to submit the final report after investigation before court?

Ans:- He was not a substitute for the IO, he was only to closely supervise the investigation.

Question:- Do you mean to say that your idea in constituting the SIT, was that the members of the SIT, must be independently be entrusted with the investigation of the cases to be considered by the SIT and the ADGP has only a supervision



over the investigation conducted by the respective investigating officers?

Ans:- My intention was that the investigation of the crime cases, dealt with by the SIT, by independent investigating officers of the SIT and to submit the final report as per law. ADGP, Sri.Hemachandran was only to closely supervise, the administrative, legal and other requirements so that the case is brought to a proper conclusion.

Question:- Do you know that this solar scam issue was the subject matter of serious discussion in the Kerala Legislative Assembly in June-July 2013, and the allegation based on the media report was raised by the then Opposition Leader, Sri.V.S.Achuthanandan in the course of budget discussion.

Ans:- It might have been raised.

Question:- Do you know that Sri.Raju Abraham, MLA and few others have moved an urgent resolution in the Assembly, with the allegations



that some of the personal staff and security of the C.M., had contacts with Saritha Nair over phone and that there were calls from Saritha's mobile to the land phones in the official residence of the CM, and many other allegations connecting the CM with the scam?

Ans:- It is a matter on records.

Question:- Did you know that when these phone call allegations were raised the CM, informed the sabha that an interim report in this regard will be obtained and further course of action will be decided thereafter and that this was entrusted to the then ADGP (Int.) Sri.T.P.Senkumar, IPS, who after obtaining the call details of those persons had submitted an interim report to the CM on 13/06/2013. Was it with your knowledge also?

Ans:- When matters are entrusted by the Government, to a senior police officer (especially ADGP (Int.)), the report if any submitted to Government need not be routed



through him. When action is taken on that basis, I may also be informed.

Question:- Are you aware that it is based on this report, Sri.Tenny Joppan and Jikkumon Jacob in the personal staff of the CM, and the Gunman, Salim Raj were removed/suspended from the personal staff.

Ans:- Tenny Joppan, Jikkumon Jacob, and Salim Raj were removed from their service based on the report. But Salim Raj was suspended based on the interim report of Sri.Hamachandran, IPS and the said order was issued by him.

Question:- Have you noted that in the interim report of Sri.T.P.Senkumar, it was observed that a detailed inquiry is required in the matter, and the CM in the Assembly had said that this will also be investigated by the ADGP (SZ) who is the head of the SIT. Did you note this?

Ans:- Yes. I am aware of this.

Question:- Did you see the interim report, submitted by the ADGP (SZ)



Sri.A.Hemachandran.IPS, in connection with the suspension order against Salim Raj?

Ans:- Yes. I have seen.

Question:- Did you notice from the report submitted by Sri.Hemachandran, IPS, that the enquiry with reference to the mobile phone calls between Saritha S.Nair and those persons was confined to their misconduct only?

Ans:- True. Their misconduct as Government Servants alone was considered.

Question:- Do you think that this enquiry conducted by Sri.Hemachandran, IPS was consistent with the enquiry suggested by Sri.T.P.Senkumar, IPS and as stated by the CM in the Assembly?

Ans:- I have already said about what is contained in the report of Sri.Hemachandran, IPS (ADGP).

Question:- Are you aware that the CM, in order that the urgent motion to be defeated, told the sabha, that all the allegations raised by Sri.Raju Abraham, MLA and others will be



considered by the SIT to be constituted and that there is no need for any apprehension? Do you know that the CM when confronted with several allegations regarding the involvement of himself and his office in the solar scam affairs of Saritha S.Nair and her company and the help rendered by the police, including a Dy.S.P. who interfered in settling their case and the alleged payment of a sum of Rs.40 lakhs to the Kerala Police Association, etc. said that all these matters will be investigated by the SIT, which is being constituted?

Ans:- If it is there on record, it may be so.

Question:- Did the CM or the Home Minister ask you to constitute an SIT, with Sri.A.Hemachandran, IPS as its Head?

Ans:- The decision was taken by me and discussed the matter with the Government.

Sri.Thiruvanchoor Radhakrishnan, the then Home Minister, in his deposition before this





Commission has said that it was he who asked the State Police Chief to constitute the SIT?

Ans:- In the discussion, he might have said, asking to constitute an SIT, for investigation of all the cases in which Biju and Saritha are involved.

Question:- I have asked you earlier about your authority to constitute an SIT to investigate the solar scam cases. You did not give a satisfactory answer with reference to the Kerala Police Act, the Cr.P.C. and the bylaws, if any, issued by you with the approval of the State Government for ratification of the action taken by you and your subordinate Sri.A.Hemachandran in constituting the SIT and/or entrusting the investigation to various officers of the SIT and the government have issued an order on 17/08/2013. (Ext.X 711). What was the necessity if you had the authority to issue such an order - for making a request to issue an order in your



letter dated 17/08/2013, referred in the Government Order.

He was examined again on 03-11-2016 and his deposition is recorded.

Ans:- I have already explained the position. However, I will state as follows:

The powers of the State Police Chief to issue orders of the nature, have been specified by the Hon'ble Supreme Court, in the State of Kerala, Vs. Souravhan and others (2016) 2 SCC (Cr.) 241. Based on this Supreme Court decision, I believe that I have absolute powers to issue an order of the nature, passed on 14/06/2013. Around this time, the High Court of Kerala had occasion to consider a similar situation based on the decision by Sourabhan's case and the High Court held that the State Police Chief has no powers to issue an order of the nature of 14/06/2013. It is in view of this decision of the Kerala High Court, that I wrote to the Government, by way



of abundant caution for ratification of my action in constituting an SIT for investigating the solar scam cases.

Question:- You have deposed before this Commission on 20/10/2016, that based on media reports, you made enquiries through subordinate police officers, and understood that complaints are filed against Saritha S.Nair, Biju Radhakrishnan and a few others, registered in the Central and Southern parts of Kerala and since the allegations were against senior dignitaries and other such persons, you thought of those cases being closely supervised by a senior officer. Shall I take it that in constituting the SIT, your intention was that investigation was to be made on the allegations regarding the involvement of senior dignitaries and other such persons and that this must be done by senior police officers under a very senior police officer?



Answer:- I have answered that media hype on these cases levelling allegations against serious dignitaries were appearing regularly. Complaints were registered in a number of police stations in the Central and Southern parts of Kerala. I thought these cases need to be supervised by a senior officer, so that the resources could be pooled and the cases could be brought to a proper completion as soon as possible.

Constituting SIT's have been done by my predecessors, as well as my successors probably.

Question:- Mr.V.Ajith, former Dy.S.P., Kottayam who was a member of the SIT, while giving evidence before this Commission, to a question put by the Commission, as to whether the State Government, or State Police had issued any orders other than the one passed by the State Police Chief on 14/06/2013, either before or after, he mentioned about Tar Bill case and another (details not furnished) and said that it will be appropriate to ascertain this from the



State Police Chief. Hence, I am asking you, Sir can you give such details as to whether any orders similar to the one passed by you have been issued either before or during your time or thereafter?

Ans:- SITs have been constituted during my time, before my time and perhaps after my time also. SITs are constituted sometimes by the Inspector General of Police, sometimes by the Director General of Police, and sometimes by the Government. District Police Chief can also constitute SITs. The details should be available in the respective officers. Even Crime Branch and Vigilance Departments can constitute SITs.

Question:- In the order issued by you on 14/06/2013 - the operative portion reads - 'accordingly a Special Team is constituted under Sri.A.Hemachandran, IPS, ADGP, (South Zone) to conduct thorough investigation of the 7 cases and other cases in which the above 2 accused and their associates are involved. In your



deposition mentioned earlier, you have stated that you thought of those cases being closely supervised by a senior officer. My question is did you mean by the order dated 14/06/2013 that the responsibility of ADGP Sri.A.Hemachandran, IPS was only a close supervision? If so what is the sort of supervision you expected from him?

Ans:- I have already answered that pooling of resources is the main purpose of a senior officer being made the head of the SIT. Cases were registered in several police stations and legal and other administrative measures have to be complied with properly and expeditiously. The ADGP has to supervise and intervene wherever necessity arises towards a smooth conduct of the investigation of these cases. A close supervision means to ensure that the investigation is done properly as per law.

Question:- In the Bail Application - B.A.No.5497/2013, in Crime No.656/13 of Konni Police Station, the investigating officer has



filed a statement which is referred to in para 9 of the order dated 23/08/2013 (Ext.X 163) which reads as follows; 'a Special Investigation Team has been constituted as headed by an Additional Director General of Police to investigate the crimes in which 2 accused in common have cheated several people...

From the submissions made, it appears, a common names in the crimes registered, involving those 2 accused persons, is undoubtedly the basis for constituting such a Special Team.

A statement has been filed before this Court by a police officer, who has been constituted as the investigating officer, by the Addl. Director General of Police in the present crime, stating thus, while individual cases are assigned to one Dy.S.P. for investigation, all major decisions like criminal liability of individuals, approval of charges, etc. are taken with the knowledge and approval of the head of the SIT.

This statement is read out to the witness.

A handwritten signature in black ink, appearing to be 'Jee' or similar, with a long horizontal stroke extending to the right.

Is it with your knowledge that such a statement was filed by one of the members of the SIT, you constituted? Did you give your approval to the statement filed before Court? Are you aware of these observations made in the order?

Ans:- I am not aware of such a statement given by an investigating officer in court in a Bail Application. I had no occasion to know or approve such a statement.

Question:- Was it your intention to give such a power to ADGP, Sri.A.Hemachandran in making him the Head of the SIT in constituting the SIT by your order dated 14/06/2013.

Ans:- Sir, I have already submitted before this Commission my intention in constituting the SIT and making ADGP (SZ) Sri.A.Hamachandran, as head of the SIT.

The head of the SIT was not a substitute for the IO, as I have answered earlier.

The statement made by this individual officer, has to be explained by him in detail.





The ADGP (SZ) will also be able to explain the facts in detail.

Question:- You have been answering my various questions regarding the facts and circumstances, which arose subsequent to the arrest and detention of Saritha S.Nair in Jail, and your answer to all these questions was that you have come to know of it from media. Having regard to the fact that all those news which have come in the media were relating to the alleged involvement of the CM, his office, his personal staff including security, his Cabinet Ministers, political leaders, etc. did you not consider it worthwhile to take it seriously and to find out the truth of those allegations, particularly since these allegations were raised by the Opposition MLAs in the Legislative Assembly and to order a probe into all those matters by your Subordinates under your supervision?

Ans:- I did take the complaints seriously when they were highlighted and I ordered a



Special Investigation Team to be set up and investigate these cases properly under a responsible senior police officer and entrusted him with close supervision of these cases. Police have to investigate criminal cases and Marshall Evidence as per law and produce it before the courts. We have to investigate into criminal cases and collect evidence based on facts. Allegations are one aspect and criminal actions, details and evidence are different aspects. I do not believe, police is competent to enquire into allegations, but only rather investigation into complaints of criminal nature, which can be substantial before a competent court of law. As regards the allegations raised in the floor of the Assembly, I may not be able to answer on that as I am not the competent person. Any complaints or lapses in the police investigation should be brought up before the appropriate authorities. The SIT, has conducted a proper investigation and has as to my



knowledge, submitted a number of charge sheets in a number of charge sheets in a number of cases before the competent courts. I believe the SIT has done a good job and at least one case had ended in conviction. During the relevant period, there were several thousands of cheating cases in the State, including cases against very big corporations and individuals etc. To the best of our ability, police have been investigation of and disposing of these cases appropriately.

Question:- From the answer which you have given above, shall I take it that what you meant was that allegations made in the complaint filed by affected persons, registered by the police, alone can be made the subject matter of investigation and evidence and not all the allegations made elsewhere in the matter?

Ans:- Complaints lodged the police, and any new facts that come before the IO, during the course of investigation, have to be investigated appropriately.



Question:- Do you not think that allegations raised in the floor of the Assembly and reported in the print and visual media were facts which have come to their knowledge, during the course of their investigation and as you said, they have got an obligation to consider those materials also?

Answer:- The IO has to decide and take into consideration all relevant facts, towards proper investigation of a criminal case.

Question:- Do you mean to say that the Head of the SIT has no role in this matter?

Answer:- The SIT, Head has had discussions with the IO, during the course of investigation and he should have examined all relevant materials and should have guided the officers.

Question:- Had you occasion to see the CD files at least in respect of Perumbavoor P.S. Crime Case 368/2013 and in Konni Police Station - Crime No.656/2013, where the involvement of the



Chief Minister and his personal staff were specifically raised before court also?

Answer:- No, I did not examine the CDS in those cases.

Question:- Did you examine the CD files in the other 31 crime cases, investigated by the same SIT.

Ans:- No. I did not examine the CDs in those cases also.

Question:- Did you independently examine the allegations raised in the floor of the Assembly and report in the visual media during that period to ascertain the genuineness or otherwise of the allegations made in the Assembly.

Ans:- Allegations raised in the floor of the Assembly and reported in the media were not examined by me in any manner, as there was no such directions for me.

Question:- What did you mean by 'no such direction to you', when CM in the Assembly has stated that all the allegations raised by the



opposition MLAs in the form of urgent resolutions will be enquired into by the SIT?

Ans:- What was stated in the Assembly by the then CM, needs to be elaborated by him. I have constituted the SIT to investigate into criminal complaints, lodged before the police.

Question:- You have already been told that the allegations directed to be inquired into by this Commission, as settled by it is regarding the alleged involvement of the CM, his office, his personal staff, some of the Cabinet Ministers, some political leaders and even police officers and you said you know that. You constituted an SIT under ADGP, Sri.A.Hemachandran, IPS to investigate into all the complaints filed in various police stations in the State, in which Saritha S.Nair and Biju Radhakrishnan are alleged to have cheated their customers; you have said that apart from constituting the SIT to investigate the said complaints, you did not go through the CD files



in any of the 33 cases investigated by the SIT, except the skeleton facts, such as accused Saritha Nair was arrested, you had no information about the detailed procedure followed by the members of the SIT that conducted the investigation, you have further stated that the allegations raised in the floor of the Assembly involving the persons against whom inquiry is being conducted by this Commission, unless their involvement is part of the complaint, the investigating officers who are to conduct the investigation based on facts in accordance with the law and procedure provided, cannot be looked into. You have also stated that you have no authority, or compete age to enquire into the allegations raised in the floor of the Legislative Assembly. In view of all these, I am asking you, whether you are competent or entitled to say anything about the correctness or otherwise of the allegations made against the high dignitaries as settled by the Commission?



Answer:- The matters which are to be inquired into by this Commission; as settled by this Commission is a matter on record. The SIT was constituted under a competent officer and the cases were entrusted to him as already explained by me. The officer is a very senior and competent officer on whom I had trusted that a proper investigation would be conducted under his supervision. In the State of Kerala, during the time, several thousands of cheating cases were reported as already submitted by me. If I remember correct, the State had recorded over 1 ½ lakh cases during that period. Only if there are specific complaints against investigation, the CDs need to be examined by the competent superior officer. It is not expected of the State Police Chief to call for the CDs and examine them, unless there are specific and serious complaints against the I.Os. Senior Police Officers like Addl. DGP and IG (P) etc., are functionally meant to support the State Police Chief in this regard.





Also complaints, if any, can be raised before the courts. Since there was no necessity, to call for the CDs of these cases, I did not call for and examine them. As submitted by me already, I do not have any powers to inquire into allegations raised in the floor of the Assembly. As such I am not competent to say anything regarding the allegations raised in the floor of the Assembly.

Question:- Shall I take it that you did not invoke your supervisory power in regard to the investigation conducted by the SIT as per your order, since you had absolute confidence in ADGP, Sri.A.Hemachandran, IPS, and the other members constituting the SIT? He said he had confidence and there were no complaints.

A letter dated 07-04-2016 (Ext.X 639) was sent to Sri.Ajay Ghosh, Bureau Chief, Asianet News Channel, Thiruvananthapuram.



The Commission wrote a letter dated 23-06-2016 to Sri.Joshi Kurien, Chief Reporter, Asianet, Kochi Bureau (Ext.X 640).

It is stated therein that the counsel for Smt.Saritha S.Nair on 22<sup>nd</sup> June, 2016 filed a petition before this Commission stating that the original of the letter written by Smt.Saritha S.Nair is with Joshi Kurien and that necessary direction may be issued to him to produce the same before this Commission.

He was accordingly requested to make available the original of the letter written by her entrusted to him urgently.

The Commission noted that on 03-04-2016 Asianet Channel had broadcasted an interview of Saritha S.Nair and also a letter admitted to have been written by Saritha S.Nair during the interview. Since the Commission felt that the full details of the interview as well as the contents of the letter will be of great use and relevance for the purpose of the inquiry by the



Commission, he was requested to make available the CD relating to the interview.

Sri.K.P.Jayadeep, Executive Editor, Asianet News, Palarivattom, Kochi has accordingly furnished a copy of the letter of Saritha S.Nair and the telecasted version of the interview, in which she claims, the letter was written by herself, when she was in police custody at Perumbavoor. They have telecasted the interview and showed the letter on 3<sup>rd</sup> April, 2016 through Asianet News Channel. (Ext.X 639 (a). Copy of the letter written by Saritha S.Nair dated 19-07-2013 is marked as Ext.X 639 (b).

The CD - Ext.X 639 (c) regarding the interview with Saritha S.Nair contained the audio visuals of the talk between Sri.Joshi Kurian of Asianet News with Saritha S.Nair. She briefly spoke about the contents of her letter to him.

Sri.Joshy Kurien was examined before this Commission on 22-07-2016 and his deposition recorded. Exts.X 639 to 641 were



marked through him. (DW Vol.XVII Pp 1 to 6). He has stated thus:

Sri.Ajayagosh is the Bureau Chief of Asianet News Channel, Thiruvananthapuram. Ext.X 639 is the letter from this Commission dated 07-04-2016 received by Sri.Ajayagosh. Sri.K.P.Jayadeep was the Ex. Editor of Asianet News, Thiruvananthapuram. It is as per his direction with a covering letter a copy of the letter written by Saritha Nair on 19-07-2013 and an interview conducted telecasted version recorded in a CD was produced before the Commission. (Ext.X 639 (a), 639 (b) and 639 (c)). Ext.X 640 is a copy of a notice dated 23-06-2016 received by him. In the said letter it is stated that the Advocate of Saritha S.Nair had informed the Commission that the original of the letter written by Saritha Nair is in his possession and therefore he is requested to produce the original of that letter. Based on this he obtained permission from his institution



and produced the original and a notarised copy of the letter along with memo No. SSC/91/2016 dated 23-06-2016. (Ext.X 641). (Since the original is with the Commission marked as Ext.X 618 the notarised copy furnished is returned for usual other proceedings). He said they got a photocopy of the letter written by Saritha first. It is only for ensuring that there is a real letter written by her, they obtained the original. The original of the letter was not given by Saritha or by any political party men.

Sri.Oommen Chandy filed a deformation case against the publication of this letter in the TV Channel. Initially, either he or Kairali Channel M.D. Sri.John Brittas was not made parties in the petition. But Sri.Oommen Chandy filed a petition for including them also as accused but the court rejected it. The publication of the letter in the channel and interview were conducted on 03-04-2016.



Sri.K.Viswanatha Kurup, Superintendent, District Jail, Pathanamthitta was examined as CW 58 before this Commission on 17-06-2015 and his deposition recorded. (DW Vol.VI Pp 16 - 35).

The relevant portion of his deposition is extracted.

He is working as Superintendent of District Jail, Pathanamthitta from 17-06-2013. He knows about solar scam cases. After he took charge in this jail three accused Smt.Saritha S.Nair, Sri.Biju Radhakrishnan and Sri.Tenny Joppan were remanded to this jail. Accused Saritha Nair was in this jail on remand from 26-06-2013 to 25-07-2013.

From 16-07-2013 to 20-07-2013 she was given to the custody of Dy.S.P., Perumbavoor as per the orders of the Addl. Chief Judicial Magistrate (EO), Court, Ernakulam. Again from 22-07-2013 till 24-07-2013 she was given to the custody of Dy.S.P., Perumbavoor as per orders of JFCM Court, Muvattupuzha. Saritha S.Nair's Advocate



Sri. Phenny Balakrishnan had met Saritha Nair in the Pathanamthitta Jail on 26-06-2013, 13-07-2013 and 24-07-2013.

On the first two occasions he came to the jail, after verifying his identity with reference to the records he was taken to the office of the Superintendent where he had talked to Saritha S.Nair in his presence. On the third occasion, namely, on 24-07-2013, as usual Adv. Phenny Balakrishnan came to meet Saritha S.Nair. He was taken to the office of the Superintendent, Saritha was brought there. She sought his permission to hand over a "Kurup" prepared by her in connection with her case to her Advocate. He gave permission for the same. Saritha handed over the 'kurup' directly to her Advocate. The Advocate counted the number of sheets of the 'kurup' and found that it was in 21 sheets of papers. He was convinced of the same. He obtained a written receipt from the Advocate, a copy of which is produced by him before the



Commission. It was verified with the original and thereafter it was marked as Ext.X 174. He did not read the contents of the 'kurup'. The writing materials namely paper, pen etc. for the said purpose were not given to her from the jail. A note with regard to her case prepared by the under trial prisoner, he understood it as confidential. He was also under bonafide belief that such a note prepared need not be in a paper supplied from the jail. Nor is it necessary to bear the seal of the jail. (Jail Rule 751 is relied). He did not read the note prepared by Saritha and handed over to her Advocate. He was keen in counting the number of the pages of the note. Advocate Pheny Balakrishnan returned after receiving the 21 sheets note from Saritha. As stated earlier, Saritha Nair was in the custody of Dy.S.P., Perumbavoor from 16-07-2013 to 27-07-2013. She was brought after custody at 8.50 P.M. on 20-07-2013. After admitting Saritha Nair in the ward the lady warders conducted body search





and found in her possession a few sheets of written papers. Ordinarily such things brought from outside are kept in the jail. But since she has stated that the note relates to her case she was permitted to keep with it her. He has stated that this is permissible under the Rule. But no such rule could be mentioned, but stated this is the procedure followed. He was not there at the time when Saritha was brought to the jail at 8.50 P.M. on 20-07-2013. At that time women prisoners were attended by female warders in charge. On that day Smt.T.Mani and Smt.Remadevi Amma the two female warders were on duty. They had conducted search of Saritha's body recovered the written papers from her. This was intimated to him by them next day morning. They informed him that the papers in her possession containing the details of her case were for giving it to her Advocate. The very same papers which were found in the possession of Saritha Nair on 20-07-2013 are the papers handed over to advocate



Sri.Phenny Balakrishnan on 24-07-2013 with her permission. As already noted, from 22-07-2013 till 24-07-2013 Saritha S.Nair was in the custody of Dy.S.P., Perumbavoor, she was returned to the Jail at 4.30 P.M. on 24-07-2013. When the female warden conducted search of her body the very same papers were found in her possession. This was also reported to him by the wardens.

If he had known that the papers handed over by Saritha Nair to her Advocate Phenny Balakrishnan were intended to present it before Court he would have certainly affixed his signature in the said papers. The accused has stated that it has mint for giving it court. To a question put to him that when a prisoner gives a note to an outside party it is not necessary to verify whether such papers, contain the seal of the jail. The answer is that if the papers bear the seal it is likely to be misunderstood that the contents have been read and that is while seal was not affixed in the papers. Saritha Nair



was transferred from the Pathanamthitta Jail on security reasons. As per orders of the D.G.P. and the A.D.G.P. (Intelligence) dated 27-07-2013. Besides a letter dated 20-07-2013 from the Dy.S.P., Pathanamthitta was also there. (Vide Ext.X 175 and 176).

To a pointed question by the counsel for the E Party that he denies the reading of the contents of the letter written by Saritha Nair and handed over to her Advocate for the reason that the said letter contains the names of higher ups. His answer was that he did not read the letter.

Dr.Alexander Jacob, IPS, former DGP (Retd.) was examined before the Commission on 15-01-2016 (DW Vo.XI Pp 251 - 281). The relevant portion reads.

He was the DGP, Jail from 01-11-2009 to 07-12-2013. During that period Saritha S.Nair was in jail on two occasions; first in 2010 beginning and in April in a cheating case as accused as a



remand prisoner in Vanitha jail, Poojappura. She was pregnant at that time. She was in the jail for 4 months, he remembers and delivered during that period. There was pressure for giving her parole for delivery but it was not allowed. Later in June 2013 in connection with solar criminal cases she was arrested and kept first in Kakkanad jail, then in District Jail, Pathanamthitta and later in Vanitha Jail, Attakulangara.

She was remanded from Pathanamthitta Jail to Attakulangara Jail for three reasons.

1. When Saritha Nair was in the police custody when she was returned to jail, on search of her person it was found in her possession a few written papers. It was seized by the jail wardens. As far as a prisoner is concerned it is indiscipline.
2. The jail wardens understood that the paper in which Saritha Nair had written while she was in the custody of Perumbavoor Police was not



the one issued either from the jail or from the police station. They, on seizing those papers, immediately contacted him over phone and informed the same to him. The Wardens, he said, informed him that the seized papers 21 sheets written on both sides and it has 42 pages.

3. He then asked them to verify whether it is addressed to the Magistrate since on the previous day night in the TV channel news came that Ernakulam ACJM (EO) Court, had asked Saritha to give a statement in writing.

4. He was told that it was her biography (ആത്മകഥ) not addressed to anybody. He instructed them that if anybody connected with Saritha come enquiring about that letter the jail rules 751 must be read to them and act accordingly. They were specially instructed that this letter shall not be given to anybody other than Saritha's mother



or Saritha's Advocate. As per Section 751 any document which has to be given officially each page has to be signed and sealed at the bottom before delivery. If it has to be given to the Judge or to court it must be addressed from the jail and sealed.

5. This requirement need not be complied in one case i.e. a kurip prepared by the prisoner for giving it to the Advocate who conduct the case. Such papers shall not be read by the Jail Superintendent.

6. He enquired about the person who comes for getting the letter and the reply was that Saritha's Advocate will come to receive. Jail Superintendent Sri. Viswanatha Kurup was in the Jail when Saritha's Advocate Fenny Balakrishnan came to the jail.

7. Jail Superintendent it is stated gave rule 751 to the Advocate for his perusal. Advocate wanted the letter to be given without the signature of the Superintendent.



The Jail Superintendent accordingly requested the advocate to give acknowledgement for the receipt of the letter and Phenny Balakrishnan in the register maintained in the jail recorded receipt of the letter 21 sheets written on 42 papers and received the letter from the Jail Superintendent. He does not know whether Saritha was there in the Superintendent room.

8. Phenny Balakrishnan, according to DGP, after reading the letter thinks that this letter can be produced before court, could have approached Jail Superintendent and got his signature and seal in all pages of the letter, he could have got a copy of the acknowledgement given by him or he could have produced the letter in the handwriting of Saritha Nair before Court. Sri. Phenny did not choose to do such thing which perplexes him.



He said he did not read the letter written by Saritha and seized by the wardens of Pathanamthitta jail. He did not see or read the statement prepared by Saritha for presenting it to court but he knew from the Jail Superintendent that it was 4 pages one.

He said he did not see the letter, he did not read it but he knows the contents. The staff who seized the letter informed him of the contents.

Since the persons who conveyed the contents of the letter written by Saritha do not come forward to testify it, if the letter written by Saritha Nair original is not disclosed, if he mentions the details it will be taken as allegations and will be a cause for defamation proceedings. He said he can only say 13 VIPs and a police officer are there. Names cannot be mentioned.

To a question - suggestion that after the seizure of the letter of Saritha the Private Secretary to the C.M. Sri.Sreekumar contacted him





the answer is that he does not remember correctly.

He said the name of the C.M. is not there other name he will not mention.

Sri.Manoj Kumar, State General Secretary, Kerala Congress B as CW 72 has deposed before this Commission on 30-07-2015 (DW Vol.VII Pp 127 - 139).

Pradeep Kumar was the P.A. to former Minister Sri.Ganesh Kumar, MLA. Whether Pradeep had gone to the jail has to be ascertained from him. He has connection with Pradeep who is P.A. to Sri.Ganesh Kumar and used to talk to him about matters connected with the party. A letter stated to have been written by Saritha while in jail was given to Phenny from whom it was obtained by Pradeep and entrusted to him. He had kept it with him and later when Saritha came out of jail, on contacting him through phone, he personally returned the said letter to Saritha. The letter given to him and returned to Saritha



was having about 40 - 45 pages. He had read the said letter. All the above happened at a time when Kerala Congress (B) was part of UDF. Now they have left UDF. Because they were part of UDF the letter was entrusted to him for keeping it secretly as per the instructions of Sri.Balakrishna Pillai, Chairman of their party.

He has shown this letter to Sri.Balakrishna Pillai as demanded by him. He said he is not interested in discussing the contents of the said letter in channels and medias. In the letter written by Saritha there was mention about the C.M., some of the Ministers, MLAs, political leaders, Officers, M.Ps and Central Party leaders. He does not want to disclose the details since his culture do not permit. Himself and Pradeep Kumar together did not go to Attakulangara jail.

He had participated in the channel discussion held at 9 P.M. Sri.Balakrishna Pillai, Kerala Congress (B) Chairman was also present.



Sri.Balakrishna Pillai said in the discussion that Kerala Congress B being a party in the UDF he as the Chairman of that party is interfering in the matter to ensure that no problem adversely affecting the Government happened. A Congress leader Sri.Ajai Tharayil also participated in the discussion, who said that for a big party like Congress, there is no need to use Manoj or Pradeep. He then said, though they are small fries the UDF Government survived only because of their help. This he said because, if the contents of the letter in his possession was leaked out the very existence of UDF Government will be affected. Kerala Congress (B) Chairman had specially instructed him not to leak out the letter. Hence he did not disclose the contents of the letter. He had explained circumstances Saritha's letter which came in his possession. (Pp 134-135). Saritha in her letter has not stated that the 46 page letter is for giving it to the Court. He had heard that the letter

*Ans*

produced before the Court was a 4 pages one. He got acquainted with Saritha first when she came out of Attakulangara jail. Being the person who is in possession of the letter written by her she had disclosed many things connected with that to him. In the letter written by Saritha there is mention about Kerala Congress Mani Group M.P. Sri.Jose K.Mani. It is in the context of Saritha going to Delhi and seeks the helop of many, Sri.Jose K.Mani's name is also mentioned Saritha tried to meet the C.M. and made attempts to get various help from the C.M. he understood from her talk.

Phenny requested him come to his house at Mavelikkara in a car for going somewhere. He accordingly went in his car and both of them together went to Pathanamthitta jail. Phenny asked him to wait at a distance in the car and told him that he will come after meeting Saritha. Phenny went to the jail, after 10 minutes Phenny came out from the jail, both of them together



returned in the car. When they reach some distance Phenny handed over a cover to Pradeep and asked him to read it. It was a 40 pages letter, he read it roughly. Phenny wanted a photocopy of the said letter, he did not permit. Pradeep contacted Sri.Manoj with whom he had 22 years of close connection like an elder brother and told him about the letter. He straight away drove the vehicle to Thiruvananthapuram. Mr.Phenny was with him. He was asked to wait at Thiruvananthapuram. Reaching Thiruvananthapuram informed Sri.Manoj and Sri.Manoj was with him for about 1 ½ hours at Thiruvananthapuram. He showed the letter to Sri.Manoj. Sri.Manoj as desired by him contacted Sri.Balakrishna Pillai and asked him to wait there. He went to the office to meet Sri.Balakrishna Pillai. Sri.Balakrishna Pillai through the mobile phone of Manoj told him not to leak out the contents of the letter. Manoj then called him and told that a Government of Kerala car will come and take him to a place. At that



time they were waiting near KIMS Hospital, Thiruvananthapuram. Government car came; both of them got into the car. They reached near Vellayambalam. Manoj asked them to wait there. They were again taken to the Nanthancode area where Devaswom Board is situated asked to wait. They were again brought to Vellayambalam and waited in the car. After some times a man came and took them house opened it and asked them to sit. There were told that 2 - 3 people will come shortly.

Three persons came along with Manoj. The letter in the possession of Manoj was read by all. Thereafter Phenny went to Mavelikkara and he went to Pathanapuram. The letter was entrusted to Manoj.

He understood that the persons who came there are important persons since they were Kadar dress.



Advocate Phenny Balakrishnan

He read the letter written by Saritha and handed over to him from Pathanamthitta in full and prepared a draft for presenting it to court. Since the court ordered that his assistance is not required for Saritha to prepare the petition he did not pursue that any more. The courts order was conveyed to Saritha through the Jail Superintendent. Thereafter one day he went to the jail to see Saritha but the jail authorities did not permit him to meet her. Saritha's mother who was with him was allowed to see Saritha. She came out in 5 minutes after seeing Saritha and told him that Saritha wanted the letter given by her must be kept by him safely without giving it to anybody. He knew that Saritha through the Jail Superintendent had filed a complaint before court.

He returned the letter given by Saritha to her when she came to his house on the day when she came out of the jail.



He does not know what happened thereafter. Whether it was kept by her or entrusted to somebody is not known.

Though Saritha and himself declined to tell the names of persons mentioned in Saritha's letter to the channel people they were told that shocking details are there in the letter.

When the news that Sri.Jose K.Mani, M.P. had helped Saritha came in the media a press conference was arranged by Saritha. Since 3 or 4 days before the conference some of the pages of Saritha's letter was shown by the channel and also mentioned some of the names by the media Saritha contacted the media people and told them that it is not her handwriting. It is thereafter the press conference was arranged by Saritha after consulting him. He also was present in the conference at Thiruvananthapuram along with Saritha. Saritha took the letter written by her in a cover. She re-iterated that the pages of the letter came in the channel is not in his

*mf*



handwriting. When the media people asked Saritha about Sri.Jose K.Mani., M.P. by way of reply she said that there is no connection with him and the present attempt, is the result of a political conspiracy. When she was asked about the contents of her letter she took the letter kept in the cover and showed it to the media turning the pages of the letter.

When they were returning after the conference on the way the news reader of Kairali channel contacted him over phone and wanted him to see the T.V. They accordingly saw the T.V. news in the residence of a friend. The news was about the names of persons seen in one of the pages of the letter shown to the media. The name of Sri.Jose K.Mani, M.P. was shown. The correctness of that was asked and they denied it.

He knows Sri.P.C.George. Sri.George came to his office at Mavelikkara and had discussed the solar issue. He used to talk to Mr.George.



He said Saritha had denied the statement of Sri.George before this Commission that Saritha after coming out of jail came and met him and shown the letter by her and that he after reading it returned to her is not correct.

Sri.R.Ajayakosh, Thiruvananthapuram Bureau Chief of Asianet News Chaneel was examined as CW 57 on 16<sup>th</sup> June, 2015 and 03-07-2015. (PP 1 to 15 of Vol.VI) .

He has stated thus: When Sri.Phenney Balakrishnan Advocate of Saritha S.Nair appeared along with her in various Magistrate Courts they used to talk to the media. She was with Phenny Balakrishnan on certain such occasions. At that time Phenny Balakrishnan talks to the media on Saritha's behalf. He spoke about the contents of 23 pages letter written by Saritha S.Nair to the media. The media mainly asked him about the involvement of higher ups to which Phenny answered - yes. At the earlier stages he said if those names are disclosed there will be explosion

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in Kerala. But he retracted from that at latter stages. The media felt from information gathered from various sources that Phenny Balakrishnan was blackmailing by using Saritha's letter. Saritha, on one occasion, told the media that she did not authorise Phenny Balakrishnan to disclose matters on her behalf to the media. He got information that there was an attempt from the part of higher ups for concealing this letter. When such an information was obtained from credible sources Thiruvananthapuram Bureau of Asianet decided to conduct an enquiry. As part of that he contacted the Private Secretary to the Power Minister Sri.Ariyadan Mohammed by name Kesavan and understood from the talk that such a movement took place. He then contacted the then Minister Sri.A.P.Anilkumar telling him that Kesavan is calling and talked to him. Kesavan told the Minister the matters decided by them on the previous day has come out and how it so happened? The Minister replied that nothing has gone out;

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everything will happen as decided. This talk was recorded by him and published in the Asianet. The CD containing the said talk he said he will produce it before this Commission with the permission of the Editor in Chief. In the phone talk the P.S. asked the Minister whether 2 Crores rupees will be sufficient to settle Saritha's cases. Though a clear answer was not given, a bus owner of Malappuram one Nellikuthu Hamza close to Sri.Aryadan Mohammed had dealt with the settlement matter. The CD containing the phone call details as promised by him was brought on 03-07-2015 and produced before the Commission and marked as Ext.X 222. This was the talk made on 26-07-2013. He said that the interview conducted by Asianet with Phenny Balakrishnan is available in their website [www.asianet.news.in](http://www.asianet.news.in) - Phenny Balakrishnan bites on solar case site. He said that the talk between the P.S to Power Minister and former Minister Sri.Anilkumar was regarding the

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exclusion of the higher ups contained in Saritha's letter. To a question put by the Sr.G.P. assisting the A.G. regarding the way in which the phone call is recorded he said there is a method employed in the production control room not to identify the phone of the person calling. It is through the production control room the phone talk is made and the same is transferred to the CD. He also explained the further procedure. He also had a talk with Nellikuthu Hamza (people calling him Hamzakka). This talk is available in the CD produced. From the talk he felt that Hamzakka is also involved.

SRI.M.G.Radhakrishnan, Journalist,  
Thiruvananthapuram was examined before this Commission as CW 31 on 24-03-2015 and 20-04-2015 and his deposition recorded (Vol.III Pp 243 - 253 - 254 - 264 Exts.X 90 to X 93 and Exts.X 113 to 118 marked.)

His deposition is summarised thus:

*SMA*

He was associated Editor of India Today for a short period, during the period, he had evaluated of reports in English and Malayalam occurring in India Today.

In this background he had participated in a discussion in the Mathrubhoomi channel at the request of his Anchor. In that special discussion the main issue was a point raised by Doctor Issac Thomas, MLA with regard to a pen drive containing certain revelations of solar. Mathrubhoomi Anchor Sri.Venu Balakrishnan raised a point about the details of a pen drive which according to him if it is disclosed an explosive situation will arise. At that time Congress MLA Sri.Dominic Presentation said that the allegation regarding the existence of a pen drive is baseless and said that has come out of the imagination of Sri.Venu. Sri.Venu when asked him being a senior journalist of the State, he then said he also heard about this pen drive about the live discussion is came in the media. The idea was to make it appear



that it is an imaginary creation of Venu. Though they try to see this pen drive it was in vain. As a journalist he had written about this subject and expressed his views in the channel. The reason was that this was big scam in the recent time in Kerala. The connection of the higher ups in the society, politics and administration, which this solar scam has to be ascertained. Bing convinced that this is a dangerous situation as a responsible journalist he was concerned with it. The third reason is that the explanations from the authorities there are in consistency. The phone calls between Saritha S.Nair and the personal staffs in the office of the C.M. are materials which will bring out the culprits in the scam. The details are yet to come out, the explanations offered by the Chief Minister in this matter from the very beginning are in consistent it gives an impression that he is not telling the true facts. He has got materials with him as example. He said, what happen in



Delhi Vijyan Bhavan on the day of National Development Committee Meeting held there. The C.M. reached Delhi on 27<sup>th</sup> December to attend the function. He denied this meeting Saritha there. He was consistently denying it and even such that and said that he went to Delhi on 29<sup>th</sup> December. He verified the correctness of the statement and found from website that the 57<sup>th</sup> Conference of the NDC was on 27-12-2012 and that the C.M. of Kerala made a speech there. These documents are marked as Exts.X 90 to 94. It can be seen from that the C.M. and Cultural Minister Sri.K.C.Joseph were present.

On 20<sup>th</sup> April, 2015 when he was again examined he has produced copy of India Today (Weekly) Malayalam Edition dated 03-07-2014, an article with a cover story 'സർക്കാരിന് സൂര്യഘാതം' occurring at Pp 26-35 as Exts.X 113. India Today weekly Malayalam dated 17-07-2013 an article (special report) with a caption





'വിളികേട്ടുകുടുങ്ങിയവർ' occurring at Pp 32-34 (Ext.X 114). India Today (Malayalam) dated 24-07-2013 with a cover story Pp 18 - 25 (Ext.X 115). India Today (Malayalam) dated 07-08-2013 with a cover story Pp 12-19 (Ext.X 116). India Today (Malayalam) dated 11-09-2013 (Pp 12 - 17 - Ext.X 117). India Today (Malayalam) weekly dated 09-10-2013 (Pp 22 - 27 - Ext.X 118). The weeklies now produced by him are published during the period he was working as the Associate Editor of India Today. The leading article from that are by him and the supporting article are of his associates Sri.Bindu Raj.

Senior Government Pleader for the State was cross-examined the witness. He was asked whether these aware of the details of the discussions made on the urgent resolution in the Assembly. He said the details of the urgent resolution and his reply given. He said, the articles included



in the India Today furnished are as stated by the individuals who participate in the discussion.

He said, he knows Advocate Sri.B.Rajendran of AILU, he had talked to him about solar matter also. He admitted that he is the son of a person who had worked day and night for the Communist Party but he has got connection with men in the Communist, Congress and BJP. He is the son of the Sri.Govinda Pillai and V.Sivankutty, MLA is the brother-in-law.

Advocate for C party sought some clarifications and give reply.

The SIT, admittedly, is constituted by the State Police Chief as per his Order dated 14-06-2013, for investigating the 33 solar scam criminal cases in which Saritha S.Nair and Biju Radhakrishnan are the prime accused and to file final reports before courts.

Sri.A.Hemachandran, IPS head of the SIT by his separate orders had co-opted a few other DySP's as members of the SIT and had distributed

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the 33 cases among them for investigation and for filing reports before courts. It is clearly stated in the said orders that the ADGP (SZ) has supervision only and that the SIT will meet at regular intervals to review the progress and for ensuring proper co-ordination. These orders of the State Police Chief and the ADGP (SZ) were simply ratified by the State Government by their order dated 17-08-2013. From the aforesaid circumstances it is clear that the Government only wanted the investigation of the 33 solar scam criminal cases against Biju Radhakrishnan and Saritha S.Nair by the SIT in accordance with the provisions of Section 21(2) (b) of the Kerala Police Act, 2011 read with the provisions of the Code of Criminal Procedure.

The discussions about the solar scam of Saritha S.Nair and Biju Radhakrishnan came in the media in May and early June 2013. This matter was discussed in the Legislative Assembly from 12<sup>th</sup> June, 2013 to 9<sup>th</sup> July, 2013. The discussion



in the Legislative Assembly was the subject matter of print and visual media reports. Besides, the Thiruvananthapuram Citizens Forum and the LDF had also made representations raising allegations regarding solar scam.

As already noted, the Legislative Assembly discussions are summarised in the Paper Book IV compiled by the Commission. The newspaper reports in the Mathrubhoomi and Malayala Manorama dailies during that period are also compiled as Paper Book I and II respectively. The representations received from the Citizens Protection Forum and the LDF are compiled in Paper Book III. That apart, the allegation which is the subject matter of inquiry by this Commission under item No.1 of the terms of reference according to the parties impleaded are compiled in Paper Book V. The allegations as settled by this Commission in its order dated 07-11-2014 is item No.II in the compilation of important orders of this Commission from 2014 to



2017. The gist of the allegations summed up by this Commission in paragraph 29 of the said order, as noted by the former C.M. Sri.Oomman Chandy in his argument note dated 02-03-2017 is as follows:

(i) The Chief Minister, his office, his personal assistants, his personal security officer, close party worker and his aid at Delhi are all partisans to the Solar Scam deals of the prime accused Saritha Nair and Biju Radhakrishnan and rendered all help to them for cheating their Solar Scam customers in one way or the other.

(ii) Though Tenny Joppan was made an accused the Chief Minister, his personal staff, his personal security officer and his aid at Delhi, all similarly placed were purposely excluded from the array of accused by the Special Investigation Team by dubious methods.



- (iii) The then Home Minister Sri.Thiruvanchoor Radhakrishnan had also helped the Solar Scam accused Saritha S.Nair and Shalu Menon in escaping from the clutches of law by his connection with them and also took interest in protecting the Chief Minister by all means by using his position as the Home Minister which is also indicative of his involvement in the Solar Scam affairs of the accused.
- (iv) The phone call details from the mobile phone used by Saritha S.Nair available with the media opened the gate for connecting some of the Cabinet Minister's, many members of the Kerala Legislative Assembly and other political leaders in the Solar Scam deals of Saritha S.Nair.
- (v) The reports also disclose the call details of Saritha S.Nair with high personalities which is indicative of



their connection with the Solar Scam accused.

As already noted, these solar scam criminal cases which are the subject matter of investigation by the SIT are based on agreements entered into between a company by name Team Solar Renewable Energy Solutions Pvt. Ltd., represented by its Director with their customers for establishing Solar Plants, Wind Mills etc. for them for consideration. The case of the complainants in the criminal cases is that they have been cheated by non-executing the work undertaken and therefore they must get back the money paid by them from the two accused persons.

This, simply stated is a case of breach of contract for which there is remedy of the nature of civil suits and other civil proceedings like Consumer Disputes Redressal Forums. They approached police authorities with complaints of criminal nature since they felt that they were



cheated. The cheating according to complainants who had parted with substantial amounts, in Crores occurred since they were led to believe the words of the two accused about the educational and other qualifications of the two main accused and their influence with the Chief Minister, his personal staff, some of the Ministers both Central and State, MLAs., M.Ps., political leaders and high level officers.

It is relevant in this context to note that Sri.Mudikkal Sajjad of Perumbavoor had entered in to an agreement for setting up a solar plant near to his residential premises and also for establishing Wind Mills in Tamil Nadu etc. and he had parted with Rs.40.5 lakhs by way of advance to them. He got back a portion of the amount Rs.7.4 lakhs in instalments by way of remitting it to his bank account. He filed a petition before the Superintendent of Police, Ernakulam Rural at Aluva. His request in the petition was





to summon the two persons and negotiate with them for getting back the money paid by him.

CW 186 Sri.Satheesh Bino, IPS the S.P. Rural sent this petition for enquiry by CW 182 DySP, Narcotic Cell, Aluva, Sri.A.C.Joseph. The complaint filed by Sri.Sajjad before the S.P., Rural and the statement taken by the Station House Officer, Perumbavoor from Sri.Sajjad for registering crime No.368/2013 are produced. (Ext.X 726 & Annexure to Ext.X 727). In that complaint itself Sri.Biju Radhakrishnan had stated his qualifications, his connections with the Central Ministers and State Chief Minister. According to Sajjad, Biju Radhakrishnan told him that the Solar Plant near to his residential premises can be got established by the Government through Emerging Kerala and the inauguration of the said plant can be got done by Chief Minister Sri.Oomman Chandy. The DySP who conducted investigation as directed by the S.P. had stated in his deposition before this Commission that



though Saritha S.Nair was asked to be present for questioning and statement, she declined to attend by stating that she is busy with establishing Wind Mills in Tamil Nadu, and that, if necessary, he can be contacted from the Chief Minister's office and that the Advocate General had told her not to appear before him. He also mentioned in his report that it is understood that she had cheated other persons also by taking substantial amounts from them and therefore the possibility of settling the case is remote. He has also stated before this Commission that from his enquiry he felt that Saritha S.Nair had got connections with C.M. and other higher ups. It is subsequent to the report of the DySP, Narcotic Cell, submitted to S.P. (Rural) that Sajjad was forced to approach Perumbavoor Police Station and to file complaint and FIR on that basis was registered. It has also come out that Sri.Sajjad in this connection had approached the Home Minister, and the Minister for Food and Civil



Supplies, with complaint and that it is as a result of the direction by the Food and Civil Supplies Minister, that Sri.Padmakumar, IPS the then I.G. of Police, Ernakulam Range took interest. Sri.Sajjad went and met Sri.Padmakumar, IPS and discussed with him about Saritha S.Nair and her business activities for more than an hour.

As already stated, the stake involved in Crime NC 368/2013 of Perumbavoor Police Station, based on the complaint of Sajjad, was Rs.40.5 lakhs. As per the Government Circulars, in cases where the amount of money cheated exceeds Rupees Twenty Five lakhs it must be treated as a grave case and must be investigated by the next higher authority, namely, the Inspector of Police having jurisdiction. Accordingly, the SHO, Perumbavoor Police Station has transferred this case to the Inspector of Police, Perumbavoor for investigation. Sri.V.Roy the Inspector of Police took up the investigation of the case. According



to Sajjad he had approached the Ministers since no serious steps were taken by the police for investigation. Sri.Padmakumar, IPS called the DySP Sri.Harikrishnan and gave him instructions to take up the responsibility of arresting the accused and to proceed with the investigation. No written instructions are available. Sri.Harikrishnan, being the DySP, Perumbavoor, as the superior officer under Section 36 of the Cr.P.C., has got the right to assume the investigation and/or to supervise the investigation of the case. Admittedly, Sri.Harikrishnan did not assume the investigation charge from the then investigating officer Sri.V.Roy. In other words, Sri.V.Roy, Inspector of Police, Perumbavoor continued to be the I.O. during that period. Sri.Harikrishnan, DySP, Perumbavoor, instead of directing the investigating officer to arrest the accused urgently by rendering all assistance from his side, he had deputed two police constables under

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him to Thiruvananthapuram for locating the residence of one of the accused Saritha S.Nair and the S.I. of Police, Perumbavoor Sri.Sudheer Manohar and a team were sent to arrest Saritha S.Nair at Thiruvananthapuram. No written authorisation in that regard was given to the S.I. Sri.Harikrishnan also went thereafter to Thiruvananthapuram and when it was reported to him that Saritha S.Nair had been arrested from near to her residence at Edappazhanji, Thiruvananthapuram, he also reached there. According to the police team Saritha S.Nair was arrested from near to her residence at Edappazhanji, Thiruvananthapuram at 4 A.M. on 03-06-2013. Admittedly, the WCPO who is stated to have arrested Saritha S.Nair did not obtain the written permission from the local Magistrate there for arresting Saritha S.Nair during night time. These are prior to the constitution of the SIT. Sri.Harikrishnan, Dy.S.P., Perumbavoor, as a member of the SIT, was entrusted with the



investigation of this case by the ADGP. Though Sri.V.Roy, Inspector of Police who was the investigating officer of this case was also included as a member of the SIT he was not given any charge in any of these cases. He has deposed before this Commission that he was not associated either in the continued investigation of Crime No.368/2013 or in the sitting in the SIT.

It has come out that, except in a few cases registered on the basis of complaints made by Sri.Sajjad, Sri.T.C.Mathew, Sri E.K.Baburaj, Sri.R.Sreedharan Nair and Dr.Mathew Thomas the cases involved being for below Rupees Twenty Five Lakhs, no serious investigation was required. In the cases of the aforesaid persons also the only job of the investigations was to take evidence of the ingredients of the offence of cheating. There was absolutely no need at all for the constitution of an SIT with an ADGP as its head. The normal provisions of the Cr.P.C. regarding investigation in Sections 36, 157, etc., if

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properly followed, the purpose would have been achieved without any complications.

The State Police Chief in his deposition before this Commission has categorically stated that the names of high dignitaries in connection with the solar scam came in the print and visual media which prompted him to conduct a preliminary enquiry through his subordinates and that it is on that basis that he took his own decision to constitute an SIT for a detailed investigation. In fact the decision to constitute the SIT under Sri.A.Hemachandran, IPS ADGP (SZ) was taken by the Government as declared by the Chief Minister in the Assembly on 13-06-2013.

Sri.Oomman Chandy, former Chief Minister for rejecting the urgent motion moved by Sri.Raju Abraham, MLA and others on 13-06-2013 had categorically stated that all those allegations raised in the Assembly will be investigated by the SIT and that there is no need for any apprehension. Sri.Oomman Chandy had further



stated that the question of appointing a Judicial Commission arises only after the report of the SIT, if there is something for that.

The former State Police Chief in his deposition before this Commission stated that he used to attend the Assembly when the discussion about the solar scam issue were held from 13<sup>th</sup> June, 2013 to 9<sup>th</sup> July, 2013. It is also a matter on record that the investigating officers were seen sitting in the gallery of the Assembly.

No doubt, the only circumstance for constituting a SIT is the reports in the print and visual media and the discussions made in the floor of the Legislative Assembly on 12<sup>th</sup> and 13<sup>th</sup> June, 2013 connecting the Chief Minister and his office through the call details of Saritha S.Nair and the personal and security staff of the C.M. and the land phone calls to the official residence of the Chief Minister and back. In other words, it is only for the reason of allegations connecting the C.M. and his personal





and security staff, some of the Ministers in the State and Central, M.Ps. and MLAs. in the solar scam.

The role of the Kerala Police Association in the matter of settlement solar criminal cases is also alleged. It is stated to be in consideration of this the Team Solar Company through Saritha S.Nair sponsored the annual function of the Kerala Police Association by giving donation of Rupees Forty Lakhs.

In short, the very allegation of the solar scam originates from the phone contacts between the mobile phones used by Saritha S.Nair and the personal and security staff of the C.M. as also the phone calls to and from the land phones in the official residence of the C.M. The LDF alleged that the C.M. and his office was the centre of the activities of Team Solar Company operated by Saritha S.Nair.

It must be noted that the C.M. while declaring the constitution of the SIT for



investigating the solar scam criminal cases in which Saritha S.Nair and Biju Radhakrishnan are the main accused expressed in categorical terms that his office has not done anything to interfere with the investigation of these cases. (Page 15). The Home Minister Sri.Thiruvanchoor Radhakrishnan has openly said that, these are private complaints which have to be investigated in accordance with the provisions of the Cr.P.C. He has also stated that he had made enquiries through his own sources from which it is seen going by the tower location vast majority of the calls are made at the time when the C.M. was out of station.

It is seen from the manner in which the investigation was conducted by the SIT in these cases, that the SIT has also understood the mind of the Government and proceeded as if these 33 solar criminal cases are simple cheating cases to be investigated with reference to the complaint based on which the FIR is registered in



accordance with the provisions provided under the Cr.P.C. To put it shortly, if the FIR registered does not contain any allegation with regard to the involvement of higher-ups in the solar deal there is no need to go beyond the allegations made in the complaint. This appears to be the consistent stand of ADGP (SZ) Sri.A.Hemachandran, IPS who is the head of the SIT and all the members constituting the SIT. Some of the investigating officers have stated so categorically; others have stated this in a vague manner. The head of the SIT and the members constituting the same who had investigated the solar scam criminal cases 33 in number have asserted that they are not aware of the details of the proceedings in the Assembly regarding solar scam. The ADGP deposed before the Commission that he came to know of the details only from Paper Book IV prepared by this Commission and that too recently. Others have pretended ignorance of the details except certain



vague information from the print and visual media. The fact remains, as already stated, all the investigating officers were present in the gallery of the Assembly when the discussions were made.

All the 33 solar crime cases happened to be registered in the various police stations in the State on the ground that the complainants have alleged that they were cheated by Team Solar Company and its Directors. It is in view of this allegation in the complaint; a case for civil remedies was made the subject matter of criminal investigation. The allegations regarding cheating made by the complainant have already been stated. Whether it would amount to cheating or not will also depend on whether the connections of Saritha S.Nair and Biju Radhakrishnan with the Chief Minister, Central and State Ministers, MLAs, M.Ps., political leaders and high official claimed by Biju Radhakrishnan and Saritha S.Nair, the accused to the customers have any basis or



not. As such the Assembly proceedings, the newspaper reports, the representations submitted by the Citizens Protection Forum and by the LDF, the CDR details of various public servants are all relevant and useful materials in the investigation of the solar scam criminal cases. The Chief Minister had clearly stated in the Assembly that the SIT will consider all these matters. The stand taken by the SIT, as already noted, is that they are not concerned with the discussion and the speeches made in the floor of the Legislative Assembly by the Chief Minister, Ministers, and MLAs. They are not bound by any direction declared in the Assembly by the Chief Minister and others unless it is given in writing. They will only go by the complaint and the evidence collected based on that as per the provisions of the Code of Criminal Procedure.

Thus it is clear, that the SIT has admitted that they did not consider the materials provided by the Assembly Proceedings contained in Paper



Book IV, the CDR details came in the channels or otherwise, the representation made by the LDF and the Citizens Forum, etc. The evidence in this case afforded by the depositions of the members of the SIT including its head would also reveal that they did not consider those materials except those specifically alleged in the complaints based on which FIRs are registered in the investigation of the 33 solar scam criminal cases. They have considered the CDR details only for ascertaining the connection of the accused with the customers. The recommendation letters produced in Crime No.368/2013 of Perumbavoor Police Station and Crime No. 817/2013 of Aranmula Police Station based on the complaints of Sri.Sajjad and Sri.Baburaj were considered. The alleged involvement of former C.M. Sri.Oomman Chandy in the solar scam criminal cases was considered only in the context of Crime No.656/13 of Konni Police Station registered on the complaint of Sri.R.Sreedharan Nair.



It is also worthwhile to note that the investigation of Crime No.368/2013 of Perumbavoor Police Station was entrusted to Sri.Harikrishnan, DySP, Perumbavoor who was a member of the SIT. At that point of time, Sri.V.Roy, Inspector of Police, Perumbavoor was the investigating officer of that case. Saritha S.Nair was arrested on 03-06-2013 in the Perumbavoor Police Station case and she was kept in judicial custody in Pathanamthitta District Jail. Perumbavoor DySP Sri.Harikrishnan was also entrusted with the investigation of a few other crime cases registered in the Ernakulam Town North Police Station. He, for the purpose of investigation of those cases, got the custody of Saritha S.Nair by the orders of the ACJM (EO), Court, Ernakulam and took her in custody on 16-07-2013. She was kept in his custody in his office till 20<sup>th</sup> July, 2013. She was produced before the ACJM (EO) Court, Ernakulam on 20-07-2013 since the custody period is getting over. Saritha S.Nair told the Court



that she has to say something secretly to the court. The court afforded opportunity to her and she was allowed to speak about it in the presence of the Bench Clerk, a Junior Supdt., both ladies, Saritha's Advocate Phenny Balakrishnan and a WCPO standing near to the door of the court hall room closed. It has come out from the evidence of the ACJM in his deposition before this Commission that she told him that she was sexually abused and that she had been raped. She was asked to give those matters in writing in the form of a complaint. Sri.Harikrishnan, DySP, Perumbavoor was in the court premises; he heard from the media persons that Sri.Phenny Balakrishnan has told that Saritha S.Nair has told that she was sexually abused by the higher-ups; he along with the APP met the ACJM in his chamber and got the message.

Saritha S.Nair was taken back to Pathanamthitta District Jail under police escort and produced her before the jail authorities at





8.50 P.M. on that day. On search of the person of Saritha S.Nair by the women wardens certain kurips written in papers are seen with her. Saritha S.Nair, it is said, told the warden that these kurips are written for giving it to her advocate and therefore they permitted Saritha S.Nair to take the kurip with her to the cell. There is dispute with regard to this, for in the versions of the Superintendent of District Jail, Pathanamthitta Sri. Viswanatha Kurup and the wardens and the former DGP, Jail Sri.Alexander Jacob, IPS there are slight variations.

As per the instructions given by Saritha S.Nair to her Advocate Phenny Balakrishnan he along with Mr.Pradeep Kumar, P.A. to former Minister Sri.Ganesh Kumar came to the District Jail, Pathanamthitta, asking Manoj Kumar to wait outside the jail, Advocate Phenny Balakrishnan with the permission of the jail authorities went to the office of the Jail Superintendent where Saritha S.Nair was brought from her cell.



According to the Jail Superintendent Saritha S.Nair wanted to hand over a letter written by her to her Advocate Phenny Balakrishnan. She brought it and handed it over to the Superintendent and he in turn after scanning through it for counting purposes, handed it over to Sri.Phenny Balakrishnan and obtained receipts from him. It is the case of Sri.Pradeep Kumar that Advocate Phenny Balakrishnan came out of jail with the letter and they together went to Thiruvananthapuram when he handed over the letter to Pradeep Kumar and both of them read the letter. It is further stated that this letter has been handed over to Sri.Manoj Kumar, grant nephew of Sri.R.Balakrishna Pillai, Chairman of Kerala Congress (B) Group. It is also stated that this letter was shown to Sri.Balakrishna Pillai who after reading it wanted the letter to be kept in safe custody by Sri.Manoj.

Sri.P.C.George, former Government Chief Whip in the UDF Government has deposed before the



Commission that this letter was brought to him by Saritha S.Nair to remove the understanding about her that he had read it, that he found it miserable and returned it to her. Dr.Alexander Jacob, former DGP, Jail in his deposition has stated that at the time Saritha S.Nair was produced at 8.50 P.M. in the District Jail, Pathanamthitta the Jail Superintendent was not there; the wardens on checking the person of Saritha S.Nair found that she is in possession of 'kurip', they immediately contacted him, and conveyed this to him. He was also informed of the contents of the letter and that they were asked to keep the 'kurip' in safe custody. He has also stated that the names of important persons and a police officer mentioned in the letter.

These are not secret matters. It came in the print and visual media also. In spite of all these developments Sri.Harikrishnan, the investigating officer of Crime No.368/13 did not



choose to seize the said letter or to ascertain the contents of the said letter from the persons who had read the contents of those letters. To say that the letter written by Saritha S.Nair is her personal property and any attempt to seize the same would adversely affect her modesty and therefore did not seize it and/or enquire about it, is nothing but a false pretence. The information about the letter is very well known to the head of the SIT. He should have given instructions to the investigating officer to seize the said letter. This is all the more so for the reason that, according to Saritha S.Nair she wrote this letter while in the custody of Perumbavoor DySP from 16th to 20<sup>th</sup> of July, 2013 (Her letter dated 19/07/2013). And she told the ACJM that she had been sexually harassed and also raped. The contents of this letter written by her would amount to a factual statement obtained from her on questioning her. This letter written by Saritha S.Nair, if seized and examined, could



have provided abundant material highly useful and relevant to the investigation of the criminal cases by the SIT. The investigation would have been in the proper direction.

It is also interesting to note that Saritha S.Nair was shifted from Pathanamthitta district jail purportedly on security grounds to Vanitha jail, Attakulangara, Thiruvananthapuram on 25-07-2013. The Superintendent of that jail obtained a four page complaint from Saritha S.Nair and produced it before the ACJM (EO) Court, Ernakulam pursuant to the directions of that court. The direction, as already stated, was to give the secret complaint spoken to the ACJM (EO) Court in writing.

Saritha S.Nair has got a case that at the time when she was arrested by the Perumbavoor police from a road near to her residence, stopping the vehicle in which she was travelling after meeting her advocate, the arresting officers took five mobile phones, one lap top and



a bag in which six CDs. and a sum of money was there but all these documents have not been included in the mahazar produced before the Court.

So far as the investigation of Crime No.656/13 of Konni Police Station, lot of allegations are raised by the opposition and by Sri.Sreedharan Nair, the complainant against the investigating officer.

There are various statements of the Ministers in the UDF in the Assembly discussions to the effect that the C.M. Sri.Oommen Chandy has nothing to do with the solar scam.

Now, coming to the telephone call details, the first cause for the controversy is the interim report of ADGP (Int.) Sri.T.P.Senkumar, IPS was submitted to the P.S. to the Chief Minister on 13-06-2013. The CDR details for a specified period obtained by him revealed the constant contact between the mobile phones in the use of Saritha S.Nair and the mobile phones of



Tenny Joppan, Jikkumon Jacob both personal staff of the C.M. and the mobile phone of Sri.Salim Raj, personal security officer, as well as the land phones in the official residence of the C.M. The ADGP (Int.) said that a detailed enquiry is required in this matter. Here it is to be noted that the ADGP (Int.) was also proceeding as if the Chief Minister has nothing to do with in these telephone calls, for, he used the expressions 'misuse' and 'unnecessarily' in the report.

ADGP Sri.A.Hemachandran, all concerned agree that is an upright officer. (Pp 57 - 58 of Paper Book IV). He is the head of the SIT. He by his orders had co-opted a few more DySP's as members of the SIT and entrusted the investigation of all the 33 cases to the various members of the SIT. He kept with him only the supervisory jurisdiction. It was the responsibility of the I.Os. to conduct investigation in the cases entrusted to them. Telephone call details, as

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already stated, is the main material based on which the allegation regarding imputation of criminal liability on the higher-ups are made. The Chief Minister in categorical terms has declared that it will be investigated by the SIT.

Now look at the ingenuity of the upright officer, ADGP Sri.A.Hemachandran, IPS, the head of the SIT. After leaving the investigation of all these crime cases to the members of the SIT and reserving only the supervisory power with him, he as an upright officer concerned with the morality of the men in service, conducts an independent investigation, unconnected with the investigation by the SIT using the members of the SIT also, takes the statements of Saritha S.Nair, Jikkumon Jacob and Salim Raj, keeping Tenny Joppan apart and deals with the misdemeanour / misconduct on the part of Jikkumon and Salim Raj. Based on the statements obtained from those three persons the ADGP comes to the conclusion that the talk from the mobile phones in the use of Saritha

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S.Nair to the mobile phones of Jikkumon Jacob and Salim Raj are about sex which is unbecoming of a government servant. The interim report of ADGP (SZ) Sri.A.Hemachandran, IPS is dealt with in detail in the earlier part of this report. Tenny Joppan who had also made more calls than the aforesaid two persons, to the mobile phones in the use of Saritha S.Nair and back about whom the ADGP said it will be dealt with separately and in detail. Though there is reference to the calls made from the mobile phones in the use of Saritha S.Nair and the land phones in the official residence of the C.M. Sri.Oomman Chandy it is left out of consideration stating that there is certainty in the mobile phone calls considered. It is also relevant in this context that the SIT also did not deal with the telephone call details between the mobile phones in the use of Saritha S.Nair and the land phones in the official residence of Sri.Oomman Chandy. The investigation regarding the telephone calls from the mobile

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phones in the use of Saritha S.Nair and the mobile phones of the aforesaid persons with reference to the allegations raised in the Assembly and in the representation of LDF were ignored. No efforts were made to ascertain the role of other public servants such as other Ministers, MLAs, MP's, political leaders and officers with reference to the telephone calls and were not subjected to investigation by the SIT.

Sri.A.Hemachandran, IPS in his reply to the Commission has stated that he, as an upright officer, keeping in mind Nisha's case took the misconduct of the persons working in the high office of the C.M. very seriously and made the interim report.

It is worthwhile to note that Tenny Joppan and Salim Raj were removed from the personal and security staff of the C.M., and Jikkumon Jacob was also removed from the personal staff of the C.M. on his request in this connection. Any



person with ordinary common-sense would raise a doubt as to what prompted the ADGP (SZ) to make an enquiry into the misconduct of the aforesaid two persons alone other than by way of pending investigation of the solar scam criminal cases by SIT. Whatever it be, the allegations raised in the Assembly by Sri.Raju Abraham MLA and by the Dy. Leader of the Opposition Sri.Kodiyeri Balakrishnan are that the telephone calls between the phone numbers of Saritha S.Nair and the phone numbers of the personal staff Tenny Joppan, Jikkumon and Salim Raj are for Saritha S.Nair to speak to the C.M. and the C.M. to speak to Saritha S.Nair which is explicitly stated in the representation of the LDF this is categorically stated. In this context, the ingenuity of the ADGP is suspicious for, the result of the enquiry and the interim report of ADGP Sri.A.Hemachandran, IPS is exoneration of former C.M. Sri.Oomman Chandy in relation to the telephone calls and to attribute it to his



personal and security staff. The C.M. Sri.Oomman Chandy has stated in the Assembly that he will not make any one scapegoats and escape. Does the action of the ADGP (SZ) consists the statement of the CM. However, still the issue raised by Sri.Raju Abrahm, MLA and the Deputy Leader of the Opposition, Sri.Kodiyeri Balakrishnan remains untouched by SIT or by any of its officers regarding the calls to and from the land phones in the official residence of Sri.Oomman Chandy.

In Sajjad's complaint he had stated so many matters connecting the C.M. Sri.Oomman Chandy. No effort is seen made by the investigating officer Sri.Harikrishnan to question and for to take the statements of the CM about it. Only the recommendation letters were made the subject matter of enquiry.

On the whole, the Commission feels that the attempt of the SIT throughout was to ensure that CM Sri.Oommen Chandy has no manner of connection with Saritha S.Nair and her company.



Can the SIT which claims that they were entrusted with the investigation of the criminal cases alone afford to neglect the discussions in the Assembly relating to the scam and the assurance of the C.M. that everything connected with the scam will be investigated by the scam.

Can the SIT take up a stand, that unless the assurances given even by the CM in the Assembly is communicated to them in black and white, they will not pay any attention to that:

Will it not tantamount to contempt of the Legislature.

The gravity of such an attitude on the part of high ranking police officers will sent a wrong message to the subordinates in the disciplined force.

The following questions arise in this context for consideration.

- 1) Was the SIT entrusted with the investigation of the 33 solar scam criminal cases, in connection with the investigation



of those cases, entitled and/or obliged to look into the Legislative Assembly discussion on the solar scam compiled in Paper Book IV in the cause of the investigation of those cases, the telephone call details relied on by the opposition in the Assembly, and the representations submitted by the Citizens Protection Forum and by the LDF? In other words, are they not materials that can be treated as gathered in the investigation and further investigation proceeded with reference to those materials also?

- 2) Were the head of the SIT and its members, who investigated the 33 solar scam criminal cases as per the State Government Order dated 17-08-2013, under the Code of Criminal Procedure which provides the procedure for, for investigation of crime cases, they are expected only to look into the complaint based on which the FIR is



registered and the material collected on that basis alone to determine the criminal liabilities of persons?

3) Was the investigation team of the SIT justified in ignoring the Legislative Assembly proceedings the representations of the LDF and the Citizens Forum and the mobile phone and land phone talks between the numbers in the use of Saritha S.Nair, the personal staff of the then C.M. Sri.Oommen Chandy and calls to and from the land phones in the use of the official residence of the C.M.

4) When the allegation based on the telephone calls are raised against the C.M. Sri.Oommen Chandy and his office which is one of the main matter for investigation by the SIT as proclaimed by then Chief Minister in the Assembly was it not a specific matter for investigation by the



SIT as proclaimed by then Chief Minister in the Assembly.

5) Whether the ADGP (SZ) in his independent capacity dehornes the investigations of the SIT conducting the investigation on the alleged behaviour of personal and security staff of the C.M.

6) Whether ADGP (SZ) Sri.A.Hemachandran, IPS was justified in resorting to an independent enquiry, with reference to telephone calls unconnected with the work entrusted to him as the head of the SIT, that too in a hurry and by using the members of the SIT also and in submitting an interim report of the nature furnished by him?

7) Whether, in view of the provisions of Section 22 of the Kerala Police Act, 2011 in addition to Section 36 of the Cr.P.C. the ADGP (SZ) was justified in taking the





stand that he had only supervision over the investigation?

8) Did Sri.A.Hemachandran, IPS in fact confined his powers to supervision over the investigation as stated in his order. Did he not participate in taking the evidence of important persons?

9) Whether the SIT was justified in ignoring the letter dated 19-07-2013 stated to be written by Saritha S.Nair while in the custody of Sri.K.Harikrishnan, Dy.S.P., Perumbavoor, found by the Jail Wardens on her body search, delivered it to her Advocate Phenny Balakrishnan by the Jail Superintendent and seen by many? Was he not bound to seize the said letter and to treat the same as her statement?

10) Was the ADGP (SZ) not obliged to take action for seizing the letter and making use of the same in the investigation?



11) When Sri.A.Hemachandran, IPS who took action against two persons - officers for misbehaving to women based on Nisha case what prevented him from taking action against persons who had sexually harassed and raped Saritha S.Nair?

12) When the SIT is constituted for the investigation of crime cases based on the allegation that a company by name Team Solar Renewable Energy Solutions Company has committed a large number of criminal offences in several police stations in the State and the entire transactions are in the name of that Company was it not necessary to make the company as an accused in the crime cases?

Since all the above mentioned questions are integrally connected with the investigation of the 33 solar crime cases by the SIT they are dealt with together.



In cases where the transactions between the parties are governed by agreements entered into between parties supported by consideration where the circumstances based on which the agreements are entered with were not in existence, but one party is led to believe by the representations of the other parties to exist those things it and he had acted on that basis it may have the effect of cheating. Of course duties are cast on the parties to ascertain the existence of those matters/situations, if verifiable. Though those matters are not specified in the agreements complaints of cheating can be verified from attendant circumstances. The attendant circumstances in the case are the averments in the complaint of the victim, the statements of the accused on questioning them and other witnesses to be examined. Here, the investigation of the solar criminal cases by the SIT was required on the allegation regarding the involvement of the Chief Minister, his office and



so on. It is stated so by the State Police Chief. It is also evident from the Assembly proceedings, Paper Book IV. Further Section 21(2) (b) of the Kerala Police Act, 2011 which is relied on by the State Government for ratifying the action of the State Police Chief, the ADGP (SZ) and the investigation team would show the significance of the matter. The matter can come only under 'sensational' matter in Section 21(2)(b). In simple cheating cases where is the 'sensation'.

The provisions of the Code of Civil Procedure nowhere provides that the investigation of a crime case must be confined to the parties mentioned with criminal liability in the complaint and the enquiry must be confined to the allegations made therein.

As already stated elsewhere, the offences under the Penal Codes are offences against the society and therefore it is the obligation of the State to prosecute criminal cases. Cheating



cases may be an exception to this in that these cases can be either settled out of court or compounded resulting in not punishing them for the offence of cheating. No Special Investigation Team is required for such a result.

SIT was necessitated, admittedly due to the alleged connections of the C.M., his office, based on the telephone talks also which the State Police Chief also considered serious. If corruption is alleged and established it will invariably result in conviction and imprisonment under the Prevention of Corruption Act.

In the absence of any inhibition in the Cr.P.C. or in any other law in force and in view of the 'sensational nature of the allegations raised, Commission is of the definite view that the SIT/the investigation team of solar criminal cases were bound to treat the Legislative Assembly proceedings to which they were witnesses to treat it as useful and relevant material in the investigation. The same is the position with



regard to the telephone calls from the mobile phones in the use of Saritha S.Nair and the personal and security staff of C.M. Sri.Oomman Chandy, calls made from and to the land phones in the official residence of the C.M.

The SIT, though collected the mobile phone call details of Saritha S.Nair and available for investigation confined the analysis to the parties to the crime cases. The land phone calls in the official residence of the C.M. without any materials; it is seen saddled on Salim Raj. He had admitted a few calls, Sri.T.P.Senkumar, IPS, says in his interim report. The representation of the LDF clearly tries to connect the telephone calls with Saritha S.Nair and Sri.Oomman Chandy, the Chief Minister.

The investigating officers have no valid explanation as to why the telephone call details were not examined to ascertain the involvement of the C.M., his office, some of the Ministers,

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MLAs, political leaders etc. who had phone contacts with Saritha S.Nair.

Section 22 of the Kerala Police Act provides that a police officer may perform any duty assigned by law or by a lawful order to any officer subordinate to him and in case of any duty imposed on such subordinate a superior police officer may aid, supplement, supersede and prevent any action of such subordinates by his own action or that of any person lawfully acting under his command or authority. Whenever the same shall appear to them to be necessary or expedient for more completed and convenient effect to the law or for avoiding or impingement thereof.

This provision is consistent with the provisions of S.36 Cr. P.C. for, it confers right on the superior officers of police to exercise the same powers as the officer in charge of a police station. From the evidence on record it is seen that he had participated while taking evidence from Saritha S.Nair, Biju Radhakrishnan,



Sreedharan Nair and from Sri.Oommen Chandy former C.M. of Kerala. This would show that, apart from the supervisory power, he was also acting as the investigating officer as provided under the aforesaid provisions. The ADGP as the superior officer, who had entrusted the investigation of the crime cases to his subordinate officers namely the Dy.S.P. by his orders, has every right, of course, in good faith to substitute his decision in the place of the decisions taken by the subordinate officer in the investigation.

As such it is not correct to say he had exercised the supervisory powers alone and the decisions taken by the investigating officers, based on the investigation conducted by them were approved.

Needless to say that Sri.A.Hemachandran, IPS , ADGP (SZ) and the Dy.S.P, nominated by the State Police Chief and by the ADGP, it would appear except Sri.V.Roy, Inspector of Police, Perumbavoor, are very able and efficient





officers. Sri.V.Roy, Inspector of Police, though a member of the SIT was not given any responsibility by the ADGP. Is he not an able and efficient according to the ADGP, not known? It is worth mentioning that the police officers in this State, when compared to the police officers of other State, mostly are efficient and many of them are known for their integrity and reputation. But, in the investigation of the solar crime cases, whether they had used their skill and efficiency in conducting the investigation, casts a doubt.

In the circumstances under which an SIT was constituted to investigate into the solar scam crime cases in which Saritha S.Nair and Biju Radhakrishnan are the main accused any produdent officer for the purpose of put investigation of those crime cases, would have adverted to and considered in the Assembly proceedings, the telephone call details, representations of the LDF and the Citizens Protection Forum etc. which



are materials available/accessible with them. As already stated, no effort is seen made by any of the investigating officers to conduct with the investigation with reference to those materials. The Commission could not find any reason there for except the stand of the SIT that they are obliged to deal with the allegations in the complaint and to make the enquiry with reference to these allegations as provided under the Cr.P.C.

The question could arise if the of the SIT why then Sri.Tenny Joppan a Clerk in the personal staff of Sri.Oomman Chandy could be made an accused. It is in Crime No.656/13 of Konni Police Station Sri.Tenny Joppan is made an accused. Sri.Sreedharan Nair had filed a private complaint before the Magistrate Court only against Biju Radhakrishnan and Saritha S.Nair. General averments are made in the complaint that Saritha S.Nair took Sreedharan Nair to the office of the C.M., talk to the officers there and also



the C.M. Of course the CDRs details of the mobile phones used by Saritha S.Nair and Tenny Joppan could show constant contact between those members. If as headed by the SIT they are obliged to deal with the allegations made in the complaint and evidence taken on that basis only as provided under the Cr.P.C. Tenny Joppan could not have been made an accused. However, the SIT has x, of course based on some other evidence collected from the staff of the Team Solar Company made Tenny Joppan was an accused in that case. The head of the SIT thus that it is only because Sri.Prasannan Nair, Dy.S.P., Chengannor, who investigated Cr.No.656/13 he is man with back borne Tenny Joppan was made an accused. In the complaint filed by Sri.Sreedharan Nair he had stated that there was discussion with the C.M. but in statement filed by the under Section 164 statement he had categorically stated that Saritha S.Nair took him to the office of the C.M. that both of them met the C.M. and



C.M. had given assurances to him. Sri.Prasannan Nair did not have been back borne to seriously question the C.M. and take evidence of other persons. To ascertain the genuiness or otherwise of the statement of Sri.Sreedharan Nair. There is no case for anybody that Sreedharan Nair had an act grained against the C.M. On the other hand the evidence in the only to the effect that the C.M. and the Revenue Minister together had considered a representation of metal crusher unit Association, and passed favourable orders.

The apprehension entertain by in the Sr. Govt. Pleader for the State is that if this Commission is inquiring into every aspect of the investigation conducted by the SIT and finds out the infirmity in the investigation. Apart from the fact that the reputation of the officers who investigated these cases the benefit of doubt going favour of the accused, which would result in the prosecution cases being defeated. The



Commission to like to make it clear that it does not propose to find fault with the investigation conducted by the SIT in so far as the criminal liabilities of the accused in always there. For, it is alien to be enquiry also.

It is true as pointed by Sri.Hemachandran, IPS in his affidavit and in the reply to Section 8B notice filed investigation of criminal case is the job of the police officers investigating the cases and after filing the charge sheet before court the trial of the case is the job of the court where the charge sheet is filed. All matters in connection with the said case are within the powers of that court. Section 173(8) of the Cr.P.C. is also therefor the police to act upon, if circumstances arise.

As averred by the head of the SIT this Commission cannot and will not sit in judgment over those matters. The Commission has no case before it that the persons on whom criminal liability has been fixed in the investigation by



the SIT are not responsible for the crime charged or that the investigation conducted in that regard are not legal or valid. The Magistrate court which disposed of the Crime case No.817/2013 of Aranmula police Station on the complaint of Sri.Baburaj had appreciated the APP and the Dy.S.P. who conducted the investigation, rightly also, for the I.O. has collected lot of materials in the form of evidence to establish the case in the charge sheet.

The Commission, in the allegations settled in its order dated 07-11-2014, found allegations against the SIT also. The allegation, as already noted is summed up as items and in para supra.

The depositions of the State Police Chief who constituted the SIT as CW 183 on 29-10-2016, 03-11-2016 and 11-11-2016, the replies dated 20-01-2017 and 10-02-2017 are Annexed to this report. Besides, the depositions of Sri.A.Hemachandran, IPS, ADGP (SZ) as CW 119 20-

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01-2016, 20-12-2016, 21-12-2016, 10-01-2017 and 17-01-2017, his affidavit, his reply to Section 8B notice and an argument note submitted by him are also Annexed to this report.

The depositions of the members of the SIT, the deposition of Sri.K.Harikrishnan, Dy.S.P., Perumbavoor as CW 112 made on 05-01-2016, 21, 22, 25 and 27<sup>th</sup> April, 2015 and 11-12-2015 as also his reply dated 18-02-2017 to Section 8B notice.

Sri.B.Prasannan Nair, Dy.S.P., Chengnnoor CW 110 made on 29, 30 and 31<sup>st</sup> of December, 2015, 22-12-2016 and 04-01-2017 and his reply to notice under Section 8B.

Sri.V.Ajith, Dy.S.P., Kottayam as CW 171 made on 18, 25 and 31 of August, 2016, 28-09-2016, and 5<sup>th</sup> and 27<sup>th</sup> of October, 2016.

Sri.Reji Jacob, Asst. Commissioner of Police, CB CID, Thiruvananthapuram as CW 107 made on 11-12-2015, 01-09-2016, 23-09-2016 and 21-10-2016.



Sri.Jaison K.Abraham, Dy.S.P. as CW 109 made on 28<sup>th</sup> and 29<sup>th</sup> December, 2015, Sri.K.S.Sudarasan, Dy.S.P. as CW 111 made on 04-01-2016 and Sri.V.Roy, Inspector of Police, Perumbavoor made on 7<sup>th</sup> and 8<sup>th</sup> July, 2016 are annexed to this Report.

It is true that the former State Police Chief Sri.K.S.Balasubramaniam, ADGP (SZ) Sri.A.Hemachandran, IPS and all the members of the SIT were examined in detail on the dates mentioned above. This was required to ascertain whether the allegations raised in the floor of the Legislative Assembly and outside regarding the constitution of the SIT and as to whether there is any substance in the allegations made mention of in item Nos.2 and 3 extracted earlier, raised in the floor of the Legislative Assembly and outside against the SIT). It is true that the E party by its Secretary had asked so many questions to the members of the SIT, including the head of the SIT. The Commission also made





questions to regarding the allegations. Unfortunately, the head of the SIT and two of the members of the SIT have misunderstood this inquiry and happened to make lot of comments which in fact had effect of lowering the reputation of this Commission.

The Commission do not propose to deal with all those observations made against the Commission. Probably such observations are made based on their knowledge about criminal legal jurisprudence. They are not being blamed.

In this context, it is also relevant to note that the DGP (SZ) Sri.A.Hemachandran in his reply to Section 8B notice had expressed his deep anguish and great surprise on receiveing it the 8B notice. He has stated that in his carrier as a police officer, standing over three decades, this is the first time which is the reason for his anguish and surprise. Needless to say, the investigation of the solar scam crime cases involving the Chief Minister and his office, some



of the Ministers both Central and State, some of the MLAs, and some of the political leaders and senior officers is the first time in this State. The allegations, as settled by this Commission in item Nos.2 and 3 mentioned earlier are very serious allegations against the SIT. In fact he was participating in the inquiry based on the summons issued for his examination and by furnishing documents. Thus he had the opportunity to know about the allegations and to defend it. It is only by way of abundant caution notice under Section 8B is issued to him at a later stage. Naturally, this Commission in connection with the said allegation have to consider the conduct of the investigating officers who were entrusted with the investigation of the solar scam cases. If the investigating officers had known about the allegations, items (1) and (2) mentioned above settled by the Commission, as observed by the Hon'ble Supreme Court Kiran Bedy's case, the SIT



of its own could have approached this Commission and vindicate its cause by presenting evidence. They were expected to do so. Section 8B of the Act specifically provides for giving an opportunity to the investigating officers since the conduct of the officers in the conduct of the investigation of the cases is also the subject matter of inquiry by the Commission. The option is on the person who receives such notice to decide whether to avail the opportunity provided in Section 8B and 8C of the Act. Only thing is that if the chooses not to avail such opportunity, in case some observations are made against the conduct of the investigation by them, they shall not be heard to say that such observation which may have the effect of prejudicially affecting their reputation without affording an opportunity, observations are made.. This being the only purpose of the notice under Section 8B it is unfortunate, the ADGP (SZ) Sri.A.Hemachandran, IPS took it as a grave in



justice /mistake committed by this Commission in issuing 8B notice against him. He sought to withdraw the said notice.

Admittedly, the allegation of the complainants is that Biju Radhakrishnan and Saritha S.Nair in the name of Team Solar Renewable Energy Solutions Pvt. Ltd. had cheated them by undertaking to establish solar plants, wind mills etc. for them receiving consideration from them. The contracts entered into and many of the transactions between the accused and their customers bank account etc. are in the name of the company. The State Police Chief in his order dated 14-06-2013 constituting the SIT for investigating the solar scam criminal cases in which Saritha Nair and Biju Radhakrishnan are the main accused had clearly stated in the opening paragraph itself had stated this.

In such circumstances, a question will arise as to whether the company has also to be made an accused in all the cases before court. This



question is not seen addressed by the SIT nor did they make the company an accused in the charge sheet filed before court. The stand of the investigating officers he said, offence under the penal code will lie only against human beings and not against the company or any other legal person. It has to be considered whether the stand taken by the SIT can be sustained and why the SIT did not make the company an accused in all the cases.

There is a clear allegation in the Legislative Assembly that Saritha S.Nair and Biju Radhakrishnan had the help and assistance of the C.M. and his office and other higher-ups for settling their cases. Admittedly, Saritha S.Nair, Biju Radhakrishnan and Tenny Joppan were made accused in the solar cases. The specific case of the investigating officers for making Tenny Joppan an accused are that Sreedharan Nair along with Saritha Nair met Tenny Joppan in the office of the C.M; he had offered all sorts of



help and that Saritha S.Nair gave a sum of money and some gold ornaments to Sri.Joppan in consideration thereof. One of the allegations is the SIT did not include offences under the Prevention of Corruption Act in the charge sheets filed against Saritha S.Nair, Biju Radhakrishnan and Tenny Joppan. The further allegation is that this is purposely avoided only to help them for escaping from conviction and punishment.

The following circumstances would clearly indicate that the State Police Chief and later the State Government have constituted the SIT only as a devise for confine the investigation of the 33 Solar criminal cases in which Biju Radhakrishnan, Saritha S.Nair and their associates - the staff of the Team Solar Company alone. In other words no to deal with the allegations made by Sri.Raju Abraham MLA and others in the Legislative Assembly and outside.

- 1.The reason stated by the Chief Minister in the Assembly for constituting the SIT is



that cases against these cheats are registered in different districts the Chief Minister immediately made it clear that his office has not done anything to interfere in the investigation.

2. The decision to constitute the SIT was declared by the CM in the Assembly only in the background of the allegations raised by Sri. Raju Abraham MLA and others by way urgent motion on 13-06-2013. On that date the State Police Chief did not have powers to constitute the SIT in view of the decisions of the High Court. The state Government had the power under section 21(2)(b) of the Kerala Police Act 2011. In spite of that order dated 14-06-2013 was got issued by the State Police Chief as if it was his own decision, solely for the purpose stated under (1) above. This is again made clear from the order dated 17-08-2013 issued by the Government. Simply



confirming the orders of the State Police Chief and the ADGP (SZ).

3. The Home and Vigilance Minister Sri. Thiruvanchoor Radhakrishnan in the Assembly said that it is a private complaint which will be investigated by authorities competent under the Cr.PC in accordance with law. He further said from the sources available to him he made enquiries and found that the vast majority of the telephone calls from the tower location revealed that they were made when the CM was not there.

The State Police Chief at the relevant time, Sri. Balasubramanian in his deposition had stated that he attended on many days the Solar Scam discussions were made in the Assembly. The former MLA Sri. Divakaran, in the Assembly told to the CM (Paper Book Vol. IV at P 53) that all these statements are made by the CM to influence the investigation. The investigating officers are





sitting in the gallery. The CM's reply would show that he admits the presence of the investigating officers.

It is interesting, rather surprising, to hear from the SIT head Sri.A.Hemachandran IPS and its members that they knew about the Assembly discussions only from medias/news papers.

Now coming to crime No.686/2013 of Konni Police Station registered on the complaint of Sri.Mallelil Sreedharan Nair, he speaks about the meeting of Sri.Oommen Chandy along with Saritha and the assurances given by the CM. Sri.K.M.Mani, former Minister for Finance and Law, in the Assembly obtained a copy of the lawyers notice issued by a Senior Government Pleader in the Kerala High Court under the UDF Government, as an advocate for Sreedharan Nair and defended the CM and said that the CM has no role.

The allegation, as seen above, is that though Tenny Joppan , who was not a counter petitioner in the complaint filed by Sreedharan Nair, he is

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made an accused, but the other personal staff Jikkumon Jacob, gun man Salim Raj, aid at Delhi all similarly placed were purposely excluded from the array of accused by the Special Investigation Team.

Above all, the Home & Vigilance Minister under whom the Police force in the State functions, openly declares in a public meeting at Kottayam Town that he will not allow anybody to touch even a particle of CM's body.

Hearing all these sitting in the Assembly and from media, imagine the position of the SIT. How many Police Officers in the State, even at the top as asked by Sri.Kodiyeri Balakrishnan in the Assembly can ask questions to the CM and admitted by Sri.A.Hemachandran IPS himself in his written statement, have the back bone to arrest Sri.Tenny Joppan except Sri.Prasannazn Nair, Dy.SP, Chengannoor who investigated crime case no.656/2013.



The contentions of the SIT head and its officers 6 in member in their deposition have stated that they are expected to investigate the crime cases only with reference to the complaint based on which the FIR's are registered and the evidence collected with reference to the above as provided under the Cr PC.

The ADGP(SZ), head of the SIT was bold enough to say that he is not concerned with what the Chief Minister or other Ministers say in the Assembly, be it an assurance or otherwise. Unless the assurances given by the CM and other ministers to the Sabha are put in black and white the investigating officers are not bound to or consider it. The state Police Chief, the SIT head and members of the Sit with their busy schedule to attend the law and order problem as stated by the ADGP should not have spared their valuable time if the discussion in the Assembly have no relevance.

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The role of the SIT under ADGP (SZ), it would appear, was to ensure that while investigating the Solar cases the investigating officers shall not advert to or consider the proceedings in the Assembly evidenced by Paper Book IV, the representations of the LDF and another, the telephone call details etc, as relevant materials in the investigation of the Solar cases.

The following circumstances support the above, according to the Commission.

1. As already noted, the allegations against the CM both in the Assembly and outside are mainly built on the telephone contacts of solar scam accused Saritha S Nair and the personal and security staff of the CM Sri. Oommen Chandy.

The CM Sri. Oommen Chandy on, 13-06-2013 itself asks the ADGP(int.) Sri. T.P.Senkumar in the Assembly premises itself, it would appear, to submit an



interim report on the telephone calls alleged by Sri. Raju Abraham MLA and others. He immediately obtains the CDRs of Saritha S Nair, Tenny Joppan, Salimraj, analyses it and submits an interim report to the CM's Private Secretary on 13-06-2016 itself. He, in the report states that Sri.Salimraj admitted certain calls in the land phones in the CM's official residence but no statement is seen taken.

With reference to the large number of calls made in the mobile phone of Tenny Joppan in the two mobile phones of Saritha it is said that a preliminary analysis shows that somebody from the two land phones available at the Chief Ministers residence misused the phones to call Saritha S Nair. It will require detailed analysis involving the persons available on duty there.



From the way the report is filed it is seen stated the personal staff have misused the phones, brought unnecessary embarrassment to the CM. This is the first step.

The second step by the ADGP (South Zone) who is the Head of the SIT constituted by the CM. The Chief Minister has said that the SIT is being constituted solely for the investigation of the solar cases. Chief Minister further said ADGP Sri. Hemachandran will conduct the detailed enquiry suggested by Sri.T.P.Senkumar.

The ADGP, sitting in the Assembly, fully knew the allegations raised by Sri. Raju Abraham MLA based on telephone calls and also the interim report dated 13-06-2013 of ADGP (Intelligence). The statement of Saritha is the basis. The statements were taken by the head of the SIT and its members. He for taking such an action, relied on the decision of the Supreme Court. He it would appear, forgot the forum in all the Government offices including the Police



Departments based on the decision of the Supreme Court giving guidelines for protecting women working there. The appropriate course, to him, was to refer it to that forum. Instead, the ADGP with the help of members of the SIT do the of that forum. He submitted an interim report dated 23-06-2013 (Ext.X393) within 10 days of the report of Sri. Senkumar. In the first para of the report makes the position clear regarding the scope of the investigation and says it will take its own course as provided under the Cr.PC. The ADGP (SZ) who is entrusted solely for investigation of the solar cases, leaving it aside, considered the misconduct, misdemeanour of one of the personal staff Jikkumon and the gunman Salimraj (Tenny Joppan left out for detailed consideration) and find fault with them. Finding against them in para 22 of the report worth noting.

The effect of this report was:

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1) The entire allegation regarding the telephone contacts between Saritha and CM Sri. Oommen Chandy sabotaged.

2) Jikkumon Jacob and Salimraj were absolved from involvement in criminal cases.

The Chief Minister was not questioned on the basis of the telephone calls. Jikkumon Jacob and Salimraj were not questioned in the context of telephone calls for SIT purposes. Sri. Tenny Joppan was not questioned by the SIT based on telephone calls except to take it as a ground for making him an accused.

No enquiry was conducted with regard to the telephone calls in the two land phones in the official residence of CM Sri. Oommen Chandy. See the travesty of justice.

The next important thing, the SIT head and the members of the SIT particularly DySP Sri.K.Harikrishnan knew very well that Saritha had told the ACJM (EO) Court, Ernakulam in cases investigated by the SIT itself, that the higher-





ups have sexually harassed her and she had been raped. The Adgp who was aware of the Supreme Court decision did not take as done in the case of Jikkumon Jacob and Salimraj though the alleged act was more sever. The ADGP took action against Jikkumon Jacob and Salimraj for the sex talk over phone. But when it was alleged by Saritha before a judicial authority that she had been sexually abused and also raped the ADGP it would appear forgot the moral duty.

Added to this, Saritha wrote a lletter on 19-7-2013 while in the custody of the SIT member Sri. Harikrishnan, DySP, Perumbavoor. Everybody knew about this letter and its contents. There was no difficulty for seizing the letter, for, they knew at that time itself that it was not meant for her advocate. Previlage under Section 129 of the Evidence Act, though not applicable to the Commission, according to the ADGP(SZ), it applies to SIT was pleaded to say not seized. If the details which were known to Jail warders,



Jail DGP etc., on 20-7-2013 itself, can it be conceived, especially in the background of what happened before the ACJM (EO) Court on 20-7-2013 it was not known to them.

The investigation conducted in Crime No.656/2013 and the various allegations raised by the complainant against the investigation are there. The Commission do not propose to deal with all those matters in extenso but, necessarily, it has to be viewed in the background mentioned herein above.

Placed in these circumstances, when this Commission with reference to the allegations as settled, seeks information from the investigating officers and affords an opportunity to them these officers, without understanding the purpose of issuing notice to them, put all sorts of blames against the Commission. This is what is happened from the head of the SIT and some of its members.

They ought to have noted that the written statements filed in that manner before the



Commission would attract prosecution proceedings against them under Section 10A of the Commissions of Inquiry Act. The Commission in fact had proposed to take such steps against a minister, UDF Convenor and the Secretary of E Party.

The Commission, noted the allegations made in the written statements filed by Sri. A Hemachandran IPS and found that it did not deserve any consideration except regarding certain factual details which had absolutely no basis. As a very senior officer of the highest rank in the Police force which is expected to be a disciplined one, he should have restrained from making such comments before the Commission in spite of provocation, if any, from anybody. In fact, this gave wrong message to the subordinate police officers as is evident from the action of civil police officers Association which is in the lowest rank in the Police Force through its secretary in making serious allegations against the Commission both in the High Court and later



before this Commission in the form of an argument note.

Now the question of application of the provisions of The Prevention Of Corruption Act, 1988 can be considered. The relevant statutory provisions in this regard are:

Section 2(c) of the Prevention of Corruption Act, 1988 defining "Public Servant" reads -

(c) "public servant" means, -

(i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;

(ii) any person in the service or pay of a local authority;

(iii) any person in the service or pay of a corporation, established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in Section



617 of the Companies Act, 1956 (1 of 1956);

- (iv) any Judge, including any person empowered by law to discharge, whether by himself or as a member of anybody of persons, any adjudicatory functions;
- (v) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court;
- (vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority;
- (vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;



- (viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;
- (ix) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);
- (x) any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for



the conduct of any examination or making any selection on behalf of such Commission or Board;

(xi) any person who is a Vice-Chancellor or member of any governing body, profession, reader, lecturer or any other teacher or employee, by whatever designation called, of any University and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;

(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or State Government, or local or other public authority;



Explanation 1 - Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.

Explanation 2 - Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Section 7, 8 and 9 read thus:

7. Public servant taking gratification other than legal remuneration in inspect of an official act - Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the





exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government Company referred to in clause (c) of section 2 or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than \*(three years) but which may extend to \*\*(seven years) and shall also be liable to fine.

Explanations - (a) "Expecting to be a public servant". If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but



he is not guilty of the offence defined in this section.

(b) "Gratification" - The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) "Legal remuneration" - The words "Legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) "A motive or reward for doing" - A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that

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person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.

8. Taking gratification, in order, by corrupt or illegal means, to influence public servant.- Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or



Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than \*(three years) but which may extend to \*\*(seven years) and shall also be liable to fine.

9. Taking gratification, for exercise of personal influence with public servant.-  
Whoever accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant whether named or otherwise to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service

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or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than \*(three years) but which may extend to \*\*(seven years) and shall also be liable to fine.

Section 13 (1) (a), (d) (i), (ii) (iii) reads thus:-

13. Criminal misconduct by a public servant.-

(1) A public servant is said to commit the offence of criminal misconduct.

(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any other person any gratification



other than legal remuneration as a motive  
or reward such as is mentioned in section  
7; or

(d) if he .-

(i) by corrupt or illegal means, obtains  
for himself or for any other person  
any valuable thing or pecuniary  
advantage; or

(ii) by abusing his position as a public  
servant, obtains for himself or for  
any other person any valuable thing  
or pecuniary advantage; or

(iii) while holding office as a public  
servant, obtains for any person any  
valuable thing or pecuniary  
advantage without any public  
interest;

The expression gratification dictionary  
meaning -



"Gratification" is defined in Section 7(b) as the word "Gratification" is not restricted to pecuniary gratifications or gratifications estimable in money.

"Sexual gratification, or a title or a degree like a Doctorate or other ostensible indication or excellence in profession or service or knowledge is an example of the expression gratification.

Explanation (e) to Section 7 is a modified form of illustration (c) to Section 161 IPC then existed.

It is said -

With the modification, illustration (e) to section 7 of the Act would read - When a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to provide the public servant a woman for sexual gratification as a reward for this

*Am*

service, the public servant has committed an offence under this Section.

Gratification other than pecuniary gratifications or those estimable in money, may be of countless varieties and innumerable numbers." (see Commentary on the Prevention of Corruption Act (Third Edition) by Sri.A.S.Ramachandra Rao published in March 2016 at Pp 317, 318.

The letter dated 19-07-2013 written by Saritha while in police custody, found out by the Jail warders on search of Saritha and handed over to Saritha's Advocate Pheny Balakrishnan by the Superintendent, Pathanamthitta District Jail, the original itself, is now before the Commission and marked through Saritha as Et X 618.

This letter, specifically mentions about Sri. Oommen Chandy, former CM, Sri. Aryadan Mohammed, former Power Minister, Sri. A. P. Anilkumar, former Minister for Tourism, Sri. Adoor Prakash, former Minister for Revenue, Sri. Hybi Eden MLA,





Sri. K.C.Venugopal, Ex Central Minister for State, Sri.N.Subramanian, K.P.C.C General Secretary, Sri.K. Padmakumar, IGP, Sri.Jose K Mani MP and Sri. Abdullakutty MLA. All of them, except Sri. Subramanian were public servants. Allegation is that they were paid money and/or sexual gratification by Saritha S Nair and Team Solar Company.

This apart, it has to be considered whether, based on the allegations made by the victims in their complaints, that Biju Radhakrishnan and Saritha S Nair main accused in the Solar Scam cases have assured to them various helps from Government through the CM, Power Minister etc., the provisions of sections 7 to 13 of the PC Act apply in their cases also.

There is a specific allegation in the Legislative Assembly that Team Solar Company through Saritha S Nair had sponsored the Kerala Police Association programme by spending Rs. 40 lakhs and Saritha in her deposition before this



Commission has said that a sum of Rs. 20 lakhs was paid to Sri.Ajith.G.R, General Secretary of the Kerala Police Association for that purpose. Clause 12(3) of the bye laws of the Association and Rule 12(3) of the rules in this regard issued in the Government order taboos collection of money without the permission of Government. Even the circular of the Government permits collection of a moderate amount only. It is stated by Saritha in her deposition that it was in consideration of their agreeing for obtaining an order from Government in their favour by passing a resolution for installing solar electrification in all the police stations also.

In the circumstances the question of application of the PC Act in Sri. G.R.Ajith's case requires consideration.

Saritha S Nair in her depositions, from 27-01-2016 have alleged payment of money to the CM Sri. Oommen Chandy, Power Minister Sri.Aryadan Mohammed as demanded through their PAs Jikkumon



Jacob, Mr.Kesavan and CM's aid at Delhi Sri. Thomas Kuruvila for issuing the solar energy policy for Kerala. Thus Jikkumon Jacob and Thomas Kuruvila have also role in the money deal.

Payment of money to Sri.K.C.Venugopal is alleged by Biju Radhakrishnan in his deposition for getting MNRE recognition etc.

The SIT has found that Sri. Tenny Joppan had received money and gold from Saritha S Nair and made him an accused Sri.Joppen was very close to the CM Sri.Oommen Chandy. PC Act provision has not been applied. The oral evidence of all the above mentioned persons are on record.

The SIT head ADGP (SZ) Sri. A.Hemachandran IPS and its members were taking the stand they went by the complaint and proceed with investigation as provided in the Cr.PC and found out the criminal liability of persons based on the materials collected on that basis. Virtually their stand is that the ingredients of the



offence under the PC Act must be alleged in or evident from the complaint.

The SIT, according to them, did not consider the allegations in this regard raised in the assembly. They say it was considered but not found applicable. There is nothing on record to show that the applicability of the provisions of the PC Act was considered.

Though the SIT head and its members who investigated the Solar Criminal cases, particularly SP K. Harikrishnan, DySP, Perumbavoor who was the superior officer of SHO, Perumbavoor Police Station and who investigated Crime No. 368/13 of Perumbavoor police station as member of the SIT, no effort was made to seize the said letter and make use of it in the investigation. SIT head's apprehension was that, the letter written by Saritha is confidential instructions to her Advocate and therefore inhibition under Section 129 of the Indian Evidence Act.



The Advocate assisting the Commission in his argument note has set out 13 circumstances for the applicability of the PC Act in the case of Sri. Oommen Chandy, CM and his personal staff and Sri. Aryadan Mohammed, the Power Minister. (Vide his argument note pp 24-28 in the paper book under the head 'Need for further investigation of CC No.400 of 2013 JFCM-II, Pathanamthitta).

The Senior Government Pleader for the State in the argument note submitted by him on 27-02-2017 available in the paper book of argument notes deals with applicability of Prevention of Corruption Act, 1988 at pp38-39. He concludes by saying,

'Applicability of Prevention of Corruption Act, 1988.

The ingredients of Section 9 of the PC Act is stated below:-

'Whoever accepts or attempts to obtain gratification for exercising personal influence on any public servant can be



punished. Here, Saritha S Nair had accepted gratification of influencing the political administration for granting of subsidies for mega power projects (Wind Mill) and for allocation of land at Kinfra Park, Palakkad. The offence u/s 9 of the PC Act is therefore attracted to the facts of Cr.No 656/2013 of Konni Police Station. The abetment of the above Crime by a public servant is punishable u/s 10 of the PC Act.'

It is evident that Sri. Tenny Joppan had in fact accepted money or reward from Saritha S Nair. He was a Public Servant at the time of such acceptance. Under Section 13(1) (d)(i), a Public Servant is said to commit the offence of misconduct, if he, (i) by corrupt or illegal means obtains for himself or for any other persons valuable property or pecuniary advantage. The same is punishable. Here misuse of official position is not a requisite under the section.

9/12/15

Trading in influence is the vice of major corruptions. After knowing the magnitude of business that can be generated in the solar sector persons in political administration were trying to woo that business through corrupt and illegal means by identifying 'middlemen' with minor criminal records and trying to implement such business through them.

Sri. Abraham Kuruwila had mentioned the demand of 1000 Crores Rupees by the Chief Minister directly from one Mr. Binu Nair. The business proposal could not materialise because of the demand of huge bribe. The fact of payment of money to the educational consultancy at the instance of Sri. Oommen Chandy is under consideration by the Civil Court in Bangalore City.

Payment of 25 lakhs to Thomas Kuruwila and an aide of Sri. Oommen Chandy at New Delhi is corroborated by the telephone conversation which began on 27.12.2012 after Saritha S Nair had



reached New Delhi. Subsequent allegation that Abraham Kuruvila along with another person clad in white khaddar dress accepted 90 lakhs rupees from her house at Edapazhanji is also an allegation of corruption/allied financial transaction involved in the solar scam.

It is further alleged by Saritha S Nair that out of the 40 lakhs rupees collected from Mallalil Sreedharan Nair by Team Solar 32 lakhs rupees was in fact paid to the Chief Minister. The above aspect in the present circumstances is also a credible information that ought to be probed under the prevention of Corruption Act angle. This is apart from the huge business potential under the scheme of C.L.Anto's.


At any rate, a case under the Prevention of Corruption Act is to be registered against Sri. Oommen Chandy and associates and investigated, since abundance of materials for inferring a strong prima facie case is made out by the evidence collected by this Hon'ble Commission.





The E party in its detailed argument note at p 159-161 (argument note by itself is in one volume) speaks about the applicability of the PC Act with reference to the Cr. No.656/13, Konni Police Station.

Sri. Oommen Chandy, former CM in his additional argument note dated 29-04-2017 at page 8 under (4) application of Prevention of Corruption Act, offence of criminal conspiracy and the reopening of Crime 656/2013 of Konni Police Station has dealt with the matter in detail. He dealt with the contentions of the Government Pleader, counsel for the Commission and the E party that provisions of Sections 9, 10, and 13(1)(d)(i) & (ii) of the PC Act are attracted especially in crime No.656/2013 of Konni Police Station and submitted that the contentions are fallacious. Reasons are also stated at Pp8-12. Decisions of the Supreme Court are also relied.



The Commission does not propose to deal with all those in detail.

In the background of the discussions already made, the Commission is of the definite view that there is a clear case for application of the provisions of sections 7, 8, 9 and 13 of the PC Act or any one of the above sections in the case of persons already mentioned. It is matter for deeper investigation.

The elaborate dealing of the letter by the Commission based on the letter written by Saritha S Nair on 19-7-2012 dealt with as follows:

SARITHA S.NAIR'S LETTER DATED 19-07-2013

As already noted Saritha S Nair was arrested by the police on 03-06-2013 from her residence at Edapazhanji, Thiruvananthapuram in Crime No.368/13 of Perumbavoor Police Station.

She was kept under remand initially in Kakkanad Jail. From there she was shifted to District Jail, Pathanamthitta on 27-06-2013 as



per directions of court. She was there upto 02-07-2013.

The investigation of Crime No: 368/13 was taken over from Inspector of Police Sri.V.Roy by Perumbavoor Dy.SP Sri.K.Harikrishnan after the constitution of the SIT with ADGP(SZ) Sri.A.Hemachandran IPS as its head, as per his order. Sri.V.Roy was also a member of the SIT constituted by the State Police Chief as per order dated 14.06.2013. But he was not involved in the investigation of this case or any other solar case.

There were 4 solar cases of Ernakulam Town North Police Station against Saritha S Nair and Biju Radhakrishnan, directors of Team Solar Renewable Energy Solutions Pvt. Ltd, which were also entrusted to Dy.S.P. Sri.K.Harikrishnan for investigation as member of the SIT which are under consideration by the ACJM (EO) Court, Ernakulam.

*Handwritten signature*

Sri.K.Harikrishnan, Dy.S.P. got the custody of Saritha S Nair from 16-07-2013 as per order of the ACJM Court from the District Jail, Pathanamthitta and returned her back to the Jail at 8.50 PM on 20-07-2013 after producing her before the ACJM (EO) court on that day.

Saritha S Nair was produced before the ACJM (EO) Court on 20-07-2013. Dy.SP Sri.K.Harikrishnan was also in the court office and premises.

Saritha wanted to say something confidentially to the ACJM and accordingly her case was taken after roll calls etc., at about 1.30 PM. The Magistrate, Bench clerk, Junior Superintendent (a lady), a woman CPO, Saritha S Nair and her advocate Pheney Balakrishnan alone were in the closed court hall. WCPO was standing near to the door of the court hall to ensure nobody else enters the court hall.

Saritha spoke to the Magistrate who was in the Dias; Saritha was standing in the box near to



the bench clerk. What Saritha told the court could be heard by those present except perhaps the WCPO.

Media people and channel people, it is stated, were in the court premises. Sri.K.Harikrishnan, Dy.SP himself was telling that Saritha told the court about higher ups media people say. Now the position is that the ACJM asked her whether she had been sexually abused and also raped. She said yes to both. She was asked to give it in writing in the form of a complaint. Sri.N.V.Raju, ACJM(EO) Court has deposed so before the Commission. The APP and Dy.SP Sri.K.Harikrishnan met the ACJM in his chamber during lunch break and ascertained the details.

As already noted, the Police took Saritha back to District Jail, Pathanamthitta at 8.50 PM on 20-07-2013. The Jail Superintendent was not there. The Jail Warders (Women) on duty, while admitting Saritha back to Jail, on search of the



person and belongings with her, found a few hand written papers. The Jail Superintendent in his deposition has said since Saritha told the Warders that these kurip is written for giving it to her advocate she was permitted to take it with her to the cell in the Jail. But Dr. Alexander Jacob, IPS, the then Jail DGP in his deposition before this commission says that the Jail warders contacted him, that he instructed them to keep it in the custody and give it only to Saritha's mother or her advocate. He also said that the contents of the letter were intimated to him.

On 24-07-2013 Saritha's Advocate, Phoney Balakrishnan, goes to the Pathanamthitta District Jail and meets the Jail Superintendent Sri. Viswanatha Kurup in his office. Saritha was brought there; she sought permission of the Jail Superintendent to hand over the letter to her advocate. Jail superintendent contacts the higher ups and then hands over the letter to the advocate and obtained a receipt from him.



Sri. Pradeep kumar, P.A. to Sri. Ganesh kumar MLA who came along with Pheney Balakrishnan was waiting outside the Jail. Both of them returned from the Jail. With regard to the rest of the events there are certain inconsistencies in the depositions of Advocate Pheney Balakrishnan, Pradeepkumar, P.A. to Sri. Ganeshkumar, Ex-minister, Kerala Congress B, General Secretary Sri. Saranya Manoj and Sri. R. Balakrishna Pillai, chairman, Kerala Congress B Group (not much relevant here).

Thus it has come out that there was a letter written by Saritha S Nair, according to the Jail Superintendent Sri. K. Viswananatha Kurup, the letter was having 21 sheets. Pheney Balakrishnan gave a receipt Ext 174. He mentioned the provisions of Rule 751 of the Kerala Prison Rules. He said he did not read it. He said he was sure about the number of sheets of paper as 21. Seal of the Jail was not put in the said letter.



Dr.Alexander Jacob IPS, who was the DGP (Jail) at that time was examined as CW 115 on 15-01-2016 (DW vol.XIPp 251-281) in this regard. It is revealing:

He said the Jail wardens understood that the paper in which Saritha Nair had written while she was in the custody of Perumbavoor Police was not the one issued either from the Jail or from the police station. They, on seizing those papers, immediately contacted him over phone and informed the same to him. The Wardens, he said, informed him that the seized papers 21 sheets written on both sides and it has 42 pages.

He then asked them to verify whether it is addressed to the Magistrate since on the previous day night in the TV channel news came that Ernakulam ACJM (EO) Court, had asked Saritha to give a statement in writing.

He was told that it was her biography (ആത്മകഥ) not addressed to anybody. He





instructed them that if anybody connected with Saritha come enquiring about that letter the Jail rules 751 must be read to them and act accordingly. They were specially instructed that this letter shall not be given to anybody other than Saritha's mother or Saritha's Advocate. As per Section 751 any document which has to be given officially each page has to be signed and sealed at the bottom before delivery. If it has to be given to the Judge or to court it must be addressed from the Jail and sealed. This requirement need not be complied in one case i.e. a kurip prepared by the prisoner for giving it to the Advocate who conduct the case. Such papers shall not be read by the Jail Superintendent.

The Jail Superintendent Sri.Viswanatha Kurup was in the Jail when Saritha's Advocate Fenny Balakrishnan came to the Jail.

Jail Superintendent it is stated gave rule 751 to the Advocate for his perusal. Advocate wanted the letter to be given without the



signature of the Superintendent. The Jail Superintendent accordingly requested the advocate to give acknowledgement for the receipt of the letter and Pheney Balakrishnan in the register maintained in the Jail recorded receipt of the letter 21 sheets written on 42 papers and received the letter from the Jail Superintendent. He does not know whether Saritha was there in the Superintendent room.

While Saritha Nair was kept in the Attakulangara Jail as per his orders on 23-07-2013 strict direction was given to Jail Superintendent not to allow anybody to visit Saritha other than Saritha's mother or her advocate and close relatives certified by Saritha. There was about 150 applicants for visiting Saritha on the day when she was brought to Attakulangara Jail. He issued such a direction in these circumstances. When calls for talking to Saritha came from abroad also the instruction issued above applied.



There was an official message that during 28-07-2013 to 31-07-2013 National Human Rights Commission Member Sri.Cyriac Joseph will visit Poojapura Central Jail and Attakulangara Vanitha Jail. In connection with that he visited two Jails and collected the required details sitting in the Jail Superintendents room. He did go to the Vanitha Jail, Attakulangara for the reason that solar cases and the main accused Saritha Nair was in the said Jail. He also informed his inability to accompany the Human Rights Team to that Jail to Sri.Cyriac Joseph. The Human Rights Member therefore decided not to visit that prison. A senior police officer of the Human Rights Member was sent for collecting details.

Sri.Gopakumar, DIG, Headquarters went to Attakulangara Vanitha Jail and verified the registers and files to see whether maintained properly. In his absence DIG Sri.Gopakumar is being entrusted. He gave special instruction to DIG not to talk to Saritha Nair alone.



He said, it perplexed him why Pheneey Balakrishnan has not produced the original letter of Saritha to court. He said he had also instructed the Jail Superintendent not to permit anybody to see Saritha in the Jail except her mother, Advocate or first cousins certified by Saritha. He said that he knew that a person not belonging to the category mentioned by him was allowed to enter Attakulangara Jail. It was on the previous day of preparing the statement for filing it in court. He said on that day a person below 40 years of age came along with Saritha's mother to meet Saritha. Since that person was not seen earlier the Superintendent contacted him over phone and told him. He told them to ask Saritha whether that man is a relative. Saritha told that he is a relative and hence permitted. On subsequent enquiry it was found that he was not a relative. He understood from the Jail authorities that there was change in her attitude thereafter.



He says that the Jail superintendent was contacting the DGP in all matters relating to Saritha and that he has been giving instructions to her. He asked the Superintendent to give 22 sheets of paper for writing and to prepare the statement sitting in the Superintendent's room. The Superintendent contacted him at 9 PM on the day of preparing the statement as suggested and told him that the statement is over; 22 sheets were not required only a few pages were needed. He instructed her to get the signature of Saritha on all pages and countersign it with the seal. He also ordered police protection to Smt. Nazeera Beevi, Jail superintendent for going home and for the to and fro journey to file the affidavit in ACJM (Court), Ernakulam. DGP himself contacted the City Police Commissioner, Thiruvananthapuram and made arrangements.

He said he did not read the letter written by Saritha Nair and kept in the Jail. He did not see or read the statement prepared by Saritha but



know from Jail Superintendent that it was only 4 pages.

He said, when confronted with Prison Rules 751, he did not see the letter, nor read it but he knows the contents told to him by the staff who seized the letter. He said, apprehending defamation proceedings unless the original letter comes out, he can only say about 13 VIPs and a police officer are there in the letter. Names cannot be mentioned.

He said the name of the C.M. is not there other name he will not mention.

Saritha S Nair in her deposition before 27-01-2016 had mentioned about a letter written by her but the details not said.

Sri.Raghoothaman, the D party, has filed a petition IA No.7/2015 for direction to Saritha S Nair to produce the original letter written by her shown to the media persons in the press conference held in April 2015 at Thiruvananthapuram, as according to him, it



will be relevant and useful in the inquiry. Saritha S Nair and other parties were afforded opportunity to have their say in the matter. Thereafter an order dated 14-01-2016 was passed directing Saritha S Nair to produce the letter handed over to advocate Sri. Pheneey Balakrishnan by the Superintendent, District Jail, Pathanamthitta. Then a detailed order dealing with contentions raised by the parties was also issued on 23-01-2016. Both these orders are available as Sl. Nos. 21 and 24 at Pp 90-91 and 102-106 respectively in the important orders Compilations. The Commission in its order dated 14-01-2016 has observed thus:

"Considering the entirety of materials available on record and the subject matter for inquiry - the allegations as settled by the Commission - the Commission is of the definite opinion that the said letter, if produced, will



be of great use and relevance in the inquiry. Though it is stated that the said letter if produced will adversely affect her right of privacy, the Commission, on the evidence available on record, is of the opinion that it has lost its confidentiality and therefore she must be directed to produce the same before the Commission to satisfactorily complete the inquiry".

It is unnecessary, now, to deal with the detailed reasons stated in the order dated 23-01-2016 in view of the subsequent developments.

Saritha challenged the order passed by the Commission for production of the letter written by her on the ground that, if produced and made public, it would affect her right of privacy and obtained stay of the order of this Commission. Saritha has got a case that it was done at the instance of the interested parties.





Now the fact is that a copy of the letter written by her which came in the media was produced first, in spite of stay and later the original letter written by her itself is produced before the Commission (Ext.X 639(b)). The Commission is aware that this matter is sub judice before the CJM Court, Ernakulam in defamation proceedings at the instance of former Chief Minister Sri. Oommen Chandy and former Central Minister for State Sri.K.C.Venugopal.

The SIT was constituted, based on the allegations raised in the Assembly for investigating in to the solar criminal cases in which Biju Radhakrishnan and Sritha S Nair, in the name of Team Solar Company, had cheated their customers. Since Dy.S.P. Sri.K.Harikrishnan who was the investigating officer, as a member of the SIT was very well aware of the allegations raised by Saritha before the ACJM and the letter seized by the Pathanamthitta Jail authorities, definitely these matters must be known to the



ADGP (SZ) who is the head of the SIT and from them to the State Police chief, the Home Minister and to the Chief Minister. The anxiety shown by the former DGP (Jail) Dr. Alexander Jacob in the matter of Saritha in his deposition is significant. It is surprising, rather perplexing (as said by Dr. Alexander Jacob) why the head of the SIT who is always concerned with protection of women with reference to the decision of the Supreme Court in failed to take note of the statements made by Saritha before the ACJM about the sexual harassment and rape caused to her by the higher up, leave alone the letter written by Saritha and seized by the Jail authorities and handed it over to Advocate Pheney Balakrishnan. The significance of the letter written by Saritha arises in this context. Was it not a matter which could have been made use of as a relevant material in the background of the matters told before the Magistrate?

A handwritten signature in dark ink, appearing to be 'G. J. Jacob', with a long horizontal stroke extending to the right.

Now the original letter written by Saritha dated 19-07-2013 while in the custody of the Dy.S.P., Perumbavoor and found out by the Jail warders is before the commission marked as Ext.X 618.

Commission has furnished a photo copy of this letter dated 19-07-2013 to Sri.Oommen Chandy. Relevant portion in the letter relating to all other persons except Sri.Palani Manickam, Central Minister were furnished to them. All of them were afforded opportunity to cross examine Saritha with reference to the contents of the letter. (vide Saritha's deposition dated 29-6-2015 confidential but now disclosed.

The Commission has perused the letter. A translated version of the said letter is appended. It is found to be very relevant and useful to the subject matter of inquiry by the Commission.

This letter, contents thereof, is not a secret one now. Chief Minister Sri.Oommen Chandy

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openly said before the Commission that he has nothing to hide, does not require in camera proceedings with reference to this letter.

This letter mainly says how she was cheated by Sri.Oommen Chandy. It is better to quote the translated versioaAn of her original letter. (Ext.X639 (b))

1) Oommen Chandy looks like her father (തനിസ്വരൂപം). He has not seen her at all. Happy to hear. Oommen Chandy Sir does not see not only her, he does not see any other women? Higher ups in the society can do anything. CM can deny. He can say not seen, forgot everything. But she cannot Sri.Oommen Chandy sexually wanted her to do oral sex. She obeyed it and had done oral sex with him in the Cliff House. Was it got done without knowing her? Has he not misused his status as the CM?. Then he



knows Saritha. But the CM does not know Saritha by name Lakshmi.

Did she not inform the companies problem which arose, did she not begged (kalupidichille). Then he was more interested in his sexual satisfaction? All these have to be brought before law.

Addressed Sri.Oommen Chandy.

You have obtained from her (from her company) for setting Solar Projects Rs.2 Crores 16 lakhs on different occasions. She gave money to him in Cliff house. Later Rs.40Lakhs was paid to Sri.Thomas Kuruville of Delhi. Thomas Kuruville and Chandy Oommen came together to Air Port, Thiruvananthapuram and received Rs.50 Lakhs. When the project was late, for removing the lagging and for expediting the Solar policy Sri.Thomas Kuruville received Rs.25 Lakhs from her. Rs.1 Crore was first given at Cliff House. Thomas Kuruville received Rs. 1 Lakh as his fees. Whether



these money are not sufficient to pay of the complainants' in the criminal cases?

When the idea of Mega Solar Project was given Sr.Oommen Chandy contacted the Power Minister Sri.Aryadan Mohammed and told him to settle her project. Based on that it was agreed that her Mega Solar Power Project will be considered through single window arrangements. The CM had also assured her that this project Public Private Project (PPP) can be treated as PPP. He also assured that KINFRA land or KSIDC land can be obtained. The CM had agreed to personally see the investors coming for this project. There is no doubt that one of the case will be Sreedharan Nair case being one among the controversial cases. CM had talked to the Mallelil people over phone. Date for meeting the CM was obtained after executing the MOU. Sreedharan Nair was very particular to meet the CM before the MOU. CM said that meeting can be held after he returns from Delhi and therefore based on the telephone talk



with the CM the MOU was signed and initial stage fund (fees) by way of cheque issued. Of the 3 cheques the last cheque should be submitted to the Bank was the demand of Sreedharan Nair.

Though they reached secretariat by about 6.30 pm on 9<sup>th</sup> July CM came to the office only by 9 pm after the feast at Bishop House, Pattom. On that day CM met two persons of which one was the meeting with her and Sreedharan Nair. Advocate Ajith Kumar was with them. He was kept outside when they went inside. At that time in the chamber of CM Sri.Selvaraj MLA and another accompanying him were there. Seeing her they were sent out and CM came near to them and gave all sorts of assurances (perumazha) to Sreedharan Nair. As per that Single Window Project, land in Palakkad KINFRA Park, Government subsidy and all other helps were assured.

Sreedharan Nair went along with the CM to downstairs in the lift. CM now says that Sreedharan Nair was not seen. When the CM himself



has given the assurance she belived it. That self confidence cheated her. The CM demanded 10% of the Crores of Rupees project (approximately Rs4 Crores). Did he not receive 2 Crores in different occasions even before starting the Project?. In spite of the same, he did not arrange the project, now at last she is alone. Those who received money are not with her. Persons who assured are not with her. Whether these money will be got back by the police?

She had associated for so many property deals. She did not get even the margin money. She treated the CM as her father and respected him but, perhaps he, on many occasions, had treated in a different way, she treated as the *00000* of women. But, today she knows even these case as if victim of a revenge she has to suffer. Property deals in Kochi she does not want to say more. She had been destroyed by all together. People whom she loved and believed. All including the party





discards (തള്ളിപ്പറയുന്നു) and singles out. She has greatly suffered (മരിച്ചാൽ) for each of them. She may die even now for, she has the congress blood no case against cheats. When case is registered against will he not become an accused in the Mega Power Project cases. It is based on his word Mega Project investors were brought. He received money for that. Probably, it may be an ordinary government lagging but it was not contained by the investors. She was cheated though believing their words she was with them. Said not phoned up used to phone up every day. She was called and talked from the phones of Jopan, Jikkumon And Salim Raj. Even when Biju Radhakrishnan met the CM in the Government Guest House, Ernakulam to complain about her connections with the former Minister and now MLA Mr.Ganesh Kumar CM contacted her and told her that allegations are made and that she must be careful. That much intimacy was shown by him.



Now, what happened? Why telling lies? Please don't make her alone scapegoat.

The misdeeds of others will not come anywhere near what she got from the CM. Her money, her body every thing lost and kept her now pretends they do not know anything തള്ളിപ്പറയുന്നു. Why should she alone be crucified. How Team Solar became non existent. Marketing etc conducted day and night earned money taken by Biju Radhakrishnan, Shalu and politicians. Remains herself, her two small children and old mothers. Now case after case. She is facing cheating cases.

In this case Chief Minister and others who received money and destroyed her by giving big assurances will be made accused?

The CM and Sri.Aryadan Mohammed when she took the customers to them gave assurance to them which they believed. What is the offence alleged against her? Gave assurance and received money by



cheating? What CM had done? Can he do this to her? She did not take money belonging to the customers. Neither the Police nor the media wants, the persons who took the money nobody wants them.

On occasions when people opposing the CM came she informed this to CM for him be careful about this. She did not like to see any danger to the CM. Who she respected. But when a situation of danger came to her nobody for her not prepared to be a scapegoat. Enough evidence is with her. It can be produced in court for evidence. She does not know when this case will be over, when will she come out of Jail. The only big blame committed by her is to believe the words of the CM. What other offence committed by her to destroy her like this? She has got evidence of exploitation in respect of each dealings and telephone talks. Let each dealings and telephone talks. Let case be registered. Let enquiry come against them.



There is mention about 16 + 1 persons of which serial Nos.1 and 2 are Biju Radhakrishnan and Salu Menon. The others are Sri.Oommen Chandy, CM, Sri. Aryadan Mohammed, the Power Minister, Sri.A.P.Anilkumar, Minister for Tourism, Sri.Adoor Prakash, Minister for Revenue, Sri.Hybi Eden MLA, Sri.K.C.Venugopal, Central Minister for Aviation and Former Minister for Power, Sri.Palani Manickam, Central Minister of State for Finance, Sri.N.Subramanian, KPCC General Secretary, Sri.K.Padmakumar IPS, IGP, Sri.M.R.Ajithkumar IPS, Former Commissioner of Police, Kochi City, Sri.Vishnunath MLA, Sri.Mons Joseph MLA, Sri.Ramesh Chennithala's P.A. Pratheesh Nair and Sri.Jose K Mani,M.P.

One more man is Sri.Abdullakutty MLA.

Notice was not issued to Sri.Palani Manickam. Hence no comments about him in this report.

Going by this letter, if the facts stated therein are true, then, the allegations raised in the Assembly and outside as settled by the



Commission has got basis and the persons dealt with in the letter, it can be seen, had assisted Team Solar Company and its two Directors Saritha S Nair and Biju Radhakrishnan one way or the other.

This apart, it is a matter to be considered with reference to the provisions of the Prevention of Corruption Act (PC Act). Illegal gratification contemplated under the PC Act need not be confined to money or any other property. Giving sexual satisfaction, according to Commission is also one coming under gratification, Section 7(b) of the Prevention of Corruption Act.

The Senior Government Pleader appearing for the State in his argument note submitted to the Commission has stated that sex is not the subject matter for inquiry by this Commission. No doubt, sex and sexual satisfaction are matters which will vary from person to person. Age is no bar. It is left to the individuals. But, if sex and



sexual satisfaction are sought by a public servant or somebody for getting something done by a public servant in discharge of his official duties certainly the position is different.

In these cases, sex and sexual satisfaction are connected with public servants who are none other than the head of the administration, the CM, the Power Minister, other Ministers etc., named in the letter.

Besides, receipt of money for grant of benefits from Government are also stated in the letter. The persons to whom money is paid are also stated.

Here, the following circumstances are relevant.

1) Saritha telling the ACJM Court confidential matters which includes sexual harassment and rape.

2) ACJM Court without recording this telling Saritha to file complaint in writing. Assistance of advocate also suggested.



3) On body search by Jail warders on Saritha Nair when returned to Jail after custody this letter written by her found out. Contents read, it is said, conveyed to DGP (Jail) immediately.

4) Saritha's shifting from Jail, one of the reasons, is this letter, DGP (Jail) said.

5) Contrary to the instructions of the DGP (Jail) the Vanitha Jail Superintendent permits a stranger to accompany Saritha's mother without production of his identification documents before preparing the complaint.

6) Saritha's preparing the letter in the presence of Vanitha Jail Superintendent Smt. Nazeera Beevi as instructed by DGP Jail. 22 sheets of paper for preparing the complaint was provided as per the instructions of DGP since Saritha's letter was in 21 sheets. But the complaint was only in 4 sheets and that too filed before ACJM



Court by the Jail Superintendent personally. Saritha's Advocate was not associated.

7) Saritha S Nair objected to the production of the letter when the petition for that purpose was filed by D Party.

The direction of the Commission by an order to produce the original letter was not complied with.

Filed writ petition against the said order before the Hon'ble High Court and got stay.

Later, of her own, Saritha S Nair shows the letter in the press conference and without asking furnishing the copy of the letter and later, at her instance, the original letter itself produced before the commission.

The SIT head, when asked, said, if seized, it would amount to violation of Section 129 of the Evidence Act. When asked, former CM Sri. Oommen Chandy said, it was not seized. He further said to his knowledge there is nothing in the letter against him.





Sri.T.P.Senkumar IPS in his deposition also has stated.

Here, it must be noted, Sri.Alexander Jacob, former Jail DGP in his deposition volunteered to say that the name of Chief Minister is not in the letter.

It is very difficult in the back ground to believe that the Government and the Police including the SIT was unaware of this letter and its contents.

As already stated, it is a matter for consideration as to whether there is any truth in what Saritha S Nair has stated in the said letter.

So far as the solar scam is concerned it is an admitted position that Biju Radhakrishnan and Saritha S Nair, in the name of Team Solar Renewable Energy Solutions Pvt.Ltd, a company registered under the Companies Act, had entered into MOU with their customers for establishing Solar Panels, Solar Plants, Windmills as also



dealership in their business, received consideration in part from them and committed breach of the undertaking. They had made many statements and shown many documents to the effect that they have connections with higher ups and their help and co-operation will be available to them. Whether, these circumstances will convert a case for civil liability to one of criminal liability of cheating is a different matter which is the concern of the investigating officers and the court. This Commission is not at all concerned.

It is made clear that the report of this Commission has nothing to do with the criminal trial of the 33 solar criminal cases in which charge sheets are filed in courts of which two cases have already been decided.

The Commission makes this position clear only because the Senior Government Pleader for the State has been reminding the Commission that any observations against the investigation of these



cases by the SIT will go in favour of the accused in trial. The SIT is also having such a stand.

Here, as Mr. Raju Abraham MLA and Sri. Kodyeri Balakrishnan, the then Deputy Opposition Leader said, the issue is different. The issue is whether the Chief Minister's office was the centre of activities of the solar scam accused Saritha S Nair and Biju Radhakrishnan. Put it shortly, the issue is as to whether there is any substance in the allegations as settled by this Commission in its order dated 07-11-2014.

The facts now found by the Commission are:

There are lot of telephone contacts from the mobile phones used by Tenny Joppan closely associated with Sri.Oommen Chandy as CM. He was the shadow of CM Sri.Oommen Chandy in his office in the Secretariat. He is always there with him. Jikkumon Jacob, CM's own man, CM's Gunman Salimraj, as also CM's Delhi aid Thomas Kuruvila contact with the mobile phones used by Saritha. There are also calls between the two land phones



in the official residence of CM Sri.Oommen Chandy and two mobile phones in the use of Saritha.

Sarith S Nair in her letter says she was being contacted almost every day by the CM in the mobile phones of Tenny Joppan, Jikkumon Jacob and Salim Raj. She said so in her depositions also.

Chief Minister Sri.Oommen Chandy did not have a mobile phone of his for his use and he was contacted by the ministers, political leaders etc., in the mobile phones of staff with him. He also uses their phone. While in Delhi the CM is contacted and CM contacts in the mobile phone of his aid Thomas Kuruvila.

Salimraj, Former gunman of the CM in his deposition dated 14-12-2016 says that Saritha S Nair used to call in his mobile phone to talk to CM and CM contacts Saritha through his mobile phone.

It is an admitted position that though there were many phone contacts from Saritha's two mobile phones to the two land phones in the



official residence of the CM no effort was made by the SIT to ascertain as to whether the calls to and from Saritha's mobiles are by/for the CM to talk to Saritha. As part of the investigation of the SIT also no effort was made by the SIT to verify whether the telephone calls made by Saritha to the mobile phones of Tenny Joppan, Jikkumon, Salimraj and Thomas Kuruville and back had any relevance in the investigation.

Saritha's case is that the Chief Minister and Sri.Aryadan Mohammed were contacted both in person and over phone only in connection with the Mega solar projects of Team Solar Company for which recognition by MNRE, ANERT, and a solar policy for the State are required. Chief Minister in her presence contacts the Power Minister Sri.Aryadan Mohammed over phone and asked him to do the needful. Saritha, as directed by CM, meets Sri.Aryadan Mohammed. They assured all help. It is for this both of them demanded money through their PA and PS



respectively. The letter says amounts are paid to both of them. In the depositions of Biju Radhakrishnan and Saritha payments of money to the CM, Power Minister and others are stated. The statements of Biju regarding payment of money directly by him to the CM appears to be without any *bona fide*.

He, as already stated earlier, is the mastermind and he got things done through Saritha S Nair. When he says he paid amounts, it has to be understood that Saritha effected payments.

Sri.Oommen Chandy, CM denies any personal Knowledge about Saritha Nair. According to him she was one among the thousand. Even after Biju Radhakrishnan mentioned the occasions Saritha met the CM for identification purpose and Saritha spoke to the CM close to his ear in the stage at Kadaplamattom, Pala his stand is that he was not able to remember it as Saritha.

Tenny Joppan, Jikkumon and Salimraj, say Saritha, from her dressing style, Physical

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appearance and versatility in speech ordinarily once seen, will not forget her. Dr.Sugathakumar, Director ANERT in his deposition before this Commission has mentioned about her thoroughness in the subject and versatility in her speech.

Sri.Jikkumon says when Saritha and party came to give donation to the CM's Distress Relief Fund in 2011 everybody present in the CM's office were specially looking at her.

Above all, ADGP (SZ) Sri. A.Hemachandran IPS in his interim report dated 23-06-2013( Para 22 Ext X 393 at p 301) says 'Salimraj and Jikkumon came under a 'magic spell, cast by Saritha S Nair'.

Sri. Oommen Chandy, CM, if as a matter of fact, had met Saritha on 3 occasions as admitted by him, particularly for giving a cheque for Rs. 2 lakhs, furnishing a solar project for the Harijan colonies in the 14 Districts of Kerala at their cost and meeting again two more times with projects, proposals can one expect that a social



worker like Sri. Oommen Chandy will treat her as one among the thousands he met.

Now it has come out from record that Sri.Oommen Chandy had introduced Saritha to Power Minister for doing favours to the Mega projects of Saritha evidenced by the CDs (Exts X 643 Part I, X 644 Part II) of the KSEB Engineers Association Annual function held at Kodimatha produced by the Association. In the speech made by Power Minister Sri.Aryadan Mohammed while inaugurating the function while Saritha S Nair was also in the stage looking at her side he said. They approached him by saying that the CM had sent them in connection with their projects.

This part of the CD was played to Sri. Oommen Chandy, Former CM when he was examined. He admitted that Sri.Aryadan Mohammed has said so as per the speech in the CD. This matter has been elaborately dealt with while dealing with Sri. Aryadan Mohammed.





Saritha was there at Delhi is an admitted position. Cr.No.630/2013 of Ernakulam Town South Police Station is relating to air fare charges to be paid to the travels. From the records in that case and the deposition of Sri.K.Harikrishnan, Dy.S.P. who investigated the case would show that Saritha S Nair gone to Delhi by flight on that day. That apart, Sri. Thomas Kuruvila, Delhi aid of CM admits that Saritha contacted him from Delhi on 27-12-2012 on the date of NDA meeting at Vigyan Bhavan.

Many other matters stated by Saritha S.Nair in her letter are spoken to by Saritha S.Nair and other witnesses.

On the whole the Commission finds that there is substance in the above allegations and that Chief Minister Sri. Oommen Chandy, Home & Vigilance Minister Sri. Thiruvanchoor Radhakrishnan and through them the former State Police Chief Sri.Balasubramonian, Sri. T.P.Senkumar IPS (Retd.) to a certain extent,



Sri.Hemachandran IPS ADGP (SZ) as he then was the SIT (head) and through him Sri.K.Harikrishnan, DySP, Perumbavoor, Sri.Prassannan Nair, DySP, Chenganoor etc., had made efforts to sabotage the investigation assured to the Sabha in categorical terms, by dubious methods discussed above and all of them are responsible for this.

The Commission also suggest to the Government for considering the invocation of the provisions of the Prevention of Corruption Act against all the persons mentioned in the letter dated 19-7-2013 being supported by the other evidence both oral and documentary.

*2. Nagar*

## Appendix

The letter written by Saritha S Nair on 19-07-

2013 Ext X 639 (b)

Me, Saritha S Nair, Today arrested on ground of solar scam. Now she hears some problems and allegations. Reports came in news papers. She does not see news papers. But from the talk of the persons with her attempts are being made to make her alone scapegoat. She understands. Really, who are guilty? She alone? Those who have done wrong can escape? She alone will suffer at last she believe. Really when the wrong doors are living happily, false stories about her alone out. Who remembers that she has also, mother, children and grandma. Instead of killing her inch by inch why not she be killed at a stretch. "What is the wrong committed by her? Is it the crime committed by her is acting on the basis of the false stories and assurances given believing their words? No body wants dancer Shalu Menon who was hand in glow with Biju Radhakrishnan a big



cheat. Entire money of Team Solar was taken built house, purchased gold, and conducted tours, they are not guilty. Money belongs to the customers. Loss for who else? Loss always for Saritha. Losses only. Balance only allegations. She believed many. She obeyed their words. Now when problem come none responsible. For when she suffered (dead) none now with her. It is sad. She was only an ATM machine for Biju Radhakrishnan to make money. He kept her under him by threats and by creating problems. She being afraid of many thing, and not resist. He became rich. When money comes influence will come. He got it. What she got was some Sarees and house hold expenses. It is not something? Hard earned money was taken by Biju who was dealing company accounts and he got a life, a house and Shalu Menon.

For Saritha Rs.6 Crores liability and abusive talks alone. By gods grace she could be able to return more than half of the liability for she



was not interested in hiding away. She wanted to survive.

This is not the first time that she is cheated by people who she loved and believed. She thought that politicians are better than Biju. Whether such belief was totally faulty She had all expectations in the party she believed. But all left her alone and tried to save their face. Are they not ashamed?

Since Oommen Chandy looks like her father (തനിസംരൂപം). He has not seen her at all. Happy to hear. Oommen Chandy Sir does not see not only her, he does not see any other women? Higher ups in the society can do anything. CM can deny. He can say not seen, forgot everything. But she cannot Sri.Oommen Chandy sexually wanted her to do oral sex. She obeyed it and had done oral sex with him in the Cliff House. Was it got done without knowing her? Has he not misused his



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Did she not inform the companies problem which arose, did she not begged (kalupidichille). Then he was more interested in his sexual satisfaction? All these have to be brought before law.

Addressed Sri.Oommen Chandy

You have obtained from her (from her company) for setting Solar Projects Rs. Two Crores Sixteen Lakhs on different occasions. She gave money to him in Cliff house. Later Rs. Forty Lakhs was paid to Sri.Thomas Kuruvila of Delhi. Thomas Kuruvila and Chandy Oommen came together to Air Port, Thiruvananthapuram and received Rs.50 Lakhs. When the project was late, for removing the lagging and for expediting the Solar policy Sri.Thomas Kuruvila received Rs.25 Lakhs from her. Rs.1 Crore was first given at Cliff House. Thomas Kuruvila



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Mr. Ganesh Kumar CM contacted her and told her that allegations are made and that she must be careful. That much intimacy was shown by him. Now, what happened? Why telling lies? Please don't make her alone scapegoat.

As suggested by Thomas Kuruvila for avoiding the delay in the Electricity Board gave Rs.25 Lakhs in Manmohan Bengalaw. Then she had to suffer the illegal behaviour of Sri. Aryadan Mohammed. She even thought of committing suicide. She realised that a woman is a mere instrument in those days. Anything happened in spite of that? Nothing happened Sri. Aryadan Mohammed had sexually exploited her on many occasions whenever he summoned her and talked to her it was his practice to touch her person she was afraid that if she reacted if these persons who received money in Crores discontinue, her project will be lost. They exploited her existence. Ministers want money and the person of a woman. Not only these ministers, Tourism Minister Sri. A.P. Anil



kumar was a star pimp. A minister who give women for Central Ministers and his PA Nazarulla. Both of them, in Rose House and in Le Meridian made oral sex with her. Many times she was called in Rose House and exploited her. It was by way of bargaining for sanction of eco tourism and other projects. She lost her reputation and body, she was not left even in Kerala House New Delhi. Nazarulla received Rs.7 Lakhs. He told her the desires of ministers many times and compelled her to go with them. Because she was not prepared they found pleasure in delaying sanction for the project.

Anil Kumar and Nazarulla were the pimps for Sri.K.C.Venugopal (central Minister).

K.C saw her in a meeting and thereafter he was calling her over phone and caused disturbance to her. It was in connection with the inauguration of a news branch of Team Solar Sri.K.C.Venugopal was met in his house at Alappuzha "Rajeevam". He gave date and time and



when she stood up after saying thanks he pressed his hand on her back portion. She bet him with the file and told him not to touch her. GM with her is a witness. Because of his interference she left the matter. Immediately she got a message in her mobile 'so soft 'when she called him and spoke in an angry manner he replied 'still love u' subsequently, frequent calls came from Delhi members. He wanted her to go to Delhi and meet her as otherwise he said, won't come for the programme arranged. Mr.Venugopal called in Biju's number and told him that his EO has അപമാനിച്ചു and that unless she come to Delhi and apologise he won't come for the function. Because banners, notices etc were printed Biju beat her and asked her to go and meet him in a threatening way. Gave ticket for Delhi. She along with Sivettan of Delhi's wife Geetha chechi met KC. Then keeping her a little away from Geetha chechi told her in an angry mood



that she was called not to see like this. She without telling anything returned to Kochi. He again informed Biju that she again അപമാനിച്ചു. Biju beat her again. Thereafter, during night abusive messages, continuous calls became usual. Threatened through phone in many ways.

Thereafter, on a BJP harthal day Nazarulla called her over phone and asked her to come to Rose House. She was told that eco tourism paper is ready. Believing that she came to Rose Hose. Neither the minister nor any staff was seen there, only two police men were in the gate. She contacted over phone minister comes, he is in the hall. She went there KC was not seen there. When Nazarulla was not seen there also while phoning up door was closed. KC was there. He was drunk. He by force brought her within his fold. കീഴ്പെടുത്തി. He hurt her, called bad names, she also called bad names. He physically disabled her not even to walk for 5 days she could not even



stand. (she has got evidence of this). Even thereafter phone calls during night, messages. If a minister gets mad what is the safety for women. If opposed, threat. I am destroyed (നശിച്ചു). Then threat that through Biju the story of her and Ganesh Kumar will be given to media. There is no story of him and Saritha. They were good friends. People can say anything. Let that be there. She was called to Delhi telling that Biju Radhakrishnan is there and again destroyed her. Threat was that the matters stated by Biju Radhakrishnan will be given to media. Threats alone. മടുത്തു, fed up. It is evident that it is with the support of AP. KC had forcefully caused physical torture that day. People who exchange women and harass them are they not guilty. They are good men. Because of Team Solar she lost her. Kottayam M.P Sri.Jose K Mani is a respectable man. But after seeing her in a meeting at Delhi behind a public toilet he showed his private part



and asked her whether comes വിദ്യാനാഥൻ. Through phone calls he said he likes her. She was called to the M.P. office at Kottayam. When she went to Delhi in connection with Projects after seeing the (CGO Complex) of MNRE she was called to the flat and hugged her and oral sex got done. Poor people and businessmen are afraid of the influence of Ministers and MP in the administration. This is exploited by them. Let it happen. Respectable MP. Why all these people behaved to her like this. She does not know. Whenever meets for the assured projects again and again she has to give her body. No paper will be moved. The abusea of the customers of the company is another matter. Respected Jose K. Mani.

Then, Adoor Prakash, doctorate holder telephonic sex. When drunk phone calls until it is attended. കേട്ടാലറക്കുന്ന സംഭവങ്ങൾ.

She was summoned through ADM Sri.Salim for a feasibility study for installing Solar Power





Plant in Pramadam Stadium at Pathanamthitta. Minister also came there. She was taken to an isolated bed room inside the stadium and caught hold of her waist. Since it was an abrupt action she could not avoid it. Without much hurt she could escape. But phone calls, flight ticket to Bangalore book room in Bangalore Lemon Tree Hotel and gave ticket by Sri. Adoor Prakash. Talks for hours over phone. 7 to 8 time she had oral sex with him. She was called to 'Pampa' residence.

KPCC President Sri. Ramesh Chennithala Sir through his P.A. Prathesh Nair had talked to her. She had to meet central Minister Sri. Pazhani Manickam in connection with the income tax matter of a metal crusher group in Kerala. Prathesh told her that Pazhani Manickam told Ramesh that he wants her. She refused it. No problem that will be conveyed he said. When she went to meet the minister in connection with the income tax problem when Pazhani Manickam said sorry she felt relief. But he caught hold of her and tried to



take her to the room in the right side. She resisted. He left her, again said sorry. Through phone also said sorry. He used to call her there after between 6.30 and 7 in the morning. Through Pratheesh demanded Rs.50 Lakhs for the quarry problem. Paid Rs.25 Lakhs. Given by Pratheesh. Will it be got back? Pratheesh and Ramesh Chennithala get things done by arranging women she understood. She could understand many things about them.

രാഷ്ട്രീയം വെറും തരം താണതയെടോ.....

Page 15 end. Nex page. Sentence ---  
connecting One page, it would appear, removed. See  
page no. After 15 connected the subsequent pages  
-----.

Sri. K.C. Joseph had seen her many times in the CMS office. Smt. P.K. Jayalakshmi was a close friend of her. She had been to her residence at Wayanad.



Sri.Hybi Eaden MLA she gave substantial Party. Party fund is donation Hybi is her- MLA. Because she could not quarrel with him she had been to MLA Hostel. Had sexual contact. He used to call her to Ernakulam guest house often. She went there. That was her situation Sri.Hybi Eaden helped her to settle the financial matter with the customers.

Chenganoor MLA Vishnunath used to call her for the Chenganoor project matter. These were at a time when the project was approved by the collectorate, Alappuzha. Met him many times in the MLA Hostel.

Mons Joseph has co-operated for the company. Called her. Not misbehaved to her. Done project in his house. Then N.Subramaniam (KPCC General Secretary) approached for dealership. For signing M.O.U. and receiving money she was asked to come to Trident Hotel, Chennai. She went there. He told her that for getting money she has to surrender to him. It was necessary for her to



close that sales then. He took advantage of that. Thereafter many times talked personally and over phone.

Panakkad Basheer Ali Thangal. She met him as instructed by Sri.Kunjali Kutty. She was called to his house. Purporting to be for seeing the project site. Harassed her sexually. Used to contact over phone. They were more concerned with exploiting her than the projects.

The company faced crisis when Biju Radhakrishnan left the company with Rs.6 Crores. Case came. Then the Police officers who were exploiting her earlier became harder. IGP Sri.Padma Kumar for settlement talks called her to the flat at Kaloore and used her. Obscene photos and messages were sent.

City Police Commissioner M.K.Ajith Kumar, confined to telephone sex talk and SMS. Fortunately they did not want money. Instead what



they want not telling. Sri.Padmakumar

"മാന്യൻ ചെയ്യുന്നതൊട്ടിന്തോലിട്ടുചെന്നായ്കയാണ്"

Taking advantage of the circumstances of the case. Salim Raj is another "കഥാപാത്രം". He tried to sexually abuse her, due to his influence with the CM. He used to have obscene talk through mobile phone. Prathmesh Nair tried to give her to Chidambaram.

The misdeeds of others will not come anywhere near what she got from the CM. Her money, her body every thing lost and kept her now pretends they do not know anything തള്ളിപ്പറയുന്നു. Why should she alone be crucified. How Team Solar became non existent. Marketing etc conducted day and night earned money taken by Biju Radhakrishnan, Shalu and politicians. Remains herself, her two small children and old mothers. Now case after case. She is facing cheating cases.



In this case Chief Minister and others who received money and destroyed her by giving big assurances will be made accused?

The CM and Sri.Aryadan Mohammed when she took the customers to them gave assurance to them which they believed. What is the offence alleged against her? Gave assurance and received money by cheating? What CM had done? Can he do this to her? She did not take money belonging to the customers. Neither the Police nor the media wants, the persons who took the money nobody wants them.

She did not get any money, not even her salary. When Biju had left with the money only 4 lives were with her. Since she did not want to skip away by selling land and gold she settled half of the liabilities. Hears more cases will come. She feels it is better to die now. Cheated it is said. Who cheated whom? The person who is subjected to cheating is herself. All are able men. She is a fool. Now Biju Radhakrishnan is a



good man. Saritha alone is a cheat, prostitute, many adjectives. She never sold her body for money. People took advantage of her situation. Money and every thing lost. Those who received the money are good people. This letter is her language. Nobody shall escape. This must be converted to court language as her statement. FIR has to be registered. Don't show this to any one.

On occasions when people opposing the CM came she informed this to CM for him be careful about this. She did not like to see any danger to the CM. Who she respected. But when a situation of danger came to her nobody for her not prepared to be a scapegoat. Enough evidence is with her. It can be produced in court for evidence. She does not know when this case will be over, when will she come out of Jail. The only big blame committed by her is to believe the words of the CM. What other offence committed by her to destroy her like this? She has got evidence of



exploitation in respect of each dealings and telephone talks. Let each dealings and telephone talks. Let case be registered. Let enquiry come against them.

Now what she gained?

1.	BijuRadhakrishnan Destroyed everything	Rs.6 crores of Team Solar Company luxurious life with ShaluMenon.
2.	ShaluMenon	New house for 3 Crores built by Biju, Gold, 2 cars Gifted. Whose sweat? whose money. Poor customers money
3.	Sri.OommenChandy (1)Assurance given Solar Power Plant KSIDC, KINFRA (2)Single window procedure (3)Govt. Subsidy. (4)Policy (solar) (5)Met Sreedharan Nair Direct and talked. (6)Then besides delay Solar Policy even not done. (7)Sought 10% commission.  Result.	(1)Rupees 2 Crores 16 Lakhscommission UD front received. (2)Physical exploitation to her to be treated in theplace of a daughter. (3)Done oral sex many times (at Cliff house)  Nothing happened. Now he says not seen her, does not know her.





4.	Aryadan Mohammed  Result	(1) Received Rs.25 lakhs for sanctioning renewableEnergy policy. (2) Sexual harassmt done. (Many times said time nothing done required)
5.	A.P Anil Kumar (Minister for Tourism) (Eco Tourism)	(1) Received Rs.7 lakhs through Nazarulla (2) Stood for KC (3) Exploited her many times Rose House, LeMeridian, Kerala House.
6.	Sri.Adoor Prakash (Minister for Revenue)	(1) Sexual harassmt (2) Telephonic Sex (3) Calls and SMS (4) Invited to Bangalore Hotel.
7.	Hybi Eden MLA (Helped her for settlement.)	(1) Sexual harassmt at MLA Hostel Govt., Guest house, Ernakulam.
8.	Sri.K.C.Venugopal (Central Minister for Aviation former Minister for Power)	(1) Raped (2) Threatened many times (3) Telephone calls, SMS, Sex etc.



9.	Sri.PalaniManickam (MOS for Finance)	(1) Sexual harassment. (2) Received an amount of Rs.25,00,000 for one Income tax problem settlement.
10.	N.Subramoniyam (KPCC General Secretary)	Sexual harassment at Trident Hotel.
11.	I.G., K. Padmakumar	Sexual harassment Kaloore Flat Online calls, telephone sex.
12.	Sri.M.R.Ajith Kumar (Former Commissioner of Police, Kochi city)	Telephone sex, SMS etc, online calls.
13.	Vishnunath MLA (gave project)	Telephone calls, SMS etc.
14.	Mons Joseph MLA (gave project)	No other problem.
15.	Sri.RameshChennithala's PA Pratheesh Nair, Delhi.	(1) Introduced PalaniManickam (2) Tried to introduce her for Chidambaram
16.	Jose K. Mani, (MP) Kottayam	(1) Behaved badly at Delhi. (2) Done oral sex at Delhi.



There is one more man. The man who said when she was arrested not to mention anything what happened or his name. Abdulla Kutty, Kannur MLA who called her to Muscat Hotel, TVM and raped her.

Why she is made like this by all, together. A woman cannot tell these in open. Hence she did not say all these. Now many things come in the media she alone is being crucified. Real culprits are safe. Many more things are there. If money with them are got back cases could have been avoided. That expectation is lost today. There is evidence for all that said here. Evidence which have been kept safe before her arrest, if Court Registers FIR it will be given to court and media. There are limitations for investigations Date, approximate time, video and audio of certain events she had filed. Nobody else in the state should have such an experience. She alone will not be a scapegoat. If it comes everybody must come in it. Money, influence, anything is



possible. Evidence must be directly given to court. The persons responsible for her plight come before law. Everything gained persons blaming her alone not required. She loved Congress. Believed some. Those persons received money from her and destroyed her now blames her. She does not know how her old mothers and children are living. She does not believe that she can see them. Let my life go. Truth must come out. The debt will not come half of the money taken by Biju and Salu.

19.07.2013

Faithfully,

Ernakulam

(s/d)

Saritha S.Nair

Entrust after changing it to court language.

A handwritten signature in cursive script, appearing to read 'Saritha S. Nair', is written over a single horizontal line.

The 3<sup>rd</sup> limb of item No.1 of the terms of reference as settled reads thus:

'The then Home Minister Sri.Thiruvanchoor Radhakrishnan had also helped the solar scam accused Saritha Nair and Salu Menon in escaping from the clutches of law by his connection with them and also took interest in protecting the Chief Minister by all means by using his position as the Home Minister which is also indicative of his involvement in the solar scam affairs of the accused.'

This is already considered in the context of the 1<sup>st</sup> and 2<sup>nd</sup> limb of item 1 and found that the then Home and Vigilance Minister Sri. Thiruvanchoor Radhakrishnan made all efforts from his part to ensure that the Chief Minister Sri. Oommen Chandy is extricated from criminal liability through police officers under him. The other allegations that he had also helped the solar scam accused Saritha Nair and Salu Menon in escaping from the



clutches of law by his connection with them,  
according to the Commission is not fully supported  
by evidence.

This issue is answered accordingly.

*J. V. [unclear]*

JUDICIARY

The E party, namely, the All India Lawyers Union represented by its Secretary Sri. Rajendran, in his detailed argument note, in the prefatory portion which has already been noted in chapter one under head preliminaries mentioned about the three pillars under the Constitution of India. Judiciary is one of the pillars. He refers to the functioning of subordinate court. His allegation is confined to the conduct of the Addl. Chief Judicial Magistrate (E.O) Court, Ernakulam only in connection with the Solar criminal case of Saritha S Nair.

The Commission, in the course of dealing with the investigation of Solar Crime Cases by the SIT constituted by the State Government, incidently found that the officers who are responsible for arresting the accused in the criminal case - in the instant case Crime No.368/2013 of Perumbavoor Police Station- the officer in charge of that



Police Station, in that case, the Inspector of Police, Perumbbavoor and his superior officer DySP, Perumbavoor who are bound to act in accordance with the Constitution of India and the law governing investigation namely, Criminal Procedure Code, acted in violation of the above in arresting Saritha S Nair, a woman the accused in that case.

It is said, in violation of the Constitution and the laws, the investigating officer of crime No.368/2013 of Perumbavoor Police Station was the Inspector of Police, Perumbavoor. The DySP, Perumbavoor, who is the immediate superior officer by-passing the I.O. of that case sends the Sub Inspector of Police, Perumbavoor and a team from Perumbavoor for arresting Saritha S Nair from Thiruvananthapuram. No written authorisation given to the SI of Police deputed for arrest of Saritha. They arrested Saritha from her residence at Edapazhanji, Thiruvananthapuram, according to the Police, at 4 AM on 3-6-3013 but according to Saritha





S Nair and another SI and team from Thalassery Police Station who came to arrest Saritha on 2-6-2013, she was arrested before 11 PM on 2-6-2013.

It is an admitted position that the investigating officer of Cr.No.368/13 did not give any authorisation in writing to his subordinate to arrest the accused Saritha S Nair. It is also an admitted position that no written permission from the Judicial Magistrate for arresting Saritha S Nair, a woman, in between sunset and sunrise.

The above mentioned two steps of the police officers are against the provisions of the Cr.PC and also violation of her fundamental right under the Constitution of India.

The arrest memo records the time of arrest of the accused. This is produced before the Magistrate at the time of producing her before the Magistrate. In the case of arrest of a woman during night time the Magistrate should have verified whether permission of the Magistrate for arresting



her during night time is obtained and produced. It has not been done in this case by the concerned Magistrate. It would appear that the judicial officer took it for granted. This is one aspect of the matter which deserve consideration.

The next is what transpired in the ACJM (E.O) Court on 20-07-2013 when Saritha S Nair was produced before that Court after custody period by Perumbavoor DySP. Saritha S Nair told the Magistrate in the Court that she wanted to say something confidentially in the Court. The Magistrate permitted her and her case was taken by about 1-30 PM after roll call etc. She was heard in the presence of Bench clerk and Junior Superintendent, both ladies and her Advocate Pheny Balakrishnan and a woman civil Police officer near to the closed Court hall. She told the matters to the Magistrate. According to Saritha Magistrate took it down but the diary/case sheet of the Magistrate does not show any recording of Saritha's



statement Saritha S Nair, after hearing her for about 20 minutes, was asked to give it in writing. Time was granted.

This matter went up to the High Court on the administrative side at the instance of an interested party and it is understood that a report is submitted by the judicial officer of the High Court who considered the complaint.

The Addl. Chief Judicial Magistrate, the Junior Superintendent the Bench clerk and the woman CPO were examined before this Commission as, CWs 38,36,37 and 39 with the permission of the High Court and their depositions recorded. Copies of the depositions are appended. The ACJM in his examination has admitted that Saritha S Nair told him that she had been sexually abused and also raped, but he said he did not record it, instead asked her to give it in writing.

The justification of the procedure adopted by the ACJM in the case of this solar scam accused



having very serious implications, is a matter for consideration. The officer who enquired in to the allegations in the complaint against the Magistrate in the High Court, appears to have stated the procedure which should have been adopted in such situation is to give paper and pen to her to prepare the complaint in writing then and there itself.

Since these are recurring matters certainly it is a matter, according to the Commission, to be considered by the Judicial Academy under the High Court for upholding the majesty of Law and Law Courts.

A handwritten signature in dark ink, appearing to be 'D. J. K.', written over a diagonal line.