

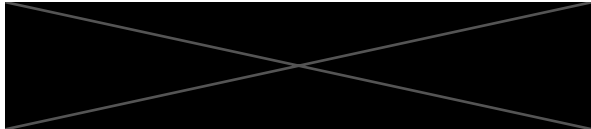


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**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE-01,
ROUSE AVENUE DISTRICT COURTS, NEW DELHI
- Presided by: PARAS DALAL, D.J.S.**

**CNR No. DLCT-000229-2024
Complaint Case No. 16 of 2024
Complaint u/s. 200 r/w 190(1)(a) CrPC
For offences alleged u/S. 500 & 171G IPC**

Dr. Rajeev Chandrashekhar



... Complainant

Vs.

Dr. Shashi Tharoor



... Respondent

04.02.2025

Present: Complainant Rajeev Chandrashekhar is absent.
Sh. Pramod Kr. Dubey, Sh. Vaibhav Gaggar, Sr. Advocates (through
VC), Mr. Somdev Tiwari, Sh. Dhruv Mehta, Ms. Amrita Vatsa, Ms.
Swati and Ms. Muskan Sharma, Ld. Counsels for the complainant.

**ORDER ON DISMISSAL UNDER SECTION 203 CODE OF CRIMINAL
PROCEDURE, 1973**

1. Present complaint is filed under Section 190(1)(a) r/w 200 CrPC, 1973 for a non-cognizable, bailable and summons trial case of offence punishable under Section 500 and 171G Indian Penal Code, 1860 against Dr. Shashi Tharoor.
2. Cognizance in the matter was taken by the Ld. Predecessor vide Order dated 21.09.2024 and thereafter pre-summoning evidence was led between 04.10.2024 to 08.01.2025.
3. Arguments on point of summoning/ issue of process against the accused was heard at length on 17.01.2025.
4. To make up to the jurisdiction of this Court, it is submitted that the proposed accused Dr. Shashi Tharoor is sitting Member of Parliament of Lok Sabha representing Thiruvananthapuram constituency in the State of Kerala. This Court has been setup for trials against sitting and former Members of Parliament (MPs) and Members of Legislative Assemblies (MLAs) and as such has jurisdiction to try the present complaint.
5. The present complaint introduces the complainant as the then Minister of State, Government of India for the Ministries of Electronics and

Information Technology, Skill Development and Entrepreneurship, and Jal Shakti. Complainant states that he enjoys a high reputation in the Country as well as globally for his contribution to the development of the nation. He is also stated to have earned immense goodwill and reputation for his impeccable integrity over the years. Complainant submits in his complaint that he was candidate for Member of Parliament from the Thiruvananthapuram Lok Sabha Constituency in the General Election 2024 for the Bharatiya Janata Party (BJP) while the proposed accused was his rival candidate for the Indian National Congress (INC) Party.

6. It is alleged in the complaint that proposed accused had defamed and damaged the reputation of the complaint by way of news interview, published as well as distributed and disseminated at the behest of the Accused via various news channels such as 24News, Manorama News, Asianet News etc. on their television broadcast and also online platforms interalia Youtube. It is the allegation that proposed accused has made false, derogatory and malicious imputations against the complainant in order to defame him, with the sole ulterior motive of maligning his reputation and political standing, in furtherance of his own vested interests and underlying agenda.

7. In the pre-summoning evidence the complainant has examined 13 witnesses and the complainant took the lead by examining himself as CW1. Having introduced himself and his credentials, the complainant deposed about his complaint that he was candidate for Parliamentary election (Lok Sabha), 2024 from Thiruvananthapuram Constituency, Kerala on BJP ticket and there were two other main candidates namely, Mr. Paniyan Ravindran (CPI) and Dr. Shashi Tharoor, Congress (INC). CW1 deposed that about 2 weeks before the ongoing elections of the said constituency there was a publication of some interviews of Dr. Shashi Tharoor on 24News channel and Manorama News and Asianet News on their television broadcast and online platforms like You Tube etc. from 06.04.2024 till 11.04.2024. On 06.04.2024, there was interview on 24News of Dr. Shashi Tharoor by the Anchor of the same news channel when he has made the following defamatory allegations:

“New Anchor: The election campaign in the Thiruvananthapuram constituency is heating up. With campaign activities continuing with great vigour. Amidst this, Dr. Shashi Tharoor has made a significant allegations. He has accused NDA candidate Rajeev Chandrashekhar of bribing for votes. Tharoor claims that many, including religious community leaders, have revealed this secret to him, but no one is courageous enough to publicly disclose it, as per a statement made to channel 24.

Shashi Tharoor: There is evidence, but showing it publicly is

challenging. Those who have taken the money, received it, or heard promises about it, will they be willing to speak out publicly? Many have shared this with me in private. And by many I don't just mean ordinary people, but some significant community leaders and parish priests have confided in me. They know the reality of what's happening in our country. It's not just them; all of us are witnessing this issue with money. In every election, it's natural for the BJP to spend two to three times more money than us. But in this election, it's not just double or triple, we might see expenses that are 20 times, 30 times, or even 100 times more, as we observe.”

8. CW1 continued to depose that he downloaded said publication in a pen drive and same is exhibited as Ex.CW1/1 and filed certificate in support of the said electronic evidence Ex.CW1/2. CW1 has also transcribed the said publication in English language which is Ex.CW1/3 and same is also supported by certificate Ex.CW1/2. CW1 further deposed that Dr. Shashi Tharoor knew that his statement was false and incorrect but it was made deliberately to affect the election and lowering down his reputation and respect and image in the society and voters of his constituency. CW1 further stated that in another news interview Asian Net News dated 11.04.2024, Dr. Shashi Tharoor was seen contradicting his earlier statement admitting unambiguously and clearly that he is not having evidence to

support his statement. The statement before Asian Net News is exhibited as Ex.CW1/4, which is as under:

“Shashi Tharoor: I have never said that the BJP candidate did this. I have never claimed that I have evidence in my hand or made it an accusation. It has become the talk of the town.

News Anchor: Some priests have spoken about it.

Shashi Tharoor: I have spoken with many people. They tell me. This is what is happening in our country, so it's true that I have heard it. How can I not speak about what I have heard? I have heard it. I myself said in an interview that there is no evidence. I don't think those who told me will speak about it publicly. But it's true that I have heard it.

New Anchor: So you will neither retract that statement nor apologize, even if you receive a legal notice

Shashi Tharoor: Just watch the video to see what I have said. I have mentioned that I heard it. Can one say they haven't heard what they have indeed heard?”

9. CW1 exhibited another transcript of the said interview as Ex.CW1/5. CW1 deposed that in this interview with Manorama News Bytes on 11.04.2024 Dr. Shashi Tharoor said how different people have approached him saying that complainant is bribing for votes. The said News bytes is:

“News Anchor: There are allegations in Thiruvananthapuram of money being given to forget votes. When Shashi Tharoor accused that voters were being paid, Rajeev Chandrashekhar

retorted saying it's an allegations born out of desperation.

Reporter: The intensity of the summer heat is adding to the heat of campaigns in the capital. Amidst a wind of fire, there's a downpour of allegations. The latest one is about money for votes, with rumors everywhere that BJP Is paying for votes, which is Tharoor's serious allegation.

Shashi Tharoor: I have heard people both in the city and in the coastal areas talking about it. If those who spoke are not willing to come forward, then there's nothing more we can say. It doesn't matter, let people question what we have injected more money into our economy.”

10. CW1 then deposed that Election Agent (BJP) Mr. J.R. Padma Kumar filed complaint before the District Election Officer (DEO) on 06.04.2024 and he even deposed about the findings of the DEO. CW1 further deposed about warning issued to Dr. Shashi Tharoor by Dr. Aswasthy Sreenivas IAS, Sub-Collector & Nodal Officer (MCC), Thiruvananthapuram vide his Order dated 12.04.2024 which is Ex.CW1/6 and affidavit of translator Ms. Soumya Asokan who translated and transcribed the publications is Ex.CW1/7. CW1 then deposed of having sent legal notice dated 09.04.2024 to Dr. Shashi Tharoor which is Ex.CW1/8 which he alleged was never replied by him, however he did come across one reply dated 11.04.2024 which was circulated in the social media. Copy of said reply is Ex.CW1/9.

CW1 then concluded his deposition by stating that Dr. Shashi Tharoor had deliberately and in a well-calculated manner not only caused damage to his image and reputation in public at large but affected the outcome of the election by the said statement and ultimately he achieved his goal by winning the election with a margin of 16077 votes only. CW1 further deposed that the imputation by Dr. Shashi Tharoor has lowered the moral character as well as his credit and standing in the public at large, amongst his party members, supporters, family, relatives and the youth and amongst the broader tech community that look up to him as a mentor. CW1 further deposed that he received multiple calls from his friends, colleagues, both from media as well as political sphere enquiring about the allegations made against him and his family members were confronted for the remaining period of the election campaign due to the false and defamatory statements made by Dr. Shashi Tharoor which has caused grave and irreparable damage, to his unblemished reputation and financial loss.

11. Complainant then called his other witnesses. CW2 Ms. Soumya Asokan deposed that she was a voter of the Parliamentary Constituency Trivananthapuram, Kerala and she saw interview of Dr. Shashi Tharoor on news channels, TV and the social media regarding allegations of the bribe to the voters by Mr. Rajeev Chandrashekhar. She deposed that Dr. Rajeev

requested her to download and transcribe the interview in English language as it was in Malayalam language. CW2 deposed that the interview on 24 News Channel was downloaded from Youtube on 06.04.2024, Asia Net News through Youtube on 18.04.2024 and Manorama News on 18.04.2024. CW2 confirmed that the transcription of the news is already Ex.CW1/3 and the certificate in support is Ex.CW1/2 and Ex.CW1/7. CW2 deposed that the pendrive is already exhibited as Ex.CW1/1 and she stated that the contents of the pen drive were true and correct and not tampered with nor any addition or alteration was made.

12. CW3 Ms. Aswathy Srinivas who was Sub-Divisional Magistrate in Thiruvananthapuram, Kerala deposed that he was holding the charge of Assistant Returning Officer of Thiruvananthapuram Legislative Assembly Constituency and Nodal Officer for Model Code of Conduct in the District during the Parliamentary Election of 2024. CW3 stated that she had received complaints from the Legal Representatives of Bharatiya Janata Party alleging violation of Model Code of Conduct by Sh. Shashi Tharoor. CW3 stated to have recorded the statement of Sh. Shashi Tharoor on 08.04.2024, additional statement submitted by Sh. Thampanoor Ravi, Chairman UDF, Election Committee dated 09.04.2024 and statement was also submitted by Sh. Sreekandan Nair, MD News24 Channel dated

12.04.2024. CW3 deposed that after consideration of all the materials, she passed Order on 12.04.2024 which was already exhibited as Ex.CW1/6. CW3 deposed to be carrying soft copy of all the material which was considered by her in pen drive. The said pen drive was Ex.CW3/1 and her affidavit is Ex.CW3/2.

13. CW4 is Sh. Vinu V. John who was working as Assistant Executive Editor- AsiaNet News Channel at Thiruvananthapuram since 2023. He stated that he joined the channel as a trainee journalist and interviewed candidates in 2024 General Election Lok Sabha namely, Dr. Shashi Tharoor, Dr. Rajeev Chandrashekhkar and Mr. Pannyan Raveendran. He stated to have interviewed Dr. Shashi Tharoor on 11.04.2024 and identified the translated script of the said interview as Ex.CW1/4. He produced his identity card as Ex.CW4/1 and his visiting card as Ex.CW4/2. CW4 deposed that Dr. Shashi Tharoor in his interview to other channel had made allegations that Dr. Rajeev Chandrashekar is bribing the voters in coastal Christian area for their votes. CW4 stated that he thus asked Dr. Shashi Tharoor about this statement. CW4 stated that he further asked about the legal notice sent to him by the complainant. Dr. Shashi Tharoor had already made the statement on News24 which was in public domain that some Christian priests had informed him that Dr. Rajeev Chandrashekhkar was bribing the

voters. CW4 further deposed that when asked proof, Dr. Shashi Tharoor said he had no evidence and had only heard and about legal notice he answered that he had not received the same.

14. Complainant next examined CW5 Ms. Sindhu Sooriya Kumar who was Executive Editor AsiaNet News, Thiruvananthapuram, Kerala. She deposed that she was head of the channel and incharge of the entire contents of the channel. CW5 confirmed the interview of his Assistant Executive Editor Mr. Vinu V. John and Dr. Shashi Tharoor. She even confirmed the transcript of the same which is Ex.CW1/4. CW5 stated that the original video of the interview in their library and entire interview was uploaded on the youtube without any alteration or edit or tampering. CW5 produced her copy of identity as Ex.CW5/1 and her visiting card as Ex.CW5/2.
15. CW6 is Mr. Prasad Palangatte who is Secretary to Dr. Rajeev Chandrashekhar and he deposed that he saw interviews and videos on youtube, thereafter he immediately contacted Dr. Rajeev Chandrashekhar to verify the same. CW6 stated that Dr. Rajeev denied the allegations and he stated that even Dr. Shashi in his interview stated that he had no evidence to substantiate what he heard. CW6 further stated that no one from the constituency came forward to make the statement that Dr. Rajeev

Chandrashekhar had attempted to bribe any of the voters of the constituency nor any voters came forward to make statement that they have informed Dr. Shashi Tharoor about the bribe given by Dr. Rajeev. CW6 stated that he received many calls from the Thiruvananthapuram constituency and informed him that they had not expected this kind of the conduct from Dr. Rajeev Chandrashekhar. CW6 further stated that till date there is no evidence of bribe given by Dr. Rajeev Chandrashekhar. CW6 stated that the statement had impacted on the election and Dr. Rajeev Chandrashekhar lost the election of around 16000 votes. CW6 exhibited his aadhar card as Ex.CW6/1, his High School Certificate as Ex.CW6/2, copy of Secondary School leaving certificate as Ex.CW6/3 and his Degree of Bachelor of Arts as Ex.CW6/4.

16. CW7 Mr. S. Madhusoodanan Nair was the councilor of Sasthamangalam Ward of Thiruvananthapuram constituency. CW7 could write English but he was not very fluent. He wrote his deposition in Malyalam language in his own hand which is Ex.CW7/2. The complainant had produced Mr. Prasad Palangatte (CW6) to translate the deposition of CW7 from Malyalam to English language. CW6 during his deposition had already exhibited his education qualification. CW6 also had Malayalam as one of the language until his Secondary School and as such he could translate

deposition of CW7. CW7 deposed that he had seen the News24 channel showing Dr. Shashi Tharoor saying that Sh. Rajeev Chandrashekhar was bribing money to the voters of Thiruvananthapuram. CW7 stated that he was shocked with the news and next day called Dr. Rajeev. CW7 stated that people of his ward were also shocked and after he understood that it was false information, he tried to convince his voters in the ward that Dr. Rajeev was not such a person who would give money for votes. CW7 stated that he had informed Dr. Rajeev that if the statement of him bribing for votes was true, he will not vote for him. CW7 further stated that he saw the news on 06.04.2024 and informed Dr. Rajeev on 07.04.2024 and he also informed that Sh. Shashi tarnished his image by the said interview.

17. CW8 Sh. Shashi Dharan is Public Relation Officer of Delhi Catholic Archdioceses, he was a social workers and having business of Wi-Fi and Telecom IT events. CW8 stated that he saw media Youtube on 11.04.2024 that Shashi Tharoor was claiming that the bribe being paid to the voters and the religious catholics priest in on-going General Parliamentary Election 2024. CW8 stated that he had discussion with the members at Bishop House that as per allegation of Shashi Tharoor that Dr. Rajeev Chandrashekhar was paying bribe to the voters and the catholic priest and there was anguish amongst the member of the Catholic society at the

bishop house. CW8 stated that he called Dr. Rajeev and showed his anguish by confronting him, but he denied the allegations.

18. CW9 R Sreekandan Nair is Managing Director 24News since 2018 and he stated that he was aware of allegations made by Dr. Shashi Tharoor against Dr. Rajeev Chandrashekhar of bribing the voters. CW9 stated that Mr. K.R. Gopikrishnan, Executive Editor had interviewed Dr. Shashi Tharoor on 06.04.2024 and there were two parts of the said interview- the main parts which were presented in the morning bulletins and remaining portion which was telecast for half an hour. CW9 further deposed that there was complaint filed before Election Commission regarding the allegation of bribe by Dr. Shashi Tharoor and notice was issued to their channel seeking their explanation and they even sent reply on 12.04.2024. CW9 identified the said statement Ex.CW9/1 which was part of pen drive Ex.CW3/1.
19. CW10 K R Gopikrishnan was executive editor in 24News and he deposed that he had interviewed Dr. Shashi Tharoor which was telecast on 06.04.2024. CW10 stated that interview was aired in two parts and identified the transcript of the interview as Ex.CW1/3. CW10 deposed that not a single voter from the Thiruvananthapuram constituency claimed that he/she had been bribed by Dr. Rajeev Chandrashekhar to vote in his favour.

20. CW11 J R Padmakumar was Election Legal Convener, BJP and he stated that on 06.04.2024 he saw news on Malayalam new channel 24News which had aired an interview of opposition UDF candidate Dr. Shashi Tharoor who stated that he had heard opposition NDA candidate Dr. Rajeev Chandrashekhar was bribing the voters in constituency of Thiruvananthapuram and also bribing some religious leaders in favour of votes. CW11 further deposed that he saw Dr. Shashi Tharoor saying the interview that nobody has courage to say this to be public and therefore, he is speaking about the same. CW11 said the news was then aired by other news channels and same was also circulated on social media from various accounts. CW11 stated that on seeing the same, he made a formal complaint to Returning Officer, Thiruvananthapuram who was also District Election Officer on 06.04.2024. CW1 identified the copy of the complaint as Ex.CW11/1 and stated to have filed another complaint on 07.04.2024 before Election Commission of India which sent to CEO, Kerala and also Additional CEO. Copy of which is Ex.CW11/2. CW11 further stated that he made complaint as Dr. Shashi Tharoor had deliberately and intentionally made the false accusation against Dr. Rajeev Chandrashekhar to lower down his reputation and to create an environment in the constituency against Dr. Rajeev Chandrashekhar and the entire attempt was made by Dr.

Shashi Tharoor to win the election by using any means. CW11 stated that his statement was recorded/ taken by District Model Code of Conduct Officer and after perusal of entire material an order was passed directing Dr. Shashi Tharoor not to release the false allegation during election campaign. CW11 identified the said direction as Ex.CW1/6.

21. CW12 Mr. Johny Lukose is Director at Manorama News and he deposed that on 07.04.2024 a reporter from Manorama News conducted interview with Dr. Shashi Tharoor and Dr. Rajeev Chandrashekhar. CW12 exhibited the DVD containing the interview of Manorama News Ex.CW12/1 and English transcript of the interview is also Ex.CW1/5. CW12 deposed that there was no addition or alteration or tampering in the said DVD.

22. CW13 Mr. V.V. Rajesh was conveyer of NDA Election Committee, Thiruvananthapuram Parliamentary Constituency during general election 2024 and on 08.04.2024 he stated to have filed complaint against Dr. Shashi Tharoor to District Election Officer mentioning that Dr. Shashi Tharoor has made false and frivolous allegations against Dr. Rajeev Chandrashekhar, NDA candidate for bribing the voters and the priest of the coastal area. CW13 further deposed that interview of Dr. Shashi Tharoor made on News24 Channels was circulated on the news channels and the

social media which was utterly false and incorrect and had caused damage to the respect and repute of Dr. Rajeev Chandrashekhar. CW13 exhibited his complaint dated 08.04.2024 as Ex.CW13/1. CW13 also deposed that the allegations of Dr. Shashi Tharoor were false, motivated and intended to damage the reputation of Dr. Rajeev Chandrashekhar and any how win the election. CW13 further stated that until he verified the fact from Dr. Rajeev, he was very shocked after watching and hearing the said false imputation against him made by Dr. Shashi Tharoor.

23. Complainant side apart from above 13 witnesses, had also filed one application under Section 91 CrPC for production and preservation of video recording of alleged interview aired on 06.04.2024 and 11.04.2024 from media channels 24News, Manorama News, AsiaNet News and Youtube. Notices were issued and while witnesses from 24News, Manorama News and AsiaNet News had appeared and deposed about the interviews as well as the transcript of these interviews, none had entered appearance on behalf of media channel Youtube. The complainant however relied upon the said interviews of the three news channels and did not press for the application any further. The complainant vide the application wanted to bring/ authenticate the interviews which are Ex.CW1/1 with English transcript Ex.CW1/3 of 24News Channel; English transcript

Ex.CW1/4 of AsiaNet News; and English transcript Ex.CW1/5 of Manorama News. Since the purpose of bringing on record the three alleged defamatory video recordings and its transcript was brought on record, the complainant did not press for the application any further.

24. Submission heard at length on behalf of complainant side on point of summoning/ issue of process. File perused.
25. The complainant side while arguing has submitted that the proposed accused not once but thrice has repeatedly his defamatory statement and each time he admitted not having evidence in his hand, yet continued to level allegations. The complainant side submitted that in the first interview on 06.04.2024 the proposed accused made statement that NDA candidate Rajeev Chandrashekhar was bribing for votes. Further, in another interview on 11.04.2024, the proposed accused said that some priests and many people have told him about being bribed by BJP candidate. Lastly, the complainant side alleged that the proposed accused in interview on 11.04.2024 said that he heard from people both in the city and in the coastal areas talking about it. The complainant side argued that since the proposed accused was rival candidate to the Thiruvananthapuram constituency, the deliberate words used without having any proof/ evidence was within the

knowledge of the proposed accused to be false and fabricated. It is also argued that the intention was to cause grave and irreparable damage to the reputation of the complainant.

26. In support of the arguments for issuance of process, the complainant side cited three judgments i.e. **Mohd. Abdulla Khan v. Prakash K., (2018) 1 SCC 615; Iveco Magirus Brandschutztechnik GMBH v. Nirmal Kishore Bhartiya and Another, (2024) 2 SCC 86; and M.N. Damani v. S.K. Sinha and Others, (2001) 5 SCC 156.**
27. The allegations which are subject matter of present complaint are three interviews of the proposed accused – first on 06.04.2024 given to News24 Channel and remaining two on 11.04.2024 given to AsiaNet News and Manorama News. The first interview has further been published by News24 channel in two parts of 3:54 minutes and remaining part in 23 minutes. The remaining two interviews are more of news bytes and not one-on-one interview. All the three news are in local Malayalam language both understood by the complainant and the proposed accused (who gave the said interview in the local language). However for the convenience of this Court, the said interviews has been translated and transcript of the three interviews have been proved in English language through CW2. This Court

has no evidence to doubt the translation and accepts the same as true and correct. Even otherwise, many witnesses who have appeared in the Court were also native of Kerala and none expressed any doubt upon the transcripts of the interviews as being not correct.

28. The transcript of the three interviews are Ex.CW1/3 (06.04.2024 interview to News24 Channel); Ex.CW1/4 (11.04.2024 news byte given to Asia Net News Channel); and Ex.CW1/5 (11.04.2024 news byte given to Manorama News Channel). The said transcripts have already been proved through CW2 and to prove the authenticity of the three news articles the complainant examined CW5 Ms. Sindhu Sooriya Kumar, Executive Editor Asianet News, Thiruvananthapuram, Kerala; CW9 R. Shreekandan Nair, Managing Director 24News Channel; CW10 K R Gopikrishnan, Executive Director, 24News Channel; and CW12 Mr. Johny Lukose, Director, Mnaorama News. All have deposed and proved that the interview/ news byte given to their respective channels was complete without any editing or manipulation. The witnesses even admitted the English transcript to be correct.

29. Before proceeding to discuss the contents of these interview to make a prima facie case, it is necessary to state the law as well as ingredients

required under the law for which this Court took cognizance. The criminal defamation is provided under Chapter XXI from Section 499 to 500 of Indian Penal Code. Section 500 to 502 IPC prescribes punishment however the definition of criminal defamation is under Section 499. Succinctly put, criminal defamation requires actus reus of making of an imputation intended to be heard, seen or read, by signs or by visible representation; it also requires mens rea of intention, knowledge or reason to believe that such imputation will harm the reputation. Criminal defamation thus requires three ingredients – imputation, publication and mental element to cause harm.

30. Now the imputation as alleged in the present case is in three interviews, transcript of which are Ex.CW1/3, Ex.CW1/4 and Ex.CW1/5. Ex.CW1/4 and Ex.CW1/5 are news bytes and are very short, Ex.CW1/3 however is 3:54 minutes and 23 minutes videos. CW9 and CW10 explained that the the interview was published in two parts, the relevant part in the morning news which is 3:54 minutes long and remaining 23 minutes were published in the evening. The said interview is one-on-one conversation between CW10 and proposed accused. The complainant has not alleged that the entire interview is defamatory, however has restricted to contents in the first part of 3:54 minutes and subsequent news between internal timing

from 14:29 to 16:12 of the interview. The rest of the interview has not been alleged to contain any defamatory material. The alleged defamatory material part in Ex.CW1/3 of the morning interview is as under -

“0.00-0.03 (Anchor): The election campaign in the Thiruvananthapuram constituency is heating up.

0.03-0.09 (Anchor): with campaign activities continuing with great vigor. Amidst this, Dr. Shashi Tharoor has made a significant allegation.

0.09-0.14 (Anchor): He has accused NDA candidate Rajeev Chandrashekhar of bribing for votes.

0.14-0.22 (Anchor): Tharoor claims that many, including religious community leaders, have revealed this secret to him, but no one is courageous enough to publicly disclose it, as per a statement made to channel 24.

0.22-0.37 (Tharoor's statement) there is evidence, but showing it publicly is challenging. Those who have taken the money, received it, or heard promises about it, will they be willing to speak out publicly? Many have shared this with me in private.

0.37-0.45 (Tharoor's statement) And by many, I don't just mean private people, but some significant community leaders and parish priests have confided in me.

0.45-0.57 (Tharoor's statement) They know the reality of what's happening in our country. It's not just them; all of us are witnessing this issue with money. In every election, it's natural for the BJP to spend two or three times more than us.

0.57-1.02 (Tharoor's statement) But in this election, it's not just

double or triple; we might see expenses that are 20 times, 30 times or even 100 times more, as we observe.”

1.03-1.24 (Anchor) Shafeed Rauf joins us from Thiruvananthapuram with some information. Shafeeq, good morning. It's very serious allegation that Shashi Tharoor is raising. Such an accusation has never been raised in any constituency before. So if it's said that Rajeev Chandrashekhar is buying votes with money, it's very, very serious accusation being raised. Is he making this allegation to us with a very clear understanding?

1:24 – 3:54 (Reporter and Anchor)”

The relevant of alleged defamatory material in the evening part of the interview is as under -

“14:29 – 15:13 ANCHOR: Dr. Tharoor, typically you bring about changes in the political culture of this Country or in Kerala by conducting politics with due respect to the opposition. This has been evident in all elections where you speak on issues and present them in front of the public with respect. However, in this election, there seems to be a change in your approach as you have started to make personal remarks. For instance, you recently commented about the NDA candidate Rajeev Chandrashekhar, accusing him of attempting to influence voters by spending money and of spreading false propaganda among Christian communities. Is this shift towards making personal accusations due to the changes you've experienced in the local culture over

the three terms, or why else would you raise such personal allegations?

15:13 – 16:12 DR. THAROOR: Isn't it time to respond to those who make baseless allegations against me? I can only show so much restraint. If someone slaps me on one cheek, I'm not Mahatma Gandhi or Jesus Christ to turn the other. I am also in a competition. What if people believe the lies my opponents spread if I don't respond? That's the real problem. A friend of mine once said something profound about politics. No one will remember what you have done. Politics is like a bank with no savings account, only a current account. Whatever you did in the past won't accumulate in the account. People only know that you do today. Tomorrow, they will only listen to what promises you are going to make. That's their game, making promises as they please. If they win, good for them; if not, everyone forgets.”

31. The alleged defamatory material in Ex.CW1/4 is less than one minute and is as under -

“0.00-0.16 (Tharoor): I have never said that the BJP candidate did this.

0.06-0.17 (Tharoor): I have never said that the BJP candidate did this. I have never claimed that I have evidence in my hand or made it an accusation. It has become the talk of the town.

0.17-0.19 (Anchor): Some priests have spoken about it.

0.19-0.37 (Tharoor): I have spoken with many people. They tell me. This is what is happening in our country, so it's true that I

have heard it. How can I not speak about what I have heard? I have heard it. I myself said in an interview that there is no evidence. I don't think who told me will speak about it publicly. But it's true that I have heard it.

0.37-0.40 (Anchor): So you will neither retract that statement nor apologize, even if you receive a legal notice.

0.40-0.49 (Tharoor): Just watch that video to see what I have said. I have mentioned that I heard it. Can one say they haven't heard what they have indeed heard?"

32. And finally the alleged imputation in Ex.CW1/5 is about minute and a half and is as under -

“0.00-0.12 (Anchor): There are allegations in Thiruvavthapuram of money being given to forget votes. When Shashi Tharoor accused that voters were being paid, Rajeev Chandrashekhar retorted saying it's an allegation born out of desperation.

0.12-0.31 (Reporter): The intensity of the summer heat is adding to the heat of the campaigns in the capital. Amidst a wind of fire, there's a downpour of allegations. The latest one is about money for votes, with rumors everywhere that BJP is paying for votes, which is Tharoor's serious accusation.

0.31-0.50 (Shashi Tharoor): I have heard people both in the city and in the coastal areas talking about it. If those who spoke are not willing to come forward, then there's nothing more we can say. It doesn't matter; let people question that we have injected more money into our economy

0.50-0.57 (Reporter): Rajeev Chandrashekhar dismisses Shashi Tharoor's allegations as baseless and plans to approach the Election Commission regarding this matter.

0.57-1.21 (Rajeev Chandrashekhar): In Thiruvananthapuram, it's wrong to say that communities and organizations are being targeted in such a suspicious manner. That's what I want to clarify. I will not let it go. If anyone tries to defame me with such lies, I will gladly deliver the consequences right to his doorstep.

1.21-1.31 (Reporter): Amidst the escalating asset controversy, there are also rising allegations of vote-buying. If evidence or disclosures that strengthen this come forth, it will indeed become a serious matter. Manorama news, Thiruvananthapuram.”

33. The transcript of the alleged defamatory material would show that it was the first interview of 06.04.2024 which has been made subject matter of accusation and even was complaint to before the District Model Code of Conduct Officer. It can even be seen that the interview of 06.04.2024 when broadcast snowballed into the incident which led to further news byte of 11.04.2024. The complainant has even allege that these subject interviews/ news byte were defamatory in nature aimed towards him.

34. This Court however would first like to note that not once did the proposed accused in any of the three interviews/ news byte published contain reference to the BJP, NDA or Dr. Rajeev Chandrashekhar. Even there is no

reference in the 23 minutes interview Ex.CW1/3, Ex.CW1/4 or Ex.CW1/5 to BJP, NDA or Dr. Rajeev Chandrashekhar. It is only in the 3.54 minutes news Ex.CW1/3 played that the proposed accused has used the term BJP.

35. The present complaint is qua allegation of imputation made by proposed accused against the complainant of bribing voters of Thiruvananthapuram constituency. Imputation is a charge or claim made. The imputation has to come from the proposed accused and can be in alternative or expressed ironically. The complainant however has failed to show any imputation made against him by the proposed accused in any of the three interviews. In Ex.CW1/3, there was an interview by CW10 K.R. Gopikrishnan of proposed accused Dr. Shashi Tharoor. The 23 minutes video of Ex.CW1/3 contains unedited interview wherein CW10 is questioning and proposed accused is seen answering. CW10 at 14:29-15:13 asks about change in election approach of the proposed accused. CW10 made reference to an earlier instance that “For instance, you recently commented about the NDA candidate Rajeev Chandrashekhar, accusing him of attempting to influence voters by spending money and of spreading false propaganda among Christian communities. Is this shift towards making personal accusations due to the changes you've experienced in the local culture over the three terms, or why else would you raise such personal allegations?”. To this the

proposed accused gives answer between 15:13-16:12, however he neither confirms or imputes that he made any such earlier statement against Rajeev Chandrashekhar of having made attempt to influence voters by spending money. This 23 minutes interview published by News24 Channel contains no imputation made by proposed accused against the BJP, NDA or Rajeev Chandrashekhar of having bribed the voters.

36. CW10 referred to an instance of proposed accused having made personal remarks, however there is no mention of this earlier remark as to when the same was made or published. CW10 even appeared in the Court and made no reference as to when the proposed accused had earlier remarked against the complainant. It seems CW10 framed a complex question in the interview starting at internal time of 14:29 and in between slipped an accusation attributable to the proposed accused of having defamed the complainant. The proposed accused in his answer starting at 15:13 made no validation of such accusation or reiterated that he had accused complainant of bribing the voters. Now Ex.CW1/3 earlier portion is seen of 3:54 minutes. The said portion is stated to be part of interview of Dr. Shashi Tharoor and is alleged to contain the relevant part. In the said portion, there is no questions from CW10. Here there is no mention of interviewer or question asked by him and the Anchor of the news show is said to have

made comments before playing the replies of proposed accused. From 0:00 to 0:22 the Anchor of the show makes comment that proposed accused has published imputation against NDA candidate Rajeev Chandrashekhar. In said part, the answer of proposed accused is between 0:22 to 1:02. Here again, Dr. Shashi Tharoor made no reference to Dr. Rajeev Chandrashekhar. The only reference proposed accused has made is that “In every election, it's natural for the BJP to spend two or three times more than us.” He further states that “But in this election, it's not just double or triple, we might see expenses that are 20 times, 30 times, or even 100 times more, as we observe.” The news then proceeds with the Anchor taking comments from some reporter.

37. This Court finds that the news article presented by News24 Channel has not been produced in full contexts. There was no reason for the channel to run the interview in two parts of 3:54 in the morning and 23 minutes in the evening. The result is that although in 23 minutes video, the interviewer and interviewee can be seen to have a dialogue and conversation. However, in the 3:54 minute news article published contains only few lines stated by the interviewer without reference to the question which was asked and presenting the complete context of the publication. An answer without looking at the question is incomplete. The 3:54 minutes video shows three

participant i.e. the proposed accused, Anchor and Reporter, when in fact neither the Anchor nor the Reporter was present in the interview with proposed accused. The Anchor and the Reporter have presented the edited video as if they were present when the interview of proposed Dr. Shashi Tharoor was taken by CW10. Neither Anchor nor Reporter as shown in 3:54 minutes video have been examined in the pre-summoning evidence and anything as seen from the video is nothing but hearsay on part of the Anchor and the Reporter.

38. Be that as it may, the proposed accused can not been seen to impute that Dr. Rajeev Chandrashekhar has bribed any voter. The proposed accused has not even mentioned that his opposition candidate had bribed the voters. He has so explained the same in his answers in Ex.CW1/4 and Ex.CW1/5. The proposed accused has never in his answers named the complainant or his party to have bribed voters. The only imputation made is that “it's natural for the BJP to spend two to three times more than us”. Even the said imputation was made in contest of the whole country. The fact that the news channel questioned the proposed accused shows that it was already the talk of the town and cities. The news channel kept seeking answers from the proposed, who maintained that even he had heard about the same and even clarified that there was no evidence. The two interviews of

proposed accused Ex.CW1/4 and Ex.CW1/5 when read in totality shows that the proposed accused in all fairness brushed the news as without proof and it seems that he had left it to the people of the constituency to make fair judgment of talks. Proposed accused merely expressed having heard talks as what was being questioned, however he never imputed that the complainant has bribed the voters.

39. Before proceeding further, it is relevant to state requirement under Section 199 CrPC when trying an offence of criminal defamation. Criminal defamation can be initiated by 'person aggrieved'. The onus is on the complainant to show that he is an aggrieved person. In context of the present case, the complainant was to show that any imputation made by the proposed accused was directed towards him. In the facts and circumstances of the present case especially the transcript of the interview of Ex.CW1/3, Ex.CW1/4 and Ex.CW1/5 it cannot be seen that any imputation has been made by the proposed accused against the complainant. He has not even named him directly or as opposite candidate. And in the context in which proposed accused imputed that BJP was spending two to three times more than them, was neither attributable to the complainant nor it is an imputation of defamatory character.

40. Before proceeding to pronounce the Order, it is relevant to state that this Court has only considered the Ex.CW1/3, Ex.CW1/4 and Ex.CW1/5 in context of defamation as alleged by the complainant. It is noteworthy to see how interviews, words, etc. can be manipulated to mean differently with some outside context or interpretation attributed to such words. Ex.CW1/3 when read in whole as part of 23 minutes video seems civilized conversation between two persons and provides a full context of what was asked and what was answered. However, a bit and piece of any answer when presented to sensationalize with some random context by third person can present a complete different picture. Same has been done in the 3:54 minutes video played for the viewers to be consumed as early morning breaking news. Neither the Anchor nor the Reporter of the 3:54 minutes video was present in the interview with the proposed accused Dr. Shashi Tharoor. The Anchor however makes no disclosure that there was a complete 23 minutes interview which is to be viewed before judging the context in which Dr. Shashi Tharoor gave answers, yet the Anchor opens with his own narrative and gives a context of what is to follow. The Anchor never referred to the question which was put by the interviewer/ CW10 and after his own narration, played few answers of the proposed accused.
41. A news channel can easily fall to scheme of sentimentalization. In today's

period with diminishing attention span, the news presented for consumption requires sensationalizing and eye catching headlines. This Court is reminded of caution made by the Hon'ble Supreme Court of India in **S. Khusboo v. Kanniammal & Anr., (2010) 5 SCC 600** to Electronic and news media to play positive role in presenting to general public as to what actually transpire during the course of the hearing. The Hon'ble Apex Court also reiterated that news should not be published in such a manner so as to get unnecessary publicity for its own paper or news channel. In the present case, the interviewer CW10 must have himself heard about talks about money being spent for votes and he puts this in form of question to the proposed accused. Proposed accused in his answers did not name any person or party to be bribing for votes. Proposed accused in further interviews/ news byte even clarifies that chasing such allegations would be futile as none would come forward to accept that they received any money or were promised as such. Proposed accused still in any of the interview never named the complainant or his party to be bribing for votes. In such scenario neither the actus reus nor mens rea required for the offence under Section 499 IPC is shown to have been made.

42. The Hon'ble Supreme Court in the judgment of **Subramanian Swami v. Union of India (2016) 7 SCC 221** explained that while issuing process

under Section 204 CrPC, it is imperative upon the Magistrate to scrutiny the complaint as well as evidence led during pre-summoning evidence. The Hon'ble Apex Court further held that in matters of criminal defamation the heavy burden is on the Magistracy to scrutinise the complaint from all aspects. The Magistrate has also to keep in view the language employed in Section 202 CrPC which stipulates about the resident of the accused at a place beyond the area in which the Magistrate exercises his jurisdiction. He must be satisfied that ingredients of Section 499 CrPC are satisfied.

43. Coming back to the present case, it is settled law that the imputation for criminal defamation must be direct, alternative or expressed ironically. In the present case, there is no imputation by the proposed accused against Dr. Rajeev Chandrashekhar which is direct, alternative or ironic. What has been presented in Ex.CW1/3, Ex.CW1/4 and Ex.CW1/5 is well within the parameters of public discourse among political personalities. The Hon'ble Supreme Court of India in **S. Khusboo (Supra)** as well as in **Subramanian Swamy v. Union of India, Ministry of Law & Ors., (2016) 7 SCC 221** held that criminal defamation is one restriction on the Fundamental Right to Freedom of Speech and Expression under Article 19 and as such any restriction needs to be viewed at a higher threshold. If each and every speech and expression is viewed as defamation, then Freedom of

Speech and Expression would be reduced to nought.

44. This Court having given considerable thought to the facts and circumstances of the present case, finds that there is no imputation which violates the requirement of law so as to initiate trial for criminal defamation against the proposed accused. There is no prima facie evidence that the proposed accused made any imputation against the complainant. The evidence produced shows that proposed accused never made or intended to make an imputation directly upon the complainant. The interview of 06.04.2024 was shown out of context in the morning news of 3:54 minutes and when the remaining interview of 23 minutes was seen, it can be seen that the proposed accused in his entire interview never made any imputation against the complainant.

45. Another section alleged in the present complaint is Section 171G IPC which punishes for publishing or making statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate with intent to affect the result of an election. The provision specifically requires that the statement ought to be made in relation to 'personal character or conduct of any candidate'. As already discussed in the preceding

paragraphs, there is no statement made directly, indirectly or in the alternative by the proposed accused against personal character or conduct of the complainant and hence even the requirement of Section 171G IPC is not made out.

ORDER

46. **For the reasons recorded above, present complaint is dismissed under Section 203 of the Code of Criminal Procedure, 1973.**
47. **The complainant has been explained of his right to challenge the above order in revision before Ld. Session Court u/s 399 CrPC or before the Hon'ble High Court of Delhi u/s 401 CrPC. The complainant has also been explained of his right to approach the Central DLSA if he requires assistance of legal aid counsel.**
48. **Since nothing further is to be adjudicated in the present complaint, file be consigned to record room after due compliance.**

**Pronounced in the Open
Court on 04.02.2025**

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by PARAS
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Date:
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15:30:29 +0530
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ACJM-01, RADC
New Delhi, 04.02.2025