COMMISSION OF INQUIRY REPORT OF

K. RAMAKRISHNAN

COMMISSION OF INQUIRY

ON THE POLICE FIRING AT CHERIYATHURA, THIRUVANANTHAPURAM

ON 17.05.2009

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Title Commission of inquiry report of K. Ramakrishna

Date of Issue

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21/10/16

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REPORT OF INQUIRY

SUBMITTED BY

K. RAMAKRISHNAN

[District & Sessions Judge, Thiruvananthapuram

now working at

District & Sessions Judge, Thodupuzha

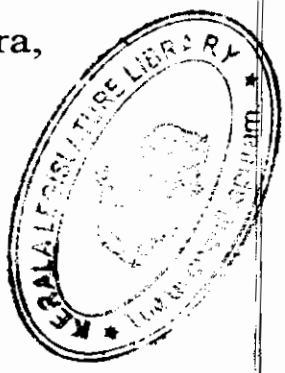
on the police firing at Cheriyathura,

Thiruvananthapuram District

on 17.05.2009.]

BEFORE THE

HON'BLE GOVERNMENT OF KERALA





REPORT

Dated 04.01.2012

K. RAMAKRISHNAN COMMISSION OF INQUIRY
THIRUVANANTHAPURAM
(On the police firing at Cheriyathura, Thiruvananthapuram District on 17.05.2009)
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K. RAMAKRISHNAN
Commission of Inquiry
(District & Sessions Judge)

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K. RAMAKRISHNAN COMMISSION OF INQUIRY

Office:- District Court Buildings,
Thiruvananthapuram

COMMISSION	:	Shri. K. Ramakrishnan, District & Sessions Judge, Thodupuzha. (formerly District & Sessions Judge, Thiruvananthapuram)
SECRITARY	:	Shri. V.E. Varghese.
STAFF	:	Smt. S. Chandrika Devi - Bench Clerk/Accountant. Smt. R. Phathima Beevi - Confidential Assistant. Smt. M. Bindu, - Typist. Smt. S. Bindu, - Typist. Sri. S. George, - L.D. Clerk. Sri. P. Zachriahs, - Peon. Sri. V. Mohana Kumar, - Peon. Sri. G. Stanely, - Peon-cum-Driver. Smt. K. Sumathy, - Part-Time Sweeper.

K. Ramakrishnan

Commission of Inquiry.

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PARTIES TO THE INQUIRY PROCEEDINGS

A – PARTY

A1

1. Sn.Nizamudeen
2. Sri. Muhammed Yusuff
3. Sri.Alavudecn
4. Sri.T. Basheer
5. Sri H. Hussain
6. Sri U. Gulam Muhammed
7. Sri. K. Madhusoodhanan
8. Sri. Kabeer
9. Sri. Hyderali
10. Sri. Salam
11. Sri. Noushad
12. Sri. Nazeer
13. Sri. Said Ali
14. Sri. Shajahan
15. Sri. Iqbal
16. Sri. Peeru Muhammed
17. Sri. Abdul Khadar
18. Sri. Abdul Kalam
19. Sri. Abdul Azeez

By Adv. A. J. Mohammed Sali

A2

20. Sri. Mehabooh

By Adv. Kanjiramattom Siraj

21. Abdul Rasheed, President
    Beemapally Muslim Jama Ath
22. Ali Hyder
23. Nizamudheen By
24. Salim
25. Asharaf Ali
26. Shamsudheen

Adv. K.R.Ravisankar

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A4

27. Niyamasahaya Vedi
By Stephen Rosario — **By Adv.R.Vinod**

A5

28. Kerala State Muslim League Committee by District President Sri.A.Abbas Sait s/o Abdul Majeed, aged 60, T.C.49/224(2), Kallattu Nagar, Manacaud Village, Trivandrum District. — **By Adv. Hashim Babu**

A6

29. Dr.N. Aliyarkunju — **By Adv. I. Shahul Hameed**

A7

30. Isahak, S/o Thalhathu — **By Adv. V.S. Vineethkumar**

B-PARTY

B1

31. Cheriyathura Assumption Church by Secretary Adolf Roderigues. 31(a) and another (Mema) — **By Adv. Chandra Praveen**

B2

32. Latin Service Society, Cheriyathura by Chairman Francis Albert. — **By Adv. Philip Joseph**

B3

33. Kerala Latin Catholic Association by Anto Merceline
34. Kerala Latin Catholic Avakasa Samrakshana Samithy by President and 2 others — **By Adv. Anto Merceline**

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C-PARTY

35. The Action Council, Vellarada by its President V.Rasalayyan — **By Adv.Sandhya Santhosh**

D-PARTY

36. Hindu Aikyavedi By District General Secretary K.Anil KumarBy I — Adv.Kamaleswaram Manikantan Nair

E-PARTY

E1

37. Kerala Police by Commissioner of Police Thiruvananthapuram City — **By Adv.Celin Wilfred**

E2

38. Kerala Police Service Officers' Association by President T.Gopalakrishna Pillai — **By Adv. B. Raman Pillai and George Philip**

E3

39. Kerala Police Officer's Association by President D.K.Prithewi Raj

40. Police Pensioner's Welfare Association Kollam By by Executive Committee member K.N. Janarajan (Arrayed as E3 party as per order on I.A. 11/2010 dtd 24.4.2010.) — **Adv. V.Ajakumar**

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F-PARTY

41. Sri.C.G.Suresh Kumar, former ACP, Shangumugham
42. Sri. E.Sherafudeen, former A.C, DCRB, Thiruvananthapuram. (Common affidavit)
43. R. Pradeep Kumar, former C.I of Police! Poonthura

By Adv.K.Rajagopala Pillai

G-PARTY

44. K.J.Johnson, former S.I of Police, Valiyathura

By Adv. V.S. Sunil Kumar

H - PARTY

45. CBCID by Sri.A.Shanawaz, Dy.SP, Crime Branch CID OCW-1 Thiruvananthapuram (Arrayed as H party as per order on IA. 11/2010 dted 24.4.2010.)

By Adv. G. Mohan Raj

I- PARTY

46. Govt. of Kerala represented by Addl. Chief Secretary. Home & Vigilance (Arrayed as I party as per order dated. 6.5.2010)

By Adv. A. Santhosh Kumar

In addition to the affidavits filed by the above parties. Sri. Sanjay Kaul, who was the District Collector, Thiruvananthapuram at the time of the incident has filed a report dated 6.10.2010 in the Inquiry Proceedings.

Advocate Sri. K.R. Shyam Sekhar was appointed to assist the Commission.

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K. RAMAKRISHNAN COMMISSION OF

INQUIRY

THIRUVNANTHAPURAM

TERMS OF REFERENCE

1. THE FACTS AND CIRCUMSTANCES WHICH LED TO THE INCIDENTS AT CHERIYATHURA AND ADJOINING AREAS IN THIRUVANANTHPAURAM DISTRICT ON 17.05.2009 RESULTING IN POLICE FIRING, DEATH OF SIX PERSONS, INJURIES TO MANY OTHERS AND DAMAGE TO PROPERTIES.

2. WHETHER THERE WAS ANY INVOLVEMENT OF OUTSIDE PERSONS IN PRECIPITATING THE INCIDENTS.

3. WHETHER THE FIRING RESORTED TO BY THE POLICE ON 17.05.2009 AT CHERIYATHURA WAS JUSTIFIED AND IF NOT THE PERSON OR PERSONS RESPONSIBLE.

4. SUCH OTHER ASPECTS AS ARE INCIDENTAL TO AND ARISING OUT OF THE MATTER.

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HEARING DATES

1. 17.3.2010
2. 31.3.2010
3. 12.4.2010
4. 22.4.2010
5. 23.4.2010
6. 24.4.2010
7. 26.4.2010
8. 30.4.2010
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130.10.06.2011
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134.07.07.2011
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144.11.10.2011
145.12.10.2011
146.13.10.2011

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REPORT SUBMITTED BY K. RAMAKRISHNAN

{District & Sessions Judge, Thiruvananthapuram now working at
District & Sessions Judge, Thodupuzha on the police firing at Cheriyathura, Thiruvananthapuram District on 17.05.2009}

BEFORE THE

HON'BLE GOVERNMENT OF KERALA

Appointed as Commission of Inquiry as per S.R.O. No. 699/2009 published in the Kerala Gazette Extraordinary as Notification No. 36475/SS.A2/2009/Home dated 7th August, 2009 to enquire into the facts and circumstances which led to the incidents at Cheriyathura and adjoining areas in Thiruvananthapuram District on 17.5.2009 resulting in police firing led to the death of six person and injuries to many others and damage to properties.

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PROLOGUE

The case as emerged from the statement of parties regarding the incident happened on 17th May, 2009 preceded by an incident on 16th May 2009 is as follows:

Beemapally and Cheriyathura are adjacent areas. Beemapally is mainly dominated by Muslim community people whereas Cheriyathura is mainly dominated by Christian community people. Though they claim, there is communal harmony and amity between them, both areas were separated by a road branching of from Cheriyathura junction going towards the beach on the west known as 'Endroad' (അതിർത്തി റോഡ്). Beemapally area situated on the southern side of that road whereas Cheriyathura is situated on the north of this road. There is a famous church congregated by Portuguese known as Assumption Church in Cheriyathura area on the western side of the Valiyathura - Poonthura road which passes through Cheriyathura and Beemapally area.

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Similarly, there is a famous Mosque known as Beemapally which was formed in memory of Sayyithunnissa Beemabeevi and her son Sayithussuhathamahin Aboobacker that covers the major portion on the eastern side of Valiyathura - Poonthura road. Beemapally area is known for its commercial activities but Cheriyathura area is having less commercial activities except having some small business establishments. Most of the business establishments in Beemapally area are owned by Muslim community people whereas most of the establishments in Cheriyathura area owned by Christian community people. There are one or two establishments run by persons not belonging to both community in both areas.

The version of the police regarding the incident is that on 16.05.2009 at about 3.30 pm, an incident happened near Cheriyathura junction when one Nizamudheen parked his Maruti Car on the side of the road and the person who is termed as an anti-social by both Jama-Ath people and the police by name Kombu Shibu along with his associates came there and

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questioned the same and due to that, there was some altercation and scuffle occurred and this was informed to the police by a local lady and police came there and disbursed them. Thereafter, according to the Jama-Ath officials, at about 4.30 pm, Kombu Shibu came there with his associates and entered the shop of one Peer Muhammad which according to police is situated on the north of Cheriyathura junction which is a CD shop and according to the Jama-Ath officials, it is situated on the southern side of the Cheriyathura junction in Beempally area and it is a fancy-cum-provision shop and he demanded 'goonda pirivu' and when this was refused by the said Peer Muhammad, there occurred some altercation between the said Peer Muhammad, Kombu Shibu and his associates and he caused damage to the articles in the shop of Peer Muhammad.

According to the residents of Cheriyathura, on seeing this, some Muslim people from Beemapally area came and attacked Kombu Shibu and this was also informed to the police by a lady from Cheriyathura area and local police from Poonthura

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came there and disbursed them. According to Jama-Ath officials, thereafter at about 6.30 pm, the supporters of Kombu Shibu came along with his brother Manikuttan and one Kolachi Rajan, both according to them regularly involved in criminal and anti-social activities and residing in the fishermen colony which is situated on the eastern side of the Cheriyathura junction and on the west of the Sewage Farm and openly declared that those who had assaulted Kombu Shibu will not be allowed to conduct the Urus Festival which was approaching and scheduled to be conducted from 26th May 2009 and created a scene there by throwing stones and causing damage to the shops in Beemapally area.

According to the then President of the Jama-Ath, he had informed the matter to the police and also filed a complaint to give protection to Beemapally area and also see that no hindrance happens to the forthcoming Urus Festival. When things went out of control, an incident happened by causing damage to the restaurant conducted by one Gireesan and the computer shop conducted by one Moni by a mob

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consists of Muslim people from Beempally area and they also caused damage to the house of one Smt. Celine Jerome, and all these are situated on the northern side of Cheriyathura junction. According to the residents of the Cheriyathura, it was done by an unruly mob consisting of Muslims from Beemapally area and this fact was informed to the control room by a lady at about 9 pm as the incident started from 8.30 pm on that day and it was continuing. Thereafter police personnels came there with Varun and Vajra and Fire Force after 9 p.m and at that time, there was pelting of stones going on, on either side by the mob gathered there. It is also understood that on that day a country boat belonging to one Aboobaker stationed in Cheriyathura area on the western side of seashore on the north western portion of the church was gutted to fire and this was situated about 500 to 750 metres north from the 'Endroad' in the beach area. The police came there and controlled the situation and at about 10.30 p.m, on getting information regarding the law and order situation there, the then District Collector Sri. Sanjay Kaul, the then Assistant Collector Sri.

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K.Biju and the then local MLA and former Minister for Ports and Youth Affairs, Sri. V. Surendran Paillai and the then Additional Director General of Police Sri. Rajeevan reached the place. It is gathered that at that time when they reached there, lot of people were standing on the Beemapally side in a violent mood and some people were gathered, mostly women and children, in Cheriyathura Church compound and Beach area there and these two groups were separated by the police force. District Collector contacted the Beemapally Jama-Ath officials but they did not want the police to enter the area and involve in any discussion with them. Thereafter, the then District Collector and former Minister Sri. K. Surendran Pillai after having discussion with the then Jama-Ath President and then Ward Councillor Sri. Beemapally Rasheed decided to conduct a meeting from the Jama-Ath hall in Beemapally compound. In that discussion, they did not allow the police personnels to participate. The outcome in the discussion was that Kombu Shibu and his associates were responsible for these incidents and they will have to be arrested immediately and

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immediate steps will have to be taken to pay compensation to the loss of property caused to the persons by the Revenue Authorities and to take stringent action against the anti-social elements on both sides who were responsible for the incident and give police protection to the life and property of the person of Beemapally area. The meeting at Beemapally Jama-Ath office was over at about 12.30 night and Sri. V. Surendran Pillai, District Collector and Assistant Collector came to Cheriyathura junction and informed about the outcome of the meeting to Sri. Rajeevan, the then Additional Director General of Police and wanted him to see that Kombu Shibu and his associates were arrested immediately. Thereafter, they proceeded to Cheriyathura Church and had a discussion with the Parish Vicar Fr. Eugene and the Church Committee members available there and informed about the outcome of the meeting held in the Jama-Ath office and they also demanded that compensation will have to be paid to the persons who had lost their property in the incident and stringent action should be taken against the anti-social elements

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who were responsible for this unfortunate incident and when assurance was given to that effect, they told the people not to make any further incidents and wait for the authorities to implement the decision. After the meeting held at Jama-Ath, when Jama-Ath office bearers informed about the outcome of the meeting to the persons gathered there and satisfied with the decisions taken, the mob gathered there also disbursed. According to the District Collector, he came back and informed about the outcome of the meeting held in Cheriyathura Parish Office to Sri. Rajeevan, the Additional Director General of Police and according to Sri. Rajeevan, he gave instructions to the police to arrest the persons who were responsible for the incident and made a plan of action by deploying enough police force there and at about 1.45 am on 17th early morning, the higher police officials namely Sri. Rajeevan, the then Additional Director General of Police and the District Administrators namely the District Collector and Assistant Collector and local MLA left the place after ensuring that the situation in that area was under control.

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The case of the Jama-Ath officials was that on the early morning on 17.5.2009, a private bus to be operated from Beemapally junction to Kizhakkekotta was not allowed to be operated by Kombu Shibu and others and though it was informed to the police, no action was taken. Thereafter, according to the Jama-Ath officials, Kombu Shibu and associates blocked a Sumo car came with pilgrims to Beemapally at the Cheriyathura junction at about 11.30 am on that day and when this was informed to Sri. Sherafudheen, the Deputy Superintendent of Police who was there at that time, it was allowed to come and thereafter vehicles were not allowed to pass through Valiyathura - Poonthura road and it was diverted through the Sewage Farm road as directed by the police and that caused some dissatisfaction among the Muslim community. But according to the persons who are supporting the firing and police party, the blockade was done by ladies and children belonging to Christian community as no steps were taken to assess the damages caused to their property in the incident happened on 16.05.2009 and they blocked the vehicles

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near Rose Mini Convent at Cheriyathura and also near the Fishermen colony and as directed by Sri. A.V. George, Deputy Commissioner of Police, Women Police Officials and Poonthura Circle Inspector of Police Sri. Pradeep Kumar went to those places and dispersed the mob and diverted the smooth passage of transport through Sewage Farm Road in order to avoid further incidents happening in Cheriyathura area and according to the police, it was done as agreed by the Jama-Ath Authorities and according to them, it was informed to their higher officials as well. Thereafter no incident happened there.

According to the parties opposing the police firing, at about 2.00 - 2.30 pm, they heard the sound of firing from beach area and when the people gathered there at that time, they could see that the police officials under the leadership of Sri. Sherafudheen, the Deputy Superintendent of Police, who was in charge of the picket at the beach area near the 'Endroad' were firing towards the innocent people who were engaged in repairing their fishing net and also innocent children who were playing cricket and

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football in the open area in the beach at that time and according to them, they proceeded towards south from the 'Endroad' along the beach side at a distance of 250 to 300 metres and indiscriminately fired at innocent people which resulted in death of six persons and injury to nearly 40 persons and thereafter the mob agitated and on getting information about this incident, the then District Collector Sri. Sanjay Kaul, the Sub Divisional Magistrate Sri. Biju, the then local MLA and former Minister Sri. V. Surendran Pillai and higher police officials like Sri. Rajeevan, Additional Director General of Police and others came there and under the leadership of District Collector, flag march was conducted through the beach area after at about 5.00 pm. According to the Jama-Ath Officials, no public announcement was made before firing and no legal formalities were followed before using the force, especially strong action of firing in that area and according to them, there was no situation in that area for the police to use firing and this was done without any provocation on either side.

But according to the police authorities,

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while Sri. Sherafudheen was there, he heard a scund of blasting of a bomb in the 'Endroad' and in order to see the same, when he proceeded towards that direction with some police personnels, he saw lot of Muslims coming from western and southern side of the 'Endroad' and rushing towards the church and hurling country bombs and petrol bombs etc. On seeing this, he came back and from the church side, Sri. Suresh Kumar, the then Assistant Commissioner of Police, Shankumugham along with the police party came from the junction area to church area and drove away the Muslim miscreants who reached near the church towards west and then towards south. When they were retreating, some people from Cheriyathura area also came behind Sri. Suresh Kumar with weapons like ore, stick, chopper etc and attacked the Muslim community people who came from the south and western direction from the 'Endroad'. The police personnels in the picket were also attacked by the mob came from the west and the south. They hurled bombs which included according to Sri. Sherafudheen, Neogel 90 and lounger bombs. They attacked the

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police persons there and took away their shields, lathies and helmets and so they had no option, but to retreat from the beach side towards the 'Endroad' side.

According to Sri. Sherafudheen and Sri. Suresh Kumar the senior police officials in the beach area, Suresh Kumar drove away the Christian mob gathered on the northern side towards the church side and he, to some extent, succeeded in his attempt but the mob that gathered at the 'Endroad' came from the western side and southern side belonging to Beempally area did not recede. But they were more aggressive and continued to hurl bombs. So Sri. Sherafudheen had no other option to call for the firing party consisting of eight police personnels under the leadership of Sri. Brito and order firing to control the mob. According to him, prior to the order of firing, he made announcement to disburse the mob and also used tear gas and since all these failed, he ordered firing. Even before firing at the mob, 30 rounds were fired in the air and in spite of that, since Muslim mob was more aggressive and they did not disperse, he had

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no option but to order firing and he was standing at that time about 50 metres towards east from the beach side in the 'Endroad' and the police persons were firing from that place towards west. The firing team was led by Sri. Brito, an officer from SAP camp. According to them, 17 rounds were used out of which four were misfired and due to the firing, people dispersed. They could not find out who were taking the persons injured in the firing. Since they were satisfied that the agitated mob dispersed, Sri. Sherafudheen ordered cease fire. By the time, Sri. Suresh Kumar also reached there. But there was no mob on the Cheriyathura side at that time but the agitating mob was standing about 300 metres south from the 'Endroad' even at that time. Sri. A.V. George and other police officials were controlling the mob at the junction to avoid further untoward incidents happening in that area. On getting information regarding the same, Sri. Rajeevan, Additional Director General of Police, Sri. A.V. George, Deputy Commissioner of Police, the Assistant Collector and the District Collector also reached the place.

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Thereafter under the leadership of the District Collector and Additional Director General of Police Sri. Rajeevan and Sri. A.V. George and Suresh Kumar, flag march was conducted towards south along the beach road after imposing prohibitory orders by the District Collector. Since the mob dispersed from that side, they came to Cheriyathura junction and tried to go towards the Beempally area, but the agitated mob gathered there protested the same and they did not allow the police to enter. By the time Sri. Surendran Pillai, former Minister and local MLA also reached there and after discussion with the Jama-Ath officials, he came to the District Collector and told that police need not go to the Beemapally area at that time as they were angry towards police and if the police enter there, the situation could not be controlled. So the District Collector directed the police to retreat towards Cheriyathura junction. It was revealed at that time that two dead bodies were in the possession of the Muslim Jama-Ath Officials and they were not prepared to hand over the dead bodies for postmortem and other purposes. But after the discussion with the

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District Collector and Sri. Surendran Pillai, they agreed to hand over the dead bodies and the dead bodies were taken to Medical College Hospital for postmortem by the Jama-Ath Officials and their supporters and the injured were taken in different vehicles as provided by them and one injured was taken in the police vehicle to the hospital.

According to Sri. A.V. George, Deputy Commissioner of Police, even before the firing was ordered, he could see country bombs being hurled and thrown by persons standing in the terrace of house situated immediately on the south of Cheriyathura junction and he anticipated attack at the Cheriyathura junction towards the church. So he along with the then Poonthura Circle Inspector Sri. Pradeep Kumar were controlling the mob there and so they did not go to beach area from where the firing took place. According to the police, even before firing started and during the process of commotion, the mob from Beemapally area caused damage to a boat in Cheriyathura beach area and also set to fire to the house at Cheriyathura area and Cheriyathua people

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had thrown fire torches (തീപ്പന്തം) towards south of the road and it caused fire to one of the house situated on the southern side of the Endroad in the beach area and some boats were also set fire in that area. But most of the damage to the property were caused on the northern side. According to the police, this was done by the Muslim people who came from Beemapally area and according to Jama-Ath officials and Muslim community people in Beemapally area, this mischief was done by Kombu Shibu and his associates with the active help of police personnels.

After discussion with the police personnels Jama-Ath Authorities and the then MLA and former Minister Sri. V. Surendran Pillai, the then District Collector decided to call for Para Military Force and contacted the Secretary to Central Home Affairs for this purpose and also contacted the then Home Minister of th State and also the then Chief Secretary of the State and appraised them of the situation and informed about his intention to call for Para Military Force and that was concurred by the then Home Minister as well. Para Military Force from Coimbatore

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reached there between 8.30 pm and 10.30 pm on that day and the situation was brought under control. The injured persons were taken to the Medical College Hospital and it was revealed from the spot that three persons died at the spot due to firing and later three persons died from the hospital and on the way to the hospital.

Peace conference was held on 18.05.2009 at the Chamber of the District Collector which was attended by the representatives of both Christian Church and Beemapally Jama-Ath, Political Parties and Police Officials. The main demand arose was to take immediate steps to assess the damage and pay compensation to the kith and kin of deceased persons and also to the injured persons and pay compensation to the persons who lost their properties in the incident. It was also decided to conduct peace conference at local level incorporating the leaders of both community, political parties and revenue authorities and police officials. Later the spot was inspected by Sri. Jacob Punnoose, the Director General of Police and the then Hon'ble Chief Minister and other Ministers

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including the then Home Minister and other political party leaders.

Later, the Government decided to pay an amount of Rs. 10,00,000/- as compensation to the kith and kin of the deceased persons and also to pay an interim relief of Rs. 10,000/- to the injured subject to payment of further amounts after ascertaining their nature of injuries and disabilities etc. Directions were also given to the District Collector to assess the damage caused to the properties of the persons in the incident and take immediate steps to pay compensation to them. It was also decided to appoint a Judicial Commission of Inquiry for the purpose of conducting inquiry into the matter which is of public importance with regard to circumstances which led to the incidents at Cheriyathura and adjoining areas in Thiruvananthapuram District on 17.05.2009 resulting in police firing and death of six persons, injury to many others and damage to properties under section 3 of the Commissions of Inquiry Act.

APPOINTMENT OF COMMISSION

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The Government of Kerala by Notification No. 36475/SS.A2/2009/Home dated 7th August, 2009 which was published in Kerala Extraordinary Gazette as S.R.O. No. 699/2009 dated 07.08.2009 appointed me as the Commissioner of Inquiry to enquire into the matter. As per the notification under sub section(1) of section 5 of the above Act, all the provisions of sub Sections (2), (3), (4) and (5) of Section 5 of Commission of Inquiry Act, 1952 were made applicable to the commission.

As per the appointment of commission, the terms of reference as per the notification are:

(1) To enquire into the facts and circumstances which led to the incidents at Cheriyathura and adjoining areas in Thiruvananthapuram Distirct on 17.05.2009 resulting in police firing, death of six persons, injury to many others and damage to properties.

(2) To enquire whether there was any involvement of outside persons in precipitating the incident.

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(3) To enquire whether the firing resorted to by the police on 17.05.2009 at Cheriyathura was justified and if not, the person or persons responsible for the same.

(4) To look into such ~~as~~ other aspects as are incidental to and arising out of the matter.

The commission was directed to complete the enquiry and submit report within six months from the date of publication of the notification i.e. from 07.08.2009. Later it was extended up to 6th August 2010 as per S.R.O. No. 171/2010 published as Notification No. 36475/SS.A2/2009/Home dated 18.02.2010 and up to 6th July 2011 as per S.R.O. No. 77/2010 by notification No. 36475/SS.A2/2009/Home dated 06.08.2010. The term of the commission was further extended till 6th January, 2012 as per Notification No. 36475/SS.A2/2009/Home dated 13.07.2011. I assumed charge on 16.09.2009 and caused a notification to be published in Desabhimani daily dated 10.2.2010 as KRC-2/2010 dated 27.01.2010 and Hindu daily dated 12.02.2010. In the notification

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it was mentioned as follows:

" Whereas by Notification No. 36475/SS.A2/2009/Home dated 07.08.2009, the Government of Kerala have appointed a Commission of Inquiry consisting of Sri. K. Ramakrishnan,District and Sessions Judge, Thiruvananthapuram under section 3 of the Commissions of Inquiry Act 1952 (Central Act 60/1952) for the purpose of making an inquiry and report into a definite matter of public importance, namely the circumstances which led to the firing by police on the 17th May, 2009 at Cheriyathura, Thiruvananthapuram district with the following terms of reference:-

1. The facts and circumstances which led to the incidents at Cheriyathura and adjoining areas in Thiruvananthapuram District on 17.05.2009 resulting in police firing, death of six persons, injuries to many others and damage to properties.
2. Whether there was any involvement of outside persons in precipitating the incidents.

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3. Whether the firing resorted to by the police on 17.05.2009 at Cheriyathura was justified, and, if not, the person or persons responsible.

4. Such other aspects as are incidental to and arising out of the matter.

On the basis of the notification, the sitting was conducted for some time at the Court Hall of the Vigilance Tribunal, Thiruvananthapuram at Vanchiyoor Court Complex and thereafter, it was shifted to the old Chief Judicial Magistrate's Court Hall and Office to the old Chief Judicial Magistrate's Court Office in the District Court Building, Thiruvananthapuram. On the first sitting on 17.3.2010 and some of the subsequent sittings statements were filed by interested parties. After lapse of some time, the then District Collector also filed a report regarding the incident. On the basis of the statements filed and after discussion with the counsels and parties appearing, I grouped the parties as follows:-

A1 Party

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(1) Sri. Nizamudeen, S/o. Maheen Kannu, T.C.No.17/176, Beemapally, Muttathara Village, Thiruvananthapuram Taluk, Thiruvananthapuram District.

(2) Sri. Muhammed Yusuff, S/o. Sali Pillai, T.C-46/677, Jawahar Nagar, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(3) Sri. Halavudeen alias Alavudeen, S/o. Abdul Rahman, T.C.No.46/617, Puthuval Purayidam, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(4) Sri. T.Basheer, S/o. Thoufeeq, T.C.47/707, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(5) Sri. H.Hussain, S/o. Muhammed Haneefa, T.C.2/779, Sujatha Manzil, behind Beemapally U.P.School, Muttathara Village, Thiruvananthapuram Taluk.

(6) Sri. U.Gulam Muhammed, S/o. Younis, Sameeksha Manzil, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(7) Sri. K.Madhusoodhanan, S/o. Karunakaran,

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Sumayya House, Buhari Lane, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(8) Sri. Kabeer, S/o. Muhammed Sali, T.C.45/737, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(9) Sri. Hyderali, S/o. Basheer, T.C.46/588(607), Beemapally Colony, Muttathara Village, Thiruvananthapuram Taluk.

(10) Sri. Salam, S/o. Shamsudeen, T.C.17/893, Naduvilakom Purayidam, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(11) Sri. Noushad, S/o. Peer Muhammed, T.C.70/356, Memutty Vilakam, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(12) Sri. Nazeer, S/o. Abdu Rouf, T.C.70/130, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(13) Sri. Said Ali alias Ali, S/o. Muhammed Ismail, T.C.46/2010(14), Badariya Nagar, Beemapally, Poonthura, Muttathara Village, Thiruvananthapuram Taluk.

(14) Sri. Shajahan, S/o. Shamsudeen, T.C.42/603,

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Colony Road, Beemapally, Muttathara Village.

(15) Sri. Iqbal, S/o. Shamsudeen, T.C.46/335, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(16) Sri. Peeru Muhammed, S/o. Moitheen Pichu, Mamoottil Vilakam Purayidam, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(17) Sri. Abdul Khadar, S/o. Moitheen Pichu Srank, Former President of Beemapally Jama-Ath, T.C.45/822, Rahmath House, Beemapaily, Muttathara Village, Thiruvananthapuram Taluk.

(18) Sri. Abdul Kalam, S/o. A.M.Jaffer, Secretary, Beemapally Residents' Association, T.C.45/748, Beemapally Colony, Muttathara Village, Thiruvananthapuram Taluk.

(19) Sri. Abdul Azeez, S/o. Moitheen Pichu, Former President of Beemapally Jama-Ath, T.C.No.45/822, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

A2 Party

(20) Sri. M.Mehaboob, S/o. Meera Sahib, T.C.43/443,

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Kamaleswaram, Manacaud Desom, Muttathara Village, Thiruvananthapuram Taluk.

A3 Party

(21) Sri. Abdul Rasheed, S/o. Muhammed Khasim, T.C.45/706, President, Beemapally Jama-Ath, Beemapally, Muttathara Village, Thiruvananthapuram Taluk.

(22) Sri. Ali Hyder, S/o. Muhammed Sali Pillay, T.C.46/483(1), Hazeena Manzil, Beemapally, Thiruvananthapuram Taluk.

(23) Sri. Nizamudheen, S/o. Hassan, T.C.46/1002, Milk Colony, Beemapally.

(24) Sri. Salim, S/o. Jalavudheen, T.C.70/58, Varuvilakam Purayidam, Beemapally.

(25) Sri. Asharaf Ali, S/o. Peeru Kannu, T.C.70/118, Valiyavilakam, Beemapally, Thiruvananthapuram Taluk.

(26) Sri. Shamsudheen, S/o. Aliyar, 10 Acre Milk Colony, Beemapally, Thiruvananthapuram.

A4 Party

(27) Niyamasahaya Vedi represented by its Chairman, Stephen Rosario, T.C.26/750, near American Institute

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Building, Vanchiyoor P.O., Thiruvananthapuram.

A5 Party

(28) Kerala State Muslim League Committee represented by District President Sri. A.Abbas Sait, S/o. Abdul Majeed, T.C.49/224(2), Kalllattu Nagar, Manacaud Village, Thiruvananthapuram District.

A6 Party

(29) Dr. N. Aliyarkunju, S/o. Nimar Muhammed, T.C.12/646(1), Alfa, TARA-111, Miranda Junction, Vanchiyoor P.O., Thiruvananthapuram – 35, General Secretary of United Muslim Organization.

A7 Party

(30) Sri. Isahak, S/o. Thalhath, T.C.46/485, Near Jawahar Mazjid, Manikkavilakam, Poonthura P.O., Muttathara Village.

B1 Party

(31) Cheriyathura Assumption Church represented by its Secretary, Adolf Roderigues.

31(a) Mema, D/o. Karali, T.c.45/920, behind Cheriyathura Church, Beemapally Ward, Muttathara Village.

B2 Party

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(32) Latin Service Society Cheriyathura represented by its Chairman, Francis Albert, T.C.45/986(2), Fabin Kottach, Cheriyathura, Vallakkadavu P.O., Cheriyathura.

B3 Party

(33) Kerala Latin Catholic Association by Anto Merceline.

(34) Kerala Latin Catholic Avakasa Samrakshana Samithy by its President and two others.

C Party

(35) The Action Council, Vellarada represented by its President, V.Rasalayyan, S/o. Varghese, ACL Building, Vellarada, Thiruvananthapuram.

D Party

(36) Hindu Aikyavedi represented by its District General Secretary Anil Kumar, Samanvaya Bhavan, Near Fort High School, Fort P.O., Thiruvananthapuram.

E1 Party

(37) Kerala Police represented by Commissioner of Police, Thiruvananthapuram City, M.R.Ajith Kumar, S/o. Muthua Krishnan, Police Quarters, Udara Siromani Road, Vazhuthacaud.

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E2 Party

(38) Kerala Police Service Officers' Association represented by its President T.Gopalakrishna Pillai, S/o. Thankappan Pillai, Kalathil, Arinalloor, Kollam, then working as Deputy Superintendent of Police, CBCID, Pathanamthitta.

E3 Party

(39) Kerala Police Officers' Association by its President D.K.Prithvi Raj, S/o. V. Damodharan Pillai, T.C.13/1060(20), Kollam Gardens, Kannammoola, Medical College P.O., Thiruvananthapuram.

(40) Police Pensioners' Welfare Association, Kollam represented by its Executive Committee Member K.N.Janarajan, S/o. Narayanan, House No. 155, Adithya Nagar, Vadakkevila P.O., Kollam District.

F Party

(41) Sri. C.G.Suresh Kumar, Former Assistant Commissioner of Police, Shankumugham.

(42) Sri. E.Sherafudeen, Former A.C., DCRB, Thiruvananthapuram.

(43) Sri. R.Pradeep Kumar, Former Circle Inspector of Police, Poonthura.

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G Party

(44) Sri. K.J.Johnson, Former Sub Inspector of Police, Valiyathura.

H Party

(45) CBCID represented by Sri. A. Shanawaz, Deputy Superintendent of Police, Crime Branch CID OCW-1, Thiruvananthapuram (originally they were shown as E3 Party but subsequently arrayed as H Party as per order in I.A.No.11/2010 dated 24.04.2010.

I Party

(46) Government of Kerala represented by Additional Chief Secretary (Home and Vigilance) (Arrayed as I Party as per order dated 06.05.2010)

Sri. Shyam Sekhar Advocate Thriuvananthapuram. was appointed as counsel to assist the Commission in this proceedings.

A1 party was represented by Sri. A.J.Mohammed Sali, Advocate, Thiruvananthapuram, A2 Party by Sri. Kanjiramattom Sri. T.K.Siraj, Advocate, Thiruvananthapuram, A3 Party by Sri. K.R.Ravisankar, Advocate, Thiruvananthapuram, A4

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Party was earlier represented by counsel Sri. R.Vinod, Advocate, Thiruvananthapuram but later he relinquished his vakalath and thereafter they were represented by their President in person, A5 Party by Sri. Hashim Babu, Advocate, Thiruvananthapuram, A6 Party by Advocate Sri. I.Shahul Hameed, A7 Party by Advocate Sri. Vineethkumar, B1 Party by Sri. Chandra Praveen, Advocate, Thiruvananthapuram, B2 Party by Sri. Philip Joseph, Advocate, Thiruvananthapuram, B3 party by Sri. Anto Merceline, Advocate, Thiruvananthapuram, C party by Smt. Sandhya Santhosh, Advocate, Thiruvananthapuram, D Party by Advocate Sri. Kamaleswaram Manikantan Nair. E1 Party by Advocate Smt.Celin Wilfred, Thiruvananthapuram, E2 Party by M/s. B.Raman Pillai and George Philip, Advocates, Ernakulam, E3 Party by Sri. V.Ajakumar, Advocate, Thiruvananthapuram, F Party by Advocate Sri. K.Rajagopala Pillai, Mavelikkara, represented by Sri. Jayakrishnan, Advocate, Thiruvananthapuram. G Party by Sri. V.S.Sunil Kumar, Advocate, Thiruvananthapuram, H Party by Sri. G.Mohan Raj, Advocate, Kollam, I Party

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originally by Advocate Sri. Murukkumpuzha Vijayakumaran Nair and subsequently Adv. Sri. A Santhosh Kumar was appointed in his place. Sri. K.R. Syam Sekhar, Advocate, Thiruvananthapuram. was appointed as the commission's Advocate to assist the commission in the proceedings.

STATEMENTS OF PARTIES

A total number of 50 statements have been filed by the parties in the Inquiry Proceedings as detailed below:-

A1 Party	-	19
A2 Party	-	1
A3 Party	-	6
A4 Party	-	1
A5 Party	-	1
A6 Party	-	1
A7 Party	-	1
B1 Party	-	6
B2 Party	-	1
B3 Party	-	2
C Party	-	1

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D Party - 1

E1 Party - 1

E2 Party - 1

E3 Party - 2

F Party - 1

G Party - 3

H Party - 1

I Party - Nil

Advocate for Commission - NIL

In addition to the statements filed by the above parties; Sri. Sanjay Kaul who was the then District Collector, Thiruvananthapuram at the time of the incident has filed a report dated 06.10.2010 in the enquiry proceedings.

The gist of the statement given by each party is extracted as follows:-

A1 Party

(1) Sri. Nizamudeen

He was working in Gulf. He came to participate in Beemapally Urus Festival and was

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residing near the office of Beemapally Jama-Ath. On 17.05.2009, at about 3 pm, while he was sitting in the house after taking lunch, he heard the tumult, the noise of firing and cry of the people and came out of the house and went to beach road and went towards beach and at that time, he saw police marching through the beach road and saw one Hakkim falling down due to hitting of bullet on him on the beach side. The people gathered there took Hakkim. Just thereafter Badusha also sustained bullet injury and saw people taking him with blood. There was no unusual crowd seen in the beach side at that time. He informed the T.V.Channel people and it was thereafter that they reached the place. The Police did not allow any people standing on the south of the beach to go there. The damage to the houses and the fishing materials including country boats and fishing nets, etc. were done by Kombu Shibu and his associates prior to the firing and after the firing. According to him, there was no justification for police firing.

(2) Sri. Muhammed Yusuff

According to him, he was residing near

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Beemapally and a business man by profession. On 17.05.2009, at about 3 pm, while he was in the house, he heard the sound of firing and cry of people and came near beach road. At that time, he saw one Feroz Khan who was playing in beach area falling down due to hit of bullet in the firing by police and when he fell down, he was dragged by the police by holding his leg through the beach. He had also seen people taking Hakkim who also sustained injury in the police firing. He had also seen Ahammed Ghani Hajji, who went there to disperse the people gathered there and pacify them and he was standing near him, falling down due to police firing. There was no provocation from any quarter at that time. Ahammed Ghani Hajji was taken to hospital and he sustained bullet injury near the eye on his head. The people who came there on hearing the firing sound were standing 200 meters south on the beach side and Beemapally boundary road is situated about 400 meters north from the beach road. Christians were residing on the north of the boundary road. None of the persons who came to Beemapally beach area had gone either to the boundary road or

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near the same and the Police were standing on the south of the beach road. It is hours after the police firing that the police made announcement through mike that people should not gather there. When he went there, there was no ambulance or water flashing machines seen at that place. There was no reason or provocation prevailing in that area for police firing. He had seen Ahammed Ghani Hajji falling down due to the police firing. There is no justification for the police firing. The damage to the houses and boats were done by Shibu and his associates and they took away the articles and boat and fishing materials and set fire to the same. There was no justification for the police firing.

(3). Sri. Halavudeen alias Alavudeen

According to him, he was residing near Beemapally. On 17.3.2009, at about 3.00 pm while he was taking rest after lunch, he heard big noise in the sea shore and immediately, he came out of his house and went to that place. When he went there, he happened to see the incident which he had not seen earlier and it was a fearful scene. The police were

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committing atrocity and haunting human life. They fired at persons belonging to Muslim community who were with out any weapon and engaged in their work connected with fishing and incidental to fishing and persons playing in the seashore. The police chased the persons who were running on seeing the police firing. At that time, Ghani Haji aged 61 years came there to pacify the people running away from there and at that time, a police person fired at him. The bullet hit him on the forehead above the eye. Immediately, he went near him and took him to hospital but he died at the hospital. Ghani Haji fell down on the western side of the beach road which is 200 meters south from the Beemapally boundary road. Houses of Christians are situated on the northern side on that road. The Christian church is situated far beyond that road. Large police force were deployed near the boundary road and also in the road on the east. It is very difficult to overcome that Police Betalian and enter towards north. The Police had moved nearly ½ kilo meter south and fired at persons who are innocent and without any weapon and without

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any provocation and without making any prior announcement. Even before and after the firing, people looted the Muslim houses and set fire to their country boats, and houses and there was no justification for police firing.

(4) T. Basheer

He has the present secretary of Beemapally Muslim Jama-Ath during 2009-2010. During 2001-2006, he was Director of Kerala State Housing Federation. He is the president of Beemapally co-operative Society and he is an active member in so many social organisations. Beemapally Jama-Ath is giving training to Muslim community, both social and educational as well as religious and they are controlling and giving leadership to the activities of Muslim community in Beemapally area. No untoward incidents happened in Beemapally area for a long time. The persons residing in Beemapally are peace loving and disciplined people and interested in developing brotherhood and communal harmony. They were eking out their livelihood by doing hard work. There was no unlawful activities or illegal business being conducted

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in Beemapally area since so many years. They were fully accepting and following the decisions taken by the Jama-Ath and they are co-operating with Jama-Ath in their activities. Lot of people from several parts of the country were coming to Beemapally for offering prayers in Beemapally and no law and order situation happened near Beemapaly area. Even if any criminal activities were brought to the notice of the Jama-Ath, they used to apprehend the criminal and hand over him to the concerned to the police and Jama-Ath is doing this since long time.

Most of the people in Beemapally area are engaged in fishing by going to sea. There was no criminal back ground for them. The incident happened in the afternoon on 17.5.2009. It was a result of the criminal conspiracy hatched between the police people and anti social elements in the locality. They have done the firing against the innocent Muslim community people without any provocation from them. In fact, all this happened on account of the illegal activities done by one Kombu Shibu who was accused in several criminal cases including sale of Narcotic

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substances and, with the help of police and the District Management, the unfortunate incident of haunting of human life in Beemapally area happened on 17.05.2009 and six persons, namely, Ahammad Ghani Haji, Ahammad Haji, Badhusha, Ahammad Hakkim, Saidali, Firoz Khan died in the incident and more than 48 persons sustained injuries. Though complaints were given regarding the illegal activities of said Shibu to the police authorities, no action was taken. But on account of that enmity, with the help of some police officials on 10.05.2009, 16.05.2009 and 17.05.2009, they caused illegal activities and attacked the houses of Muslim people which resulted in grave law and order situation in that area. There was no communal riot or communal disharmony as alleged by the police in that locality. In the meeting held on 18.5.2009, both office bearers of Beemapally Jama-Ath and Cheriyathura Edavaka Vikar and others stated that there was no communal disharmony or hatred prevailing in that locality and there was no enmity between Christian and Muslim community people residing in that locality. They have strongly insisted

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for the arrest of Kombu Shibu and his associates and this was endorsed by all the political and cultural leaders gathered there. Though complaints were given to the police in respect of these incidents against Kombu Shibu, no action was taken so far. The problems started with the incident on 16.05.2009 by him and his associates. Without taking any steps to arrest the said Kombu Shibu and his associates who were accused in more than a dozen criminal cases, allowed him to continue his illegal activities in that area which resulted in the unfortunate incident. On 16.5.2009 at about 4.30 pm, Kombu Shibu had come to a shop in Beemapally area and purchased articles and when the shop owner demanded money, there was some altercation between them which resulted in the subsequent incidents in the locality. The Jama-Ath officials and Muslim community people were engaged in the activities in connection with the forth coming Urus festival in Beemapally. Since they apprehended some excesses from Shibu, they made complaints to the police. Thereafter, the District Collector and Assistant Collector came there and interfered in the

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matter and there was a conference held on that night and it was decided that they will make arrangements to arrest them. But Kombu Shibu was not arrested. Beemapally people are having good relationship with police and they are co-operating with Poonthura and Valiyathura police. The allegation that Beemapally people had attacked the police on the night of 16.05.2009 is false and District Collector and Sub Divisional Magistrate were convinced about this fact. They have not arrested Kombu Shibu who claims to be an Aids patient and threatening people by causing injury with blade and threatening to spill blood on others. They have not arrested him either on the night on 16th or on the morning on 17th . On the morning 17.05.2009, he along with his associates blocked the vehicles coming to Beemapally in Cheriyathura junction and also Valiyathura and created fearsome situation in that area. Police did not do anything and they were simply watching the illegal activities of said Shibu and the fact that they did not even arrest the said Shibu shows the conspiracy hatched between them and said Shibu. Some of the criminals were

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having close association with Valiyathura Sub Inspector of Police Sri. Johnson and they were afraid of arresting Shibu on the fear that he was an Aids Patient. But at the same time, police arrested Shibu on 18.05.2009. Till then, he was wandering in Cheriyathura area. On 16.05.2009 after taking food, he did not pay the amount and when the shop owner demanded the amount, he caused damage to shop and on thereafter, on 17.05.2009 morning, he came with his associates and again made trouble in the locality. If the police had arrested Shibu and his associates, they could have avoided the unfortunate incident happened on 17.5.2009. The Christian church is situated half a kilometre away from the place from where firing had taken place. Firoz Khan aged 15 years who died in the incident was playing Cricket with his friends in the seashore which is also situated about ½ km away from the church. In fact, after the firing, he was dragged by the police along the seashore and dropped in the water. This was photographed in a mobile phone and it was given to the media. Apart from Firoz Khan, Aslam and Badhusha also sustained injury in the police

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firing when they were playing in the seashore. Mahinkannu S/o. Ahammad Ghani Haji, Shabeeb, Rasal, Sameer also sustained injuries when they came to the place on hearing the sound of firing. Most of the persons died came there to know the reason for firing. None of the persons belonging to Christian community sustained any injury. That shows that the story of communal disharmony between the two community people, made by the police was false and it was a story trotted out by the police after the firing in order to justify their act. Kombu Shibu and his associates had set fire to country boats and some of the houses in Beemapally area and also caused damage to several houses with the help of police. Police had fired at persons who are helpless, without any arms and engaged in their activities. 70 rounds of bullets were used by the police for the purpose. Since stock of bullet was over, they stopped firing. Though they wanted more bullets, there was some delay in getting the same and so further damage to human life was avoided. It is not possible for the Muslim people to go towards north peeping through the police force

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deployed in that area. It is also not possible for the Muslim community people reaching Cheriyathura Christian church and attack either Christians or the Christian church. Allegation that police firing started at 3.50 pm is also not correct. Most of the injured sustained injuries above the lower limb. The firing was done against the standing instructions that it should be done below knee in order to disperse unlawful assembly. It was done with intention to kill the people. There was no precautions taken like using water Cannon (Jalapeeranki), Lathi charge, tear gas and firing in the air., etc. They did not use rubber bullets before using the real bullet. No steps were taken to bring ambulance or other precautions to take the injured to the hospital. They did not show any flag before firing. There was no sanction obtained from the District Magistrate before firing. It is not clear as to who had ordered firing as well. There was no justification for the police in making firing on that day.

(5) H. Hussain

He was residing near Beemapally UP School and on 17.05.2009 while he was sitting in the house, he

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heard the firing sound and came out side of his house and at that time, he saw people taking the injured who sustained injury in the firing through the road in front of his house. When he went through beach road and reached the western seashore, he saw police and some people standing there. At that time it was 3.30 pm. Except the police and the residents of Beemapally, there were none in that area at that time.

(6) G. Gulam Muhammad

He is residing near Noorul Islam Arabi College. On 17.05.2009, at about 3.00 pm, while he was in the house, he heard some tumult and sound of firing and cry of people. When he came out side, he saw people taking the injured persons and near Libas textiles along the beach road, he saw police driving them without any provocation.

(7) K. Madhusoodhanan

He is conducting a tailoring shop near Beemapally area for the last 10 years. The Muslim community people in Beemapally area are keeping brotherhood and affectionate towards other community people as well. Lots of people belonging to

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several community from places out side Kerala used to come to Beemapally for offering worship. The Christians belonging to Cheriyathura area also used to come to Beemapally area for various purposes. Kombu Shibu, a criminal in the locality used to come to Beemapally area and demand 'Gundapirivu' from the shop owners and used to manhandle persons who were not giving amount to him. On 16.05.2009, when a car was parked on the side to the road, he along with his associates caused damage to that car. He had caused damage to shop in Beemapally area. So the office bearers of Beemapally Jama-Ath informed the District Collector and Revenue Divisional Officer and it was understood that they came and assured that they will take necessary steps. On 17.05.2009 which was a a Sunday, he was engaged in tailoring work in the shop and during afternoon, he heard firing sound from beach area. When he came out side, he saw people taking the injured and dead persons to the road side. He closed the shop on that day. Beemapally people did not go beyond boundary road or to Cheriyathura area. It was understood later that some houses and boats in

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Beemapally area were damaged by Kombu Shibu and his associates with the help of police.

8. Kabeer

He is studying in 12th standard in Beemapally Higher Secondary School. Since 17.05.2009 was a Sunday and a holiday, he went to the ground near beach road and was playing Cricket with his friends and at that time, he saw some people came running from northern side and police were chasing them by firing at them. Some object had hit his right hand elbow and he lost his consciousness and fell down there. He was treated in Medical College Hospital in Ward No.6 and it was later understood that he sustained bullet injury and the wound was stitched from there. It is later understood that his friend Firoz Khan died due to police firing. Neither his friends nor the residents of Beemapally had gone to Cheriyathura and attacked any one. There was no enmity between them and Cheriyathura people. Some people were engaged in fishing activities at that time and police had fired without giving any precautions and without any provocation.

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(9) Sri. Hyderali

He is studying in 12th standard in Beemapally Higher Secondary School. Since 17.05.2009 was a Sunday, he went to the ground near beach road and was playing Cricket with his friends. At that time, he saw some people came running from north and they were chased by police by firing at them. While so some object hit on his right side elbow and caused injury to the back side of the elbow. He felt severe pain and fell down unconscious . When he regained consciousness, he was treated in ward No.6 at Medical College Hospital and he came to understand that he sustained injuries on the front and back of his elbow which were stitched from there. He also understood from the hospital that his friend Firoz who was also playing with him died in the incident due to bullet injury. Neither himself nor his friends nor persons residing in Beemapally area went to attack any people at Cheriyathura and there was no dispute prevailing between them. Some people were engaged in work in connection with their fishing activities in the beach area and some were drawing the fishing net from sea

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and some were engaged in drying the net in the beach area. There was no prior announcement made by the police before firing. No circumstances prevailed in the beach area at that time for the police to use force by firing. The police were firing at the innocent Muslim people who were playing there and engaged in work in connection with their fishing activities.

(10) Salam

It is mentioned in the statement that the country boat in which he was working and the fishing net were used to be kept near beach road. On 17.05.2009, in the afternoon, he went to his house for taking food. Thereafter, he came to seashore and engaged in arrangements to go to sea for fishing and loading the fishing net. At that time, he sustained injuries in the incident. He had seen people running from north to south in a scared mood and police were chasing them by firing at them. They were throwing grenades also. It was about 2.45 - 3.00 pm that it happened. While he was in a hurry to finish his work quickly, the splinter from grenade had pierced on his left leg above knee and he sustained injuries. He became unconscious. He

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was taken to Medical College Hospital by the persons who were standing near him. He regained consciousness on the after noon of 18.05.2009. A portion of his double kaily was also burnt and the doctor told him that he sustained injuries due to hit by grenade. Neither himself nor the persons who were working with him had gone towards Cheriyathura nor attacked them or the police people. No circumstances prevailed in that area for the police to fire at that time and their action was without any justification.

(11) Noushad

He was a fisher man by profession and working in fishing boat. The boat in which he was working was kept near the play ground in the beach. On 17.05.2009 at about 3 pm, while he was trying to keep the fishing net in the boat for the purpose of going for fishing, he saw people running in a scared state and police were chasing them by firing at them. At that time, some object pierced on the left side of the chest and he felt severe pain and fell down and lost his consciousness and the persons including his father who were there at that time took him to Medical

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College Hospital. While he was undergoing treatment, he came to understand that he sustained bullet injury and underwent an operation and bullet was removed from his body. After 4 days of his admission, again another operation was conducted and the remaining portion of the bullet was also removed. He had undergone inpatient treatment for nearly 22 days and he was in the intensive care unit for 9 days. Neither himself nor his co-workers had gone to attack Cheriyathura people and there was no dispute prevailing between them and the Cheriyathura people. The country boat belonging to Cheriyathura people were also used to be kept on the west of the beach road. There was no provocation from the side of the Beemapally people for the police to fire at them. The police had fired without any reason and provocation and their act was not justified.

(12) Nazeer

He is a fisherman by profession. On 17.05.2009 (Sunday) in the early morning, he along with 13 others went for fishing in the sea in a country boat and at about 2.30 pm, they returned to the shore and kept the

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boat on the western side of beach road and more than 40 persons were engaged in drawing fishing net from the boat. At about ½ furlong away from that place, they saw police making huge noise and running towards south by firing indiscriminately. In fact, they were firing at persons who were running scared on seeing this. He sustained injuries on the angle of his left leg and fell down. He was taken to Al-Arif hospital by the local people and from there, he was taken to Medical College Hospital. He was treated as inpatient and thereafter continued his treatment from his house. Apart from himself other persons engaged in drawing the fishing net from the country boat and persons playing in the seashore also sustained injuries in the police firing. The place where he fell down was about ½ furlong from the Beemapally Endroad. There was no prior announcement made by the police before firing. Since police came by shouting and firing indiscriminately without prior announcement, they could not escape from there. There was no justification for the police firing.

(13) Syed Ali alias Ali

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He is a fisher man by profession and used to drive autorikshaw when he did not go for fishing work. On 17.05.2009, he did not go for fishing and in the morning he went for driving autorikshaw. At about 2.30 pm, he went to his aunt Mussria's house situated near Beemapally junction for taking food. Mussria is his father's sister. Whenever he used to go for driving autorikshaw , he used to take food from his aunt's house. While he was taking food from his aunt's house, he heard terrible noise and cry and also sound of firing. Immediately, he went towards beach road from where he heard the sound. At that time, he saw people coming through the beach road by taking the injured persons and others were running away from there in a scared state. At that time, some object hit on the back of his buttock on the left side and he fell unconscious. He regained conscious in the hospital. It was understood from the hospital that he sustained bullet injury and even now he is unable to walk properly and not doing his work after this. He sustained injuries when he tried to turn back and run away on seeing the police firing there when he went

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there on hearing the firing sound. The police had fired without giving any prior announcement and without any provocation.

(14) Shajahan

He is a fisherman by profession. On 16.05.2009 Saturday night, he went for fishing in the sea along with his brother Rafeek and others and came back to the shore at about 7.00 am on 17.5.09. Thereafter he went home and after taking bath and food, went for sleep. Between 2.45 - 3.00 pm, when he woke up, he saw people going towards seashore and also heard the firing sound. Immediately, when he reached the beach road, he saw few persons taking Hakim who sustained severe injuries and blood was oosing from the injury. At that time, some object hit on his head with huge sound and he sustained severe injury and fell unconscious. At the time, when he went there, he saw people running by crying and they were chased by the police and firing at them. He regained consciousness from the hospital. It was at that time that he came to understand that he sustained injuries

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in the firing and he also understood that Hakim died due to bullet injuries. The police had fired at the persons who were innocent and went there on hearing the firing sound with out any justification.

(15) Iqbal

He is a fisherman by profession. On 17.05.2009 Sunday morning, he went for fishing in the sea in the country boat along with 9 persons. At about after 2.00 pm ,they came to the shore. The persons in the country boat and about 40 persons who were standing in the seashore were dragging the boat and pulling the fishing net. At that time, one bullet hit on his right leg above knee and caused injuries. He felt severe pain and he closed the injured spot with hands to prevent flow of blood and when he raised his head, he saw the police people who were standing at the endroad coming towards south by making huge noise. They did not make any prior announcement before firing. When he moved 4 or 5 feet, he fell down unconsciousness. He regained consciousness from the Medical College Hospital. From there only, he came to understand that he sustained injury in the police firing. He was treated

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as inpatient for 10 days in the Medical College Hospital and thereafter he continued the treatment from his house. Since police fired without giving any prior announcement, people could not escape from there. Persons who were engaged in pulling fishing net from the boat along with him and persons who were playing and persons who were witnessing the playing of the children had sustained injuries in the police firing. They fired without any provocation from any person.

(16) Peeru Muhammad

He was conducting a shop by name Kochin stores near Beemapally junction for the last 20 years. He was selling cool drinks and other articles like cigarette, fruits, etc., He used to open the shop at 7.00 am and close the same at 10.00 pm. On 16.05.2009 Saturday at about 7.00 pm, Kombu Shibu @ Shibu along with his associates came to the shop in a bike and purchased fruits, pepsy and cigarette. They came after consuming alcohol and they did not pay the amount. They took the soda bottle and broke the same. They kept the bike across the road and made

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tumult there. When people gathered there, they left the place in the motor cycle. Even prior to that, Shibu and his associates used to come to his shop and after purchasing articles, they will not pay the amount and if it is asked for, they will threaten them and quarrel with them and cause damage to the articles in the shop. He used to make complaint to Jama-Ath regarding the same. Normally if any such things happened within the Jama-Ath area, they used to complain to the Jama-Ath first and they used to take necessary action on the basis of complaint. On 16.05.2009 even though Jama-Ath officials had filed complaint regarding the incident to the police, but no action was taken. On that day during night, police, Collector and Revenue Divisional Officer and Local MLA came to Jama-Ath office. Police enquired about the incident from him. Collector, MLA and police officers had given assurance to the Jama-Ath officials that they will arrest Kombu Shibu immediately. So he felt that the problem was solved and with that assurance and feeling, he went to his house. Later he came to understand that the police did not arrest Kombu Shibu and his associates and

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they along with other criminals on the next day blocked the vehicles coming to Beemapally area with the help of some police officials and created some problem in the locality and without any provocation police had gone to beach road area and fired at the children who were playing in the seashore and persons engaged in their fishing activities. The police had fired in that area without any provocation.

(17) Sri. Abdul Khader

He was the former President of Beemapally Jama-Ath. On 17.5.09 at about 2.30 pm while he was in the house, he heard huge crying sound of the people on the northern side of his house and hearing the same, he came out of the house and went towards that place. When he reached near the beach road on the west of Libas Store, he heard the firing sound of the police and when he moved further, he saw police firing indiscriminately and saw a 15 year old boy by name Firoz who was playing Cricket in that area falling down due to hit of bullet. The police had dragged said Firoz along the seashore. Similarly, one Nisam also sustained injuries in the firing and the police had

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taken him and thrown him inside the Jeep and without putting entire leg inside the Jeep, they closed the door of the Jeep and due to that, bleeding came from his legs. The incident happened in the place where Muslim community people were residing. There was no communal riot or any provocation existed at that place for the police to order firing. The police had not followed the procedure and without complying the legal formalities, ordered firing. This has happened due to the conspiracy hatched among some senior police officials. Police had fired at the persons who came there on hearing sound of the firing and also at the persons who were playing in that area and against the persons who were running in a scared manner on seeing the atrocity of the police. No prior announcement was made and no firing in the air was done in the area before firing at the persons. Further, there was huge police force deployed in the beach area from 10 pm on 16.05.2009 and it was not possible for any person to go beyond the police force. Along with the firing, the houses of poor fishermen and their boats and fishing nets were damaged by setting fire to

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the same and their houses were looted by the miscreants. There was no dispute between the police and Beemapally Muslims. Even for the incident happened in the night on 16.05.2009, Kombu Shibu and his associates who are hardened criminals were responsible for the entire incident. There was no communal disharmony between the Christian and Muslim community people residing in that area. There was no justification for the police to order firing on 17.05.2009.

(18) Abdul Kalam

He is the secretary of Beemapally Residents Association and he was having a shop near Beemapally. On 16.5.09 at about 8.30 pm, he closed his shop and went to his house. At about 9.30, pm he came to understand that a customer's car that was parked on the side of the Cheriyathura boundary road was damaged by Kombu Shibu and his associates. On knowing about the same, he came to that place. Jama-Ath President also came there and tried to pacify the persons gathered there. On seeing the persons coming, the miscreants went towards Cheriyathura

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area. As per the request of the Jama-Ath President and others, the District Collector, Assistant Collector and MLA and Police Officers reached the place. They assured that they will arrest Kombu Shibu before the next morning itself and on hearing the assurance, the Jama-Ath officials and people gathered there dispersed from there. On the next day morning, vehicles coming to Beemapally were blocked at Cheriyathura by placing wooden planks and stones on the road, and due to that, there was no business in the shops at Beemapally and the shops at Beemapally area were closed. He went to Cheriyathura boundary road, to ascertain the situation directly and at that time, he saw large number of police deployed at Ceriyathura junction and in the boundary road and saw the police officers with the help of others diverting the vehicles through some other road without allowing them to come to Beemapally area. At about 2.30 pm, he came to his house which is situated on the south of Beemapally. After some time, he heard the sound of firing from the western side and in order to know the situation ,he came to beach road and reached the

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seashore. At that time, he saw people taking the injured persons who sustained injuries in the police firing and the police firing at the persons and saw some persons falling down due to the same. So many people known to him were also among the persons injured in the police firing. The police had fired at innocent Beemapally residents without any provocation. Persons who sustained injuries are persons who were playing football on the western side of Beemapally sea shore.

(19) Abdul Azeez

He was the prior President of Beemapally Jama-Ath and according to him, the Muslim of Beemapally area and Christians of Cheriyathura area are keeping good relationship and brotherhood and they are cordial with each other and they are keeping good relationship. Both the Cheriyathura Edavaka Vikar and Parish committee and Beemapally Jama-Ath committee members are having good relationship and they were doing activities under joint auspicious of both community. On 10.5.09 at about 9.30 pm, Kombu Shibu and his associates who are residing near sewage

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farm came to the shop of Peer Muhammad and purchased articles and when he demanded money, they caused damage to the articles in the shop and threatened him. Though this was intimated to Poonthura Police, no action was taken on the same. On 15.5.09 also, he had filed a complaint against Kombu Shibu before Circle Inspector of Police Poonthura. On 16.5.09 at about 4.30 pm, Kombu Shibu and his associates came to Beemapally junction and abused the shop owners in that area. As President of the Beemapally Jama-Ath, he went to that place and attempted to dissuade him from doing any act and requested them to co-operative with the conduct of forthcoming Urus festival and they dispersed from the place. At about 7.30 pm on that day, Kombu Shibu and others again came to Beemapally area and threatened and abused the persons coming to Beemapally and also the shop owners, caused damage to the car which was parked on the side of the road. He had informed the illegal activities of Kombu Shibu to Poonthura Police and requested their presence and Sub Inspector of Police and some police officers came there and

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dispersed Kombu Shibu and others from there. Though they went temporarily, they returned soon. Since he apprehended that he is likely to cause some hindrance to the forthcoming Urus festival, he contacted the District Collector, Assistant Collector, MLA and DGP and requested their presence. At about 10.30 pm on that day, District Collector. MLA and Assistant Collector came to Beemapally Jama-Ath office and members of the Parish committee also came to Jama-Ath office and discussed about the illegal activities of Kombhu Shibu and others. The District Collector assured that Kombu Shibu and his brother Manikutton will be arrested before the morning on 17.05.2009 and necessary instruction were given to the police Sri. Jolly Cheriyan who was in charge of Police Commissioner, Assistant Commissioner of Police Sri. Suresh Kumar, Poonthura Circle Inspector of Police Sri. Pratheep Kumar were there at that time. But there was no attempt made on the part of the police to arrest Kombu Shibu and others, though they were very well available in that area. Beemapally residents did not attack the police either on

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16.05.2009 or on any other date and they did not engage in any wordy altercation with them as well. On 17.05.2009 at about 7.00 am, Kombu Shibu and others blocked the vehicle traffic to Beemapally and this was intimated to Assistant Collector. But till 10.30 a.m, no action was taken by the police. At about 10.30 a.m, Assistant Commissioner of police, Sri. Sharafudheen and Circle Inspector of Police, Sri. Pratheep came to Jama-Ath office and at that time, one resident from Aluva came to Jama-Ath office and told that their vehicle was blocked in Cheriyathura area and after half an hour of this, police went to that place and released the vehicle. At about 2.40 pm, on that day, he (Abdul Azeez) went to his house for taking food and at that time, he heard the indiscriminate firing sound from Beemapally sea shore. Immediately, he went to that place and saw the police firing at innocent people on the western side of Beemapally area and people were taking injured persons through road and taking them to hospital. In the meanwhile, the police were helping the persons causing damage to the houses and country boats and fishing nets and setting fire to the

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same. Kombu Shibu and his associates were also present along with them. There was no ground or reason for the police firing and in fact, the act of the police authorities were helping Kombu Shibu and his associates in doing the illegal activities. They did not take any action to arrest Kombu Shibu and others and they ignored the direction given by the District Collector in this regard. Since a lot of police were deployed in Cheriyathura, none from Beemapally area could pierce the police deployed and attack Cheriyathura people. The allegation that in spite of the deployment of police, more than thousand Muslim members from Beemapally area went towards Cheriyathura side and hurled country bombs and attacked the Christians and even attempted to attack Christian church and caused damage to houses of the Christian community, etc., is not correct and it was a trotted out story made out by the police later to justify the illegal police firing. The police also registered false cases. Though Bhadusha died in the police firing, the police alleged that he had not died due to police firing, but due to attack by Cheriyathura people with stick

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and other dangerous weapons. A lot of false cases were registered by the police in respect of incident happened on 16.05.2009 and 17.05.2009 against innocent Muslim community people who are residents of Beemapally area. Police have not followed any precautions to be followed before the order for firing. In fact, the firing was done in Beemapally beach area which is coming with the jurisdiction of Poonthura Police Station, but they had shifted the place of firing near the boundary road and registered the case as Crime No. 247/09 of Valiyathura Police Station to make it appear that the incident happened in Cheriyathura area and gave information to the government as well as the media. In fact, the terms of reference would have been Beemapally firing incident instead of Cheriyathura firing incident. On account of illegal act of the police, six persons died and more than 46 persons sustained injuries. The Police have not obtained any prior sanction from authorities before the order for firing. There was no prior announcement made before firing. After the firing, they have brought channel people and in their presence, made

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announcement as a preventive measure and conducted drill and took photographs of persons came later and gave it to the media. The firing was done under the guise of Central Government circular making it a communal riot to justify their illegal act. Beemapally people were leading peaceful life and there was no law and order situation there. There was also no necessity for interference of the police in Beemapally area and it was wrongly interpreted that they (Beemapally) are not allowing the police and in order to enter the Beemapally area, they have done all these illegal activities with the help of some miscreants. They are making false rumours that unlawful and illegal activities are being conducted in Beemapally area and it is not possible for the police officials to enter there and discharge their official duty in that area and it is with that prior determination that police had figured the Beemapally people as terrorist and entered the Beemapally area and ordered firing without following the procedure and without giving any prior announcement regarding the same. Since the people of Beemapally area maintained tolerance in spite of

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illegal acts of the police, further incident in that area was avoided. In the peace conference held thereafter in which Beemapally Jama-Ath officials and Bhishop and other Christian Missionaries, Officials and political and social workers, attended, it was revealed that police was responsible for unlawful firing. But even thereafter, attempts were made on the side of the police to justify the police action. It was after months of the incident that the government have appointed the Commission and as per the terms of reference, it is to be enquired as to whether there was any participation of external agencies or persons in the incident and for that purpose they (police) have introduced a story of explosives like neogel bombs used by the Beemapally people before firing and filed the report to that effect before the government. They were making attempt to interpret the incident as communal riot to justify their act. In the incident like Samjhotha express, Juma masjid incident at Hyderabad, the explosives used were manufactured with the help of some higher military officers retired from Indian Military and it was done by other community people. It was also revealed

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that the innocent Muslims were killed in Gujarat incident as well and the Hon'ble Supreme Court was convinced of this fact as well. The police had ordered firing against innocent Muslim people and thereafter against the truth, they have made reports justifying their act. They have created false report and given the same to the news paper agencies and visual medias and created an impression that it was a communal riot made at the instigation of Muslim community people against Christians. Though such reports were created, they have not produced any documents before the court or before the investigating officer. The investigation is being conducted by the investigation agency on the basis of their imaginary stories and against the true state of affairs. There was no ill will prevailing between Cheriyathura people and Beemapally people and they used to keep their fishing materials on either side of the boundary road. The action of the police is not justifiable.

A2 Party

(20) M.Mehaboob

He is a member of Jama-Ath Islami of

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Thiruvananthapuram District committee for the last 8 years. On 16.5.09, Kombu Shibu had gone to a hotel near Beemapally and after taking food, he did not pay the amount and when this was questioned by the shop owner, he had manhandled him and caused damage to the articles in the shop. When he got information about the same, representing the Jama-Ath Islami,on 16.5.09 after 10 pm, he went to Beemapally and when he reached there, he saw District Collector, Sub Divisional Magistrate and Police Officials present there. He reached there after the conference held by District Collector in the Jama-Ath Office. He came to understand that in the meeting, it was resolved to arrest the trouble maker and anti social element Sri. Kombu Shibu. Along with him, Jama-Ath Islami District Committee member Sri. M. Muhammad Aslam was also present. After the meeting, District collector and police officers and office bearers of the Jama-Ath came out of the office and told the people gathered there that they will make arrangement to arrest Kombu Shibu. Lots of people belonging to several religious sects used to come to Beemapally and all of them were

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behaving cordially and keeping brotherhood. There was no criminal background or character for the people residing in Beemapally area. It is understood that due to some false rumours spread against the community members of Beemapaly area by the news paper and visual medias and on basis of that prejudice and predetermined mind, the police had prepared a plan of action and on the guise of Kombu Shibu, they have done the police firing in that area as part of their criminal conspiracy. Though an assurance was given to arrest Kombu Shibu in the meeting held on 16.05.2009 in the presence of District Collector, the police officials did not arrest the said Kombu Shibu on the pretext that he was an Aids patient and police were protecting him on that basis. The police had prepared a false story with a prejudiced mind and on that basis, ordered police firing without any provocation and caused death of 6 innocent persons and also injuries to several innocent Muslim community people. The police had fired after 3 pm on 17.5.09. There was no provocation or circumstances prevailing in the locality at that time for police to order

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firing. Further police as well as visual media and news paper agencies have spread out some news that there was interference of external agency in the communal clash. None of the injured or the dead persons belong to outside area, but all of them belonging to Beemapally area only. The incident occurred within the jurisdiction of Poonthura Police Station . But with a view to make it appear that the Muslim community people residing in Beemapally area are trouble makers, the police had registered the case in Valiyathura Police Station as crime No. 247/09. The Muslim community people never made any attempt to form unlawful assembly and went to the Cheriyathura area where the church is situated. It was so understood by him in the enquiry made when he went to the place after the incident. Further it was revealed that children playing Cricket in the seashore and persons engaged in their fishing activities had sustained injuries and police had ordered firing without making any prior announcement and without following procedure to be followed before order firing. They did not use tear gas, rubber bullet nor had they

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fired in the air before order firing against the mob. Most of them sustained injuries on their back and innocent people have sustained injuries and lost their life on account of the illegal act of the police. All these things were understood on the basis of the report came in the news paper and also from the report prepared by people's council for civil liberties. He had attended the meeting convened in the presence of the then Home Minister along with Sri. Shameer Moulavi, a member of State committee of Jama-Ath Islami. The persons attended the meeting unanimously expressed that there was no religious disharmony or hatredness prevailing among Mulim and Christian community people in that area and the illegal acts of Kombu Shibu and his associates were the root cause for the incident happened in Beemapally area. The attempt of the police was to make it a communal riot and such an attitude had to be discouraged. The attempt of the police is to create hatred feelings between Beemapally and Cheriyathura residents who are engaged in fishing activities and such an attitude must be discouraged. There must be

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a permanent committee formed including the office bearers of both Beemapally Jama-Ath and Cheriyathura Church and create good relationship between the community people of both religion. If this committee does its work effectively, communal harmony between the two community people could be possible and it can be strengthened.

A3 Party

(21) Sri. Abdul Rasheed

He is the present President of Beemapally Jama-Ath and he was the Chairman of Kerala Sidco Corporation for the last 5 years and he was representing Beemapally Ward as Municipal Councillor for the last 20 years. The Beemapally Jama-Ath gave leadership for the uplift of the people of the locality both socially and religiously, as well as educationally and culturally and they are controlling the people in the locality and providing moral support to them. No untoward incidents happened in Beemapally area for last so many years. The people of Beemapally area are peace loving people and highly disciplined and they used to co-operate with other community people and

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promote brotherhood. They were eking out their livelihood by doing hard work. There was no illegal or unlawful business conducted in Beemapally area for the last few years. They were following the decisions taken by Jama-Ath officials and they were fully co-operating with Jama-Ath in their functioning. Lots of people belonging to several religion from all over the country and foreign countries used to come to Beemaplly for offering worship and there was no law and order situation reported in that area. Even if any criminal activities were brought to the notice of Jama-Ath, they used to make earnest attempt to trace out the criminal concerned and handover him to the police and Beemapally Jama-Ath was doing this sincerely. Most of the residents of the Beemapally are eking out their livelihood by going for fishing activities in the sea and they belong to religious minority. On account of the conspiracy hatched among some of the police officials, they have ordered police firing against people belonging to particular community discrminately without any provocation and without following the legal procedure. On account of the illegal act of the

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police, six persons, namely Ahammed Ghani Hajji, Ahammad Haji, Badhusha, Ahammad Hakkim, Saidali and Firoz Khan died and more than 48 persons sustained severe injuries and most of them suffered permanent physical disability. Out of 48 persons, 26 persons sustained direct bullet injuries which pierced into their body. The place from were firing had taken place is situated more than ½ k.m away from Cheriyathura Christian church. Firoz Khan was only 15 years old at the time of his death and he was playing Cricket with his friends in the seashore at the time when he sustained the bullet injury. When he fell down, police had dragged him along the seashore and dipped him in the sea and hit him with bud of the rifle. This was photographed by a person by using mobile phone and this was given to media people. Apart from Firoz Khan and Aslam, another boy also sustained injuries when he was playing Cricket with children. Ahammad Khani Haji S/o. Mahin Kannu, Shafeek, Rasak and Sameer sustained injuries when they reached the seashore on hearing the police firing. Most of the persons who lost their life in gruesome

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police firing also reached there on hearing the sound of the police firing. None of the persons belonging to Christian community sustained any injury and that falsify the story of the police that it was a communal riot. None of the police persons sustained injuries. But in order to create documents, they went to hospital after 9 hours of the incident and created documents to show that 11 police officers sustained injuries. Most of the persons sustained injuries on the back of their body and that will show that they sustained firing injuries while they were running on seeing the fearsome act of the police. They used 70 bullets for this purpose and they stopped firing since the stock of bullet was exhausted. Though they asked for further bullets, since there was some delay in getting the same, further loss of life was prevented. It is not possible to overcome the police force deployed in that area from the night on 16.05.2009 and go to northern part of Endroad. So the allegation that the people from Beemapally area went to Cheriyathura area to attack the Christian church is false. The police firing started from 3 pm is false. All the persons who died

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sustained injuries above hip and out of the 6 persons, bullets were seen in the body of 5 persons. Though there was a condition that police should fire only below knee portion, that was violated in this case. That shows that the intention was to kill the persons and not to disperse the persons as claimed by them. There was no use water cannon, lathy, tear gas, firing in the air, and use rubber bullets etc, before order firing against the persons. No precautions like Ambulance, stretcher etc were taken at the place before firing. No attempt was made to make any prior announcement and showing of flag etc, before order firing. No sanction was obtained in accordance with law for order firing. It is not clear as to who ordered firing as well. There was no justification for police firing held on 17.05.2009.

(22) Sri. Ali Hyder

He is a fisher man by profession and also a social worker and used to help the activities of Beemapally Jama-Ath. He was residing 750 metres south of Beemapally. On 17.05.2009 at about 2.45 pm, he along with 2 persons came near Beemapally and at

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that time, they saw on the east of Endroad, a group of police stopping the buses coming to Beemapally area. So he went near them and talked to the Poonthura Circle Inspector and Valiyathura Sub Inspector who were there and personally known to him and told them that there was no problem their and if they move from there, vehicles could move freely, but they did not heed for the request made by him. While so, some other police officers standing in the front, suddenly went to beach road side through the Endroad and then towards south and then towards Beemapally seashore area and fired against the persons without any provocation who were standing about 200-300 metres south from the Endroad. He had witnessed the incident. There was no prior announcement made; no lathy charge was done; no firing was done in the air and did not show any flag before fire order. No ambulance or water cannon were brought to the place. Police had fired at the persons who were in the sea shore, engaged in the fishing activities and also persons standing on the side of the byroads. The injuries were sustained by persons who came there on

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hearing the firing sound and also persons running away from the place. Police had fired at those people mercilessly, in a predetermined manner. It was a fearsome situation created by the police wilfully. The people of the locality are interested in keeping communal harmony and no communal riot had happened in that area. A lot of people from different places used to come to Beemapaly area and used to participate in the Urus festival and also used to offer worship in Beemapally. There was no justification for police firing and it was due to some conspiracy hatched between some police officials that the firing has taken place.

(23) Sri. Nizamudheen

He was working as car driver. On 17.05.2009 from 2.00 pm onwards, he was playing Cricket from the ground near his house. Since it was a Sunday, he did not go for work on that day. At about 3.00 pm, in the seashore on the west of beach road, he heard tumult and saw police firing and immediately he along with persons playing with him rushed to the beach along the beach road and got down in the sand area

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after getting down the sea wall and at that time, bullet came and hit on his right buttock and he fell down. Two police men caught hold of his leg and dragged him along the seashore up to the road and thereafter the policemen lifted him and took him to the road in front of Beemapally and put him in the place where wastes were stacked. Since there was no vehicle there, police telephoned and brought a jeep and thereafter, two policemen lifted him and threw him into the jeep stretching his legs out side the jeep and ignoring the same, they closed the door and caused further injury to his toe on his right leg. He was made to lie down in between the seats in the back of the jeep and police people abused him and beat him with lathy on his knee. He was taken to Medial College Hospital and treated there for nearly four months. He is even now undergoing treatment. He is unable to walk without stick. He is unable to do any work. His leg was amputated above knee. He came to the place from the place where he was playing for knowing the reason for firing and it was at that time, they fired at him. They did not allow the people to go to the seashore nor had

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they made any prior announcement before fire order. Except the crying of the people who sustained injuries in the police firing, there was no other sound heard or incident happened in that area. There was no provocation for the police to order firing in that area. Police had fired at the persons who are unarmed and helpless and there was no justification for the firing.

(24) Sri. Salim

He was an autorikshaw driver. On 17.05.2009 at about 2.00 pm, he came to his house for taking lunch and his house is situated on the west of Beemapaly near the Endroad. While he was taking rest after taking food in his house, at about 3.00 pm, he heard the firing sound and loud hue and cry sound from the seashore and he came out of the house and went to the seashore to know as to what was happening there. At that time, police fired at his right leg below knee and he sustained severe injury and became unconscious. He was taken to Medical Collage Hospital by somebody and he underwent an operation and underwent treatment there for four months as inpatient. Doctors told that he had to undergo another

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operation as well. He was not able to walk properly. There was no law and order situation prevailing in the beach area at the time when he sustained bullet injuries. Police fired without making any prior announcement. If prior announcement had been made, he could have escaped from there. He did not commit any mistake or any illegal act. Police had fired without any provocation at innocent people. It is understood when he was in hospital that 6 persons died in the incident.

(25) Sri. Asharaf Ali

He was working abroad. On 13.05.2009, he came to his native place. While he was taking rest in his house on 17.05.2009 after taking food, he heard some hue and cry at about 3.00 pm from the seashore and also heard firing sound. So he went to beach along the bylane on the north of beach road and reached the beach. At that time, he saw the police firing at people in the seashore and throwing grenade at them. They fired against the persons who were engaged in the fishing activities and also playing in the play ground. They were also firing at persons with grenade who

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came there on hearing the sound. On seeing the firing of the police, people started running and police chased them and fired at them. In that, six persons died and several persons got injured. Police had fired at the persons who were innocent and unarmed without making any prior announcement. The police came about 300 – 400 meter south from the police picket and then fired at the persons who were standing on the side of the road in the bylines. On seeing the police action, it appeared that they had done it with some enmity towards Beemapally people.

(26) Sri. Shamsudheen

He is a construction worker. On 17.05.2009, he was engaged in the preliminary work for concreting in the house situated of the west on beach road near Beemapally area. At about 3.00 pm, he heard huge sound and crying and firing sound on the western seashore and saw people rushing towards seashore. So he stopped his work and went to seashore to see as to what was happening there and he was standing in the beach near a country boat kept there and at that time, he sustained bullet injury on his right leg above

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thigh and below hip. He lost his consciousness. Somebody had taken him to Medical College. He underwent operation from Medical College and regained consciousness after 4 days. Till then, he was in the intensive care unit. He was treated as inpatient for more than 4 months and he underwent operation four times during that period. He is unable to work and even to walk. He has been permanently disabled from doing any work. He went to the beach side , only to know as to what was going on there and he had not committed any wrong. There was no prior announcement made by the police before fire order. If the police had made any announcement, he would have run away from there and escaped from there. There was no quarrel or dispute going on in that area at that time. Police had fired at persons who are innocent and unarmed. There was no justification for the police in order firing at them.

A4 Party

(27)Niyamasahaya Vedi represented by its Chairman, Sri. Stephen Rosario

He is interested in giving evidence in respect of

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the police firing done in Cheriyathura- Beemapally area on 17.05.2009 as the Chairman of the Niyamasahaya Vedi. He was executive member of Thiruvananthapuram Criminal Lawyers Bar Association, Secretary of Sri. Chithra poor Home welfare Association, President of Capital City Transport Passenger Welfare Association, President of Kochuthoppu Residents Welfare Association and he was a practicing lawyer from 1992 and he was engaged in social and cultural activities well. The Niyamasahaya Vedi is an Association registered under the provisions of Thirukochi Charitable Societies Act, 1956 with registration No. T 2987/01 . They are engaged in giving legal aid to the poor and redressing the grievances of helpless people by approaching the concerned authorities and they have filed several public interests litigation before Hon'ble High Court of Kerala and other law courts. Firing in Cheriyathura-Beemapally area had occurred on account of small altercation occurred between the members of two community and in the firing made on 17.05.2009, six innocent people died and several other persons

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sustained grievous injuries and some of them have lost their residence and some of the fisher men had lost their equipments used for their occupation. The reason for the firing had started on account of minor incident done by a known criminal of the locality. If the police had arrested Kombu Shibu who was responsible for the incident happened on 16.05.2009, they could have avoided the unfortunate police firing on the next day. Since the police had tried to help Kombu Shibhu and his associates, that had resulted in the unfortunate incident on 17.05.2009. The police had forgotten their responsibility vested in them to protect the life and property of persons and ignoring the responsibility, they have conducted the firing with a view to enjoy the gruesome act and as an attempt to practice firing which resulted in the loss of life of six persons and caused permanent impairment to several persons for their limbs. They have conducted firing without following the procedure such as lathy charge, use of teargas, use of rubber bullets and if these things failed, firing in the air and if they have followed the procedure, even if people have gathered there whom

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they wanted to disperse, the unfortunate incident could have been avoided. They have not obtained any sanction from the authorities before ordering fire. On account of the enmity for particular police officer against the particular community of the people, the order was made by that police officer. The police had fired at the chest of persons who were innocent and helpless and this was done with an intention to kill the persons. There was no precautionary measures taken like Ambulance, Stretcher, Fire Engine etc, obtained or brought to the place before ordering fire. The police had dragged the persons who sustained injuries in the police firing along the seashore and road and they have not shown even respect to those persons and did not even show respect which normal people will be giving to dead bodies. The person ordered firing had immediately left the place on the guise of taking food and concealed himself in Valiyathura Police Station and they have got evidence regarding the same and prepared to produce the same before the commission. Though the persons who died and sustained injuries in the police firing had fallen down in the place within

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the jurisdiction of Poonthura Police Station, they have suppressed this fact and registered the case in Valiyathura Police Station with an intention to make it appear that the incident happened within the jurisdiction of Valiyathura Police Station. On the basis of complaint filed by the Niyamasahaya Vedi , Judicial First Class Magistrate Court -II, Thiruvananthapuram had taken the complaint on file by making some police officials as accused which was forwarded to the police for investigation and later, it was taken over by Crime Branch and re-registered as CBCID Crime No. 84/CR/X1/2009 and 170/CR/X1/2009 and without conducting proper investigation, they are conducting the investigation in a casual manner with a view to help the accused police officers. During the Vimochanasamaram period, police had conducted an unlawful firing in Cheriyathura area and caused death of several persons including a pregnant women. Though a case was registered in respect of that incident, none of the police officers who were responsible for the firing were punished and that gave a licence for the police to order of firing in seashore

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areas. The people in Beemapally- Cheriyathura area are peace loving people and the incident happened on 17.05.2009 had only created circumstance to develop hatred between the members of the community. If such things are to be avoided, in their view, the responsible police officers and the persons responsible for the unlawful firing should be punished. Though he (Stephen Rosario) had obtained the particulars regarding the circumstance which led to the firing on 17.05.2009, the name and address of the police officers who were engaged in the firing, the nature of rifles used number of rounds used etc, from SAP Camp as per the provisions of the Right Information Act, 2005 they have given contradictory information regarding the same and he will produce the same before the commission for proving the real state of affairs. He prayed for permitting him to adduce evidence to bring the truth on behalf of Niyamasahaya Vedi.

A5 Party

Kerala State Muslim League Committee represented by District President Sri. A. Abbas

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Sait

He is the present President of the Muslim League, Kerala Committee, a registered political party as per the provisions of the Representation of Peoples Act. He was authorised by his party to represent the party in the proceedings. The enquiry was ordered pertaining to an unfortunate incident happened on 17.5.09 in coastal region of Cheriyathura- Beemapally and due to unauthorised firing by the police without complying with the procedure or the formalities, it resulted in death of six innocent persons namely 1). Ahammed Ghani Hajji, 2). Ahammad Haji, 3). Badhusha, 4). Ahammad Hakkim, 5). Saidaly, 6). Firoz Khan and nearly 48 persons injured out of which 20 persons sustained injuries due to hitting of bullet and grenades used by police. Mr. Nizamudheen has lost his leg because of the bullet injury sustained due to firing and serious injuries caused to others. According to A5 party, the situation would have been managed by the police by resorting limited force such as lathi charge or tear gas and they have resorted the last resort of firing as the first one without resorting to

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other methods. In order to save the face of the police, they have lodged false and frivolous complaints in hatredness of Beemapally Muslims by raising false allegations and also cooking up and fabricating evidence. The act of police is high handed and unjustifiable. The root cause of the incident is the resistance against the notorious criminal Kombu Shibhu who caused disturbance for the peaceful life of inhabitant of Beemapally. He claims to be an Aids patient and threatens public with his disease. He used to collect Gunda fee from the traders of Beemapally and vehicles coming to Beemapally. Beemapallly Muslim Jama-Ath have lodged several complaints in Valiyathura Police against such acts of such criminals, but it is of no use. On 16.05.2009 at about 4.30 pm the Gunda Gang lead by Kombu Shibu attacked the traders. The District Collector, Revenue Divisional Officer and police officers have given assurance to Jama-Ath committee, the then MLA and former Minister Sri. Surendran Pillai and then Corporation Councillor Sri. Beemapally Rasheed that miscreants including Kombu Shibu will be arrested by the police

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and legal action will taken against them. He was accused in 12 criminal cases and police is duty bound to arrest him with the help of Anti social activities prevention Act, 2008. But unfortunately, no action was taken by police and they have even ignored the directions given by the revenue officials. On 17th morning, Kombu Shibu and his Gunda gang conducted rally armed with deadly weapons in the presence of the police but no positive action was taken to arrest him as assured by District Collector and Assistant Collector. The police picket was withdrawn on the midnight of 16.05.2009 which caused shadow of doubt in the act of police officers in handling the situation. It is obvious that the clashes of Sunday were a sequel to the clashes on the previous day, that is Saturday evening. District Administration and the police failed miserably to maintain peace, the tension which sparked off following a petty issue snowballed into a major issue. The violence on Sunday was sparked off by natives of Cheriyathura and Kombu Shibu who blocked the movement of vehicles to Beemapally area and it is questioned by residents of Beemapally. As

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stated above, the issue began on Saturday afternoon, after Shibu @ Kombu Shibu in an inebriated condition demanded money from occupants of the vehicles and shop owners of the Beemapally, caused damages to shop and vehicles and fishing materials. The case of the police is that they have fired seventy rounds to control the mob. It is worth while to note that in a nearby coastal area, namely Vizhinjam and Poovar, when there were communal clashes between two communities and hundreds of houses fishing boats, net etc, were torched, the police used only minimum force to control the situation. There was no justification to the firing which was done without giving warning and adopting the steps before firing. The Revenue authorities have disowned the acts of the police stating that there is no sanction obtained from the Executive Magistrate to fire and that also shake the credibility of the arguments put forth by the police. It has to be considered that no police officers or any other persons injured in the alleged violent act of the persons who died or injured. The police fired at the persons who came to the spot on hearing the firing

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sound and most of them are nearby students and youngsters who were playing in the nearby ground. The brutal act of the police can be assessed through the medical records which show that most of the injuries are on the back of the injured persons. That proves that the police had fired against the persons who were running away from the scene of occurrence. Almost all visual media telecasted the sad plight of an young boy aged 15 years who was playing Cricket who was shot to dead by the police and he was dragged through the sand with injuries with beastly pleasure by the Police Constable. That scene stunned the conscious of the society. That was why the then Hon'ble Chief Minister of Kerala Sri. V.S. Achuthananthan, after inspecting the site and collecting the first hand information from the victims and eyewitness and members of bereaved family members, opined in the presence of then Hon'ble Home Minister Sri. Kodiyeri Balakrishnan that there was fault on the side of the police in handling the situation. Since all the fingers were pointed against over enthusiasm and inhuman nature of the police, the

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police wanted to salvage their position by accusing a community especially Muslim as wrong doers. They propagated a story that nearly four hundred persons from Beemapaly area proceeded towards Cheriyathura and because of the timely intervention of police, serious community clash was brought under control which is a false and wrong story spread by the police. It is pertinent to note that the respected Parish Priest of Cheriyathura, the President, Imam and other office bearers of Beemapally, members of Jama-Ath had stated in single voice that there was no communal sensitive issue between the inhabitants of Cheriyathura Christians and Beemapally Muslims. Nobody from Cheriyathura area was admitted in hospital in connection with the incident happened on 17.05.2009 and all the persons injured and dead are from Beemapally area. No police officers has lost their life in the incident and that cut at the root of the allegation of the police that all the persons from Beemapally area armed with country bombs and Gelatine sticks. The place of the occurrence is Beemapally beach and not at Cheriyathura beach. The

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firing was done by the police after passing nearly 250 metres from Cheriyathura beach towards Beemapally beach. There was communal harmony without even a wordy dual on the succeeding day between the people in Beemapally and Cheriyathura. They jointly addressed the mass media, rulers and political leadership with the same sound that there is no communal clash and there exists a harmonious situation. Another interested scandal propagated by the police was that it was managed by quotation gang other than from Beemapally area. If that be the case, what prevented the police from taking action against the said persons. It is reiterated that the issue happened on 17.05.2009 was not communal issue and the firing is not justified. The version of the police that they fired to control the mob who were members of unlawful assembly formed to commit any criminal offence cannot be believed. If the police complied with the procedural formalities, then such a huge loss might have been avoided. They exceeded the limit and acted without justification. The police registered cases against more than thousand people and charged with

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'promoting enmity between two classes near the place of worship' under section 153 A of Indian Penal Code. They have been also charged with rioting with deadly weapons, assaulting public servants when suppressing riots, use of arms and explosives, attempting murder, damaging public utilities and continuing to be in an assembly of five or more persons after the police ordered them to disperse. State Government shifted Thiruvananthapuram City Police Commissioner Mr. Gopinath from the place and placed four police officers under suspension. The lapses on the part of the commissioner in handling Cheriyathura incident on 17.5.09 is obvious reason for his removal. Over looking the enquiry report of DGP Sri. Jacob Punnose justifying the police firing at Cheriyathura, cabinet decided to suspend Shankumukham Assistant Commissioner, Sri.Suresh Kumar, DCRB Assistant Commissioner Sri. Sharafudeen, Poonthura Circle Inspector Pratheep Kumar and Valiyathura Sub Inspector, Sri. Johnson. The action was due to their failure and mishandling the situation which led to the police firing. Thiruvananthapuram Range Inspector

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General Mr. Vinson M. Paul and Deputy commissioner of police law and order in Thiruvananthapuramk Mr. A.V. George who were in charge of security in Cheriyathura were also transferred and posted at Ernakulam. That shows the laxity of police in handling the situation. Since the State Government felt that the police action was unwarranted, the cabinet held on 22.5.09 decided to appoint the Hon'ble commission of Enquiry to enquire into the matter and sanctioned monetary relief to the injured persons and also to family members of the deceased and appointment on compassionate ground was also ordered by the Government. The police and Crime Branch had registered umpteen number of criminal cases against the injured persons to save their face. They are continuing the process of registering First information repots with fabricated and stage managed evidence. The said cases may also should be enquired into in detail by this Hon'ble Commission. Their political party is of the view that the incident happened on 17.05.2009 was due to the fault from the side of the police and also from the side of Revenue

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authorities. The unsuccessful attempt of the police to convert this as communal issue is to be deprecated and serious warning has to be given to the police in this regard. The police is to prevent communal clash but here police tried to set fire to the communal issue. The deponent and his party has tried and worked hard not to convert the incident on 17.05.2009 as a communal issue and they are proud to say that they were able to control the situation. The police acted as killers than protector of the people. They prayed for this commission to give recommendation to remove all the police officers involved in the issue from service and they are to be prosecuted for committing murder. Further investigation of the crime has to be done by a Central Police Agency and if the cases were investigated by any wing of the Kerala police, the affected persons will not get justice. So they prayed for permitting them to participate in the proceedings.

A6 Party

(29) Dr. N. Aliyarkunju

He is the General Secretary of United Muslim

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Organisation registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act. 1955. They are engaged in social and educational advancement of Muslim Community in Kerala for the last 10 years. It is the apex body of other Muslim Organisations and various Jama-Aths. Their organisation is highly conscious and aggrieved by the tragic incident of police firing at Cheriyathura on 17.5.09 as all the six persons killed and over 48 persons injured belong to Muslim community. He had visited the place of firing after the incident and discussed with the injured and survivors of police firing and came to understand that the police firing was unjustifiable, arbitrary and illegal. Beempally area which is situated close to Cheriyathura is the central place of communal amity and embodiment of secularism. People of all faiths visit and offer prayers in Beemapally mosque which is a holy place. There has been no communal clash in this area and people are living in communal amity. Muslim community in that area is quite backward both educationally and economically and they are innocent and law abiding

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people. The law enforcing agencies have a major role in this Cheriyathura incident. They failed to arrest Kombu Shibu who had involved in many non-bailable crimes and threat to peaceful life of that locality. His style of criminal activities was like intimidating shop owners for getting money attempting to spill blood against those persons who are reluctant to give him money and biting people so as to cause AIDs to who are inimical towards him since he is an AIDs patient. The day before the Cheriyathura firing, an unruly mob headed by Kombu Shibu attacked many people in Beemapally area and also caused damage to many shops. Had the police arrested the culprit, in this attack in time, the further incident could have been avoided. The unhappy and untoward incident of police firing at Cheriyathra on 17.05.2009 happened due to the over action of certain police officials. There are certain doubts and cloud of suspicion regarding the firing order. Under whose instruction, the police fired is a big question. It is understood that the police obtained firing order on 18.05.2009 and there in every likelihood of manipulation in the official records in

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order to suit the date on 17.05.2009. The police firing at Cheriyathura is illegal, arbitrary and unjustifiable and done in fragment violation of human rights. The Muslim community is in the receiving end in that incident. There was malafide intention on the part of police in firing at persons belonging to Muslim community. The sad state of affairs in their firing was the death of 15 year aged boy by name Firoz Khan who was playing Cricket in the beach area and the spot from where he fell down is far away from Cheriyathura church. The bright future of the young youth was nipped by the brutal firing of the police. Not even a single person belonging to neighbouring Christian community was injured in the incident. So the honesty and integrity, impartiality on the part of the police in order firing is under challenge.

A7 Party

(30) Sri. Isahak

He is a social worker and member of several cultural organisations. He had filed complaint before the Judicial First Class Magistrate -I, Thiruvananthapuram against the police officers in

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respect of the firing held on 17.5.09 in which six innocent persons died on account of the illegal and unauthorised act of the police and that was forwarded to Poonthura police for investigation under section 156 (3) of the Criminal Procedure Code and they have registered a case as Poonthura Police Station Crime No. 172/09 under section 302, 308, 324, 326, 120B and Section 34 Indian Penal Code and later it was transferred to Crime Branch for investigation where it was renumbered as CBCID Crime No. 170/CR/51/09 and they are now conducting investigation to his knowledge in Beemapally- Cheriyathura area. There was no communal problem or riot happened since long time. Christians and Muslims residing in that locality were living in brotherhood to each other and engaged in fishing work in that area. Even if there was any hint of any dispute between them, the same will be settled at the intervention of the church Edavaka and Jama-Ath officials and they will find out solution for the same. When some untoward incident happened on 16.6.09, he had informed the same to Jama-Ath officials and they have intervened and the parish Vikar

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of Cheriyathura church had contacted the Jama-Ath officials and both of them have informed the District Collector about the illegal activities of Kombu Shibu, a known criminal in that area. Collector and other higher police officers and local MLA had reached the place and ascertained the real state of affairs and they have given assurance to them and Jama-Ath authorities that they will take necessary action to arrest Kombu Shibu immediately. But instead of taking steps to arrest Kombu Shibu, the police officers allowed him to wander in Cheriyathura area near police picketing. There was no permission granted to any one, even to enter Cheriyathura or bylines in the Beemapally area from 4 am on 17.5.09 (wrongly shown as 17.6.09) and the vehicles coming to Beemapally area were prevented from coming through that area and it was blocked by Kombu Shibu and his associates. They have prevented the private bus operating from Beemapally area at 6 am and police had not done anything for the same. At about 3 pm on 17.5.09 without any provocation, the police officers present near Cheriyathura had started firing at persons

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without any control and indiscriminate and arbitrary manner and caused injuries to the persons engaged in connection with fishing work and children playing Cricket and Football in that area. At that time, a group of persons including ladies in Cheriyathura area had pelted stone. Persons who sustained injuries and persons who came there to convince the police were attacked by the police with predetermined mind and fired at them. In the firing Ahammed Ghani Hajji, Ahammad Haji, Badhusha, Ahammad Hakkim, Saidaly and Firoz Khan died and more than 50 persons sustained injuries. Police had not taken any precaution to be taken before order firing, such as making an announcement, using rubber bullets, tear gas, water cannon, lathy charge and firing in the air etc, and they did not get any sanction from the District Magistrate for that purpose. The police is trying to make it a communal riot in order to justify their firing. Further they have planted some explosive substances being used by terrorist with a view to create misunderstanding against the residents in Beemapally in order to escape from their illegal act. So it is

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necessary that the persons responsible for unlawful act must be brought before law and they must be dealt with in accordance with law.

B1 Party

(31) Cheriyathura Assumption Church represented by its Secretary, Sri. Adolf Roderigues

He is the Secretary of Cheriyathura assumption church and is filing the statement for and on behalf of the churth. Cheriyathura is a small area situated between Valiyathura and Beemapally and it is having an area of about 1 square kilo metre . There are about 500 houses in that area and the population of that area will come to nearly 2000 and most of them belong to Latin Christians and believers of Latin Catholic Sabha and engaged in fishing activities. There are about 15-20 family belonging to Ezhava community also residing in that locality. The east of Cheriyathura is a main road and sea is situated on the west. Beemapally is situated on the south side of Cheiryathura and there are more than 2500 houses situated in that area and there were more than 10000 people residing in that

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area and most of them belong to Muslim community. On 16.05.2009 Saturday at about 3.3.0 pm, Shibu S/o. Lilly residing in Purampoke land in fishermen colony who is not a member of the Cheriyathura Assumption Church Edvaka had some altercation with his friends who belong to Beemapalloy area and that ended in a quarrel from the boundary of Beemapally area. On knowing about the incident, police reached the place and dispersed them. Thereafter during evening, again they engaged in altercation and quarrel and at about 9.00 pm, about 300 people under the leadership of Nisamudheen of Beemapally came and pelted stone against the police and created fearsome situation in that locality and attacked the people and caused damage to several houses in Cheriyathura area. They have used petrol bombs, bricks, crowbar, sword etc., in the attack. The properties belonging to Thresiyamma Oliver, Sofi Aju Perera and Revathi hotel belonging to Gireeshan and Anitha International belonging to K.J. Mani and house belonging to Selin were severely damaged in the incident touching the Beemapally boundary and after the semitry belonging

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to Cheriyathura church. There are about 30 houses situated where Christians belonging to Cheriyathura Edavaka were residing. On account of the incident, these people apprehended that their life and properties will be in danger and for the purpose of the safety, they came to church compound and when this fact was known to the authorities, District Collector and Police Officials and people representative have come and assured that they will take necessary action against persons responsible for the incident and also take steps to pay necessary compensation for the loss sustained by the persons. On the same day night, somebody had set fire to a country boat belonging to a Muslim which was kept in Cheriyathura area. At about 3.00 pm on 17.05.2009, more than 1000 youngsters belonging to Muslim community of Beemapally collected in the seashore and trespassed into Cheriyathura area and attacked with bombs and other dangerous weapons and set fire to the houses and country boats and other fishing tools and they used petrol bombs etc. Though the police officials present these tried to prevent them, they were also attacked

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by the miscreants by throwing bombs, stones etc. Some of them had even reached the Pallimeda and inflicted injuries on three persons who were taking rest near that area. They attempted to cause damage to church, but due to the timely intervention of the then Shangumugham Assistant Commissioner, further damage was prevented and he tried to control the situation. On account of his intervention, though the miscreants retreated but later with greater force attacked the police by throwing bombs etc. The life and property of the persons residing in Cheriyathura was put in danger on account of their act. Since the police were convinced that life and property of persons were in danger and they were likely to attack even the church, they tried to pacify them and disperse them and gave warning through mike for the unlawful assembly to disperse and even announced that if they did not disperse, they will be compelled to use force. But in spite of that, they did not disperse but increased the density of their act, by pelting stones and throwing launcher bombs etc. So the police had conducted route march and fired in the air and inspite

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of that, they could not control the attackers and so they were compelled to fire at the mob. If firing was not done by the police at that time, more danger to life of the persons and damage property of the persons in Cheriyathura would have caused. It is necessary to make necessary enquiry regarding some of the explosives used and the persons who used the same and take necessary action against them. Compensanate steps to grant compensation to persons who sustained injuries and sustained loss to their property may be taken. On account of the timely intervention of the police, further damage and rioting was avoided. So it is necessary to take steps to find out the persons responsible for the act and take action against them and to avoid further such things, a permanent out post has to be established in boundary of Cheriyathura- Beemapally. Necessary enquiry has to be done regarding the collection of weapons in that area and action has to be initiated against the persons responsible for the same.

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She is residing in house No. TC 45/920 situated behind the Cheriyathura church in Beemapally ward and she is doing fish vending business. Her husband is no more and she is residing with her two children in that house. On 17.05.2009 at about 3.00 pm, while she was siting in the house after taking food, some identifiable Muslims of Beemapally area came towards her house by throwing bombs, stones and setting fire to the country boats and nets and on seeing the same, she along with her children got down from the house and ran towards Cheriyathura church. One among the persons came,threw a bomb to her house and it hit on the door and exploded with huge noise and the door of the house was completely damaged and the roof of nearby houses were also damaged on account of the same. More than thousands of Muslims from Beemapally area came with bombs and dangerous weapons towards Cheriyathura area and they were prevented by police people. But in spite of that, some people entered Cheriyathura area and caused damage to several houses. She had also seen them throwing

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bombs even to the Pallimeda and she had nearly escaped from the explosion. Though lot of police persons reached there, persons came from Beemapally area came with more vigour and violent and used explosives like rocket launcher, bomb etc, and they caused fear of death in the minds of the people in Cheiryathura area. The police had made announcements and requested the people to disperse and also warned that if they did not disperse, they will be forced to fire at them. In spite of this, miscreants did not disperse and so the police fired in the air and in spite of that violent mob of Beemapally area attacked the police with bombs etc, and so the police had no other option, but to fire at the mob. If the police had not fired at the mob, they would have caused more loss of life and property of the residents of Cheriyathrua area and they would have even caused damage to Cheriyathura church. On account of the enmity caused in connection with the incident happened on the previous day, the Beemapally Muslims nurtured enmity against Christian community people and on account of enmity, they have committed

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this attack.

B2 Party

(32) Latin Service Society represented by its Chairman, Francis Albert.

He is the Chairman of Latin Service Society and he is the National Formatur of Francis Skane Almaya Sabha and he is the President of Theeradesha residents Welfare Association and Convener of Sri. Chithira Thirunal Sangeetha Natyakalakendra, member of Thiruvananthapuram District Congress Committee and Director of Avemaria Counseling Retreat Centre in PMG and Managing Director of Assesse Group and member of several other cultural and social organisations. The Latin Service Society was registered under the provisions of Thirukochi Charitable Societies Act, 1956 with registration No. T-1617. They are working for the affected Latin Christians in Kerala and giving free legal aid to such persons. They are giving this statement before the Commission for and on behalf of the above society. The incident on 17.05.2009 had happened on account of a small incident happened between the members of

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two community and altercation which resulted ultimately in the police firing causing death of six persons as well. The criminals residing in both area had created the problem on 16.05.2009 which resulted in the unfortunate police firing. If the police had taken into custody the two criminals, then the unfortunate incident could have been avoided. Duty of the police is to protect the life and property of the public and they have conducted this police firing without following the procedure. They have not done the Lathi charges, tear gas and use of rubber bullets etc, before order firing. They have not even fired in the air before firing at the mob. But it is understood that they have done this since one faction of persons did not disperse and this resulted in the police firing. They have not obtained permission from their higher authorities for this purpose. The people died and sustained injuries in the police firing on 17.05.2009 and fell in the seashore coming within the jurisdiction of Poonthura Police Station. He was attending the meeting at Hotel Regency in Thiruvananthapuram, when the incident on 16.05.2009 happened. At about 9.30 pm, when he

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reached in front of Cheriyathura church, he felt a fearsome situation prevailing in the locality. Immediately, he called Director General of Police and the Director General of Police told them that they should remove the persons standing in front of the church and clear the road and accordingly, the Christians of Cheriyathura had moved to the side of the road and cleared the road. On 17.05.2009 at about 5.00 pm, he came to know about police firing and went near the Christian church and he saw the remnants of the bombs in the football ground and back of the church. It is necessary to find out the reason for the firing, the circumstances which led to the firing, persons responsible for the firing, the nature of rifle used, the number of rounds used and the source of the bombs used in the incident and how it came to that place etc., The innocent persons should not be punished and the actual persons responsible for the incident have to be brought before law. Whether any external organisations or associations have any hand in the commission of the crime has to be found out. If such a firing had not happened, the Christian church

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and several houses belonging to the Christians and more than hundred persons would have died due to the attack made by Muslims of Beemapally area. He prayed that he may be permitted to adduce evidence to prove these facts.

B3 Party

(33) Kerala Latin Catholic Association by Anto Merceline.

The deponent is the President of Latin Catholic Avakasha Samrakshana Samithi and he is filing the affidavit for himself and deponents two and three as well. The incidents happened in Beemapally Cheriyathura area on 16.05.2009 and 17.05.2009 are all the attempts of some persons who wanted to create tumult and riots in seashore area affecting the communal harmony with the aid of foreign goods sellers and part of the conspiracy hatched by such persons. The fact that within one night, they could collect the weapons and bombs and also collected Muslims youth from neighbouring area in Beemapaly area show the premeditated arrangement made by such people for this purpose. The miscreants have

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used dangerous weapons like Jelatin stick and highly technical bombs. The incident happened between Kombu Shibu of Fishermen colony not belonging to Cheriyathura area and the Beemapally resident Nisamudheen and that was settled between them in the evening on 16.05.2009 itself. Without any provocation, at about 3.00 pm on 17.05.2009, more than hundred Muslim youths tried to attack Cheriyathura church with bombs and other weapons. Out of the six persons died, persons not belonging to Beemapally area also are included. Even on the night of the incident itself, the main culprit Nisamudheen was sent abroad. Illegal activities like sales of smuggled goods, liquor and fake CDs etc., were conducted in the shops in Beemapally area. Huge business of more than lakh of rupees turn over is being conducted from the shops in Beemapally area by sale of foreign articles and non-foreign articles. So this commission has to find out the persons responsible for the unauthorised collection of weapons and bombs. Steps must be taken to prevent illegal sale of smuggled goods, liquor and fake CDs etc, in

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Beemapally area. Enquiry has to be conducted to find out, whether the persons conducting business in Beemapally area are having proper licence issued from Thiruvananthapuram Corporation and whether they are paying sales tax etc, and the persons responsible should be arrested and convicted and punished in accordance with law.

(34) Kerala Latin Catholic Avakasa Samrakshana Samithy by its President and two others.

He is the President of Kerala Latin Catholic Association. Attempt was made to create fearsome situation and unnecessary riots in seashore area to cause harm to the communal harmony with the help of foreign aid and the incident happened on 16th and 17th in Beemapally- Cheriyathura area is also one such incident which resulted in the police firing. The bombs and weapons were collected and also Muslim youths from neighbouring area were also collected in that area as the part of this conspiracy. They have used dangerous weapons with high technique including Jelatin sticks in the incident. The incident happened between Kombu Saibu who is residing in the

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Purampoke land and not in Cheriyathura area and Nisamudheen,the resident of Beemapally, was settled in the evening of 16.05.2009 itself. But at about 3.00 pm on 17.05.2009, without any provocation, thousands of Muslim youths from Beemapally area came with bombs and other weapons and tried to attack Cheriyathura church and it is clear from this that they are having the support of terrorist movements and persons involved in such terrorist activities and connection with terrorist organisations. Apart from Beemapally people, others were also present in the six persons died. They have made arrangements to deport Nisamudheen to abroad in the night of the day of the incident itself. More than lakh of rupees is being collected in the business establishments by way of illegal sale of foreign goods and other items. The commission has to give direction to find out the sources of weapon and explosive substances and to stop illegal activities such as sale of smuggled goods, liquor and fake CDs in Beemapally area and to ascertain whether the business establishments in Beemapally area are having proper licence issued from

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Thiruvananthapuram Corporation and whether they are paying necessary sales tax to the government. Direction has to be given to arrest persons responsible for the incident and punish them.

C Party

(35) The Action Council, Vellarada represented by its President, V. Rasalayyan.

The said council was formed on 21.09.1993 to fight against the fast growing illicit liquor trade and terrorism and they were fighting against the said social evils. On 10.12.1994, 17 activists including 6 women were brutally beaten up and stabbed by the illicit liquor mafia and on 04.11.1996, Sri. A. Rajendran, the then Vice President of the Action Council was murdered by the antisocial elements. The Action Council has been registered under the Travancore-Cochin Literary Scientific and Charitable Society Registration Act, 1955. It was also registered with commissioner of Income Tax under section 12(A) of the Income Tax Act, 1961 on 30.11.2005. The Ministry of Home Affairs has granted Registration to the Action Council under Foreign Contribution

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(Regulation) Act, 1976. On 17.05.2009 afternoon, a mob from Beemapally area in Thiruvananthapuram city attacked the people of the neighbouring locality with deadly weapons. They set fire to the country boats and fishing nets. They also attacked the neighbouring Christian church. The mob attacked the police party, which rushed to the scene and tried to control the situation with highly explosive bombs and deadly weapons. The police was constrained to open fire which resulted in six deaths. The police registered a case regarding the said incident as Crime No. 247/09 of Valiyathura Police Station. There were media reports that certain anti national force with external help were behind the incidents. It is learnt that the Union Home Ministry had informed the Government of Kerala that there is intelligence reports that Beemapally is an area where police cannot even enter. The Kerala Police Crime Branch Wing, on 06.01.2010 submitted another First Information Report as F.I.R No. 02/CR/OCW-1/Tvpm/2010 before the Judicial First Class Magistrate's Court-II Thiruvananthapuram stating that on the date of the

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rioting, on 17.05.2009, the mob had used highly dangerous Gelatin sticks named Neogel 90 manufactured in Nagpur by a company named Yenvera. Ammonium Nitrate based Industrial Explosive Device Neogel 90 is the main product of the said company which is situated in Nagpur, Maharashtra State. It is understood that in the terrorist blast occurred at Jaipur, Rajastan State on 13.05.2008 in which 75 people died and in the blast at Hydrabad on 25.08.2007 in which 44 people died, the terrorists had used the same explosive device Neogel 90 which are used by the mob at Cheriyathura on 17.05.2009. More than sixty launcher bombs were also used by the mob at Cheriyathura. It is pertinent to note that even though the rioting and police firing at Cheriyathura occurred on 17.05.2009, it took 7 months and 20 days for the Kerala Police to find out that highly dangerous Neogel 90 Gelatin sticks manufactured at Nagpur were used in the riots. It is also pertinent to note that the Kerala Police till the date has not been able to arrest a single culprit regarding the matter. They were not able to venture in

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to the Beemapally area to investigate the matter as well. The Kerala Police is also now admitting that this is having some interestate connections. They are not able to find out till date how the dangerous Neogel 90 reached Thiruvananthapuram from Nagpur in Maharashtra State. They were not able to investigate the matter effectively and quickly. The petitioner submitted a representation dated 22.01.2010 to the Secretary, Ministry of Home Affairs, Government of India with copy to the Chief Secretary, Government of Kerala, praying to entrust the investigation of these cases with the National Investigation Agency. The petitioner has filed a writ petition before the Hon'ble High Court of Kerala as W.P(C) No. 8626/2010 praying for a direction to entrust the investigation of the said cases relating to the violence at Cheriyathura with the National Investigation Agency. The said writ petition is pending consideration before the Hon'ble High Court of Kerala and now stands posted to 21.05.2010. The recovery of the dangerous Neogel 90 and launcher bombs clearly reveals that there were involvements of outside elements in the violent incidents at

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Cheriyathura. The Kerala Police was constrained to seek the help of the Central Reserve Police Force and the Rapid Action Force to control the situation and as per the request of the Kerala Police, the Government of India rushed in three companies of Central Reserve Police and more than one hundred men from the Rapid Action Force to the Cheriyathura area. The Rapid Action Force men were air lifted from Coimbatore and they camped at the Cheriyathura area for 45 days. Sri. Rasalayyan is prepared to produce evidence before the commission to prove the allegations.

D Party

(36)Hindu Aikyavedi represented by its District General Secretary Anil Kumar, Samanvaya Bhavan, Near Fort High School, Fort P.O. Thiruvananthapuram.

He is the District General Secretary of Hindu Aikya Vedi. The areas like Beemapally, Poonthura, Cheriyathura etc., are thickly populated with the vast majority belonging to one particular religion, who generally act in a concerted manner with mutual understanding and resort to acts of anti social and anti

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national nature which often tantamounts to terrorism. Unfortunately, the entry of police or other Government agency is rendered difficult and it is pitiable that such agency of the state refraining from entering into the area and performing their lawful duties. Even assuming that the Governmental agencies are intending to avoid provocation and untoward occurrences, the above situation is alarming and it may create an impression that the State is in a state of inability to tackle such situations as per law. The reasons may be perhaps to please a section and maintain tranquillity. But the danger involved in such an approach by the Government or political parties deserve notice. It is inconceivable that the lawful machineries cannot discharge their duties properly and effectively in order to detect and prevent organised crimes posing real threat to the society. The section targeted by the organised group mentioned above are living in fear of life. Many such helpless people have shifted their residence seeking shelter in areas which they considered safe. Those who have not prepared to flee were put to sufferings at the hands of

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the antisocial elements mentioned above, generally hailing from a particular religious group. The Hindu Aikya Vedi is really aggrieved of this situation and concerned about the victims who belong to Hindu religion, and who are tortured by the other faction which is governed by ill feelings purely on account of communal rivalry. Even the freedom of worship guaranteed by our constitution which ensures a secular state is curtailed in this area where the Hindus are denied their legitimate rights by the other faction. There are reliable information and strong indications of unauthorised arms, ammunition, explosives being stored by these atrocious group. It is disheartening that the political forces are evasive in dealing with the situation and their conduct is virtually helping this violent groups probably motivated by the vote bank approach. Even honest police officers who dare to take up any risk in truthfully discharging their duties are discouraged and harassed with the aid of the political parties. Hindu Aikya Vedi has a clear view that the activities in this area involving the people who resort to wanton acts are to be thoroughly checked

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and dealt with strictly according to law. This is quite necessary for the welfare of the nation and communal harmony envisaged under our constitution. It is not at all desirable to have an impression that the official machinery fails as the public opinion generally. There are information that the bombs or explosives and other weapons brought from foreign countries are also kept by this anti social elements at their control. This is evident from the recent occurrence at Cheriyathura where some minor incidents took place could flare up resulting in most violent and tragic situations. The assailants were using highly explosive devises on the strength of which they could in no time design and commit such a horrible situation. It is not a casual or isolated incident and the conspiracy and evil intention are obvious. Regarding the firing at Cheriyathura, the Hindu Aikya Vedi has the definite view that the police officials acting in good faith were having no alternative than resort to firing. Actually, these police officers have managed at the risk of their own life to avoid a very serious situation which would have resulted in wide spread violence, clashes, blood shed and loss of

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hundreds of lives and damage of properties. It is the opinion that the police officials who could rise to the occasion in preventing further violence are penalised for no fault of theirs, with suspension, etc., having demoralizing effect. The Hindu Aikya Vedi considers that it is their moral duty to expose the true state of affairs mentioned above for the welfare of the society and all sections and religions to maintain peace, civilization and harmony. They (Hindu Aikya Vedi) are for equal rights to all religions and to curtail illegal activities. They reserve their right to furnish further statements, as may be necessary and to tender evidence before this Hon'ble Commission with the hope that it may help to maintain rule of law in future at least, and the Hindu Aikya vedi never encourages any sort of hatred between religions. So according to them, the action of the police is justifiable and such acts of the particular religions should not be allowed to continue to dominate and danger to the living of other community people.

E1 Party

(37) Kerala Police represented by Commissioner

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of Police, Thiruvananthapuram City, M.R.Ajith Kumar.

The affidavit was filed by M.R Ajith Kumar, IPS who was working as Commissioner of Police Thiruvananthapuram City on behalf of the police departments. Cheriyathura is coastal region which comes under the jurisdiction of Valiyathura Police Staion in the limits of Poonthura Circle within Shanghumugham Sub Division in Thiruvananthapuram City. The coastal regions of Thiruvananthapuram City which includes places such as Cheriyathura, Beemapally, Poonthura, Vizhinjom etc have distinctive demographic character and socio-economic problems which poses unique problems for maintenance of public order. Comparable demographic pattern and similar problems in maintenance of law and order can be seen in the adjoining coastal belt of Thiruvananthapuram Rural also. These regions are very densely populated. Another feature of this region is that various communities generally tend to live in separate localities with limited intermingling. Expressions like no man's land have come to stay to

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indicate regions which separates different communities. Cheriyathura itself has got one such line of control which separates two communities. The socio-economic conditions such as poverty, illiteracy, harsh living conditions associated with fishing activities, etc., creates its own difficulties for policing. Perhaps, the above factors make the people highly volatile, credulous and easily susceptible to aggressive behaviour. The past history of the area shows that even on the slightest provocation people get mobilized almost instantaneously on communal lines and indulge in violence. The area is widely known for its criminal activities such as transactions in smuggled goods, pirated CDs, pornographic materials, illicit foreign liquor, narcotics etc., the area provides a very fertile ground for organisations and groups with fundamentalist/extremist ideologies. It may be mentioned that the coastal localities coming with the Poonthura Circle and adjoining areas have witnessed many violent communal clashes which had resulted in extensive loss of lives besides destruction of properties worth several cores of rupees. Naturally, police

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intervention including the police firing have also taken place on umpteen number of occasions in the past. On 16th May, 2009, it was the day of counting of votes of the Lok Sabha Election. The entire police force in Thiruvananthapuram City was mobilised and was deployed for covering events like counting centre Guard, Ballot box guard, band dust for victory processions, law and order patrol for preventing clashes between rival political groups etc. Besides the police force that was already deployed in different parts of the City, depending upon the occurrence of law and order problems at various places, Reserve Police Force was deployed at various places and the same was moved from one place to another based on file requirement. While the entire police force was engaged in these activities, information was received in the Police Control Room at about 5 pm that some law and order situation involving Muslims and Christians had occurred at Cheriyathura. The issue was attended to by the Police party consisting of Circle Inspector Poonthura, Sub Inspector Poonthura, Sub Inspector Valiyathura, Junior Sub Inspector

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Valiyathura and others and the immediate situation at Cheriyathura was brought under control. At about 9 pm, a group of Christians from nearby fishermen colony reached the Cheriyathura area in an aggressive mood. Within no time, a large number of Muslims (the south of the line of control) also gathered. It is to be noted that 16th May, 2009 being the day of counting of votes, there was sizable gathering of general public all along the road in Cheriyathura- Beemapally region. The two groups which assembled on communal lines started indulging in violence. The police party under the leadership of Assistant Commissioner, Shanghumugham effectively intervened to deal with the situation. Considering the gravity of the situation, DCP Law and Order, DCP Administration, other Assistant Commissioners, Circle Inspectors, Sub Inspectors with additional strength of Police party reached the spot. Equipments such as Varun, Vajra used for mob dispersal were also rushed to scene. Service of Fire Force was also utilised. Considering the seriousness of the situation, other officers including the Sub-Divisional Magistrate, the District Collector

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and the ADGP, South Zone reached Cheriyathura. The police could avert direct clashes between the communities. However, there were extensive damages to properties, particularly those of the Christians in arson, bomb throwing and physical destruction. Police officers including the Asst. Commissioner, Shanghumugham, Sub Inspector, Valiyathura and personnel of fire services sustained injuries. Eight crime cases were registered in connection with the various incidents on 16.05.2009. It may be noted that the Muslims were the aggressors in 7 cases and the Christians in the other. Later, it came to be known that at about 4.30 pm, when the focus of police action was on election related law and order incidents, a certain incident involving one Shibu and certain Muslims of Beemapally had taken place. A special Control Room was opened at Cheriyathura junction on 16.05.2009 itself under the charge of DCP law and order. Pickets were posted at sensitive locations including the line of control area separating the residence of Muslims and Christians from the main road up to the beach area. On 17.05.2009 forenoon,

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the police got information that a group of Christians were off and on obstructing vehicles going towards Beemapally area demanding arrest of the accused involved in the incidents on 16.05.2009. So the traffic towards Beemapally was diverted through an alternate route. On 17.05.2009 at about 3.00 pm, an aggressive Muslim mob crashed over to the Christian area indulging in violent activities including throwing of Bombs towards Cheriyathura Assumption Church. This was immediately followed by large scale mobilisation of Christians and Muslims on communal line leading to major communal confrontation between them. The violent mob which was divided in lines were even threatening attack on the place of worship of other community. Police had to deal with such a highly surcharged and extremely violent situation. The efforts of the police to bring the situation under control using non- lethal weapons proved futile. Tear gas shells, stinger grenade, stun lack grenade etc., became ineffective under the windy conditions for dispersing the violent mob. In these circumstances, police resorted to firing to disperse the violent mob in

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accordance with law and procedure. FIR in Cr. 248/09 of Valiyathura Police station contains the details. While these incidents were taking place mostly near the Beach area, on either side of line of control, there was a large scale of mobilisation in other parts of Poonthura Circle also. Officers under the leadership of DCP law and order were simultaneously tackling those situations to prevent outbreak of violence in those places. He prayed for filing additional statement if any required after verifying the statements filed by other parties.

E2 Party

(38) Kerala Police Service Officers' Association represented by its President T. Gopalakrishna Pillai.

He is the President of the Kerala Police Service Officers' Association and the membership of the Association is restricted to serving members of the Kerala Police Service of and above the rank of Deputy Superintendent of Police and corresponding ranks but not included in the I.P.S Cadre. It is a state wide organisation with its Central Office at

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Thiruvananthapuram. it was a non-political body functioning within the provisions of Police Force (Restriction of Rights) Act 1966 and Rules framed thereunder, the Kerala Police Act 1960 and any other Act or Rules governing the rights, duties, disciplines and conditions of service of the Police force of the state existing or enacted by the Government from time to time. The association is constituted with the aim to promote a strong sense of responsibility and pride in the police profession, to safeguard the collective interest of the members of the police force through the means provided under the rules governing the Association, to effectively voice and seek redressal of the genuine grievances of the members of the police force etc. On 17.05.2009 afternoon, an unruly mob from Beemapally area in Thiruvananthapuram city attacked the people of the neighbouring Cheriyathura locality with deadly weapons. They set on fire the country boats and fishing nets. They also attacked the Christian church. The mob from the Beemapally area attacked the police party, which rushed to the scene and tried to control the situation, with highly explosive

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bombs and deadly weapons. The police was constrained to open fire to quell the violent mob. The police firing and the rioting resulted in 6 deaths. The police party was led by the members of this association. The timely and effective action of the police saved the situation from going out of control and from spreading communal riots in the entire coastal belt of Kerala. Police registered a case regarding the said incident as Crime No. 247/09 of Valiyathura Police Station and the investigation was subsequently taken over by the Crime Branch. It is learnt that the Union Home Ministry vide MHA's File No. 1-11011/19/2009-IS-IV dated 27.2.2009 had sent an urgent communication to the Director General of Police, Kerala and to the Home Secretary to the government of Kerala stating that in the meeting of the Union Home Minister to review the internal security situation it was emerged out that there is virtually no policing in Malappuram District. Besides, there is also an area in Thiruvananthapuram (called Bheemappally) where police do not venture. Home Minister impressed upon them that these constitute grave

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deficiencies and the police must work out a plan for policing in that area. No part of the state should be beyond the effective jurisdiction of the police. The police Crime Branch Wing, on 06.01.2010 submitted another First Information Report as F.I.R No. 02/CR/OCW-1/Tvpm/2010 before the Judicial First Class Magistrate Court– II Thiruvananthapuram stating that on the date of the rioting ie. On 17.05.2009, the mob had used highly dangerous Gelatin Sticks named Neogel 90 manufactured at Nagpur by a company named Yenvera in the terrorist blasts occurred in Hyderabad on 25.08.2007 in which 44 people died and 60 seriously injured and in the Jaipur terrorist blast (Rajastan) on 13.05.2008 in which 75 people died and more than 150 seriously injured, the terrorist group Indian Mujahideen had used the same explosive device Neogel 90 which was used by the mob from Beemapally on 17.05.2009 against the police. Six types of bombs were used in the Cheriyathura riots out of which 60 numbers were launcher bombs. These type of bombs are suspected to have been used by the terrorists. The anti social

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elements who participated in the rioting at Cheriyathura on 17.05.2009 are having Inter-state connection. The police is still investigating the route by which the dangerous Neogel 90 reached Thiruvananthuapuram from Nagpur in Maharashtra State. The police firing at Cheriyathura is justifiable and only because of the police action, the situation was prevented from going out of control and from spreading communal riots. The Union of India had issued necessary instructions to the State Governments in the D.O. Letter No. 19/69/70-P011.I (A) dated 10.6.70 about the tackling of riotous mobs and communal violence. In the said circular " in the informal discussion on the communal situation in the country that the Prime Minister and the Home Minister had with some Chief Ministers on 23.05.1970, there was general agreement that communal activities and situations have to be dealt with in an entirely different manner from other law and order problems, and that there should be no hesitation in taking the most stringent action at the first sign of communal trouble . As you are aware, our approach has been

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that law and order situations generally should be dealt with tactfully and with conspicuous restraint, that use of force should be avoided as far as possible, and when recourse to it becomes unavoidable only the minimum force that is necessary should be used. We have advised that use of fire arms should be resorted to only when other remedies including use of tear gas or lathi charge had failed to produce the desired effect and when there was a clear and imminent danger to human life or threat of serious damage to property. This approach is essentially sound and should be repeatedly enjoined on all officers who have to deal with law and order situations, such as agitations and demonstrations by political parties, students' agitations, labour demonstrations, etc. But we have also emphasised in the past that at the earliest indication of communal violence, there should be no hesitation to open effective fire to break up riotous mobs, or those intent on communal violence, and that any failure or hesitation to take such action should be punished as grave dereliction of duty on the part of the officers concerned. And with this should be coupled

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with the assurance that in acting firmly the officers would have the fullest support and protection from Government. There has been tendency to invoke as a justification for not acting firmly right from the beginning in dealing with communal situations, the usual public criticism of ill advised or premature action in dealing with other problems of law and order. This can only be due to a failure to appreciate the distinction between the nature and consequence of communal disturbances and other law and order problems. It has been found again and again that communal disturbances, if not firmly put down at the start, spread rapidly, causing heavy loss of innocent lives and property, brutalization of the population involved and destruction of the values of civilised life. They leave behind mutual hatred and bitterness and their repercussions are wide and lasting. There is a fundamental difference between situations arising out of ventilation of real and imagined grievances against Government or other authorities and those involving violence between different communities. This difference should be brought home clearly to

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Magistrates and all ranks of the Police Force at training institutions, by written communications and through oral advice and instruction from supervisory officers." In clause 64 of the Manual of Guidelines to Prevent and Control Communal Disturbances and to Promote Communal Harmony issued by the Government of Kerala, Home (SSA) Department, vide order GO.(P) No. 163/91/Home, dated Thiruvananthapuram, 19th November, 1991 it is stated. " It will be the personal responsibility of the District Collectors/Superintendents of Police/Commissioners of Police to avert, wherever possible, communal troubles and to take stern action to suppress them when they break out. Motivation at all levels is of crucial importance and the law and order agencies at the level of Station House, Circle, Subdivision and District should be fully aware of the possibility of minor disputes and differences causing tension and later becoming big disturbances. A dual role is required of law and order authorities dealing with communal disturbance. While ordinary law and order problems should be handled with tact and conspicuous restraint

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and use of fire arms avoided as far as possible, in the case of communal trouble, drastic action including firing should be taken without any hesitation to break up riotous mobs. Officers who are remiss in the discharge of their duties should be awarded deterrent punishments and those who discharge their responsibilities exceptionally well should be rewarded adequately". The unfortunate incidents at Cheriyathura on 17.05.2009 was admittedly communal disturbances and the police action is quite justifiable. The recovery of the dangerous Neogel 90 and 6 types of bombs clearly reveals that there were involvements of outside persons in precipitating the incidents. The various television channels had telecasted the deadly attacks by the anti social elements using launcher bombs and Neogel 90, gelatin sticks at Cheriyathura on 17.05.2009. The officers who have to face and tackle communal clashes shall not be exposed to punishment of any sort solely due to the reason that they are constrained to take stringent action to curb the violences. The bonafide actions taken by such officers should be acknowledged by the state and they

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should be given the necessary legal protection. When the police officers who are constrained to use force to tackle communal riots are awarded punishment or suspension from service, such actions ultimately affects the morale and motivation of the police force. The officers who effectively controlled the situation at Cheriyathura had to face much difficulties for no fault of them. The adequate protection from the state to the officers who are acting in discharge of their official duties, especially when dealing with communal clashes, is absolutely necessary. It is humbly submitted that the firing resorted to by the police on 17.05.2009 at Cheriytathrua was perfectly justifiable and there was no other option to curb further communal clashes. The officers who had taken effective steps by risking lives are to be appreciated.

E3 Party

(39) Kerala Police Officers' Association by its President Sri. D.K. Prithvi Raj

He is working as Sub Inspector of Police, control room Thiruvananthapuram City. He is also the President of Kerala Police Officers' Association. Since

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the subject matter of enquiry is having much public interest and the same is closely related to the policing system and the functioning, they place facts before the commission to find out the real truth behind the incidents. The coastal belt of Kerala is mostly inhabited by the fishermen community who are mainly engaged in fishing. These include mainly Hindu (Dheevara), Christians and Muslims . These communities mostly live in colonies of their own and communal clashes in between different communities occur in many place at the coastal belt which led to massive destruction of property and lives of hundreds of people including innocent victim. Each community had communal leadership mostly pertaining to geographical delimitations and they under the said communal leadership act as pressure groups. They have communal as well as direct and indirect sponsorship as they turn to be vote banks and the gunda elements and those communities are being used by many anti social and parties for achieving their vested interest at occasions. Even small provocation will prompt them to communal issues and organise in

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communal basis and attack the opposite group resulting the opening of communal violence. The socio, economic and educational backwardness among the members of these communities and the non effective policing due to lack of political will compel the innocent members of these communities to yield to the gunda and antisocial elements and also to the communal leaders in those communities whom they believe may protect them in their daily life. Cheriyathura is a coastal region which comes under the jurisdiction of Valiyathura Police Station in the limits of Poonthura Circle within Shangumugham Sub Division in Thiruvananthapuram. The coastal region of Thiruvananthapuram City which includes such as Cheriyathura, Beemappally, Poonthura, Vizhinjam, etc., have distinctive demographic character and socio-economic problems which posses unique problems for maintenance of public order. These area are having dense population and it is doubtful as to whether the authorities have the correct censes records relating to the dwelling units and the inhabitants thereon. As explained earlier, these communities generally tend to

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live in separate localities with limited and occasional intermingling. Expressions like no man's land have come into existence in between the colonies of these communities. The socio-economic backwardness in these regions and the resultant poverty, illiteracy, harsh living conditions make people in this area highly volatile, credulous and easily susceptible to aggressive behaviour. For the antisocial fundamentalists and extremists, these area is a nursery to mould their cadre or recruits. The area is widely known for its criminal activities such as transactions in smuggled goods, pirated CDs, pornographic materials, illicit foreign liquor, narcotics, foreign currency, etc. Though these area have history of communal riots and resultant police firing, no effective preventive steps were taken by the local and community leadership of respective communities to remedy this social menace and give people a harmonious and peaceful life maintaining the secular fabric of our country. Peace conference which are ritual ceremonies after each unfortunate incidents of communal riots and police actions were regular show and the same purchased

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peace temporarily by yielding to the demands of the communal organisations and making open hidden treaties with them. The trained criminals who actually command the communal riots and resultant commission of crimes could not be booked and got punished mainly due to the above said disabled leadership and lack of foresightedness. Immediately after the incident, on 17.05.2009, he visited the place of occurrence and gathered information from the people and officers who were at the spot on the occasion of the police firing. It was learned that on 16.05.2009 (wrongly shown as 16.06.2009) evening, one Shibu alias Kombu Shibu who attempted to collect ransom from the shop of one Peer Muhammad which situated at Cheriyathura area was manhandled by some Muslims from Beemappally area. It is alleged that Kombu Shibu has abused Muslim community persons there. Though the local police and some SAP police personal were deployed at Cheriyathura at about 8.45 pm, clashes started between the local residents of Beemappally and neighbours of said Shibu who came there in retaliation of the incident in the

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evening. Thereafter clashes between the groups culminated in violence turned to be communal clashes between Muslims and Christians. In retaliation of the same, Muslim community formed into unlawful assembly and torched the houses and shops of members of Christian community and other shops at Cheriyathrua junction. Due to the violence led by them, police personnels were seriously injured and public properties were destroyed. The District collector and top police officials came to the spot and had negotiations with the leaders of the communal groups to bring down the situation under control. Police pickets were posted at Cheriyathura junction, beach area near Cheriyathura Christian church and near the Sewage Farm etc. But neglecting such earnest efforts from the officials, the communal antisocials outbroke the law and again attacked Cheriyathura area on 17.05.2009. As a preventive action for whole peace wishing people, the police action is justified. Police were working in these coastal area with utmost care aimed at social tranquillity. City police has a band bust scheme for

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Beemapally Urus and Vettukadu church celebration. The Muslims and Christians in the coastal area widely accepted these police help till date. The honest and trustworthy officials acted in the interest of the State even risking their life. If they are harassed further for no fault on their part, it will demoralise the police force in this State. So according to him, the police action is justifiable.

(40) Police Pensioners Welfare Association, represented by its Executive Committee Member K.N.Janarajan

He is a retired Police Officer and he is representing the Kerala Police Pensioners' Welfare Association, Kollam. He joined the service in 1974 and retired from service as Superintendent of Police in the year 2004. He is now working as Visiting Faculty Member in Thrisur Police Academy and Thiruvananthapuram Police training College. In this enquiry, the police firing on 17.05.2009 at Cheriyathura is a justifiable one as they had to face the violent mob. Even just prior to the police firing, Muslim community people had attacked the other

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community people and also even attempted to cause damage the worship place of the other community and in order to avoid communal clashes, police had no other option but to use force by firing to disperse the mob. If the police had not acted in that manner, then there would have been communal clashes and they would have spread over all over Kerala. So in fact, the timely action of the police had prevented communal clashes and further damage in the locality. While a police officer is in service, he may not be able to disclose the unpleasant experience that is being met by the service personal. In fact, those police officers who are engaged in maintaining law and order and dispersing the firing mob by using force are not getting any legal protection and in fact, they are being harassed at the hands of the government which is being run by political parties. They are being harassed in order to please the party members of the ruling party. The police has to use force to disperse the mob mostly either belonging to political party or religious parties when they were doing violent acts. At no point of time, police had ever used force unnecessarily.

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Whenever police used force, that is being criticized either by the political parties or by the religious organisations who are responsible for the act. In order to please them, though the police were using their power within their limit, they are facing unnecessary departmental actions. Though he had worked in accordance with law and truly and faithfully, he had to face three enquiry commissions along with officials and found to be not guilty. But they had to face humiliation and also difficulties both financial and mental harassment. Since the younger generation believe that they will have to face such things in police force, they will not come for working in the force without fear or favour that he as a retired officer had to highlight this aspect before this commission. The persons who are initiating action against the police officials who used force not having thought about the consequences not using such thing at that time, magnify small things in order to please either political party or the religious organisation which involved in the action and projecting that as severe action on the part of the police departments. The persons who are

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using the force for dispersing violent mob is doing it at the risk of his life as part of his official duty. It is not possible for any commission to visualise actual situation prevailed in the locality which resulted in police firing at the later stage. So the reasons stated by the persons who are not justifying the police action have to be ignored. The persons who are using the force, are well aware of their responsibilities and also consequences of their act being looked by their higher authorities. Since there is no legal protection given to the police officials who are engaged in such acts, that is affecting the morale of the force in the young generation to use discretion in appropriate time taking risk to avoid consequences of not using the force in time that will really affect the efficiency of the force. It is a bad practice to initiate disciplinary enquiry in such situation by the government or other department with a view to please the political or religious organisations and that will affect the efficiency of the police force. The report of the enquiry commission must be a model guideline for the police officials to meet communal clashes. It must be done with open

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mind and it has to be decided in such a way as to give morale booster for the persons who are engaged in preventing communal clashes. There is a circular which says that in order to disperse the persons involved in communal riot, has to disperse by using firing and the police officials have only implemented that circular. Further, there are directions from the Central as well as State government to the officials not to hesitate to use force including firing to suppress the violent communal clash or engaged in communal riots. Even earlier, in Beemapally coastal area, police firing had occurred more than once, but there was no attempt or effort taken by the religions organisations or the government to avoid communal disharmony or hatredness between communities. There are only criticisms in the police action that is being taken in such actions and they are not critically analysing the reason behind those communal clashes and they are not sorting out any solution to avoid the same in future. In fact, it is understood that compensation of `Rs. 10,00,000/- was given to the family of persons who died in the firing and employment also assured to

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their kith and kin. They have not made any enquiry as to whether any of the person died or injured had involved or taken part in the incident. If it is later found that they are also responsible for the communal clashes, it will be difficult to get back the compensation given later. So awarding compensation to the kith and kin of the persons who died in such incident without conducting any enquiry has to be depreciated. On the other hand, no protection is given to police officials either by the department or by the government. In the incident happened in the Poonthura communal clashes, in the report submitted by the enquiry commission Sri. Aravindhaksha Menon, he had criticized the action of the police firing in the air as fire work by the police and criticized the delay in firing at the people to disperse the mob and justified the police action as well. The persons who were residing away from the Endroad, had also reached the place and it has to be enquired into as to whether they came there to participate in the incident. There was an attempt on the part of one community even to shift the place of firing with malafide intention. Without

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getting support from the government, it will not be possible for the police to go with their action in Beemapally area. The lawful act done by the police officials were also criticized by the communal organisations and they are making pressure on the government to avoid police action even in cases where it is required in that area and in order to avoid such unpleasant things as such, of the government, police and other officials were avoiding their regular action being taken in such area which they used to take normally in other areas. There is no connection between the police firing and the incident happened on the night of 16.5.09. The incident happened on 17.05.2009 was a calculated and predetermined act hatched on account of prior conspiracy and that clash was prevented by the police by their timely action. The commission of enquiry has to think about the consequences of the report which is not only going to answer the issue on 17.05.2009 , but to avoid such things in future and also give moral force to the police to exercise the discretions without fear in the discharge of their duty in such circumstances and also

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on the larger point of welfare of the community at large. So the action by the police has to be viewed by the commission taking into account all these things and appropriate report has to be given.

F party

41. **Sri. C.G.Suresh Kumar, Former Assistant Commissioner of Police, Shankumugham. Sri. E.Sherafudeen, Former A.C., DCRB, Thiruvananthapuram. Sri. R.Pradeep Kumar, Former Circle Inspector of Police, Poonthura.**

The statement was given by Suresh Kumar on his behalf and on behalf of the other members of this party. He is the Assistant Commissioner of Police, Sanghumugham as on 17.5.09 (wrongly shown as 17.6.09) the date of police firing at Cheriyathrua which is the subject matter of this enquiry. Sherafudeen was working as Assistant Commissioner, DCRB, Thiruvananthapuram City and R. Pradeep Kumar, working as Circle Inspector of Police, Poonthura at the relevant time. He along with Sherafudeen and R. Pradeep Kumar were placed under suspension vide G.O. (Rt)No. 1455/2009/Home dated 22.05.2009 on the

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allegation of dereliction of duty in connection with the Cheriyathura incident and were reinstated in service vide G.O. Retired No. 3661/2009/Home dated 9.12.09. The allegation of dereliction of duty is highly unsustainable and against facts and circumstances of this case. As per the direction of Election Commission of India in connection with the Parliament Election, he and Sri. Pradeep Kumar were transferred as Assistant Commissioner of Police, Sanghumugham and Circle Inspector of Police, Poonthura respectively for the period of election only. Sri. Sherafudeen was working as Assistant Commissioner of Police, DCRB Thiruvananthapuram City at the relevant time. The difficult task of policing at Beemapally and surrounding area is an admitted fact. The socio-educational backwardness, inflow of money from illegal trades, organized and illegal association of local residents etc are major factors that affect the effective policing at the said place. For effectively dealing with the situation and curbing the said state of affairs, long term preventive and reformative actions are required and the same need administrative support and strong

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political will. The persons of Beemapally and surrounding areas act as a pressure group and they gain support from communal and political factions for the same. Needless to submit that officers on short term service in the locality cannot do anything to prevent or curb the illegal activities going on there. On 16.5.09 (wrongly shown was 16.6.09) a minor issue between one Peermuhammed and one Shibu alias kombu Shibu occurred and the said Kombu Shibu abused Muslim community in general. He was attacked by the members of Muslim community present there. This created a minor but tense situation in the locality. Immediately on getting information about the incident, Circle Inspector of Police, Poonthura, Sub Inspector of Police, Valiyathura and Poonthura Police stations, Junior Sub Inspector of Police Valiyathura Police Station, 6 SAP policemen and striker force were deployed at Cheriyathuira. At about 8.45 pm, clashes started between local residents of Beemapally and neighbours of said Shibu who came there in retaliation of the incident in the evening. Clashes between the groups culminated in violence

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and commencement of communal clashes between Muslims and Christians. Members of Muslim community formed into unlawful assembly and torched the houses and shops of members of Christian community and other shops at Cheriyathura junction. They attacked police personnel and caused damage to fire engine came to the spot. Shri. Johnson, Sub Inspector of Police, Valiyathura sustained fracture to Zygomotic bone and he was immediately taken to hospital. The deponent also sustained severe injury on his left leg out of stone pelting. Higher police officers, District Collector and people representatives came to the spot and had talk with both the groups and its leaders. The situation was kept under control by night. DCP law and order Thiruvananthuapuram prepared a plan of action and bandobust scheme consisting of 2 Deputy Police Commissioners, 10 Circle Inspectors, 28 Sub Inspectors, 18 Assistant Sub Inspectors and 326 HC/PCs apprehending further law and order issued in the locality. Police pickets were posted at Cheriyathura Christian church, near Sewage Farm etc. Police officials deployed in the police

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pickets effectively carried out their duties. While so, a group of people belong to Christian community stopped vehicles proceeding to Beemapally alleging that the vehicles are going to Beemapally for purchasing illegal goods. They demanded for compensation for the mischief committed against them on the previous day. Deputy commissioner of Police, after evaluation of situation, directed to deviate vehicular traffic through Valiyathura junction for avoiding further law and order issues and tense situation in the locality. Infuriated by this, people belonging to Muslim community gathered in large number with an intention to attack Cheriyathura Christian church after arming with deadly weapons and higher explosives. A group of miscreants managed to peep through police force at Beemapally beach area through western part and made explosions at Cheriyathura Christian church and torched country boats and nets kept nearby. The said miscreants were forced to retreat from there by action taken department men who came to spot at that time. At the same time, large number of miscreants proceeded to

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north through public road and beach area. The mob proceeding through road was blocked by DCP and Sri. R. Pradeep Kumar. But those violent force in beach area was blocked by the police party under the leadership of Sri. E. Sherafudheen. When the deponent reached the picket post at beach area, the mob armed with higher explosive weapons started attacking the police so as to proceed to Christian church. The situation was so tense but only due to timely police action by firing, attempt of miscreants could be culminated. But for the firing that could have culminated in a group communal clashes which could have spread through out the State. Graphic details of the incident will be submitted by all the officers concerned as and when required by the Hon'ble commission. It was an admitted fact that the issue prevailing at Cheriyathura on 16.05.2009 and 17.05.2009 were in connection with communal clashes between members of Christian and Muslim community and hence the issue can be easily identified as communal disturbance and resultant violence. Police was forced to open firing against the violent mob

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armed with weapons and highly combustible substances as they proceeded to attack a place of worship of another community and started violent attack against the police personnel and others. By virtue of the dispersal of the armed violent mob, the officers concerned could prevent the clashes between two communities and saved the entire State from series of terrific communal riot. If the issues prevailing at Cheriyathura is identified as a communal clash as stated above, the police is justified in dispersing the unlawful gathering by using fire arms irrespective of the harm sustained. Kind attention is invited to the Central Home Minister, Government notifications and Police Head Quarters circulars on prevention and control of communal disturbances which justifies police action. A careful evaluation of the facts and circumstances would unambiguously show that the Cheriyathura police firing was justifiable and inevitable. As the police officers concerned were discharging their official duties, even the suspension of the officers materially affected the morale and motivation of entire police force. Next generation

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officers who have to face communal clashes will turn to become gun shy if official acts are not protected in letter and spirit. The above facts may be considered and they may be permitted more time to file additional and individual affidavits during the course of enquiry if necessary and the circumstances warrant.

G Party

42. Sri. K.J.Johnson, Former Sub Inspector of Police, Valiyathura.

He was working as Sub Inspector of Police in the Valiyathura Police Station, Thiruvananthapuram District from 21.02.2009 to 21.05.2009, as per the orders of the Commissioner of Police, Thiruvananthapuram. He discharged his duties of the said police station till 16.05.2009, 10.00 pm. On 16.05.2009 at 10.00 pm, he got seriously injured while he was on duty to disperse the miscreants who have created threat to law and order at Cheriyathura-Beemapally road. He was hospitalised by the fellow policemen who accompanied him to the spot and he continued inpatient treatment at Anathapuri Hospital and Research Institute, Thiruvananthapuram. After

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the incident, due to treatment, he could not resume his duties and entered on medical leave from 17.05.2009 to 21.05.2009. On 16.05.2009, at about 4.30 pm, he attended the Hon'ble Chief Judicial Magistrate Court, Thiruvananthapuram in connection with Valiyathura Police Station Crime No. 235/09 registered against one SunilJames, residing at Valiyaveli, Thiruvananthapuram. He accompanied the accused with an application for the accused being remanded to judicial custody and took one hour to explain matters to the Hon'ble Chief Judicial Magistrate, Thiruvananthapuram. The said accused was produced in the chamber of the Hon'ble Chief Judicial Magistrate and therefore he had to switch off his mobile phone during that period. After explaining and convincing about the said accused, he was remanded to judicial custody and after necessary paper works at the office of the Hon'ble Chief Judicial Magistrate Court, took the accused to jail. After that, he reached back to the Police station at 6.30 pm and recorded the matter in the General Diary dated 16.05.2009. After entrusting the GD charge to the

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Assistant Sub Inspector, he started patrolling duty . While on patrol duty, he got information from the Control Room at 8.50 pm that some violence is taking place near Cheriyathura. Immediately he rushed to the spot along with Mohammad Khan, Junior Sub Inspector, Vijayadas, Assistant Sub Inspector, Rajendran, Head Constable, Ajayan, Police Constable. Within no time, they reached the spot and took charge to control the situation. Since the mob gathered there were two large groups, one on Cheriyathura side and another on Beemapally side and the mob on the Beemapally side had set fire to some vehicles which were seen burning. He immediately positioned with his troops between the two mobs and informed to provide more troops over wireless set to the control room and the gravity of situation informed and it is recorded in the general diary of Poonthura Police Station at 9 pm. The additional forces requested by him reached the spot after a delay of almost an hour. A group of about 40 policemen from the State Armed Police force at Thiruvananthapuram as well as senior officers including two Assistant Commissioners of

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Police and other also reached the spot. As per the request from him, the Fire Force had also sent their vehicles to extinguish the fire. When the Fire force vehicles advanced to put out the fire, there was heavy pelting of stones from the Beemapally side. To clear the mob and to make way for the Fire force to advance towards the burning vehicles, junior Sub Inspector led 40 men from SAP Force, Thiruvananthapuram towards the mob on the Beemapally side. At this point of time, they started heavy pelting of stones against the force. Even though, he was hit on many parts of the body, he advanced and led the SAP Force to a considerable extent. All of a sudden, a big stone which he could not foresee, hit on his left eye and nose and he fell down bleeding severely. He lost his vision due to the injury and heavy bleeding. He was carried to Anathapuri Hospital, Thiruvananthapuram by fellow policemen who accompanied him. He suffered multiple injuries on his face, elbow and abrasions all over the body. The doctors diagnosed fracture on the nose. Five of the firemen were also injured and the miscreants had

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damaged the fire force vehicles. He could not attend his duty after 16.05.2009 since he was undergoing treatment. He has not participated in any of the further actions taken by the police authorities. He took charge on 21.02.2009 of the Valiyathura Police Station as a Sub Inspector of Police and he was faithfully discharging his duties. Till 8.50 pm on 16.05.2009, he had not received any information or complaint from anybody relating to any of the incidents happened at Beemapally or at Cheiryathura. There were no intimation or information gathered even by the District Special branch or State Special branch Police regarding any incident on that day. As stated earlier, he was attending the Chief Judicial Magistrate Court in the afternoon 16.05.2009. On his return to the Police station, he verified the general diary entries and he could not find any untoward incident or information relating to any crime committed by any persons at Beemapally or Cheriyathura . It was only at 8.50 pm, he received information that mob is indulging in violence and he acted immediately with the available force to control the situation. In his effort,

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he suffered injuries and underwent treatment. During the short period of his service for a span of 3 months at Valiyathura Police Station, there were no complaints or crimes registered against anybody named Shibu alias Kombu Shibu who is reportedly the cause behind the untoward incident. He, being a known Gunda, was under the watch list, there were no crimes reported against him or detected against him to proceed against him under law. The violence between two groups was a sudden breakout of communal violence and as a responsible Sub Inspector of Police, he did all he could till he got seriously injured. There were no latches or inaction from his side in responding to the situation. He prayed for submission of further statement if any required on latter occasion.

H Party

(45) CBCID represented by Sri. A. Shanawaz, Deputy Superintendent of Police, Crime Branch CID OCW-1, Thiruvananthapuram (originally they were shown as E3 Party but subsequently arrayed as H Party as per order in I.A.No.11/2010 dated 24.04.2010.

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He is the Investigating Officer of the cases registered in connection with the incident occurred at Cheriyathura on 16.05.2009 and 17.05.2009 which resulted in the police firing incident. In connection with the incident occurred on 16.05.2009 and 17.05.2009 at Cheriyathura altogether 66 cases were registered by the local police which includes the suo motu crimes and crimes registered pursuant to the oral complaints of the victims and complaints forwarded under section 156(3) of the Code of Criminal Procedure. As per order in DGO No.D1/41541/09 dated 18.05.2009, the investigation of all the 66 cases were transfered to Crime Branch CBCID and all the crimes are re-registered in the CBCID Head Quarters and renumbered. As per the orders of the ADGP (Crimes), all the cases were forwarded to Crime Branch CID OCW-1 (formerly SIG-1), Muttada, Thiruvananthapuram for investigation. As per the orders of Superintendent of Police OCW-1(formerly SIG-1), Muttada, Thiruvananthapuram, the deponent had taken investigation of the cases. A special team was constituted for investigation of the

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cases. During the course of investigation, it was revealed that some of the miscreants used powerful explosives which is identified as Neogl 90 which was manufactured at Nagpur. The source of such explosives used in Cheriyathura was a matter of concern and hence a special report was sent by him to the higher ups and as per the directions of the Director General of Police, Kerala, a case was registered as crime No. 2/CR/OCW1/2010 on the basis of his report and the said crime is also being investigated by him. After conducting the preliminary investigation, the cases registered in connection with the incidents occurred on 16.05.2009 between 9 pm and 10 pm at Cheriyathura in which Muslims have arrayed as accused were clubbed together as investigated as one unit of case. Likewise, the cases registered in connection with the incident happened on 17.05.2009 between 3.00 pm and 4.00 pm which led to the police firing were clubbed together and investigated as one unit of case. Individual cases were treated as single units and investigated independently. The details of 66 cases and the gist of allegations are

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submitted as annexures 1 to 67 as detailed below:

ANNEXURE - I

1.	CBCID Crime No.	:	76/CR/S1/09
2.	Police Station Crime No.	:	239/09 of Valiyathura PS
3.	Date of report and time	:	17.05.09 8.00 hrs
4.	Date of occurrence	:	16.5.09 22.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	K.J.Johson, S/o Joshua, SI of Police, Valiyathura PS
7.	Name of Accused	:	75 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,332,326 IPC & Sec.3(1) of PDPP Act & Sec. 3 of Explosive Substances Act 1908
9.	Brief of allegation	:	Obstructed the official duty of the complainant by causing injuries by throwing stones and attacking with iron rods, sticks etc when tried to prevent the riotous mob engaged in the destruction of vehicles, shops, houses and other properties by throwing petrol bombs etc. The mob damaged the fire force vehicle and injured fire force personnels when they tried to put out the fire.

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ANNEXURE - 2

1.	CBCID Crime No.	:	77/CR/S1/09
2.	Police Station Crime No.	:	240/09 of Valiyathura PS
3.	Date of report and time	:	17.05.09 8.30 hrs
4.	Date of occurrence	:	16.5.09 21.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Mani age 70, S/o Jacob, TC 45/954, Cheriyathura, Beemapally Ward, Muttathura Village.
7.	Name of Accused	:	100 identifiable persons
8.	Offences alleged	:	143,147,148,149, 427,435, 452,380 IPC & 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the shop of the complainant, Anitha Industrial Communication, with deadly weapons, committed mischief by destroying instruments likeDVD & VCD players colourTVs, VCR, STD booths, Video Camera, computers billing machines, Xerox machines, scooter etc, set fire to photo copier machine and committed theft of Rs. 12500/- and

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there by a caused a loss to the tune of Rs. 6,93,500/-

ANNEXURE-3

1.	CBCID Crime No.	:	78/CR/S1/09
2.	Police Station Crime No.	:	241/09 of Valiyathura PS
3.	Date of report and time	:	17.05.09 9.00 hrs
4.	Date of occurrence	:	16.5.09 21.10 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sophy Perara age 60, D/o Makri Dicruz, TC 71/934,Cheriyathura, Beemapally Ward, Muttathura Village
7.	Name of Accused	:	100 identifiable persons of Muslim community at Beemapally
8.	Offences alleged	:	143,147,148,149,452, 427,380 IPC and 3 &5 of Explosive Substances Act
9.	Brief of allegation	:	Trespassed into the house by throwing country bombsstones etc towards house, committed mischief by destroying house hold articles, committed theft of Rs. 800/- and a gas lighter caused a loss to tone of Rs. 15000/-

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ANNEXURE-4

1.	CBCID Crime No.	:	79/CR/S1/09
2.	Police Station Crime No.	:	242/09 of Valiyathura PS
3.	Date of report and time	:	17.05.09 9.30 hrs
4.	Date of occurrence	:	16.5.09 21.10 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Celine age 34, D/o Itha Karunakaran, TC 45/646,Cheriyathura, Beemapally Ward, Muttathura Village.
7.	Name of Accused	:	(1) Nizamudeen,(2)Nuhu and 50 identifiable persons of Muslim Community at Beemapally.
8.	Offences alleged	:	143,147,148,149,& 452, 427, 380 IPC and 3 &5 of Explosive Substances Act
9.	Brief of allegation	:	Trespassed into the houses by throwing patrol bombs, committed mischief by destroying window glass, tube light, roof sheets, scooter etc. committed theft of mobile phone and currency W/Rs. 5000/- causing a total loss to the tune of Rs. 90,000/-

ANNEXURE-5

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1.	CBCID Crime No.	:	80/CR/S1/09
2.	Police Station Crime No.	:	243/09 of Valiyathura PS
3.	Date of report and time	:	17.05.0910.00 hrs
4.	Date of occurrence	:	16.5.09 21.05 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Ajithkumar age 28, S/o Stancilaz, Smitha House, Near Velankanni Junction, Valiyathura Ward, Muttathara village.
7.	Name of Accused	:	100 identifiable persons of Muslim community at Beemapally
8.	Offences alleged	:	143, 147, 148, 149,& 435 IPC
9.	Brief of allegation	:	Committed mischief by setting fire to three motor cycles kept on the road side, caused a loss to the tune of Rs. 40,000/-

ANNEXURE-6

1.	CBCID Crime No.	:	81/CR/S1/09
2.	Police Station Crime No.	:	244/09 of Valiyathura PS
3.	Date of report and time	:	16.5.09 21.30 hrs
4.	Date of occurrence	:	17.5.09 10.30 hrs
5.	Mode of information	:	Oral

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6.	Name of complainant	:	Aboobacker age 46,S/o Shamsudeen TC 45/213, Varuvilakam purayidam, Beemapally Ward, Muttathara village.
7.	Name of Accused	:	50 identifiable persons at Cheriyathura
8.	Offences alleged	:	143, 147, 149,& 435 IPC
9.	Brief of allegation	:	Committed mischief by setting fire to boat and fishing nets which caused a loss to the tune of Rs. 7 lakhs .

ANNEXURE-7

1.	CBCID Crime No.	:	82/CR/S1/09
2.	Police Station Crime No.	:	245/09 of Valiyathura PS
3.	Date of report and time	:	17.5.09 11.00 hrs
4.	Date of occurrence	:	16.5.09 21.15 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Thresiyamma age 64, D/o Anthonia Lopaz, Margret house, Thaivilakam Beemapally Ward, Muttathara village.
7.	Name of Accused	:	Nizamudeen and 100 of Muslim identifiable persons .

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8.	Offences alleged	:	143,147,148, 149,452, 427 IPC & 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house, committed mischief by destroying window glass, doors, compound gate, roof tiles etc which caused a loss to the tune of Rs.82,000/-

ANNEXURE-8

1.	CBCID Crime No.	:	83/CR/S1/09
2.	Police Station Crime No.	:	246/09 of Valiyathura PS
3.	Date of report and time	:	17.5.09 11.30 hrs
4.	Date of occurrence	:	16.5.09 21.05 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Gireesan age 45, S/o Gopi Puthuval purayidam veedu, Cheriyathura, Beemapally Ward, Muttathara village
7.	Name of Accused	:	(1)Nizamudeen (2) Noohu and 100 of identifiable muslim persons
8.	Offences alleged	:	143,147,148, 149,380,427, 452 IPC & 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the 'Revathy Hotel' committed mischief by destroying the walls of the hotel, mixi and

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other utensils etc committed theft of 4 gas cylinders and there by causing a loss to the tone of Rs. 1,15,000/-

ANNEXURE-9

1.	CBCID Crime No.	:	84/CR/S1/09
2.	Police Station Crime No.	:	247/09 of Valiyathura PS
3.	Date of report and time	:	17.5.09 18.00 hrs
4.	Date of occurrence	:	17.5.09 15.30 hrs
5.	Mode of information	:	Suo-moto
6.	Name of complainant of	:	C.G. Sureshkumar, Assistant Commissioner Police, Sanghumughom.
7.	Name of Accused	:	1500 Muslim community people & 500 Christian community people.
8.	Offences alleged	:	143, 144, 145, 147, 148, 149, 151,152, 153 (A), 332, 307, 436 IPC & 27 of Arms Act.& Sec. 3, 4, 5 Explosive Substances Act 1908.
9.	Brief of allegation	:	Clashes between Muslim Community and Christian community using explosives and lethal weapons which resulted in destruction and mischief by fire on houses and

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properties, explosions at place of worship and attack on police party to deter them from official duties. For the dispersal of the unlawful assembly police opened fire.

ANNEXURE-10

1.	CBCID Crime No.	:	88/CR/S1/09
2.	Police Station Crime No.	:	248/09 of Valiyathura PS
3.	Date of report and time	:	18.5.09 8.30 hrs
4.	Date of occurrence	:	16.5.09 16.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sathykumar, Addl. Sub Inspector, Valiyathura PS.
7.	Name of Accused	:	(1) Shibu age 28, @ Kombu Shibu, S/o Antony, Purampokkil Veedu, Fisherman colony, Cheriyathura (2) manikuttan, Malukki, (3) Rajan @ Colachy
8.	Offences alleged	:	294 (b) & 153 (A) IPC
9.	Brief of allegation	:	Abused Muslim community and used filthy words against one Peeru Mohammed in order to hurt the religious sentiments of the Muslim community which resulted in clashes between Christian and Muslim

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Community.

ANNEXURE-11

1.	CBCID Crime No.	:	89/CR/S1/09
2.	Police Station Crime No.	:	249/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 10.00 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Phelsita @ Rani, age 35 , S/o Jain, TC 45/590 (1), Pallivilakam Purayidam, Near Cheriyathura Church, Beemapally ward, Muttathara Village.
7.	Name of Accused	:	Not known
8.	Offences alleged	:	143,147,148,149,427,435 IPC
9.	Brief of allegation	:	Committed mischief by setting fire to boat which caused a damage to the tune of Rs. 2,50,000/-

ANNEXURE-12

1.	CBCID Crime No.	:	90/CR/S1/09
2.	Police Station Crime No.	:	250/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 10.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs

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5.	Mode of information	:	Oral
6.	Name of complainant	:	Joy age 39, S/o Silomony, TC 71/768, Puthuval Purayidam, western side of Cheriyathura church, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	700 identifiable persons belong to Muslim Community residing at Beemapally.
8.	Offences alleged	:	143, 147, 148, 149, 324 & 307, 395 IPC & Sec 27 of Arms Act & 3 &5 of Explosive substances Act.
9.	Brief of allegation	:	Inflicted injuries on the complainant's head with a sword, beaten his friend with iron rod, thrown bombs and snatched gold ring of the complainant.

ANNEXURE- 13

1.	CBCID Crime No.	:	91/CR/S1/09
2.	Police Station Crime No.	:	251/09 of Valiyathura PS.
3.	Date of report and time	:	19.05.09 11.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral

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6.	Name of complainant	:	Ouseph, age 65, S/o Karlose, Puthuval Purayidam, Near St. Assemshan Church, Cheriyathura,Beemapally ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belongs to Muslim Community.
8. &	Offences alleged	:	143,147,148,149,324 IPC Sec 27 of Arms Act & 3 &5 of Explosive Substances Act.
9.	Brief of allegation	:	Inflicted injuries on the complainant's right thumb by throwing bomb.

ANNEXURE-14

1.	CBCID Crime No.	:	92/CR/S1/09
2.	Police Station Crime No.	:	252/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 11.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Lilly age 48, D/o Mariya Pushpam, Puthuval Purayidam, TC 45/131, Cheriyathura.
7.	Name of Accused	:	200 identifiable persons belongs to Muslim Community.

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8.	Offences alleged	:	143,147,148,149 & 435 IPC.
9.	Brief of allegation	:	Committed mischief by setting fire to the Catamaran and fishing net which caused damage to the tune of Rs. 1,50,000/-

ANNEXURE- 15

1.	CBCID Crime No.	:	93/CR/S1/09
2.	Police Station Crime No.	:	253/09 of Valiyathura PS.
3.	Date of report and time	:	19.05.09 12.00 hrs
4.	Date of occurrence	:	16.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Ramani, age 23, D/o Brijit, TC 71/92, Thaivilakam, Cheriyathura, Beemapally.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143, 147, 148,149,452, 395, 427 IPC & 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house, committed mischief by destroying door, T.V, household utensils etc and committed theft of gold chain and caused a loss to

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the tune of Rs. 72,000/-

ANNEXURE -16

1.	CBCID Crime No.	:	94/CR/S1/09
2.	Police Station Crime No.	:	Valiyathura PS Crime 254/09
3.	Date of report and time	:	19.05.09 12.30 hrs
4.	Date of occurrence	:	17.05.2009 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Antony Pereria age 54, S/o Lwarance Pereria, TC 71/813, Konnavilakam Purayidam, Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community.
8. &	Offences alleged	:	143,147,148,149,153 (A) IPC & Sec. 27 of Arms Act 3&5 of Explosive Substances Act.
9.	Brief of allegation	:	Assembled with deadly weapons and attacked the Christian Church by throwing bombs.

ANNEXURE-17

1.	CBCID Crime No.	:	95/CR/S1/09

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2.	Police Station Crime No.	:	255/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 13.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Mema age 55 , D/o Karali, TC 45/920, Back side of Cheriyathura Church, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community.
8.	Offences alleged	:	143,147,148,149, 47,427 IPC & Sec. 3&5ofExplosive Substances Act.
9.	Brief of allegation	:	Trespassed into the compound of the house and destroyed the front door and roof sheets by throwing bombs, which caused a loss to the tune of Rs. 15,000/-

ANNEXURE-18

1.	. CBCID Crime No.	:	96/CR/S1/09
2.	Police Station Crime No.	:	256/09 of Valiyathura PS
3.	Date of report and time	:	19.5.09 13.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs

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5.	Mode of information	:	Oral
6.	Name of complainant	:	Madonna, age 62, D/o Tresya, TC 71/924, Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community.
8.	Offences alleged	:	143,147,148,149,447,452, 427, &395 IPC & Sec 3 & 5 of Explosive Substances Act.
9.	Brief of allegation	:	Thrown bombs trespassed into the house, committed mischief by destroying TV, roof tiles etc. committed theft of Rs. 6500/- which caused a loss to the tune of Rs. 2 lakhs.

ANNEXURE-19

1.	CBCID Crime No.	:	97/CR/S1/09
2.	Police Station Crime No.	:	257/09 of Valiyathura PS
3.	Date of report and time	:	19.05.2009 14.00 hrs.
4.	Date of occurrence	:	17.05.2009 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Stella Thomas, age 40, D/o Anchalasya, House No. 103, Fishermen colony,

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			Cheriyathura, Beemapally ward, Muttathara Village.
7.	Name of Accused	:	300 identifiable persons belong to Muslim Community.
8. &	Offences alleged	:	143, 147,148,149,427,435 IPC & Sec. 27 of Arms Act Sec 3 &5 of Explosive Substances Act.
9.	Brief of allegation	:	Committed mischief by setting fire to boat, and thrown bombs, which caused loss to the tune of Rs. 4,00,000/-

ANNEXURE-20

1.	CBCID Crime No.	:	98/CR/S1/09
2.	Police Station Crime No.	:	258/09 of Valiyathura PS
3.	Date of report and time	:	19.5.2009 14.30. hrs
4.	Date of occurrence	:	17.05.2009 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Flory, age 60, D/o Kathreena, TC 41/307, Fishermen Colony, Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community.

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8.	Offences alleged	:	143, 147,148,149 IPC & Sec 3&5 of Explosive Substances Act.
9.	Brief of allegation	:	Committed mischief by throwing bombs, and by setting fire to the fishing nets etc , which caused a damage to the tune of Rs. 30,000/-

ANNEXURE-21

1.	CBCID Crime No.	:	99/CR/S1/09
2.	Police Station Crime No.	:	259/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 15.00 hrs
4.	Date of occurrence	:	17.05.09 13.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sony Victor, age 46, D/o Mary, TC 71/921, Thaivilakam Veedu,Near Cheriyathura Church, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,447,427 IPC Sec. 3&5 of Explosive Substances Act.
9.	Brief of allegation	:	Trespassed into the compound of the house, committed mischief by destroying window glass,

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TV glass, roof sheets etc, and thrown petrol bombs, which caused a loss to the tune of Rs. 10,000/-

ANNEXURE-22

1.	CBCID Crime No.	:	100/CR/S1/09
2.	Police Station Crime No.	:	260/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 15.30 hrs
4.	Date of occurrence	:	17.05.09 13.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Lilly age 65, D/o Alphonsa, TC 71/17 Pallivilakam Purayidam, Back side of Cheriyathura Church, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,452,427 IPC Sec. 3&5 of Explosive Substances Act.
9.	Brief of allegation	:	Trespassed into the house and committed mischief by destroying windows, chair etc, and exploded bombs, which caused a loss to the tune of Rs. 15,000/-

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ANNEXURE-23

1.	CBCID Crime No.	:	101/CR/S1/09
2.	Police Station Crime No.	:	261/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 16.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Rosy age 48, D/o Motherth, House No 81, Fishermen Colony, Cheriyathura.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,435,427 IPC Sec. 3&5 of Explosive Substances Act.
9.	Brief of allegation	:	Committed mischief by setting fire to the fishing nets, thrown bombs, which caused damage to the tune of Rs. 1 lakhs.

ANNEXURE-24

1.	CBCID Crime No.	:	102/CR/S1/09
2.	Police Station Crime No.	:	262/09 of Valiyathura PS

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3.	Date of report and time	:	19.05.09 16.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Shalat age 41, D/o Thressy age 41, Thaivilakam Purayidam, Cheriyathura, Beemapally.
7.	Name of Accused	:	500 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,435,452, 427 IPC Sec.3&5 of Explosive Substances Act.
9.	Brief of allegation	:	Trespassed into the house, committed mischief by destroying the TV, roof and set fire to fishing nets etc which caused a loss to the tune of Rs. 4 lakhs.

ANNEXURE-25

1.	CBCID Crime No.	:	103/CR/S1/09
2.	Police Station Crime No.	:	263/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 17.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral

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6.	Name of complainant	:	Mema age 55 , TC 71/947, Thersya , Thaivilakam Purayidam, Near Cheriyathura Church, Cheriyathura.
7.	Name of Accused	:	500 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,436,452, 427, 395 IPC & Sec 27 of Arms Act & Sec 3&5 of Explosive Substances Act.
9.	Brief of allegation	:	Trespassed into the house, destroyed the roof, TV, Mixer grinder etc, set fire to the clothes, damaged the shop and committed theft of gold ornaments, which caused a loss to the tune of Rs. 2 lakhs.

ANNEXURE-26

1.	CBCID Crime No.	:	104/CR/S1/09
2.	Police Station Crime No.	:	264/09 of Valiyathura PS
3.	Date of report and time	:	19.05.09 17.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sherly age 33, D/o Mema Thaivilakam Purayidam, Near St. Assumption Church, Cheriyathura.

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7.	Name of Accused	:	200 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,427,452, 435, 436 IPC & Sec 27 of Arms Act
9.	Brief of allegation	:	Trespassed into the house with deadly weapons, committed mischief by setting fire to the furniture, TV etc. which caused a loss to the tune of Rs. 2,86,800/-.

ANNEXURE-27

1.	CBCID Crime No.		:105/CR/S1/09
2.	Police Station Crime No.	:	168/09 of Poonthura PS
3.	Date of report and time	:	19.05.09 15.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Abdul Shukoor, age 56, S/o Abdul Khadar, TC 45/1377, Puthuval Purayidam, Beemapally.
7.	Name of Accused	:	(A) Shibu age 28 @ Kombu Shibu, S/o Antony, Purambokkil Veedu,Fishermen Colony, Cheriyathura (2) Kuttan, S/o Malukki, (3) Rajan @

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			Colachy and 200 others.
8.	Offences alleged	:	143,147,148,149,427,436, 153(A) IPC & Sec 27 of Arms Act & Sec 3&5 of Explosive Substances Act.
9.	Brief of allegation	:	Committed mischief by setting fire to the house after pouring kerosene and caused a loss to the tune of Rs. 7 lakhs.

ANNEXURE-28

1.	CBCID Crime No.	:	106/CR/S1/09
2.	Police Station Crime No.	:	265/09 of Valiyathura PS
3.	Date of report and time	:	20.05.09 12.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Joseph, age 48, S/o Chinnappan, TC 71/919, Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim

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			Community
8.	Offences alleged	:	143, 147, 148, 149, 452, 427& 395 IPC & Sec 27 of Arms Act
9.	Brief of allegation	:	Trespassed into the compound, committed mischief by destroying the roof sheets and theft of colour TV and thereby caused a loss to the amount of Rs. 40,000/-.

ANNEXURE-29

1.	CBCID Crime No.	:	107/CR/S1/09
2.	Police Station Crime No.	:	266/09 of Valiyathura PS
3.	Date of report and time	:	20.05.09 12.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Muthamma Pelklees , age 50, D/o Merry,TC 45/281, Fishermen Colony Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,435,427

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&			IPC & Sec 27 of Arms Act Sec. 3 of Explosive Substances Act.
9.	Brief of allegation	:	Committed mischief by setting fire to the Catamaran, Fishing nets, exploded bombs,thereby caused a damage to the tune of Rs. 50000/-.

ANNEXURE-30

1.	CBCID Crime No.	:	108/CR/S1/09
2.	Police Station Crime No.	:	267/09 of Valiyathura PS
3.	Date of report and time	:	20.05.09 13.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Amalolpa , age 53, D/o Rosili,TC 70/24, Fishermen Colony, Cheriyathura,Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,435,427 IPC & Sec 27 of Arms Act
&			Sec. 3 &5of Explosive Substances Act.

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9.	Brief of allegation	:	Committed mischief by setting fire to the Fishing nets, Catamaran and thereby caused a damage to the tune of Rs. 50000/-.

ANNEXURE0-31

1.	CBCID Crime No.	:	109/CR/S1/09
2.	Police Station Crime No.	:	268/09 of Valiyathura PS
3.	Date of report and time	:	20.05.09 13.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	jail Mary , age 38, D/o Lorensia,TC 45/428, Fishermen Colony, Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 identifiable persons belong to Muslim Community
8.	Offences alleged	:	143,147,148,149,435,427 IPC & Sec 27 of Arms Act &Sec. 3 of Explosive Substances Act.
9.	Brief of allegation	:	Committed mischief by setting fire to the

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Catamaran, Fishing nets, thrown bombs and thereby caused a loss to the tune of Rs. 30000/-.

ANNEXURE-32

1.	CBCID Crime No.	:	117/CR/S1/09
2.	Police Station Crime No.	:	172/09 of Poonthura PS
3.	Date of report and time	:	28.05.09 18.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	CMP U/s 156(3) Cr.PC
6.	Name of complainant	:	Isahak, age 41, S/o Thalhath, TC 46/485, Near Jawahar Church, Manikkavilakam Ward, Muttathara Village.
7.	Name of Accused	:	(1) Sharafudeen (2) Sureshkumar (3) Padeepkumar (4) Johnson
8.	Offences alleged	:	120(b), 302,307,308,324, 326 & 34 IPC
9.	Brief of allegation	:	The complainant's relative one Hakkim, Ahammed Ali, Badusha, Saidali, Khani Haji, Firoz were killed in thepolice firing and riots at Beemapally and injured 39others.

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ANNEXURE-33

1.	CBCID Crime No.	:	118/CR/S1/09
2.	Police Station Crime No.	:	285/09 of Valiyathura PS
3.	Date of report and time	:	28.05.09 14.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Rajesh age 26, S/o Raju, Kunnuvilakathu Veedu, Balaramapuram, Anthiyoor desam, Neyyattinkara Taluk.
7. and	Name of Accused	:	One identifiable person others belonging to Cheriyathura area.
8.	Offences alleged	:	143,147,148,149,& 302 IPC
9.	Brief of allegation	:	One Badusha was murdered by beating with a wooden stick at Beemapally near Cheriyathura beach during the riots between the Muslims of Beemapally and Christians of Cheriyathura.

ANNEXURE-34

1.	CBCID Crime No.	:	139/CR/S1/09

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2.	Police Station Crime No.	:	191/09 of Poonthura PS
3.	Date of report and time	:	10.06.09 17.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Rasheeda Beevi, age 47, D/o Maryam Beevi, TC 70/47, Raseena Manzil, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	Shibu @ Kombu Shibu, S/o Kunichi, (2) Manikantan S/o Kunichi, (3)200 identifiable persons belong to Christian Community
8.	Offences alleged	:	143,147,148,149,427, 153(A) IPC &Sec 27 of Arms Act & Sec. 3 &5of Explosive Substances Act.
9.	Brief of allegation	:	Committed mischief by destroying the doors, sunshade etc and throwing bombs and thereby caused a damage to the tune of Rs. 50,000/-.

ANNEXURE-35

1.	CBCID Crime No.	:	140/CR/S1/09
2.	Police Station Crime No.	:	192/09 of Poonthura PS

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3.	Date of report and time	:	10.06.09 18.00 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Shihabudeen, age 57, D/o Abubeker, TC 45/21, Valiyavilakam Purayidam, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	Shibu @ Kombu Shibu, S/o Kunichi, (2) Manikantan S/o Kunichi, other identifiable persons belong to Christian Community
8.	Offences alleged	:	143,147,148,149,427,435 153(A) IPC & Sec 27 of Arms Act & Sec. 3 &5of Explosive Substances Act
9.	Brief of allegation	:	Committed mischief by setting fire and throwing bombs to the boat and fishing nets and thereby caused a loss to the tune of Rs. 6 lakhs.

ANNEXURE-36

1.	CBCID Crime No.	:	141/CR/S1/09
2.	Police Station Crime No.	:	193/09 of Poonthura PS
3.	Date of report and time	:	10.06.09 18.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs

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5.	Mode of information	:	Oral
6.	Name of complainant	:	Shafi, age 47, S/o Muhammed kannu, TC 46/625,Kaikara House, Beemapally, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	Shibu @ Kombu Shibu, S/o Kunichi, (2)Rajan S/o , (3) 200 identifiable persons belong to Christian Community
8.	Offences alleged of	:	143, 147,148,149 427, 435, 153(A)IPC & Sec 27 Arms Act & Sec. 3 &5of Explosive Substances Act.
9.	Brief of allegation	:	Committed mischief by setting fire to the boat and fishing nets and thereby caused a damage to the tune of Rs. 6,50,000/-.

ANNEXURE-37

1.	CBCID Crime No.	:	142/CR/S1/09
2.	Police Station Crime No.	:	194/09 of Poonthura PS
3.	Date of report and time	:	10.06.09 19.00 hrs
4.	Date of occurrence	:	17.05.09 15.40 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Maideen Kannu, age 62,

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			S/o kutti Kannu , TC 70/51, Varuvilakam purayidam, Beemapally.
7.	Name of Accused	:	Shibu @ Kombu Shibu, S/o Kunichi, (2) Manikantan B/o Kombu Shibu, (3) 200 other identifiable persons belong to ChristianCommunity
8.	Offences alleged	:	143, 147, 148, 149, 427, 452, 153(A) IPC & Sec 27 of Arms Act & Sec. 3 &5of Explosive Substances Act.
9.	Brief of allegation	:	Trespassed into the house, committed mischief by destroying the doors, windows, house hold utensils etc and throwing bombs and thereby caused a loss to the tune of Rs. 50,000/-.

ANNEXURE-38

1.	CBCID Crime No.	:	143/CR/S1/09
2.	Police Station Crime No.	:	196/09 of Poonthura PS
3.	Date of report and time	:	11.06.09 10.00 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sharafudeen , age 64,

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			S/o Ahammed, TC 70/1, Puthuval Purayidam, Beemapally,Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, S/o Kunichi, (2) Francis Albert (3) Kolachi Mada Rajan (4) Manikuttan S/o Kunichi (5) Varkey S/o Mema (6) Rokky, S/o Lean Parakolin (7) Varkey S/o Karippetti (8) Kunjumon S/o Ali Miranda (9) Joseph S/o Alexander.
8.	Offences alleged	:	143, 147, 149, 379, 153(A) IPC
9.	Brief of allegation	:	Committed theft of fishing nets and other fishing materials which caused a loss to the tune of Rs. 3,00,000/-.

ANNEXURE-39

1.	CBCID Crime No.	:	144/CR/S1/09
2.	Police Station Crime No.	:	197/09 of Poonthura PS
3.	Date of report and time	:	11.06.09 10.30 hrs
4.	Date of occurrence	:	17.05.09 15.10 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Basha Ebini, age 60,

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			S/o Jabili, TC 70/68, Varuvilakam Veedu, Beemapally, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, S/o Kunichi, (2)Manikuttan S/o Kunichi, (3 Francis Albert S/o Antony Albert, (4) Dasan S/o Manda vetti, (5) Francis S/o Noolkari, (6) Vincent S/o Ravitt, (7) Dasan S/o Kavarel, (8) Kalan Thomas,
8.	Offences alleged	:	143, 147, 149, 379, 153(A) IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Committed theft of Catamaran, fishing nets etc, which caused a loss to the tune of Rs. 65,000/-.

ANNEXURE-40

1.	CBCID Crime No.	:	145/CR/S1/09
2.	Police Station Crime No.	:	198/09 of Poonthura PS
3.	Date of report and time	:	11.06.09 11.00 hrs
4.	Date of occurrence	:	17.05.09 15.20 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sirajudeen, age 59,

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			S/oPeerukannu, TC 45/218, Kunnum vilakam Veedu, Beemapally, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, S/o Kunichi, (2) Manikuttan S/o Kunichi, (3 Francis Albert S/o Antony Albert, (4) Rocy S/o parakkol, (5) Klamsan S/o Arakan, (6) Edison S/o Pattaparakode, (7) Kunjumon
8.	Offences alleged	:	143, 147, 148, 149, 380, 427, 153(A), 452 IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house, destroyed window glass and plastic chairs and committed theft of chairs, gold chains, etc and thereby caused a loss to the tune of Rs.1,47,000/-

ANNEXURE-41

1.	CBCID Crime No.	:	146/CR/S1/09
2.	Police Station Crime No.	:	199/09 of Poonthura PS
3.	Date of report and time	:	12.06.09 10.00 hrs
4.	Date of occurrence	:	17.05.09 15.15 hrs

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5.	Mode of information	:	Oral
6.	Name of complainant	:	Sainulabdeen, age 76, S/o Abdul Rasak, TC 70/1, Kunnuvilakam Purayidam, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, S/o Kunichi, (2) Manikuttan S/o Kunichi, (3 Kunjumon, (4) Rajan, (5) Nephew of Iythan, (6)Rajan S/o Churuttavetti, (7) Kunjumon S/o Anju Sisiliyan.
8.	Offences alleged	:	143, 147, 148, 149, 380, 427, 153(A) IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house and committed theft of currency W/Rs. 1 lakhs, gold ornaments, fridge, TV, VCP, two loads of fire wood etc and thereby caused loss to the tune of Rs.3 lakhs.

ANNEXURE-42

1.	CBCID Crime No.	:	147/CR/S1/09
2.	Police Station Crime No.	:	200/09 of Poonthura PS
3.	Date of report and time	:	12.06.09 10.30 hrs

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4.	Date of occurrence	:	17.05.09 15.20 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	MohammedKunju Marikkar, age 80,S/o Mohammed, TC 46/7, Kunnuvilakam Purayidam, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, S/o Kunichi, (2) Manikuttan S/o Kunichi, (3 Kunjumon S/o Ali, (4) Rajan, (5) Nephew of Iythan, (6) Rajan S/o Churuttavetti, (7) Kunjumon S/o Anju Sisiliyan.
8.	Offences alleged	:	143, 147, 148, 149, 447, 427, 153(A) IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house with deadly weapons like iron road, chopper etc and destroyed windows, iron gate etc and thereby caused the loss to the tune of Rs.20,000/-

ANNEXURE-43

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1.	CBCID Crime No.	:	148/CR/S1/09
2.	Police Station Crime No.	:	201/09 of Valiyathura PS
3.	Date of report and time	:	12.06.09 11.00 hrs
4.	Date of occurrence	:	17.05.09 15.25 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Maheen Kannu, age 40, S/o Perukannu, TC 70/47, Kunnuvilakam Purayidam, Beemapally .
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, S/o Kunichi, (2) Manikuttan S/o Kunichi, (3 Kunjumon S/o Ali Miranda, (4) Rajan, (5) Nephew of Iyithan, (6)Rajan S/o Churuttavetti, (7) Kunjumon S/o Anjulas
8.	Offences alleged	:	143, 147, 148, 149, 447, 427, 153(A) IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house and shop with weapons like iron road, chopper etc and destroyed roofs, weighing machine etc and which caused a loss to the of Rs.25,000/-

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ANNEXURE-44

1.	CBCID Crime No.		:149/CR/S1/09
2.	Police Station Crime No.	:	202/09 of Poonthura PS
3.	Date of report and time	:	12.06.09 11.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sulfiquer age 35, S/o Mohammed Ismail, TC 46/72, Beemapally, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, S/o Kunichi, (2) Manikuttan S/o Kunichi, (3 Kunjumon S/o Ali Miranda, (4) Rajan, (5) Kunjumon S/o Anju Sisila
8.	Offences alleged	:	143, 147, 148, 149, 447, 427, 380 153(A) IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house and committed theft of currency notes, gold ornaments which were kept in the almirah, TV and destroyed the roof sheets which caused the loss to the tune of Rs.3 lakhs.

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ANNEXURE-45

1.	CBCID Crime No.	:	150/CR/S1/09
2.	Police Station Crime No.	:	203/09 of Poonthura PS
3.	Date of report and time	:	12.06.09 12.00 hrs
4.	Date of occurrence	:	17.05.09 15.35 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Mohammed Basheer, age 46, S/o Maula Pilla, TC 70/44, Kunnuvilakam Purayidam, muttathara Village.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu, S/o Antony, Purampokkil Veedu, Fishermen colony, Cheriyathura (2) Manikuttan (3) Kunjumon S/o Ali Miranda, (4) Rajan, (5) Nephew of Ithan, (6) Rajan S/o Churuttavetti.
8.	Offences alleged	:	143, 147, 148, 149, 447, 427, 153(A) IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house committed mischief by destroying the window glasses, iron gate and thereby caused damage to

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the tune of Rs.10,000/-

ANNEXURE-46

1.	CBCID Crime No.	:	151/CR/S1/09
2.	Police Station Crime No.	:	204/09 of Poonthura PS
3.	Date of report and time	:	12.06.09 12.30 hrs
4.	Date of occurrence	:	17.05.09 15.35 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Niyas, age 35, S/o Naguran Pillai, TC 46/16, Varuvilakam Purayidam, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu,S/oKunichi, Purampokkil Veedu, Fishermen colony, Cheriyathura (2) Manikuttan (3)Kunjumon S/o Ali Miranda, (4) Rajan, (5) Kunjumon S/o Anju Sisilyas.
8.	Offences alleged	:	143, 147, 148, 149, 447, 427, 153(A) IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house compound and committed mischief by destroying the window glasses, roofs, tiles, and thereby caused a loss to the tune of

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Rs.25,000/-

ANNEXURE-47

1.	CBCID Crime No.	:	152/CR/S1/09
2.	Police Station Crime No.	:	206/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 11.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	kabeer, age 50, S/o Noor Kannu, TC 46/10, Kunnuvilakam Purayidam, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	Identifiable 50 persons belong to Christian Community.
8.	Offences alleged	:	143, 147, 148, 149, 153(A), 451, 427 &380 IPC & Sec 27 of Arms Act 1959.
9.	Brief of allegation	:	Trespassed into the house compound and committed mischief by destroying sheets, roof tiles and committed theft of TV, Mobile Phone, Clothes etc and caused a loss to the tune of Rs.75,000/-

ANNEXURE-48

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1.	CBCID Crime No.	:	153/CR/S1/09
2.	Police Station Crime No.	:	207/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 12.00 hrs
4.	Date of occurrence	:	17.05.09 15.45 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Farook, age 57, S/o Abdul Sathar,TC70/222,Western side of Beemapally, Beemapally ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu, S/o Kunichi, (2) Kuttan S/o Maluki, (3) 50 other identifiable persons belong to Christian Community.
8.	Offences alleged	:	143, 147, 148, 149, 379, 153(A) IPC & Sec 27 of Arms Act.
9.	Brief of allegation	:	Committed theft of boat, fishing nets etc and caused a loss to the tune of Rs.3,20,000/-

ANNEXURE-49

1.	CBCID Crime No.	:	154/CR/S1/09
2.	Police Station Crime No.	:	208/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 12.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs

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5.	Mode of information	:	Oral
6.	Name of complainant	:	Abdul Shukoor, age 56, S/o Abbaz, TC 45/213, Kunnuvilakam Purayidam, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu, S/o Kunichi, (2) Francis Albert, (3 Manikuttan, (4) Kunjumon , (5) Charls, (6) Bineesh, (7) Kalan Thomas, (8) Alas.
8.	Offences alleged	:	143, 147, 148, 149, 380, 427, 153(A) IPC .
9.	Brief of allegation	:	Committed mischief by destroying the window glass and committed theft of gold ornaments, TV,VCD etc; which caused a loss to the tune of Rs.87,600/-

ANNEXURE -50

1.	CBCID Crime No.	:	155/CR/S1/09
2.	Police Station Crime No.	:	209/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 13.00 hrs
4.	Date of occurrence	:	10.05.09 21.00 hrs
5.	Mode of information	:	Oral

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6.	Name of complainant	:	Peeru Mohammed, age 70, S/o Maideen Picha, TC 70/403, Mammoottu vilakam, Near Beemapally UPS, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu, S/o Kunichi, (2) Motta Varkey, (3) Identifiable 6 persons.
8.	Offences alleged	:	143, 147, 149, 506(ii) & 427 IPC
9.	Brief of allegation	:	Armed with soda bottle, intimidated with death, committed mischief by destroying the doors of the shop and thereby caused loss to the tune of Rs.15,000/-

ANNEXURE-51

1.	CBCID Crime No.	:	156/CR/S1/09
2.	Police Station Crime No.	:	210/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 13.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Maheen Kannu, age 70, A/o Jamaludeen, TC

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46/335, Near Thaikka Palli, Beemapally Ward, Muttathara Village.

7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, (2) 5 other Identifiable persons belonging to Christian Community.
8.	Offences alleged	:	143, 147, 149, 379 IPC
9.	Brief of allegation	:	Committed theft of Catamaran,fishing equipments and thereby caused a loss to the amount of Rs.40,000/-

ANNEXURE-52

1.	CBCID Crime No.	:	157/CR/S1/09
2.	Police Station Crime No.	:	211/09 of Poonthura PS
3.	Date of report and time	:	17.05.09 15.15 hrs
4.	Date of occurrence	:	13.06.09 14.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Mohammed Ismail, age 52, S/o Maideen Kunju, TC 70/57, Varuvilakam Purayidam, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu, S/o Kunichi, (2) 7 other Identifiable persons belonging to

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			Christian Community.
8.	Offences alleged	:	143, 147, 148, 149, 506(ii) & 427 ,379 & 380 IPC Sec. 27 of Arms Act.
9.	Brief of allegation	:	Trespassed into the house, threatened with death and committed theft of gold ornaments, fire wood etc and thereby caused a loss to the amount of Rs. 1,12,600/-

ANNEXURE-53

1.	CBCID Crime No.	:	158/CR/S1/09
2.	Police Station Crime No.	:	212/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 14.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Halaludeen, age 49, S/o Abdul Rahman, TC 46/617,Puthuval Puthen Veedu, Near Noorul Islam Arabic College, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, S/o Kunichi, (2) Valiya Rajan, (3) Fraicis,

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			(4) Albert, (5) 7 other Identifiable persons belong to Christian Community.
8.	Offences alleged	:	143, 147, 149, 435, 427 IPC
9.	Brief of allegation	:	Committed mischief by setting fire to the boat and fishing nets and thereby caused a loss to the tune of Rs.5 lakhs.

ANNEXURE-54

1.	CBCID Crime No.	:	159/CR/S1/09
2.	Police Station Crime No.	:	213/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 15.00 hrs
4.	Date of occurrence	:	17.05.09 15.45 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Beema Kannu, D/o Saheer Ban Beevi, TC 45/230(A), Kunnu vilakam Purayidam, Beemapally.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu, S/o Kunichi, (2) 7 other Identifiable persons belonging to Christian Community.
8.	Offences alleged	:	143, 147, 148, 149, 427, 379 IPC & Sec. 27 of Arms Act.

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9.	Brief of allegation	:	Trespassed into the house, committed mischief by destroying the roof tiles, committed theft of fridge, grinder etc and thereby caused damage to the tune of Rs.1,50,000/-

ANNEXURE-55

1.	CBCID Crime No.	:	160/CR/S1/09
2.	Police Station Crime No.	:	214/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 15.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Thajudeen, age 39, S/o Abdul Shukoor, TC 46/11,Varuvilakam Purayidam, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu, (2) 10 other Identifiable persons belonging to Christian Community.
8.	Offences alleged	:	143, 147, 149, 427,435 IPC
9.	Brief of allegation	:	Committed mischief by setting firer to the boat and fishing nets and

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thereby caused a loss to the tune of Rs.7.5 lakhs.

ANNEXURE-56

1.	CBCID Crime No.	:	161/CR/S1/09
2.	Police Station Crime No.	:	215/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 16.00 hrs
4.	Date of occurrence	:	17.05.09 15.15 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Nadeera D/o Beema Kannu, TC 45/230(A), Kunnu vilakam Purayidam, Beemapally.
7.	Name of Accused	:	(1)Shibu age 28, @ Kombu Shibu, (2) 10 other Identifiable persons belonging to Christian Community.
8.	Offences alleged	:	143, 147, 148, 149, 395 IPC .
9.	Brief of allegation	:	Committed mischief by destroying tea and petty shop and committed theft of tea glasses, almirah, boiler, gas stove etc and thereby caused a loss to the tune of Rs.50,000/-

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ANNEXURE-57

1.	CBCID Crime No.	:	162/CR/S1/09
2.	Police Station Crime No.	:	216/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 16.30 hrs
4.	Date of occurrence	:	16.05.09 21.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Abdul Hameed, age 35, S/o Ansar, TC45/395, Nadu vilakam Purayidam Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, (2) 10 other Identifiable persons belonging to Christian Community.
8.	Offences alleged	:	143, 147, 149, 427 IPC.
9.	Brief of allegation	:	Committed mischief by forcibly pushing catamarans and fishing nets into the sea, which caused a loss to the tune of Rs. 40,000/-

ANNEXURE-58

1.	CBCID Crime No.	:	163/CR/S1/09

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2.	Police Station Crime No.	:	217/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 17.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sakeer, age 40, S/o Mahin Kannu,Varuvilakam Purayidam Beemapally.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, (2) 11 other Identifiable persons belonging to Christian Community.
8.	Offences alleged	:	143, 147, 148, 149, 447, 427 IPC.
9.	Brief of allegation	:	Committed mischief by destroying the iron gate, trespassed into the house compound and damaged the window glass, drained the catamarans and fishing nets into the sea and thereby caused a loss to the tune of Rs. 45,000/-

ANNEXURE-59

1.	CBCID Crime No.	:	164/CR/S1/09
2.	Police Station Crime No.	:	218/09 of Poonthura PS
3.	Date of report and time	:	13.06.09 17.30 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs

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5.	Mode of information	:	Oral
6.	Name of complainant	:	Darvees, age 50, S/o Shahid Khaleefa, TC 70/5, Kunnuvilakam Purayidam, Beemapally.
7.	Name of Accused	:	(1)Shibu @ Kombu Shibu, (2) 100 other Identifiable persons belonging to Christian Community.
8.	Offences alleged	:	143, 147, 149, 395 IPC.
9.	Brief of allegation	:	Trespassed into the house, committed theft of TV, DVD player, mobile phones, gold ornaments, currency notes etc and thereby caused a loss to the tune of Rs. 4,37,000/-

ANNEXURE-60

1.	CBCID Crime No.	:	165/CR/S1/09
2.	Police Station Crime No.	:	270/09 of Valiyathura PS
3.	Date of report and time	:	21.05.09 16.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Cheriyathura
6.	Name of complainant	:	Lissy Joseph, age 40, D/o Margaret, TC 71/923, Thaivilakam Purayidam Cheriyathura.
7.	Name of Accused	:	200 Identifiable persons belonging to Muslim

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			Community.
8.	Offences alleged	:	143, 147, 148, 149, 452, 435, 395, 427 IPC.
9.	Brief of allegation	:	Trespassed into the house, committed mischief by destroying the house hold articles, TV, roof, by setting fire to the fishing nets etc, committed theft of gold ornaments, currency notes, and thereby causing a loss to the tune of Rs. 40,000/-

ANNEXURE-61

1.	CBCID Crime No.	:	166/CR/S1/09
2.	Police Station Crime No.	:	272/09 of Valiyathura PS
3.	Date of report and time	:	17.05.09 15.00 hrs
4.	Date of occurrence	:	21.05.09 17.30 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Margaret, age 44, D/o Mery Silwa, TC 71/944, Thaivilakam Purayidam Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	100 Identifiable persons belonging to Muslim Community.
8.	Offences alleged	:	143, 147, 148, 149, 427 IPC.

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9.	Brief of allegation	:	Committed mischief by pushing the catamarans and fishing nets into the sea, and caused a loss to the tune of Rs. 50,000/-

ANNEXURE-62

1.	CBCID Crime No.	:	167/CR/S1/09
2.	Police Station Crime No.	:	273/09 of Valiyathura PS
3.	Date of report and time	:	21.05.09 18.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Mema, age 45, D/o Agness, TC 71/912, Pallivilakam Purayidam Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 Identifiable persons belonging to Muslim Community.
8.	Offences alleged	:	143, 147, 148, 149, 427 IPC.
9.	Brief of allegation	:	Committed mischief by pushing the catamarans and fishing nets into the sea, and caused a loss to the tune of Rs. 60,000/-

ANNEXURE-63

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1.	CBCID Crime No.	:	168/CR/S1/09
2.	Police Station Crime No.	:	274/09 of Valiyathura PS
3.	Date of report and time	:	21.05.09 18.30 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Lusiya, age 52, D/o Amritham, TC71/898, Cheriyathura Puthuval Purayidam, Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 Identifiable persons belonging to Muslim Community.
8.	Offences alleged	:	143, 147, 148, 149, 427 IPC.
9.	Brief of allegation	:	Committed mischief by destroying the windows of the house and pushing catamarans, fishing nets into the sea, and caused a loss to the tune of Rs. 30,000/-

ANNEXURE-64

1.	CBCID Crime No.	:	169/CR/S1/09
2.	Police Station Crime No.	:	275/09 of Valiyathura PS
3.	Date of report and time	:	21.05.09 19.00 hrs

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4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Sysily, age 45, D/o Rossa, TC 71/916, Pallivilakam Puthuval Purayidam, Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 Identifiable persons belonging to Muslim Community.
8.	Offences alleged	:	143, 147, 148, 149, 435, 427 IPC.
9.	Brief of allegation	:	Committed mischief by setting fire to the fishing nets, catamarans and destroyed the roof sheets of the house and caused a loss to the tune of Rs. 40,000/-

ANNEXURE-65

1.	CBCID Crime No.	:	170/CR/S1/09
2.	Police Station Crime No.	:	276/09 of Valiyathura PS
3.	Date of report and time	:	22.05.09 10.00 hrs
4.	Date of occurrence	:	17.05.09 15.00 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Claribel Perira, age 60, D/o Virusi Perira, TC 71/925, Thyvilakam

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			Purayidam Cheriyathura, Beemapally Ward, Muttathara Village.
7.	Name of Accused	:	200 Identifiable persons belonging to Muslim Community.
8.	Offences alleged	:	143, 147, 148, 149, 452, 454, 461, 380 & 427 IPC.
9.	Brief of allegation	:	Trespassed into the house, destroyed the windows, doors, committed theft of grinder, mixi, tape recorder, TV, clothes and mischief committed by pushing the catamarans and fishing nets into the sea, and caused a loss to the tune of Rs. 46,000/-

ANNEXURE-66

1.	CBCID Crime No.	:	171/CR/S1/09
2.	Police Station Crime No.	:	277/09 of Valiyathura PS
3.	Date of report and time	:	22.05.09 11.00 hrs
4.	Date of occurrence	:	17.05.09 15.15 hrs
5.	Mode of information	:	Oral
6.	Name of complainant	:	Reetha, age 54, D/o Virusi , TC 71/927, Thyvilakam Purayidam Cheriyathura, Beemapally Ward, Muttathara Village.

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7.	Name of Accused	:	200 Identifiable persons belonging to Muslim Community.
8.	Offences alleged	:	143, 147, 148, 149, 452, 380, 451, & 427 IPC.
9.	Brief of allegation	:	Trespassed into the house, destroyed the door, committedtheft of gold ornaments,currency notes, TV, etc and caused a loss to the tune of Rs. 48,000/-

ANNEXURE-67

1.	CBCID Crime No.	:	2/CR/OCW1/2010
2.	Police Station Crime No.	:	Direct case
3.	Date of report and time	:	06.01.2010 10.00 hrs
4.	Date of occurrence	:	17.05.09 15.30 hrs
5.	Mode of information	:	FIR registered as per the report, for conducting investigation into the source of the explosives used during the communal clashes.
6.	Name of complainant	:	A. Shanawaz, DySP, CBCID,OCW-1, TVPM.
7.	Name of Accused	:	1500 Muslim Community people & 500 Christian Community people.
8.	Offences alleged	:	Sec. 3,4 &5 of Explosive Substances Act 1908.

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9.	Brief of allegation	:	Caused explosions using dangerous Gelatin sticks, 'Neogel -90', which was manufactured in a company at Yenvera in Nagpur, during the communal clashes between Muslims and Christians. Source of explosives to be traced.

Details of clubbing of cases and cases clubbed for the purpose of investigation is also submitted as annexure 68 which read as follows:

ANNEXURE – 68

The total 67 cases registered in connection with the Cheriyathura law and order issue, have been divided into 8 units. They are being investigated as 8 saparate cases.

UNIT -1 : Cases registered in connection with the incidents on 16.5.2009 between 9 pm and 10 pm at Cheriyathura junction in which Muslims are the accuseds.

1	76/CR/S1/09 (Main Case)	Cr. 239/09 of Valiyathura P.S	JFMC -II
2	77/CR/S1/09	Cr. 240/09 of Valiyathura P.S	CJMC
3	78/CR/S1/09	Cr. 241/09 of Valiyathura P.S	JFMC -II
4	79/CR/S1/09	Cr. 242/09 of Valiyathura P.S	do
5	80/CR/S1/09	Cr. 243/09 of Valiyathura P.S	do

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6	82/CR/S1/09	Cr. 245/09 of Valiyathura P.S	do
7	83/CR/S1/09	Cr. 246/09 of Valiyathura P.S	do
8	161/CR/S1/09	Cr. 215/09 of Poonthura P.S	do

UNIT-II : Case registered for setting fire to boat and fishing nets of one Aboobaker on 16.5.2009 at 9.30 at Beach near the Christian Church by the Christian.

1	81/CR/S1/09	Cr. 244/09 of Valiyathura P.S	JFMC -II

UNIT-III : Case registered for assaulting one Peeru Muhammed on 16.5.2009 at 5 pm at Cheriyathura by Kombu Shibu and others.

1	88/CR/S1/09	Cr. 248/09 of Valiyathura P.S	CJMC

UNIT-IV : Case registered in connection with the communal clashes between Muslims of Beemapally area and Christians of Cheriyathura on 17.05.2009 between 3.30 pm and 4 pm and the subsequent police firing. An unlawful assembly of 1500 Muslims of Beemapally area and 500 Christian of Cheriyathura are the accuseds.

1	84/CR/S1/09 (Main Case)	Cr. 247/09 of Valiyathura P.S	JFMC -II
2	89/CR/S1/09	Cr. 249/09 of Valiyathura P.S	CJMC
3	90/CR/S1/09	Cr. 250/09 of Valiyathura P.S	JFMC -II
4	91/CR/S1/09	Cr. 251/09 of Valiyathura P.S	JFMC -II

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5	92/CR/S1/09	Cr. 252/09 of Valiyathura P.S	CJMC
6	93/CR/S1/09	Cr. 253/09 of Valiyathura P.S	JFMC -II
7	94/CR/S1/09	Cr. 254/09 of Valiyathura P.S	JFMC -II
8	95/CR/S1/09	Cr. 255/09 of Valiyathura P.S	JFMC -II
9	96/CR/S1/09	Cr. 256/09 of Valiyathura P.S	JFMC -II
10	97/CR/S1/09	Cr. 257/09 of Valiyathura P.S	JFMC -II
11	98/CR/S1/09	Cr. 258/09 of Valiyathura P.S	JFMC -II
12	99/CR/S1/09	Cr. 259/09 of Valiyathura P.S	JFMC -II
13	100/CR/S1/09	Cr. 260/09 of Valiyathura P.S	JFMC -II
14	101/CR/S1/09	Cr. 261/09 of Valiyathura P.S	JFMC -II
15	102/CR/S1/09	Cr. 262/09 of Valiyathura P.S	JFMC -II
16	103/CR/S1/09	Cr. 263/09 of Valiyathura P.S	CJMC
17	104/CR/S1/09	Cr. 264/09 of Valiyathura P.S	CJMC
18	105/CR/S1/09	Cr. 168/09 of Poonthura P.S	JFMC -II
19	106/CR/S1/09	Cr. 265/09 of Valiyathura P.S	CJMC
20	107/CR/S1/09	Cr. 266/09 of Valiyathura P.S	JFMC -II
21	108/CR/S1/09	Cr. 267/09 of Valiyathura P.S	JFMC -II
22	109/CR/S1/09	Cr. 268/09 of Valiyathura P.S	JFMC -II

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23	117/CR/S1/09	Cr. 172/09 of Poonthura P.S (CMP)	JFMC -II
24	139/CR/S1/09	Cr. 191/09 of Poonthura P.S	JFMC -II
25	140/CR/S1/09	Cr. 192/09 of Poonthura P.S	JFMC -II
26	142/CR/S1/09	Cr. 194/09 of Poonthura P.S	JFMC -II
27	147/CR/S1/09	Cr.200/09 of Poonthura P.S	JFMC -II
28	148/CR/S1/09	Cr. 201/09 of Poonthura P.S	JFMC -II
29	150/CR/S1/09	Cr. 203/09 of Poonthura P.S	JFMC -II
30	151/CR/S1/09	Cr. 204/09 of Poonthura P.S	JFMC -II
31	152/CR/S1/09	Cr. 206/09 of Poonthura P.S	JFMC -II
32	154/CR/S1/09	Cr. 208/09 of Poonthura P.S	JFMC -II
33	164/CR/S1/09	Cr. 218/09 of Poonthura P.S	JFMC -II
34	165/CR/S1/09	Cr. 270/09 of Valiyathura P.S	JFMC -II
35	168/CR/S1/09	Cr. 274/09 of Valiyathura P.S	JFMC -II
36	169/CR/S1/09	Cr. 275/09 of Valiyathura P.S	CJMC
37	170/CR/S1/09	Cr. 276/09 of Valiyathura P.S	CJMC
38	171/CR/S1/09	Cr. 277/09 of Valiyathura P.S	JFMC -II

UNIT-V : case registered for the death of one Badusha who died of head injury during the communal clash.

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1	118/CR/S1/09	Cr. 285/09 of Valiyathura P.S	JFMC -II

UNIT-VI : Case registered for mischief committed by Shibu and other on 10.5.2009 at 21.00 hrs in the petty sho[p of one Peeru Muhammed of Beemapally.

1	155/CR/S1/09	Cr. 209/09 of Poonthura P.S	JFMC -II

UNIT-VII : Cases which are found to be false.

1	141/CR/S1/09	Cr. 193/09 of Poonthura P.S	JFMC -II
2	143/CR/S1/09	Cr. 196/09 of Poonthura P.S	JFMC -II
3	144/CR/S1/09	Cr. 197/09 of Poonthura P.S	JFMC -II
4	145/CR/S1/09	Cr. 198/09 of Poonthura P.S	JFMC -II
5	146/CR/S1/09	Cr. 199/09 of Poonthura P.S	JFMC -II
6	149/CR/S1/09	Cr. 202/09 of Poonthura P.S	JFMC -II
7	153/CR/S1/09	Cr. 207/09 of Poonthura P.S	JFMC -II
8	156/CR/S1/09	Cr. 210/09 of Poonthura P.S	JFMC -II
9	157/CR/S1/09	Cr. 211/09 of Poonthura P.S	JFMC -II
10	158/CR/S1/09	Cr. 212/09 of Poonthura P.S	JFMC -II
11	159/CR/S1/09	Cr. 213/09 of Poonthura P.S	JFMC -II
12	160/CR/S1/09	Cr. 214/09 of Poonthura P.S	JFMC -II

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13	162/CR/S1/09	Cr. 216/09 of Poonthura P.S	JFMC -II
14	163/CR/S1/09	Cr. 217/09 of Poonthura P.S	JFMC -II
15	166/CR/S1/09	Cr. 272/09 of Valiyathura P.S	JFMC -II
16	167/CR/S1/09	Cr. 273/09 of Valiyathura P.S	JFMC -II

UNIT-VII : Case registered in the CBCID for investigating the source of the explosives.

1	2/CR/OCW-1/2010	Direct case	JFMC -II

Total cases : 67

During the course of investigation, police officers concerned, occurrence witnesses, local people, injured, doctors, scientific experts were questioned and their statements were recorded. The addresses and identity of the injured were examined in detail and the same is still under investigation. Investigation is in progress and the same is in fag end and will be concluded in short span of time. It is submitted that the full and final report regarding the incident and conclusion of the investigation will be submitted

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immediately on completion of the investigation. It is further submitted that he will furnish all the details and facts so far collected during the course of investigation as and when directed by the Hon'ble Commission and he may be permitted to file additional statement if necessary during the course of enquiry.

(46) Though the Government entered appearance through Addl. Chief Secretary(Home and vegilence) and filed vakalath through Adv. Sri. Vijayakumaran Nair, no affidavit or statement was filed in the enquiry proceedings on behalf of the Government. But Sri. Sanjay Kaul, the then District Collector, Thiruvananthapuram filed report regarding the incident on 16.05.2009 and 17.05.2009 as follows:

On 16.05.2009 at around 10.00 pm, while returning from Kovalam Government Guest House after meeting the election commission of India observers, he received information regarding some disturbances in Cheriyathura-Beemapally area at Thiruvananthapuram taluk. Sequence of events that took place over the next two days are factually stated in the report as per the directions of the Hon'ble

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Commission in his last sitting.

SATURDAY 16.05.2009

A press reporter called him up around 10.15 pm and informed him of a tense situation prevailing in Beemapally Cheriyathura area due to a clash between two communities namely Christians of Cheriyathura and Muslims of Beemapally. The fact was checked up over the wireless set of his car since he was travelling at that point of time. Over the wireless, it was understood from the police control room that there is some tension in Beemapally area and urgent police reinforcements were being rushed into the area. Sensing the gravity of the situation, he proceeded to the area immediately and asked the Sub Collector, Thiruvananthapuram to accompany him. They reached the spot at about 10.30 pm. A large police contingent led by Sri. V.R. Rajeevan, then Additional Director General of Police was present on the spot. The details of the exact strength of police force has been sought for from the police. The situation was so tense with a large crowd from Beemapally area trying to breach the

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police cordon and come towards Cheriyathura area. The whole area of Cheriyathura side was littered with burnt two wheelers, debris from damaged shops and houses. On enquiry from the police present on the spot, it was learnt that the cause of provocation which led to this incident was an altercation involving certain antisocial elements namely, Kombu Shibu and one Rajan. They, on 16.05.2009, had gone to Beemapally area to have food in one of the hotels. They started abusing the hotel staff on being asked to settle the bill and they refused to pay money for the food they had eaten. This resulted in argument between the hotel staff and Shibu. In the process Shibu had destroyed some of the lights and furniture of the nearby shops. This incident led to the situation wherein people from Beemapally area launched an attack on the houses and shops and vehicles belonging to the people from Cheriyathura area. These facts were stated by the police and local residents orally and that has to be verified. The mob of Beemapally side was very restive and in a violent mood. Sensing the tense situation around 11.45 pm, he along with the then MLA Sri.

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Surendran Pillai and then Sub Collector went to the Jama Ath office and then tried to pacify the people and find an amicable solution. The meeting was attended by the Jama Ath President, Secretary, Ward Councillor and other representative of Beemapally residents and it ended at around 12.45 am on 17.05.2009. Following decisions were taken in the meeting.

(1) Directions are given to the police to immediately arrest the two antisocial elements Kombu Shibu and Rajan who seem to have been cause of the altercation.

(2) The assessment would be made the next day i.e. 17.05.2009 by the Tahsildar and Village Officer with regard to the damages suffered on both the sides and a report to be submitted to the District Collector, who would appraise the Government regarding the damage to property.

(3) The antisocial elements from both sides would be strictly dealt with.

(4) Both sides urged to show restraint and to maintain law and order.

The Jama Ath representatives, local ward councillor and the representatives present in the meeting agreed

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to go along with the decisions, and soon the crowd that had gathered in that area dispersed. Immediately after this meeting ended at around 12.45 am, these decisions were conveyed to Additional Director General of Police, Sri. Rajeevan who was leading the police contingent present on the spot and he was informed of the urgency with which police should act in arresting the main accused i.e. Shibu to defuse the situation. Subsequently at around 1.00 am, a meeting was held in the premises of the Assumption Church in Cherityathura with the parish priests, the Vicar General Fr. Eugene and representatives of the local people. The decisions taken in the meeting held in Jama Ath premises were conveyed to them and they too agreed to comply with these decisions. The parish priest also promised to address the local people in their area and ask them to maintain peace. At around 01.30 am, the large crowd had dispersed completely. Soon after, he also left the spot after giving the following instructions to the police present there.

(1) Immediate action should be initiated to apprehend the accused Shibu and others

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involved in the incident.

(2) Strengthen the police persons authority beach and at the junction dividing the Muslim and Christian area.

SUNDAY 17.05.2009

On that day, at 15.37 hours, he received a call from Mr. Vijayan, Assistant Commissioner in Special Branch informing him about the law and order problem in Beemapally-Cheriyathura area. No mention was made about use of force or opening of fire on the rioters by the police personnel. At 15.38 hours on that day, Sub Collector was directed to proceed to Beemapally-Cheriyathura area to assess the situation. At 15.41 hours, he received call on his mobile phone from Fr. Eugene speaking from Vallayambalam Bishop's house stating that there was some problem in Cheriyathura-Beemapally locality and he informed him that he would get it checked up since he had not received any information from the police and he need to get the facts as to what was happening there. At 15.47 hours, he received a call from police control room (Ph. 0471 2331843) on his mobile phone and

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informed him that there is law and order problem in Cheriyathura-Beemapally area. However, no details were given as to what was actually happening there. So he left for the spot immediately since he felt that the situation demanded and immediate intervention at his level considering the previous days incidents. At 15.57 hours, he received fax message from Police Commissioner's Office requesting the presence of an Executive Magistrate in Beemapally-Cheriyathura area from 4.00 pm onwards on 17.05.2009. At 16.06 hours, the then MLA from Thiruvananthapuram West Constituency, Sri. Surendran Paillai called and informed him that some firing has taken place in Cheriyathura area. Since he was still checking the fax, he told him that he would get back after confirming the same and also informed him that he was on his way to the spot. At 16.20 hours, he received a call from Additional Director General of Police, Sri. V.R. Rajeevan stating that there is serious law and order problem in Cheriyathura and he was on his way to that place. He had also informed Sri. Rajeevan that he had already on his way to that spot. He reached the spot

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at around 16.30 hours. On reaching the Cheriyathura junction, at the focal point of all incident on 16.05.2009, he saw a large crowd had gathered near the Beemapally Mosque and were shouting slogans. They were very restive and the situation was very tensed. The large contingent of armed police personnels were also present at the junction. He proceeded towards the beach where the Additional Director General of Police Sri. V.R. Rajeevan had just arrived at 16.20 hours and from them details of the incident were gathered which runs as follows:

Apparently a large unruly armed crowd numbering about 600 people from the Beemapally area and about 400 people from Cheriyathura area had gathered in confrontation of each other on the beach and there was a small armed police party at the location dividing two localities. The two groups were heavily armed with petrol bombs, country bombs, choppers, swords and other weapons. They were indulging in arson. They had set fire to the house and boats and were hurling bombs at each other. The group from Beempally was proceeding towards

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Cheriyathura Assumption church. In a Letter No. SB/1331/GL/09-TC dated 18.05.2009 from office of the Commissioner of Police, Thiruvananthapuram city addressed to him, it was stated that the police used rubber bullets, grenades, shells and tear gas to try and disperse the crowd which was of no avail. This communication further went on to add that, consequent to this, in an effort to control and contain the rioters, the police contingent person there opened fire. When he visited the site, he saw the whole area littered with remnants of tear gas, shells, country bombs, petrol bombs, stones, broken glass pieces and also found one house on the Cheriyathura side which was completely burnt down. The police also informed that two persons had been killed in the firing and there were also some injured person who were moved to the Medical College Hospital. Since the situation was very tensed, flag march was conducted on the beach road by himself and the Additional Director General of Police Sri. Rajeevan. As a result of the flag march, people who were still present in small groups of the beach also dispersed. He assessed the situation and

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on the basis of the actual happening, he formed opinion that the persons of Central Para Military Force (CPMF) would act as a confident building measure. He communicated this to Smt. Neela Gangadharan, Additional Chief Secretary (Home) at 17.14 hours on her mobile phone No. 9447165022. On speaking to her, she informed him that she was on leave and was currently at Missouri and that Sri. Tom Jose, Principal Secretary, PWD has been put in charge of the Home Department. However, she communicated his request for CPMF to the Hon'ble Home Minister and the Director General of Police. He got in touch with Sri. Tom Jose, Home Secretary in charge at 7.15 hours on his mobile phone No. 9446307006 and appraised him of the situation. He spoke to the Hon'ble Home Minister at 17.19 hours on his mobile phone No. 944776600 and appraised him of the situation and need for deploying CPMF. Consequently, he was informed by Home Secretary that as an immediate measure two companies of CRPF would arrive from Pallippuram CRPF Camp, Thiruvananthapuram and two companies of RAF from Coimbatore. Further

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considering the tense situation, he issued prohibitory orders under section 144 of the Code of Criminal Procedure effective from 5.00 pm on 17.05.2009 for a period of five days in the affected area. In the evening of 17.05.2009, the law and order situation in beach area was under control but the Beemapally-Cheriyathura main road was not. A very large number of people perhaps about 1000 had gathered in the mosque and on the road leading to the Beemapally mosque and they were very agitated and were threatening to get violent at any time. They were informed through a mike announcement that prohibitory orders were in force and that they should disperse immediately. However, on hearing this, they got very agitated. The then local MLA, Sri. Surendran Pillai and then Ward Councillor, Sri. Beemapally Rasheed were trying to pacify the crowd whose immediate demand at that point of time was that the police force that had advanced almost up to the Beemapally mosque should withdraw immediately and go back to the junction separating Beemapally and Cheriyathura. Sensing the gravity of the situation, he

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instructed the police force to withdraw to the junction and thereafter, he started negotiation with representatives of that area which included members of the Beempally Jama Ath. It was at this point of time that he was informed by them that two more death occurred in police firing and those bodies were kept in their houses in Beemapally locality. Since the police had already retreated to the Beemapally-Cheriyathura junction, representatives of Beemapally locality area agreed to talk to him in an appropriately peaceful manner. He put forth the following two points.

(1) The bodies in their custody should be transferred immediately to Thiruvananthapuram Medical College Hospital for the inquest and post-mortem. Sensing their unhappiness on the incidents that had occurred in past couple of hours, he added that in case, they were not agreeable to the administration transporting these bodies, they could do the shifting themselves, with all support provided by the administration such as ambulances etc.

(2) The police would not move beyond the

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Beemapally-Cheriyathura junction towards Beemapally only if an assurance was given by them that there would be no collection of people in Beemapally area and the people gathered there would disperse immediately.

Representatives of the Beemapally area agreed to observe both these two conditions and the situation was brought under control shortly thereafter. At about 7.30 pm, information was received that about 300 people had gathered in the Nomans land area in Vizhinjam which is also communally very sensitive area. The Additional Director General of Police was requested to send sufficient force immediately in that area consequent to which the Assistant Superintendent of Police, Neyyattinkara was directed to proceed to Vizhinjam along with a strong police contingent. Consequent to the incident of firing which he had referred to earlier, sufficient police reinforcements with contingents of special forces and armed police were brought into the area. Later in the evening at around 8.00 pm, the two bodies in custody of the Beemapally residents were also transferred to

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the Medical College Hospital. Two companies of CRPF from Pallippuram Camp arrived at in the area at about 8.30 pm. Information was also received that 80 RAF personnel have been airlifted from Coimbatore and would reach the violence affected area at about 10.00 pm. Once the situation was totally under control, the then Hon'ble Minister for Law, Sri. M. Vijayakumar and then Hon'ble Minister for Food and Civil Supplies, Sri. C. Divakaran visited the site around 9.30 pm. Since the situation was totally under control, he along with Sub Collector left the spot at around 10.40 pm to visit the injured at Medical College Hospital, Thiruvananthapuram after posting an Executive Magistrate (Tahsildar Revenue Recovery, Thiruvananthapuram) on the spot.

Based on the information received from the Sub Collector, the police authorities and local residents of the affected area, following facts are also placed on record:

(1)Regarding the police action, right from the evening on 16.05.2009, the District Collector was not the kept informed of all the

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developments taking place in the area. Even on 16.05.2009, it is through a press reporter that information was received by the District Collector on the basis of which facts were checked up through the wireless and on understanding gravity of situation, he rushed to the spot at about 10.30 pm and defused the situation after negotiation with the Jama Ath and other representatives of the Beemapally and Cheriyathura.

(2) The firing must probably took place between 14.45 hours and 15.15 hours on 17.05.2009. This can be concluded from the fact that most of the casualties including the dead were registered in the casualty ward of the Medical College Hospital between 16 hours and 16.30 hours. The travel time from Beemapally-Cheriyathura area to Government Medical College Hospital is a minimum of 30 to 40 minutes.

(3) It is placed on record that there was no request from police authorities for orders

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sanctioning the use of force against the rioting groups on 17.05.2009. No orders were issued either by the District Magistrate or Additional District Magistrate or Sub Collector or any other Executive Magistrates of Thiruvananthapuram District authorising use of force or opening fire against the rioting crowd in Beemapally-Cheriyathura on 17.05.2009. Further when the firing took place, no Executive Magistrate of Thiruvananthapuram District which includes the District Magistrate, Additional District Magistrate and Sub Divisional Magistrate were present at the spot.

(4)The daily confidential reports of the Special Branch Police, Thiruvananthapuram city received by the District Collector in the dates 14.05.2009 to 17.05.2009 do not mention any possibility of any law and order problem in Beempally-Cheriyathura area either on 16.05.2009 or 17.05.2009. For the District Magistrate to monitor law and order situation

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in the District, this is an important tool apart from his own source of information. In the absence of any specific report, it would have been very difficult for the District Collector to call any kind of solitary meeting in the area. The details about the firing as to order the use of the fire arm against the rioters what kind of ammunition was used and how many rounds and police contingent at Beemapally-Cheriyathura and Vizhinjam were fired have been collected from the office of the Commissioner of Police, Thiruvananthapuram which is as follows:

(1) The order was given to Sri. Sherafudeen, Assistant Commissioner of Police DCRB, Thiruvananthapuram City to open fire by Sri.C.G. Sureshkumar, Sub Divisional Officer of Police, Sanghumughom.

(2) Sri. Sherafudeen, Assistant Commissioner of police, DCRB, Thiruvananthapuram City opened the fire who was the officer in charge at the place of occurrence.

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(3) Non lethal weapons such as 20 numbers of long range shell, 8 numbers of dual shell, 10 numbers of multi batten catridge (MBC) (rubber bullet), 20 numbers of stun shell (sound producer in area), 3 numbers of stun LAC (throwing grenade, one portion sound and two portions smoke), 3 numbers of dye marker (grenade) and 4 numbers of mark IV grenade and 10 numbers of grenade thrown and 58 numbers of gas gun were used. The total number of 50 numbers of 303 rounds were used in which 4 numbers were misfired by the police.

(4) 2 numbers of DCPs, 4 numbers of ACs, 10 numbers of C1/R, 47 numbers of SI/JRSI/PBSI/RSI/ASI/ASI(G), 53 numbers of HC/HC(G) PC and 293 numbers of HC/PC/AP Bn were deployed at Cheriyathura on 16.05.2009. 2 numbers of DCPs, 8 ACs, 10 numbers of CI/R, 81 numbers of SI/JRSI/PBSI/RSI/ASI/ASI(G), 99 numbers of HC/HC(G) PC Local and 378 numbers of HC/PC/AR/AP Bn were deployed at Cheriyathura-Beempally on 17.5.2009.

An all party peace conference was convened at

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the Collectorate, on the next day i.e. 18.05.2009 with representatives of different communities, organisations, peoples representatives, officials and common people from all walks of the locality. Confidence building measures were discussed and relief measures were declared in the meeting.

RELIEF MEASURES:

Executive Magistrates were posted at Cheriyathura to scrutinise the situation until the situation had become under control. Tahsildar, Thiruvananthapuram vide letter No. B3/9478/2009 dated 21.05.2009, reported that consequent to the police firing at Cheriyathura six persons died and 39 were injured, who were admitted in the Medical College Hospital, Thiruvananthapuram. As an immediate relief to the victims of the riot, the Government had released Rs. 10,000/- to the heirs of the deceased. In addition to this vide G.O.(MS) 190/2009 dated 25.05.2009, the government had also sanctioned Rs. 10,00,000/- each to the families of the six deceased persons and Rs. 10,000/- to those who were injured in the incident based on the medical report. Government has also directed to take steps to

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release compensation to the persons whose property was destroyed in the riot. Tahsildar, Thiruvananthapuram was directed to conduct an enquiry in this regard. Accordingly, the Tahsildar had submitted a primary report assessing a loss of Rs. 15,45,000/- with regard to the property of 12 persons vide letter No. 9478/2009 dated 03.06.2009. District Collector forwarded the proposal along with the proposal submitted by the Deputy Director of fisheries to the Government. Subsequently, the Government sanctioned Rs. 22,93,338/- as compensation for the loss of property in the riot, vide G.O.(MS) 225/09/Revenue dated 19.06.2009. Based on the report by the Tahsildar the compensations allowed to Sri. Shamsudeen and Sri. Nixamudeen had been enhanced to Rs. 5,00,000/- and Rs. 3,00,000/- respectively. On 13.01.2010, the Government sanctioned Rs. 5,50,000/- vide G.O.(Rt) No. 138/2010 as financial aid for medical treatment as per the proposal from this office basing the report of Superintendent, Medical College Hospital. On 09.11.2009, the Government has allowed an additional

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compensation ranging from Rs. 10,000/- to Rs. 35,000/- to certain affected victims who applied through MLA. Process has been initiated in the office of the District Collector to provide employment on compassionate ground to the legal heirs of the six persons who died in the riot, as per the directions of the Government communicated vide D.O. letter No. 29153/TI/09/RD dated 15.02.2010 of Additional Chief Secretary to Government Revenue (T) Department. The monitoring committee headed by the District Collector regularly convened peace meetings in the premises of Beemapally Mosque, Assumption Church, Cheriyathura and in Collectorate and kept in contact with local people and leaders of different communities. The numerous such peace meetings which discussed law and order and other issues in the area eventually helped to maintain the situation under control.

This was the statement submitted by the District Collector in the form of a report regarding the incident and the steps taken by him in this regard as the district administrator.

Witnesses examined and documents marked

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on the side of the parties.

A1W1 to A1W30 were examined and Exts. A1(1) to A1(3) series and A1(4) to A1(6) were marked on the side of A1 party. No oral or documentary evidence adduced on the side of A2, A5, A6 and A7 parties. A3W1 to A3W4 were examined on the side of A3 party and no documentary evidence adduced on their side. Though the witness examined on the side of A4 party was summoned by the commission as Commission's witness, since the party appearing for A4 party wanted to examine him as their witness and since his name was shown as an eye witness in their witness list, the request was allowed and the witness was examined as A4W1 on the part of A4 party and Exts. A4(1) to A4(3) were marked on their side. B1W1 to B1W6 were examined on the side of B1 party. No document was marked on their side. No oral or documentary evidence was adduced on th side of B2 and B3 parties. No oral and documentary evidence adduced on the side of C party. No oral evidence was adduced on the side of D party but Ext. D1 was marked on their side. E1W1 to E1W7 were marked on

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the side of E1 party and Exts. E1(1) to E1(36) were marked on the side of E1 party. No oral or documentary evidence adduced on the side of E2 party. E3W1 was examined on the side of E3 party and no documents were marked on their side. FW1 and FW2 were marked and Exts. F1 and F2 were marked on the side of F party. No oral evidence was adduced on the side of G party and Exts. G1 to G5 were marked on his side. No oral evidence was adduced on the side of H party and Exts. H1 to H6, H6(a) and H7 to H88 were marked on the side of H party apart from certain confidential reports filed regarding the progress of the investigation in the cases registered in connection with the incident happened on 16th and 17th May, 2009 at Cheriyathura Beemapally area which were not marked but will be referred to in the report wherever it was relied on, if necessary. No evidence was adduced on the side of I party. On the side of Commission CW1 to CW10 were examined and Exts. C1 to C90 and C6(a), C8(a) to C33(a) were marked on the side of the commission apart from summoning the report submitted by the Director General of Police to the

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Government in respect of the incident and also the secret message received from the Central Home Department regarding the policing at Malappuram and Beemapally area and certain reports from the police department which were treated as confidential reports and cannot be made public but reference will be made in the report wherever I have considered those reports and mentioning of the same is required for this purpose without disclosing the entire facts which I felt likely to affect the security of the State or it is likely to instigate communal problem in the locality. Further I had inspected the place of occurrence twice on 21.04.2010 and 27.04.2011 and instructed the village officer to prepare a plan of the place of occurrence as I understood on the basis of the materials collected from the parties for my reference.

Heard both sides and perused the documents and evidence.

The points for reference made for consideration of this commission are as follows:

1) What is the circumstance which lead to the incidents at Cherivathura and adjoining areas

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in Thiruvananthapuram Distirct on 17.05.2009 resulting in police firing and death of six persons and injury to many others and damage to properties?

2) Whether there was any involvement of out side persons precipitating the incident?

3) Whether the firing resorted to the police on 17.05.2009 at Cheriyathura was justified and if not, the person or persons responsible?

4) Such other aspects such are incidental to and arising out of the matter.

5) What are the suggestions that the commission intends to give to avoid such things in future.

Submissions made on the side of the parties

Considering the nature of the incident, I heard the counsel appearing for Commissioner of Police and the police personnels, namely, E1 to E3, F and G parties and thereafter heard the other counsels appearing for B party, C party, F party, G, H and I party and also A1 party and A3 party. A4 party though participated in the commission for some time, after examination of A4W1 party they did not participate in

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the proceedings. Though some of the other parties have entered appearance and some of them participated the proceedings for some time they have not adduced any effective evidence or render any effective support to the commission in conducting the enquiry.

The counsel for E1 party Smt. Celine Wilfred argued elaborately regarding the incident happened on 16.05.2009 and 17.05.2009 and placed the records and the evidence and argued that the police action was inevitable and it is perfectly justifiable. She had relied on Ext. E1(5) and E1(7) voice logs, Exts. E1(2) and E1(3) and Ext. E1(6) video clipping regarding the preparation of mahazar in crime No. 247/2009 of Valiyathura Police Station. She had also relied on Exts. E1(a) the band bust duty made in that place to show that police had made all arrangements there. She had vehemently argued regarding the attitude of the persons in Beemapally area in respect of these two incidents. She had commented the manner in which the A1 party had adduced evidence regarding the incident. According to the learned counsel ,even the

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respected persons like A1W1 Sri. T. Basheer, AW24 Sri. Abdul Azees and A3W4 Sri. Abdul Rasheed, the then Ward Councillor of Beemapally ward were not telling the truth and they did not want to give evidence so as to enable this commission to come to a correct conclusion as to the things which led to the police firing on 17.05.2009. Further, though extensive damage were caused in the incident happened on 16.05.2009 in Cheriyathura area and most of the houses and shops were damaged extensively on the north of the End Road, these witnesses have pretended ignorance about the nature of incidents happened and they wanted to protect their community people who are responsible for the wrong committed on 16.05.2009. Further their evidence also will go to show that they did not even care to enquire into the persons responsible for the incident occurred on 16.05.2009 and bring them before law and make them accused in the criminal cases registered in respect of that incident. On the other hand, they have pretended ignorance about even the loss caused to the houses and shops on the north of End Road on 16.05.2009.

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Further according to them, there was no incident happened on 16.05.2009 as claimed by the parties and entire thing was done by Kombu Shibu and his associates and police wanted to place the responsibility on the innocent Beemapally Muslim community people. Further according to them, there was no incident happened on 17.05.2009 as well to provoke the police to order firing in that area and according to them, police fired without any provocation against the innocent people. They also alleged conspiracy of high police officials in order firing. She had argued that all the police officers in charge of Valiyathura, Cheriyathura Police Stations and even the Assistant Commissioner of Police, Shanghumughom were posted in that area only from February 2009 in connection with parliamentary elections and they have no acquaintance with any of the locality people. Sri. Sherafudeen was working in DCRB at that time and he had also no connection with the Beemapally people and there was no occasion for them to develop any enmity with Beemapally people or to have any affiliation with Cheriyathura people to

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commit such mischief. Further it will be seen from the evidence and the documents produced that there was no possibility of such conspiracy for the police people to join hands with Kombu Shibu and commit such a heneous act as alleged by A parties. Further it will be seen from the evidence that on 16.05.2009 in the evening at 4.30 pm, there was some incident happened between one Nizamudeen and Kombu Shibu regarding parking of the car and in that, Kombu Shibu was beaten by some Muslim people and he left the place and this was informed to the police by a local Cheriyathura woman and on that basis Valiyathura police and Poonthura Circle Inspector had come to the place and since there was no serious incident had brought to their notice, they left the place. Further, it is also gathered from the evidence that at about 6.30 pm, Kombu Shibu and his associates came to the shop of one Peer Muhammad who is conducting a CD shop in Cheriyathura area and demanded some money and that resulted in an altercation and he left the place. But according to A1 party, Kombu Shibu went to Beemapally area and entered the shop of one Peer

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Muhammad who is no more now and conducting a fancy cum food stall by name Cochin stores and had some food and did not pay the amount and when this was demanded, he caused some damage to the shop. But she had relied on the case registered on the basis of the statement given by the said Peer Muhammad of Cochin stores on 10.06.2009 nearly after three weeks of the incident that he had not mentioned anything about the incident happened in his shop in which Kombu Shibu had involved on 16.05.2009. If really, an incident had happened as stated by A1 party on 16.05.2009 involving Kombu Shibu regarding which a complaint was made according to A1W24 by Peer Muhammad to the Jama Ath who in turn informed the same to the police, this would have been mentioned in the complaint filed by the said Peer Muhammad before the police. But that was not done by him. So that clearly shows that this is an afterthought by the witnesses to make Kombu Shibu an instrument for all these mischieves. Further though A1 party had a case that all the mischiefs and damage happened on 17.05.2009 were made by the police officials with the

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help of criminals Kombu Shibu and associates, but in none of the complaints filed by the persons namely Ext. H54 to H80 registered by Poonthura Police on the basis of the statements given by the Beemapally residents regarding the incident happened on 17.05.2009 alleging that all these mischieves have been done by Kombu Shibu and others and in none of these cases, the involvement of the police personnels or the presence of police personnels at the time when this alleged incident happened or any instigation made by the police personnels to the alleged miscreants to commit the crime was mentioned. If really, these things had happened simultaneously with the police firing as alleged by the witnesses examined on the side of A1 and A3 party, then this would have been find a place in these documents which were registered on the basis of the statements given by the alleged affected parties in the riot causing some damage to their properties. But in none of these documents, these things were mentioned. Further there is absolutely no evidence adduced on the side of A1 party or A3 party to prove any motive for the police to fire unnecessarily

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at innocent persons as claimed by them. Absolutely there is no evidence to prove either the conspiracy alleged or motive alleged for connecting the police people and making unnecessarily firing causing death of six persons and injury to several persons as alleged by A1 party witnesses. Further according to one witness that Sherafudeen had ordered firing and he himself had fired at the mob with his revolver. But the stock register and arms and ammunition register produced on the side of E1 party will go to show that no bullet from Sherafudeen's revolver was used for the firing. So that falsifies the evidence of the witnesses examined on the side of A1 party regarding his presence at the place of occurrence.

Further she had also argued that before ascertaining the circumstances which led to the incident on 17.05.2009, we will have to consider the incident happened on 16.05.2009 as well. It is seen from the evidence that up to 8.00 pm on that day,in that area, no incident reported and at about 8.30 pm, a lady had informed the police control room that a group of Muslim people had come to Cheriyathura area and

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causing damage to the houses and shops. Further it will be seen from the video clippings produced and also the evidence of Gireesan B1W3 and B1W6 Celine Jerome that at about 8.30 pm, about 300 Muslims came to Cheriyathura area with weapons in their hands and caused damage to the teashop of B1W3 Gireesan and some of the houses in that area including the house of B1W6 and the shop of one Moni sir and caused extensive damage to some of the motor cycles parked there. This is clear from the video clippings produced on the side of the police party regarding the situations after the incident in that area on 16.5.09. So that will go to show that extensive damage has been caused in Cheriyathura area by Beemapally people which Beemapally people wanted to cover up their people and wanted to pretend ignorance about the involvement of Beemapally residents in that incident. Further on the next day itself, crimes were registered in respect of these incidents on the basis of the statements given by the affected parties and at that time, there was no grudge for the affected persons to falsely implicate any residents of

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Beemapally area. Further this cannot be taken as an afterthought made by the residents of Cheriyathura people to falsely implicate the Beemapally people and justify police action namely police firing happened on 17.05.2009 because these cases were registered before the police firing had taken place. Further it will be seen from the evidence that immediately on getting information regarding the clashes between groups of two community people namely Muslim and Christians, police had made immediate arrangement to bring police force there. She had also reminded the commission of the fact that on 16.05.2009 the counting of votes of election held for parliament was done and results were published in the evening and the entire police force in the city had been deployed for these purpose and in spite of that when it was brought to the notice of the police that some clash between the two communal people was going on in Cheriyathura area, they made all effort to bring maximum force to that area to bring the situation under control. They also brought Varun and Vajra and fire force vehicle to that area to put off the fire caused by the miscreants to

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damage the houses in that area. Further it was also brought out in evidence that when the police reached there, stone pelting was going on and due to the intervention of the police, the situation was brought under control. The people in Cheriyathura area were removed from the road and they were gathered in the church compound only and the entire violent mob of Beemapally was standing on the south of End Road in a restive mood. Further even at the time, when the District Collector and Sri. Rajeevan, the then Additional Director General of Police came there also, the entire violent mob of Beemapally area was standing there. This was admitted by the then Minister Sri. Surendran Pillai as well. Further the attitude of Beemapally people towards police will be seen from the evidence of the then Minister Sri. Surendran Pillai and the Collector Sanjay Kaul. Further it was also brought out in evidence that they did not allow the police officials to participate in the meeting held at Jama Ath at about 11.30 pm on 16.05.2009. The District Collector had admitted that none from Cheriyathura area or from Church at

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Cheriyathura area had participated in that meeting. Further it was also seen from the evidence that there was no direction as such given by the District Collector to arrest Kombu Shibu and his brother Manikuttam immediately. But he had only directed Sri. Rajeevan, the then Additional Director General of Police to enquire into the matter and if the allegations are true, take steps to arrest Kombu Shibu and his associates and also other persons responsible for the mischief. Further it was brought out in evidence that it was thereafter that District Collector, Minister etc went to the church and informed about the decision and they also wanted the miscreants responsible for the mischief have to be booked and dealt with in accordance with law and necessary steps will have to be taken to pay appropriate compensation to the victims who lost the property in the incident and according to the witnesses, due to their effort, the situation was brought under control and both the community leaders have assured that no untoward incident will happen thereafter and believing their assurance, they left the place and even according to

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the witnesses, nothing happened in that area till 2.30 pm. According to the version of A parties, the police firing happened between 2.45 pm and 3.15 pm on 17.05.2009 without any provocation. According to them, the injured persons and the dead persons were either engaged in playing cricket or engaged in their fishing activities or enjoying the sea breeze from the seashore and none had involved in the incident. But according to the police, in the forenoon session between 11.30 am. and 1.30 pm.,Cheriyathura people consists of women and children blocked the vehicles coming to Beemapally area at Cheriyathura junction, mini convent area and Sewage farm area and necessary steps were taken to disperse them and regularise vehicular traffic in order to avoid untoward incident, the vehicles coming to Poonthura through Beemapally area were diverted through Sewage farm road and this was done in consultation with the Beemapally Jama Ath officials as well. But this was denied by them later. Further at about 3.15 pm, some people had started hurling bombs at police from Beemapally area and at about 3.30 pm, a bomb

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explosion happened at Cheriyathura End Road and to see about the same, Sherafudeen had reached that place and by the time, huge mob with deadly weapons encroached into the Cheriyathura area came from south and west of the End Road and they went to the church area to attack the church and due to the timely intervention of Sureshkumar, the then Assistant Commissioner of Police, Shanghumughom, he was able to retreat them towards beach area without causing much damage in that area. Further it was also brought out in evidence that the police personnels at beach area were attacked by the miscreants and their helmet, lathy and shields were forcibly removed from them and so they have no option but to retreat towards the End Road and it was also brought out in evidence that highly explosive substances were used by the Beemapally miscreants and they were throwing such explosives at the police and also causing damage to the houses at Cheriyathura area and also caused mischief by fire to a boat kept there. Though Sureshkumar and party tried to prevent the Christian people encroached into the Beemapally area, some

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people, as a defensive mode, attacked the Beemapally people who were more aggressive and they hit against the head of a person by name Badusha who died later and also caused mischief by fire to the house which is situated very near to the End Road on the south and on account of this, the situation went out of control and in spite of the fact that grenade, tear gas etc were used to disperse the mob, that did not succeed and so Sherafudeen had no option but to order firing which resulted in death of six persons and injuries to some persons and the firing had taken place from 50 metres from the End Road from the beach and there is no evidence to prove that children were playing in that area which is situated about 250 to 300 metres from the End Road and there was no situation prevailing in the locality to oder firing. Further the medical evidence, namely postmortem certificate and chemical examiner's report will go to show that Badusha did not die on account of the bullet injury but due to head injury caused by using some blunt object. The injuries caused to most of the persons will go to show that it could not be bullet injuries and even if those injuries

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were bullet injuries, it was no direct bullet injuries but due to the splinters came out of the bullet which caused the injuries and most of the injured sustained injuries on the front side of the body and not on the back side and that falsifies the case of the A party that police chased them and fired at them. So all these cumulative will go to show that police had taken all precautions before order firing and the incident happened on the End Road and not on the southern side of the End Road as claimed by the A party and if no such firing had taken place, this would have resulted in a communal violence not only in Cheriyathura area but it would have spread through out the State in coastal area and it would have been an uncontrollable one and the results would have been disastrous and it was due to timely intervention of the police that such a thing was prevented and the situation was brought under control.

Further in a grave situation like this, it is not possible for the police to obtain the order of the District Magistrate or the Sub Divisional Magistrate or any Executive Magistrate to order firing and the

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situation has to be analysed by the officer in charge of the law and order duty to assess the situation and exercise discretion in this regard. Then the question is whether he had exercised his discretion properly or he could have avoided firing or dispersed the mob by other methods effectively. In a case of private defence all the required formalities could not have been possible to be complied with strictly and doing substantial things to comply with the procedure before order firing alone will be possible. In this case even the witnesses have stated that tear gas and grenade were used before order firing and it cannot be said that, that was done later so as to justify firing. Further the collector had inspected the place immediately after the incident and he had also noted the presence of exploded and unexploded explosive substances and remnants of the tear gas and other non lethal weapons used before order firing. Further the scalp hair portion of a person found on the sea wall portion exactly on the western side of the End Road and that person could not be identified so far. There is no explanation forth coming from either side to whom this

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body part relates to and who is the owner of that body part as well. So that probabilises the case of the police that person from out side also involved in the riot and that cannot be completely ruled out. Further the preparation of mahazar with the help of scientific experts on the next day showed the presence of explosive substances like neogel 90 which is capable of causing destruction of larger extent if exploded. Fortunately or unfortunately most of the weapons used by the miscreants had not exploded and caused any serious damage either to the person or property and that cannot be taken as a ground to come to the conclusion that such a thing had not happened. It is not possible for the police officers to plant all these things within a short span of time because higher officials including District Collector, Minister, political leaders have reached the place and the place was brought under the control of Central Armed Force on that day itself. So all these things probabilise the case of the police that the situation was so tensed and without using force by firing, mob could not be dispersed and the option of firing was exercised by the

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police officer in good faith. If the commission had taken the contra view and merely because the formalities were not complied with and want of co-operation on the part of the affected parties in giving evidence to locate the miscreants that there is no evidence to prove the gravity of the situation and the police was not justified in order firing, that will affect the morale of the police force which is acting in good faith to disperse the mob involved in communal violence to prevent such violence being spread in the State. Further the commission must also insist the government to take steps to implement the suggestions, if any, given by the commission to avoid such things in future. It is necessary that police force must be given sufficient protection to exercise their duties in a place like this which is sensitive in nature and if any action has been taken by them, that should not be viewed in a light manner and they should not be punished in order to please the political or religious organisations who are deciding the fate of the political parties in the elections. Further a strong police force will have to be deployed to monitor the situation in

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such areas and educate them about the responsibilities of the people in identifying the criminals and taking action against them to save the society from the illegal acts of the miscreants among the community people. Both religious leaders of the community has to take earnest efforts to educate them and bring communal harmony in the real sense between them and temporary measure taken to solve the problem will not be a permanent solution to bring peace in the place like this. So Government will have to take necessary steps in this regard and suggestions will have to be given by the Commission in this regard.

Further as regards the time of occurrence is concerned, the time of occurrence given by the parties in their earlier statement and the time of occurrence mentioned by the injured persons to the doctor either in the Medical College or in the private hospitals will go to show that the incident could not have been happened between 2.30 and 3.15 pm as alleged by the witnesses. Further the statements given by the alleged affected parties from 10.06.2009 to 13.06.2009 on the basis of which several cases were registered by

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Poonthura police also will go to show that all these incidents happened after 3.30 pm and not prior to that. Further the voice log maintained by the control room also will go to show that the situation was so worsened only after 3.30 pm, and it was after 3.42 pm that the firing was ordered. So that will go to show that the firing would have happened only after 3.30 pm and and before 4.00 pm and the people would have misunderstood the user of tear gas, grenade etc as actual firing and which had happened just prior to 3.30 pm. So the time of occurrence could not be before 3.45 pm and there is no necessity for the police to shift the time of occurrence as well. Further as regards the place of occurrence is concerned, there is no evidence to show that there exists a play ground on the seashore to play cricket for the people as claimed by the witnesses examined on the side of A1 party. Further the manner in which the injury sustained by those persons and the nature of evidence given by them also will go to show that they are not telling the truth before the commission. Further the remnants that has been collected by the experts and the

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presence of bullet mark on two coconut trees and one electric post seen on the western side of th End Road all will probabilise and strengthen the case of the police that the place of occurrence was on the western side of the End Road and the surrounding area on the northern and western side and not at a distance of 250 to 300 metres south from the End road as contended by the counsel for A1 and A3 parties. So under the circumstances, it can be safely concluded that there is no shifting of place of occurrence or time of occurrence made by the police to suit their case and justify their action of firing. But on the other hand, the evidence will go to show that the police action is perfectly justifiable.

The counsel for D party argued that they are not supporting the police action in all cases, but the circumstances prevailing in this case will go to show that the police action was justifiable. Large scale explosive substances were used in the incident and the source of explosive substances could not be traced out so far due to the adamant attitude of the Beempally people not allowing the police to do their combing

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operation immediately after the incident. The fact of not allowing the police in participating the conference and pressurising the district administration to heed for their request, all these things will go to show that the Jama Ath people want the administration to go in the manner in which they want and will not allow the officials to exercise the discretion properly as they were doing in other places. Further there are illegal activities going on within the Beemapally area and police are not venturing to book the persons who are involved in such activities. So they formed a self government in themselves and promoting such attitude among the communal people will be dangerous to the existence of secular India and that will have to be prevented. In this case, the evidence and other circumstances will go to show that the police firing for proper and justifiable.

The counsel for E2 and E3 party argued that he is endorsing the arguments of counsel for E1 party regarding the police action and he wants only to project the views of the service organisations and retired persons organisations of the police officers in a

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case like this. Without conducting enquiry and as a pressure tactics to please some communal force due to pressure exerted by some political parties depending on their vote bank, taking action against police official bona fide exercising discretion to disperse the violent mob has to be deprecated and that will only affect the morale of the police force and young police officers will be reluctant to exercise the discretion of using force whenever required and that will only demoralise the police force and help the terrorists activities to increase in the locality and cause harm to the peace and safety of the life and property of the people and this will have to be discouraged. Further in places like this, such things are happening because of lack of education, lack of employment and lack of leadership to bring them in proper way. So Government will have to take permanent steps to provide education to them and provide permanent measures to secure employment and earn good living for their livelihood so that they can be prevented from doing illegal activities to earn their livelihood. The police as well as political and religious leaders should stand together to

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eradicate and isolate the criminals among the community people, so that their involvement in doing criminal activities with the help of other communities people can be prevented. If they are separated and isolated and brought before law, then such illegal activities in that place can be minimised and if that is done, there will not be any scope of any organised force being formed to protect their illegal activities.

Constant awareness programmes will have to be conducted by the religious as well as political leaders so as to bring harmony between these two groups of people and make them live in peace by loving each other. Sincere effort must be made by the political and religious parties for this purpose. Sincere efforts must be made by the government to make police patrolling and effective policing in such areas and educate the people that it is their responsibility to bring the criminals before court of law and punish them and co-operate with the police and other officials engaged for such purpose. As far as possible, colonisation on the basis of religion or politics and forming colonies on that basis has to be avoided. Cosmopolitan colonies

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will have to be promoted and that will promote communal harmony and peace among the people. Effort must be done by the government for that purpose. So he wanted this commission to project these views also for avoiding such things in future in areas like this.

The counsel for the F party argued that he is also endorsing the arguments made by Smt. Celin Wilfred, Advocate appearing for E1 party and argued that the evidence adduced on the side of the police party will go to show that they have taken all precautions and since it was a communal violence happened between two communal forces in order to suppress the same, they have no other option but to use force by firing. Further it was a calculated act done by the miscreants and done with all premeditated precautions. Further the presence of weapon will go to show that they have made all arrangements on the previous day itself and they have done this in a calculated manner. Further the evidence will go to show that some of them are not belonging to that area and way in which they have removed the injured swiftly will go to show that it is a

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calculated attempt on their part. Further the fact that they did not allow the police to enter Beemapally area or participate in the discussions will go to show that they want to see that things will have to move in the way in which they wanted. Further there is no evidence to show that there was any ill motive for the police officers who are posted there in connection with the election to act against Muslim community people in such a harsh manner. There is no conspiracy proved or established. Both the Assistant Commissioner of Police, Shanghumughom Sri. Sureshkumar and Sri.Sherafudeen have acted in good faith and done the maximum to prevent the action and disperse the mob and only when their attempt failed and they thought that if they did not use force, more damage to life and property will be caused and also it will create communal clash not only in that area but also in other areas as well and damage was likely to cause the place of worship of other community, they have no other option but to force used by firing and used firing to disperse the violent mob. Further the presence of explosive substances at the place also will go to show

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the gravity of the situation which the police have to face at th relevant time. So under the circumstances the police action is justifiable.

The counsel for the G party argued that he was posted in Valiyathura Police Station only in February, 2009 in connection with the parliament election and worked there in that capacity till 20.05.2009 and when he came to know about the incident happened in the evening, he along with the police party came there and made sure that there was no serious situation there and disperse the persons available there and went. Thereafter at about 9 pm, he came to know about the incident and immediately he rushed to the spot and prevented further attack in that area in which he sustained injuries. Further in the afternoon, he went to the court of Hon'ble Chief Judicial Magistrate, Thiruvananthapuram with accused seeking for his remand and he will have to be there for some time and thereafter obtained custody of the accused and came back. He sustained severe injuries in the stone pelting and he was removed to hospital and he underwent treatment nearly for two weeks and the Muslim mob

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was violent and caused damage to the properties in Cheriyathura area and he had no knowledge about the incident happened on 17.05.2009 as he was in the hospital.

The counsel for A1 party argued that there is no acceptable evidence adduced on the side of the police to prove the grave situation which led to the police firing. There is no evidence to show that the legal formalities have been complied with before order firing. No sanction was obtained from the Executive Magistrate for order firing. Further the evidence will go to show that though the senior officer Sri. A.V. George, Deputy Commissioner of Police was there in Cheriyathura junction who is the senior most officer there, he had not obtained any sanction from him before order firing. Further the evidence of Sherafudeen, George, Sureshkumar and Pradeep kumar will go to show that there are contradictions in their evidence regarding the time at which it started and it ended etc. Further the evidence of George will go to show that while he was returning from Airport at about 2.45 pm, he had seen hurling of bombs at police

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from a terrus on the southern side of the End Road and he passed on this message through a police constable to be informed to Sherafudeen and according to him that police constable informed and came back. But the evidence of Sherafudeen will go to show otherwise. Further no attempt was made to conduct a search and recover the weapons or bombs from the terrus from where it was alleged to have been hurled at 2.45 pm on 17.05.2009. Further the evidence of recovery of unexploded bombs by Pradeepkumar appears to be fanciful and unbelievable as immediately after the incident, senior police officers and District Collector and others happened to go through that road and it is unbelievable that the presence of unexploded bomb stocked from where Pradeepkumar had seized the same was not seen by such people. Further the recovery of neogel bomb also appears to be unbelievable. Further the fact that the article seized was neogel was not mentioned in the scene mahazar or the report prepared by Somarajan the Balistic expert. The manner in which Somarajan had defused the alleged neogel which he recovered as

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per the mahazar prepared on 18.05.2009 also shows that it is a planted one by the police so as to strengthen their case of involvement of others in the incident. Further it will be seen from the paper reports came after the Hon'ble Central Home Minister's conference held at Kollam on 17.02.2009 that there was wide allegation that police is not venturing to do effective policing in Thiruvananthapuram Beemapally area and Malappuram in Kerala and action plan will have to be formed for making effective policing in those areas and further a fax message was received from Central Home Ministry to the Director General of Police to prepare an action plan to strengthen the policing in Beemapally area and Malappuram and with this in mind, they have with the help of criminals like Kombu Shibu made an attempt to enter Beemapally area and created the situation. Further though according to the police more than 500 people from Christian area and 1000 people from Muslim community involved in the clash, no injury has been caused to any of the Christian members and there is no evidence to show

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that any of them had gone to any hospital for treatment. Further the evidence of Sherafudeen will go to show that even while the firing was going on, he was seeing patrolling of boats in sea on the western side and according to him, it was done by the Christian people to prevent the entry of Muslim people from Vizhinjam to Beemapally area. This shows that Christian people were also organised anticipating some action in this regard. Further no attempt was made to inspect the area of alleged firing claimed by the Beemapally people to find out whether there was any evidence of police firing happened there. Further the nature of evidence will go to show that most of the persons sustained injuries are innocent victims of the firing and there was no involvement of these people and all these people had come to the place of occurrence on hearing the firing sound or they were engaged in fishing activities or playing in the play ground and they were standing at a place which is about 250 to 300 metres from the End road. Further the evidence will go to show that there was no possibility of firing being conducted from the place as

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claimed by the police as there is no place for them to take position before firing. Further none of the police officers have sustained any injuries and after six hours of the police firing, they went to hospital to create some documents to show that they also sustained injuries in the incident. Merely because most of the witnesses examined on the side of the A1 party did not state about the reason for the incident is not a ground to disbelieve their case because in fact they were not even aware of the situation which led to the firing and that shows that they are innocent victims of the incident. Further even on the 16th, lot of Muslim community people sustained injuries which will go to show that the aggressors are the Christian community people and no action has been taken against the persons who caused the mischief on the 16th as well though an assurance was given by the District Collector that Kombu Shibu and others who are responsible for the incident will be arrested immediately. Police had ignored this direction of the District Collector and joined hands with Kombu Shibu and committed the mischief. The evidence of A1 party

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will go to show that Kombu Shibu and his associates were very much present through out the incident even on the 17th and he joined with the police and with their help, he was committing mischief so as to make it as a communal clash. No formalities have been followed The voice log produced by them will go to show that there was no tense situation prevailing there till 3.42 pm. They wanted the presence of Executive Magistrate only after 4.00 pm by the time everything was over. Further the fact that the injured were taken to the hospital between 3.45 and 4.30 pm will go to show that the firing could not have happened at the time alleged by the police but it could have happened only as claimed by the witnesses examined on the side of A1 party. Further the video clippings and mobile clippings produced regarding the incident after 17th firing will go to show that there was no tense situation prevailing in the beach area and there was no unlawful assembly or the presence of the alleged miscreants present at that place. Not even a single person was seen at the time when the flag march was conducted by the District Collector. So all these things falsifies

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the case of the police and strengthen the case of the A1 party that the police firing was unjustifiable and they will have to be prosecuted to avoid such things being happened in that area in future. Further the evidence will go to show that there was no communal disharmony between the people in the locality and they were mingling with each other. So there is no hatredness between them so as to cause any communal clash between them as alleged. Further in the peace conference convened there also, it was revealed that there was no communal disharmony or clash happened and even after the incident, the people of both community are mingling each other without any hatredness. This also will go to show that there was no possibility of any communal clash happening in that area so as to justify police firing as claimed by them.

Counsel for A3 party argued that the action of the police was not proper and it is not justifiable. There is no acceptable evidence adduced on the side of the police to prove that there was any tense situation prevailing in that area to resort police firing by the

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police party. Further section 129 of the Code of Criminal Procedure says that the procedure for dispersal of unlawful assembly by using civil force and section 130 of the Code of Criminal Procedure deals with use of armed force for the dispersal of unlawful assembly and section 131 of the Code of Criminal Procedure deals with power of certain armed force officers to disperse unlawful assembly and a reading of this section will go to show that dispersement of the unlawful assembly by the police by using firing can be resorted as a last method if other methods failed. Further it is also seen from the sections that before order firing, the presence of the executive Magistrate must be obtained for use force by firing and such things were not done in this case. Such a safeguards have been provided under the statute to protect life as right to life is a precious one which cannot be taken away lightly by resorting harsh methods in a negligent manner. Further even police manual also deals with the manner in which the unlawful assembly has to be dispersed. Chapter IV of the Manual deals with the same. Section 239 to 243 of that chapter deals with

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the manner in which the unlawful assembly has to be dispersed. Further it will be seen from those provisions that only if using of tear gas, water canon and lathy charge did not give the necessary result to disperse the violent mob, then only firing can be resorted. Further it will be seen from these sections that even before order firing, sufficient warning must be given directing the unlawful assembly to disperse and it must be made by loud speaker or mega phone and riot flag will have to be exhibited. So it will be seen from the above provisions that the police, before order firing, are expected to follow the procedure provided under the Criminal Procedure Code and also under the police manual strictly. In this case, the evidence will go to show that none of these things were followed by the police officials before resorting to police firing which they ought to have resorted as a last one but in this case it is seen that it was resorted at the first instance itself. So the police firing is illegal. No sanction has been obtained from the Executive Magistrate by the police officer before order firing. The documents produced by the police

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department itself will go to show that though they had a case that the tense situation started in the area after 3.00 pm, they asked for the presence of District Collector or Executive Magistrate only after 4 pm, by the time even as per the police records the firing had started and completed. Further there is nothing to disbelieve the evidence of the witnesses examined on the side of A1 party or A3 party because they are the affected persons and injured persons and they alone can explain the manner in which they sustained injuries and it is for the police party to explain the contra by adducing cogent evidence to prove that these peoples have also participated in the riotous situation and sustained injuries and such evidence is lacking in this case. Further the evidence will go to show that the place of firing was not as stated by the police party but it was about 300 to 400 metres south from the end road and it was fired at persons who were playing cricket and engaged in their fishing activities and persons who were sitting there enjoying the sea breeze. Further time at which the mahazars were prepared by the team of police officials in 8 cases

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registered in connection with the incident happened on 16.5.2009 will go to show that these mahazars were prepared between 2.30 pm and 4.30 pm and if really there was any tense situation prevailing in that area, it will not be possible for them to prepare the mahazars in such a leisurely manner. Further the act of those Investigating Officer preparing the mahazar if taken as their official act, then the presumption under section 114 of the Evidence Act that all official acts have been done in the legal manner, unless the contra is proved, will be attracted. If that be the case, the version of the police that there was tense situation prevailing in that area and the violent Muslim people were hurling bombs at the police persons from the terrus of the building cannot be believed. Further no injury has been caused either to police personnels or any of the Christian persons residing in Cheriyathura area on account of the alleged bomb throwing by the miscreants belonging to Beemapally area. If the version of the police has to be accepted, then it cannot be believed that none had sustained injuries in that area on account of the attack made by the Beemapally

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residents using explosives. Further the manner in which the mahazar in crime No. 249/2009 prepared by Somarajan will go to show that the alleged Neogel 90, a highly explosive substance was not used but it was planted by the police to make it appear that the situation was so dangerous which gives no option for the police except resort firing to disperse the mob. Further evidence will go to show that police, with the active participation of the criminal Kombu Shibu and his associates were responsible for all the mischieves committed. Further it will be seen from the evidence that it is a situation created by the police to make it appear that there was communal clash which resulted in the police firing and it was a calculated act of th police to save their face from the illegal act. Further the antecedent of Sri. Sherafudeen will go to show that he was a person who used to act abruptly without using his discretion properly unmindful of the consequence and he was suspended thrice for committing such negligent acts while discharging his official duty. Further the evidence of Sureshkumar and A.V. George and the evidence of Sherafudeen are

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contradictory to each other. There is nothing in evidence to show as to what prevented A.V. George, the senior most police officer present in that area, to come to beach area to disperse the mob. Though they had a case that there were people coming from southern side in Cheriyathura Junction also which prevented A.V. George from moving towards beach area, there is no evidence forthcoming to prove this fact. Further the evidence adduced on the side of B1 party will go to show that they have not seen the actual firing and they could not have seen the actual firing as well and they are having only hearsay knowledge about what they heard from others. So their evidence is not helpful to prove the situation prevailed in that area which prompted the police to use force by firing. Further the evidence given by one Joy is also not helpful because as per the medical records he had given the cause of injury that he was beaten by lathy by the police and he consumed alcohol. But according to him he was attacked by miscreants came from Beemapally area and that cannot be believed. Further the video clippings produced on the

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side of A1 party will go to show that a young injured person was dragged along the beach area which is situated far away from the end road and he was examined before the commission as A3W2 and his evidence will go to show that he was standing about 300 metres away from the end road at the time when he sustained injuries and he became unconscious and it will not be possible for him to run such a distance from where he was taken to the end road by the police later. So this also will falsifies the case of the police that the place of firing was at the end road. Further the evidence of the ballistic expert namely CW9 Sri. James Philipose, former Director of Forensic Science Laboratory, Thiruvananthapuram and his documents Exts. C75 and 76 produced by him later before the Commission as directed by the commission will go to show the negligent manner in which he had prepared those things in a case like this. Further the presence of bullet mark on the coconut trees and electric post alone is not sufficient to come to the conclusion that the place of firing was at that place and it was subsequently created by the police to suit their case.

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So according to him, none of the evidence adduced on the side of the E1 to E3 party is sufficient to displace or disprove the case established by A1 and A3 party that the firing had taken place not from the place as stated by the police officials and there was no situation prevailing for the police to resort the firing and the formalities have not been properly complied with by the police before resorting the firing to disperse the alleged mob which gathered there and as such the police action was not justifiable and they must be brought before court of law. The commission has also to take note of the fact that police is not free from any allegation nowadays and their allegiance with criminals has been commented by the Hon'ble High Court in several cases. Further in north India, the case of communal clash projected by the police officials were later turned to be a fake encounter attack made by the police to kill the alleged terrorist and the terrorist people identified by the State police were found to be later innocent and some other persons who were in high position in the Military were found to be responsible for such terrorists activities

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and they were brought before court by the investigation conducted by the Special Investigation Team constituted for investigating such incidents. So that also will have to be borne in mind by the commission while appreciating the police action in such cases.

Other counsels have not made much arguments and some of the counsels represented some of the A party have endorsed the arguments of the counsel for A1 and A3 party and submitted that the police action was not justifiable. Counsel for C party endorsed the submissions of E party that the police action is justifiable.

Evaluation of Evidence

It may be mentioned here that though affected parties were shown as A parties and B parties and the police is separately shown as E1 party and the police personnels directly involved in the firing incident were shown as F party and adduced evidence in support of their case, quite unfortunately, no independent agency has come forward to give evidence regarding this aspect. Another strange aspect in this case is that

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none of the media were having any know how of the reason for the incident happened either on 16.05.2009 or 17.05.2009 and all these media people had reached the place either on the 16th or 17th after the incident. Further the police personnels also did not videograph the situation happening during the course of action but all the videograph clippings produced were relating to things happened after the incident on both days. A party is having a stand that there was no situation prevailing either in the end road or in the junction or in the beach area that warranted police firing and according to them, police, without any reason simply fired at a particular community people so as to wreak vengeance against them and they have even gone to the extent of saying that police had joined with criminals like Kombu Shibu and wanted to project this as a communal clash to justify the police firing. Even the time of occurrence, place of occurrence are also disputed by them. None of the witnesses examined on the side of A party have stated anything about things happened at the end road just prior to the firing and they pretended ignorance about the reason for the

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incident happened on 16th and 17th of May, 2009 in that area. They have simply stated that in both the incident, none of the people belonging to the Muslim community had any role to play. Though responsible persons like the then president of the Jama Ath Sri. Abdul Azeez and Beemapally ward councillor Sri. Beemapally Rasheed were examined on the side of A party, they also pretended ignorance about the reasons for the incident happened on 16th and 17 of May, 2009 and they wanted to see that no blame is placed on Muslim community people and they wanted to protect their interest mainly. I am compelled to say that it is not expected of from a people's representative like Sri. Beemapally Rasheed pretending ignorance about the damage caused to the houses of Christian community people in Cheriyathura in connection with the incident happened on 16th and 17th May, 2009 and he did not even care to go and enquire about the reasons with them but on the other hand, he is joining with a particular community people to which he also belongs and wanted to be a saviour of that community people alone. He forgets fact that once he is elected as a

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peoples representative, he must be beyond politics and religion and he will have to think about the welfare of the people who elected him from that constituency. His evidence will go to show that he did not even care to go to Cheriyathura area to enquire about the incident and he pretended ignorance about the gravity of the incident happened on 16th which resulted in the conference held in the Jama Ath on the 16th night. Neither the Jama Ath president Abdul Azeez nor the then ward councillor Sri. Beemapally Rasheed had taken any steps to bring the actual culprits before court of law. Though it was brought out in evidence of the Collector and also the then Minister and local MLA Sri. Surendran Pillai that people belonging to both community had involved in the incident which resulted in the loss of property in Cheriyathura area, the above persons pretended ignorance about the reason for the incident and wanted to deny the involvement their community people and also do not want to accept the heavy loss sustained by the christain community people of Cheriathura.Further the witness examined on the side of A1 party Mr. P.A. Pouran, Advocate

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(A1W28) who is a member of social organisation conducted an enquiry in respect of this incident along with other members of his organisation and submitted Ext. A1(5) enquiry report of Peoples Union for Civil Liberties, Kerala State Branch Freedom Road Kaloor, Kochi also stated that there was involvement of both parties in the incident happened on 17.05.2009 which resulted in the police firing but he cannot say who is the aggressor because according to him, none of them were wholeheartedly co-operating with the investigation done by them. There is no change of attitude from the witnesses from this before the commission as well. Further I have called for a report from the Investigating Officer Sri. Shanavas, Deputy Superintendent of Police, C.B.C.I.D. who is representing the H party and he is also of the same view that unless both parties co-operate with the investigation in identifying the persons responsible for the incident, it will not be possible for the Investigating Officer to find out those persons independently. The theory put forward by A1 party or A3 party or other constituents of A party that police

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created a fake encounter in the guise of entering into the Beemapally area to make the policing effective on the basis of the circular given by the Central Home Ministry and without the involvement of Muslim community people and without any provocation as a joyful manner, police had fired at innocent people joined with the criminals like Kombu Shibu also cannot be believed. It is true that in some cases, it was brought out that though the incident was projected as terrorist activity and killing happened due to encounter with such persons involved in terrorist activities, later it is found to be not so and it is a fake encounter created by the police to kill that particular person having allegiance with terrorists group or suspected to have in connection with them and there are remarks made about criminalisation in police department as well, that cannot be taken as a generalised one and view the actions of the police in that manner. If such an attitude has been taken, it will be very difficult for the police personnels who are discharging their duties lawfully and in good faith to discharge their duty in effective manner. None of the

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witnesses examined before the commission also want to identify the real culprits before the commission as well so as to enable the commission to analyse the situation which led to the police firing. In all the previous enquiry commissions, it will be seen that both will have a concrete case regarding the incident and the only question to be considered by the commission was whether the police action was justifiable or not. But in this case each and everything was disputed by the parties and they are also not giving evidence in a truthful manner so as to enable this commission to analyse the real situation as well and find out the truth regarding the situation or circumstance which led to the unfortunate police firing which resulted in the death of persons and causing injury to several persons. So with this senario in mind, the commission will have to analyse the evidence available on record and find out the truth behind the incident on the basis of the circumstances and inference that can be drawn from the circumstances brought out in the evidence to give its finding regarding the incident on the basis of the reference made by the Government. Commission also

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must borne in mind of the fact that whatever finding that is going to be given by the commission will have an impact on the society and that may even affect some of the persons if they were found to be responsible for or not responsible for the incident. Further, though commission after their findings used to give some suggestions for the government to implement to avoid such things in future, it is not being seriously taken and taken steps to implement the same. With the hope that it will not happen in this matter, I am also thinking of giving some suggestions for the government's consideration for implementation to avoid such things in future and to bring communal harmony in the locality whatever be the ultimate findings that will be given in answer to the reference made with the hope that government will consider the same favourably and sincere effort will be taken to implement the same. With the above things in mind, the evidence has been analysed by the commission and the following findings are given. For the purpose of giving the finding the point to be decided are divided as follows:

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1) The circumstances which led to the firing.

2) Place of firing.

3) Time of firing.

4) Whether the police action is justifiable?

5) If not, who is responsible for the firing?

6) Whether external agency had any involvement in the matter?

7) Other incidental matter that has to be considered by the commission.

8) Suggestions, if any, for the commission to be given to the Government for implementation to avoid such things in future.

Before going to the findings and discussions on facts, I feel that it is better to discuss the evidence in detail adduced on the side of the parties.

A1W1 Sri. T. Basheer is not an eye witness to the incident. But he was the then Beemapally Muslim Jama Ath General Secretary and he was the Director of Kerala State Housing Federation during 2001-2006 and President of Beemapally Co-operative Society. He had only hearsay knowledge about the incident that happened on 16th and 17th May 2009. According to

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him, on his enquiry, it was revealed that the incident occurred due to the involvement of Kombu Shibu and his associates and the police had not arrested him as directed by the District Administrator, the District Collector as a decision taken in the meeting held on 16.05.2009 at night from Jama Ath office. Further he had pretended ignorance about the damages caused to the houses on the north of Cheriyathura boundary road in the incident happened on 16.05.2009 though he was conscious about the knowledge regarding damage caused to a country boat and net belonging to one Aboobaker of Beemapally area which was stationed on the north western side of Cheriyathura church and also some damage caused to the shops on the south of End Road. He had also pretended ignorance about the damage caused to the houses of Christian people of Cheriyathura area and shop of Moni and Gireesan. According to him, the incident started in continuation of an incident happened on 16.05.2009 at 4.30 pm involving Kombu Shibu who came to a shop at Beemapally and caused trouble when the shop owner demanded money for the article purchased by him and

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according to him, one of the injured Firoskhan in the incident who sustained injuries and died later on account of the injuries while he was playing cricket at a place which is 500 metres away from the End Road was dragged by the police along the beach and hit on his body with the bud of the rifle and most of the people sustained injuries and died are persons who went there on hearing the police firing. Though he claims to be the secretary of Muslim Jama Ath, it appears that he did not go to the place and made any enquiry regarding the same. He was not even present at the time when the inquest was conducted on the deceased persons. Though he claims to an active worker of a national party, he did not make any enquiry regarding the incident happened to come to a just conclusion regarding the reason for the incident. He had also pretended ignorance about the setting fire to the vehicles in the incident happened on 16th May 2009 in that area. He had further stated that he did not know any incident happened between Nizamudeen and Kombu Shibu on 16.05.2009 at 3.00 pm in front of the shop of one Peer Muhammad in Cheriyathura area.

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He had even pretended ignorance about the identity of the said Nizamudeen who had left the place on the 18th morning itself after the incident to Gulf countries and his whereabouts are not known even now to the Investigating Officer as well who is conducting investigation in respect of this incident. He had also admitted that all the police officers who were posted in that area were new to that area and they were posted in connection with the parliamentary election held during February, 2009. He had also pretended ignorance about the Poonthura incident happened in that area in 1992 which was enquired into by Sri. Aravindaksha Menon, a Retired District Judge. He had pretended ignorance about the cases registered in respect of the incident happened on the night of 16.05.2009. He had pretended ignorance about the shop of Peer Muhammad which is situated near the End Road on the north in Cheriyathura area. According to him, at the time when he attended the meeting of Collector, Sub Divisional Magistrate and the then MLA Sri. Surendran Pillai held in the office of Jama Ath, he came to know that except the damage

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caused to the boat and net belonging to one Aboobaker, no other damage has been caused to any of the properties of any persons belonging to both community and none had made any complaint regarding the same but it was against fact. He denied regarding the fact of sale of pirated C.Ds. in the shops in Beemapally area and he had also pretended ignorance about any incident happened preventing the then Inspector General of Police, Sri.Tomin Thachankary who was in charge of this prevention of pirated CDs and later he was compelled to admit that there was some incident happened and they have done it without knowing the identity of the person. He had also stated that he was not present at the time when police prepared the mahazars in respect of the place of occurrence. According to him, Badusha died on account of the bullet injuries and also on account of hit on his head with the bud of rifle by the police. He had also admitted that there was no occasion for any enmity causing against the Muslim people of Beemapally for the police officials who were posted at that place on those days. He had also admitted that he

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did not see the video clipping showing the dragging of the body of Firoskhan by the police and he had also not seen the above incident. So it is clear from this he is only giving evidence on the basis of things collected by him without making proper enquiry regarding the genuineness of the same. According to him, there was no mob collected in front of Jama Ath at the time when the meeting conducted in the Jama Ath office on the night of 16.05.2009 involving the District Collector, Sub Divisional Magistrate and the then MLA Sri. Surendran Pillai. According to him,the police officers also participated in the meeting. He had also admitted that no complaint was filed by any of the persons against Kombu Shibu and others in respect of the incident happened on 16.05.2009. So his evidence is not helpful to come to any conclusion as who was responsible for the incident and as to how the incident happened etc as he is giving evidence without any direct knowledge about the incident.

A1W2 Sri.Nizamudheen S/o. Mahinkannu is an eye witness to the incident but not an injured. According to him, he is residing near Beemapally Jama

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Ath office and on 17.05.2009 at about 3.00 pm, while he was sitting in the house after taking food, he heard huge noise and tumult and also firing sound and immediately he went to beach side and at that time, he saw police people marching from boundary road towards Beemapally on the western side and at that time, he saw Hukkim who was running ahead of him falling down and saw people taking Badusha who sustained injuries in the firing with bleeding injuries on his body and it is on the basis of his information that channel people had reached that place. According to him, there was no situation prevailing in the beach area for the police to fire and prior to the firing, he saw Kombu Shibu and his associates causing damage to the fishing implements and also caused damage to the houses by setting fire to the same. In the cross-examination, he had admitted that he did not see Hukkim falling down by sustaining injury at firing. He had also stated that some people were coming behind the police at that time and he had only seen people taking Hukkim who sustained injury. So this is against the statement given by him in the proof

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affidavit that he had seen Hukkim falling down due to firing injury and he was running ahead of him. He had only hearsay knowledge about the incident happened on 16th May, 2009 and he had only hearsay knowledge that it was Kombu Shibu and others who had caused damage to the boats and fishing implements and he had no personal acquaintance with Kombu Shibu as well. According to him, the place from where he heard the firing sound was around 250 to 300 metres from the place from where the firing had actually taken place and according to him, the road known as Beach Road is situated about 400 metres south from the boundary road and he could not go near the place from where the firing was going on due to the presence of police. According to him, he went to the beach half an hour prior to the incident and at that time children were playing cricket in the beach area. He had also stated that he did not know the persons present at that time. He had also stated that he was present when the channel people came and took photographs and video clippings. He had admitted that he did not state in the affidavit that he went to seashore half an hour prior to

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the incident and at that time saw the children playing cricket. He had further stated that at the time when he accompanied the persons when Hon'ble Chief Minister visited the place that the people gathered there were showing Chief Minister that damage has been caused to the Christian church and that was caused on account of throwing of bombs at the Christian Church. He had pretended ignorance about the damage caused to the Christian houses in that area and according to him, none had told him about such incident. He had also stated that he cannot say as to what happened after he returned from the beach area and before going to the place on hearing the firing sound at the End Road. He had also pretended ignorance about the damage caused to the houses and shops in Cheriyathura area in the incident happened on the 16th. He had also pretended ignorance about the Collector coming to the place and discussing about the incident in Beemapally Jama Ath. According to him, he came to seashore at 12.30 pm on 17.05.2009 and went to his wife's house at about 3.00 pm and it was thereafter that he heard the firing sound. He had

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also stated that he did not hear the firing sound between 3.00 pm and 3.20 pm on 17.05.2009 and it was only after 3.20 pm, he heard the firing sound and also the huge crying noise of ladies and children. He had further stated that he did not know as to whether tear gas was used in the End Road after 3.00 pm. According to him, he came to know from others that after the firing, one house was set fire and damage was caused to a house by pelting stone and a shop was gutted to fire. But his evidence was contradictory to the evidence given by other persons. According to him, he did not know the names of the children who were playing cricket there and he had seen one Abdul Rahim S/o, Alavudeen and Noushad there. Noushad was a taxi driver and Abdul Rahim was working in Royal Hotel. So his evidence is also not helpful to prove as to how the incident had started and he is also trying to give evidence only to help one section of people and he is pretending ignorance about the damage caused to the houses of the people belonging to other community in the same incident.

A1W3 Sri. Halaludeen @ Alavudeen is an eye

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witness to the incident but he was not an injured. According to him, on 17.05.2009 at about 3.00 pm, while he was taking rest in the house after taking food, he heard big sound in the beach area and immediately he went to beach area and saw the police people firing at the innocent children who were playing cricket and persons involved in their fishing activities. He had also stated in the proof affidavit that at the time when he went there, he saw people running from north to south along the beach area chased by the police and firing at them and at that time, he saw Khani Haji who died in the incident pacifying the people coming there and at that time, a police personnel fired at him and he saw Khani Haji falling down due to that and Khani Haji had fallen down at a place which is situated about 400 metres south from the End Road. According to him, the police fired at persons without any provocation. According to him, more than 100 police personnels were there at that time and some of them were holding rifle. According to him, Kombu Shibu and his associates had set fire to his fishing boat and other fishing implements and pushed that into the sea with

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the help of police and it was done at about 3.30 pm on 17.05.2009 and he had seen that incident. He had further stated that he did not see the police firing in the area or using tear gas prior to the firing. According to him, when he reached the place when he had seen Khani Haji asking police not to fire by raising his two hands. It was at that time that he sustained injury to his eye in the police firing and falling down and he had taken Khani Haji to the main road but he did not accompany him to the hospital. He had further stated that he had only hearsay knowledge about the incident happened on 16.05.2009 involving Kombu Shibu. According to him, he had gone to the Beemapally Jama Ath area when he came to know that District Collector, MLA and other officials had come there. He had also pretended ignorance about the damage caused to the house and shops belonging to Christian people and other in Cheriyathura area in the incident either happened on the 16th or 17th May, 2009. He had also stated that he had filed application for compensation for loss of his boat and net but compensation was not paid to him and they told that

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they will pay compensation to him only after conducting proper enquiry. He had also stated that when he reached the place on hearing the firing sound, he did not see children playing cricket in that area and people running here and there. He had further stated that Khani Haji would have sustained injuries due to user of grenade. He had further stated that he did not give any statement either to the police or to any investigating agency. He had admitted that on the basis of his statement given by him to Poonthura police in respect of damage caused to his boat, Poonthura police had registered a case as crime No. 212/2009 and Ext. C4 is the first information statement given by him and Ext. C5 is the copy of the first information report registered on that basis and in Ext. C4, he had not mentioned about the witnessing of the incident of Khani Haji asking the police not to fire and he falling down due to the bullet injury and in Ext. C4, he had stated that on 17.05.2009 at about 3.30 pm, while he was sleeping in the house, his wife woke him up and told about hearing of firing sound and crying of noise of the people from Beach area. But he

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denied having stated so and according to him, it was about 2.30 pm that his wife had told about the same. He had also stated that he was not present at the time when the mahazar was prepared at the place of occurrence. He had also admitted that he did not enquire about the reason for the firing. He had admitted that out of six persons died in the incident, three of them were his relatives. He had denied having stated in Ext. C4 that he did not go to sea for fishing on 17.05.2009 as on 16th night the boat and fishing net of Aboobaker which was kept on the northern side of Cheriyathura church was set fire by Kombu Shibu and his associates Valiyarajan, Francis and Albert. According to him,when the police prepared mahazar in respect of the case registered as per Ext. C5, he was also present and he had shown the remnants of the damaged boat. But it was not seen mentioned in the mahazar. It is highly unbelievable that the remnants of the damaged boat will be available in that place for more than one month as Ext. C5 was registered after one month of the incident. It is clear from his evidence that when no compensation

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was paid to this witness for the alleged loss of his boat in the incident, with a view to create evidence for claiming compensation for the alleged loss he had got registered a case stating that his boat also sustained damage and in order to strengthen his case that he is now giving evidence claiming to be an eye witness to the incident. He had also stated that there was some incident happened between Kombu Shibu and Nizamudheen on the 16th of May, 2009 evening and that Nizamudheen is residing at Beemapally area and he did not know his father's name or address. He had also stated that he had not seen any person falling down before he saw Khani Haji falling down due to the bullet injury. So his evidence also will go to show that he is not telling the truth and he is giving contradictory evidence regarding what he has stated in Ext. C4 the first information statement given by him in respect of the alleged damage caused to his boat and that too after nearly one month of the incident namely 13.06.2009 and according to him he came to know about the firing and tumult happening in that area only on 17.05.2009 at about 3.30 pm when his

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wife woke him up and told about the same and he had not seen anybody setting fire to his boat as deposed by him before the commission but he had only seen, as per Ext. C4, his boat was at flames when he came there and according to him Kombu Shibu and his associates Valiya Rajan, Francis and Albert and other identifiable seven persons were engaged in pushing the boat that was at flames into the sea and he had not mentioned anything about witnessing the police firing at any person and seeing the incident in which Khani Haji sustained injuries in Ext. C4. If really he was an eye witness to that incident, he would have mentioned about the same in Ext. C4 which was given by him on 13.06.2009 nearly after one month of the incident. So it is clear from this that there is no possibility for this witness seeing the incident as claimed by him and Exts. C4 and C5 were created by him with a view to claim compensation for the alleged loss of his boat and he had also admitted that he had no documents with him to prove that he is the owner of the fishing boat at that time. So it is not safe to rely on the evidence of this witness to prove the incident.

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A1W4 Sri. Hyderali, **A1W14** Aslum, **A1W15** Salmankhan, **A1W19** Mussamil and **A1W21** Faisalkhan are persons claiming to be injured in the incident on 17.05.2009 in the police firing while they were playing cricket in the ground prepared by them in the seashore on the western side of the sea wall situated about 300 to 400 metres away from the end road. According to them, while they were playing cricket they saw some persons running from north to south chased by police by firing at them and at that time they also sustained bullet injuries.

According to **A1W4** Sri.Hyderali, he was playing cricket at a distance of 250 metres south from the end road and while he was playing cricket, he saw around 50 persons running from north to south chased by the police by firing at them and he sustained injuries on his right elbow. According to him, there was no occasion prevailing in the area for the police to order firing. In the proof affidavit, his case was that they were playing cricket at a distance of 250 metres from the end road. But in the cross-examination of A4 party, he had stated that they were playing cricket at a

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distance of 500 metres south from the end road and at that time, he sustained injuries. According to him prior to the bullet injury sustained by him, he did not hear any sound from the end road and it was the sound of police firing and some persons making cry that he heard before he sustained injury and he had also stated that he had seen persons running from about 300 metres from the place where they were playing and all of them belong to muslim community. He had stated that their team captain was Aslum (A1W14). According to them, they prepared pitch there by using clay for the purpose of playing cricket. In the proof affidavit, he had not mentioned about the time at which he sustained injury. But when he was cross-examined, he had stated that when they started the game in the afternoon, it was about 2.00 pm and first game was over and when they were playing second game, he sustained injury. He had also stated that he did not know any incident happened in the boundary road on the evening of the 16th and he did not know whether police was there in the Cheriyathura junction and he did not enquire as to why police pickeling was

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made in that area. He had also stated that he did not know the names of other persons who played cricket along with them and he did not know the address of their captain Asulm. He denied the suggestion that he also participated in the riot and sustained injuries. He had also stated that he did not see any house gutted to fire either on the Cheriyathura end road area or on the southern side of the end road in Beemapally area. He had also stated that he did not know whether Firos, Salmankhan, Aslum, Abdul Rassaque who were also playing there sustained injuries at that time but he came to know about their sustaining injury in the incident only later. He had also stated that he did not know whether police has got any grudge against Beemapally people. He had also stated that there were three or four teams participated in the tournament conducted on that day and he did not know the captains of other teams and he did not know the other persons who played cricket in those teams though they were all from Beemapally area. According to him, the persons who were playing were standing not only in the sand area of the beach but also on the

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road situated on the eastern side of the sea wall. According to him, he was fielding at that time by stretching his hand forward and it was at that time he sustained injuries.

Ext. C22(a) is the wound certificate relating to this witness. He reached the hospital on 17.05.2009 at 6.00 pm. According to him, the incident occurred between 2.30 and 2.35 pm. There is no explanation forthcoming for the delay in reaching the hospital. Further the alleged cause of injury was given as alleged police firing at a mob at Beemapally at 4.00 pm on 17.05.2009. He sustained (1) Lacerated wound 0.5x0.5 cm anterior aspect of right elbow; (2) Lacerated wound 0.5x0.5 cm posterior aspect of right elbow. It cannot be said to be an entry and exit wound. Ext. C22 is the case sheet relating to this witness maintained in the Medical College Hospital. X-ray showed that foreign body cannot be ruled out and there was no bony injuries. The cause of injury noted in the case sheet was that he sustained injuries in the police firing at around 3.00 pm on that day. No foreign particles were recovered from his body. It was a

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penetrated injury right elbow. Since the size of the wound on the anterior and posterior aspect of right hand shows that it could not be an entry and exit wound caused on account of bullet injury especially when no foreign particles were seen in the wound.

According to **A1W14 sri.**Aslum, he was working as a photographer in Safa studio in Beemapally area and on 17.05.2009, it was a holiday and he was playing cricket from 12 noon onwards on that day and thereafter he came home, had his food and then went back to beach again to play cricket from 2.00 pm onwards. While he was playing cricket, he saw some persons running from north to south chased by police people and firing at them and at that time, he also sustained injury on his right wrist portion. According to him, he later came to understand that Firos who was also playing with them died and Hyderali, Salmankhan, Abdul Rassaque, Faisal, Shaffeeque, Mussamil sustained injuries in the incident and according to him, there was no prior announcement made before firing and while they were playing, there were some persons engaged in fishing work and doing

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repair work of the net etc from the beach area. According to him, they came back at 2.00 pm for restarting the game and they played about half an hour and at that time, he sustained injuries. The Batsman was playing from south facing north and he was standing on the eastern side facing west. He had stated that he did not remember the name of the person who kept the wicket for their team on that day though he claims to be the captain of the team. He had also stated that he did not know as to how the other injured persons namely Firose, Hyderali, Salmankhan, Abdul Rassaque, Faisal, Shafeeque and Mussamil sustained injury. Though according to him,they were also playing the game with him, he did not know as to where they were standing at that time. According to him, the place from where they were playing is situated about 400 to 450 metres south from the end road. He had also stated that though he went to Beemapally for worship on the evening of 16th and morning of 17th, he did not come to know about any incident happened on the Cheriyathura junction causing damage to the houses on the previous day. He

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had further stated that when he enquired about the same, it was revealed that all these damage were caused by Kombu Shibu and his associates. According to him, he enquired with one lady by name Nadeera and he did not know her address. He had also stated that he did not hear any sound or commotion happening at the end road. According to him, 20 to 25 policemen were firing at the mob and policemen were standing about 100 metres from the place from where they were playing. He denied the suggestion that there was no possibility of any children playing cricket as claimed by him on account of the incident happened on 16.05.2009 evening at Cheriyathura junction. It was admitted by him that his father is working abroad and he used to send money through his uncle known as "Bank Ali". He had further stated that he went to Calicut for religious studies and thereafter he came back. He was there in Calicut for that purpose for three years. He had also admitted that even in Beemapally area persons belonging to EK and AP group persons are there. But he did not know whether there are any other communal group working

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in Beemapally area.

Ext. C29(a) is the wound certificate relating to him and according to the wound certificate, he came to hospital on 18.05.2009 at 6.20 am but the progress note and doctor's noting which is part of Ext. C29 case sheet records of this witness shows that he was seen by the doctor on 17.05.2009 itself. He sustained suspected bullet injury on the dorsum of right hand with fracture radius and multiple tendon injury. The wound certificate shows that he sustained compound fracture lower end of radius with tendon injury right. The discharge summary shows that he sustained blast injury right wrist. Multiple extensor tendon cut right wrist compound fracture distal end of radius type III B(right). Thorough wound debridment and foreign body removal done under auxiliary block of 17.05.2009. Cause of Injury was noted as due blast of grenade on police action at Beemapally around 3.30 pm. This was stated as the case history noted in Ext. C29 case sheet and this could have been given either by the injured or by his relatives. So the time of injury was shown as 3.30 pm and injury was not noted as a

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bullet injury but sustained due to grenade blast on police action at Beemapally. So it cannot be said that he sustained bullet injury on account of the firing and it cannot be treated as a direct bullet injury and it cannot be stated that police had not used other method before using firing to disperse the mob and grenade was used earlier before police firing action. Further the manner in which he sustained injury also will go to show that he could not have sustained injuries as stated by him at the time when he was playing cricket from a distance of 400 to 450 metres south from the end road.

A1W15 Sri.Salmankhan is also another person who was playing cricket on that day along with A1W4, A1W14, A1W19 and A1W21. According to him, on 17.05.2009, he was playing cricket in the ground in the beach area on the western side of Beemapally and while so, he happened to hear firing sound from north and immediately saw his fellow playmate Firose falling down due to hit by bullet. When he turned towards north, he saw police people coming from north to south by firing at persons who were running

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from north to south. At that time, suddenly some object hit on his front left leg above knee and it pierced his leg and went out side. Though he closed the wound and tried to walk for some distance, he lost his consciousness and fell down and he regained his consciousness from Medical College Hospital. According to him, while he was playing cricket there were persons engaged in fishing activities and loading fishing net in the fishing boat and on the northern side beneath the coconut trees, old people were enjoying the sea breeze and there was no situation prevailing in that area for police people to fire and persons who were injured in the incident were all persons engaged in playing cricket or engaged in their fishing activities and those who are enjoying the sea breeze in the seashore. He had also stated that he came to understand from hospital that apart from himself, Hyderali, Aslum, Rehman, Rassaque, Ameer and Mussamil who were playing with them also sustained injuries in the incident. He had further stated that he did not know as to whether his brother Ishaque filed any application or affidavit before this commission. He

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had pretended ignorance about damage caused to the houses and shops in Cheriyathura area on the 16th evening. He had further stated that he had gone to Beempally mosque on the evening of 16.05.2009 and morning of 17.05.2009 and even at that time, he did not understand the things happened in the Cheriyathura area on the 16th evening. According to him, he was fielding at that time and all the persons who were playing belong to Beemapally area and their captain's name was Nissam and he also belong to Beempally area and he was standing behind the bat's man about 20 feet behind the wicket keeper. According to him, he went to beach at 12 noon on 17.05.2009 and he came back home at 1 o' clock and went to beach again for playing at 2 o' clock. According to him, Firose was fielding by standing on his right side facing east and standing on the beach side. When he saw Firose falling down, he had also sustained injuries. He did not know as to who had taken Firose from there. He had further stated that he did not give any statement regarding the incident before any authorities and he did not know whether

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crime branch was investigating the matter. He had denied his signature in Ext. CH4, the attested copy of the postal acknowledgement sent by crime branch for asking him to come and give evidence. But he denied his signature in ext. CH4 but he admitted that the address mentioned therein is his address. He had denied the suggestion that he was questioned by crime branch officials but he is now denying the same before the commission. He had stated that he did not know what happened at the end road before police ordered firing. He did not mention the time at which he sustained injuries. He had also stated that he did not hear any sound of blasting of bombs at the end road and he did not see any house gutted to fire at the end road. But the evidence of other persons who claimed to have played cricket and fielding at that time had stated that their team captain was Aslum A1W14 and not Nissam as claimed by him. According to him, the distance between beach road and the place where they were playing will be about 15 to 25 metres and from the end road, it will be around 250 to 300 metres. Though he claimed to be in the Beemapally between

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8.15 and 8.45 pm on 16th evening, he had pretended ignorance about the things happened at the end road at that time. He had further stated that he did not see any one asking the police not to fire and sustained injuries in the police firing prior to he sustained injuries in the incident.

Ext. C25(a) is the wound certificate of this witness issued from Medical College Hospital and it is seen from the wound certificate that he was seen at the casualty on 18.05.2009 at 6.05 am with compound fracture of right femur with history of mass casualty at Beemapally. But his case sheet Ext. C25 shows that he was seen in the hospital on 17.05.2009 and he was conscious and oriented at the time of examination. The case sheet shows that he had a wound .5x.4x.5 cm on the outer aspect of right thigh and another wound measuring .5x.5x.3 cm on the lateral aspect of thigh. Since both these injuries are having the similar measurement, it cannot be said to be entry and exit wound as normally the exit wound will be larger than the entry wound. Both injuries were penetrated injuries. No foreign body was recovered from the

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wound. So he is very clever in deposing before the commission that his evidence should not cause any injury to any of the Beemapally people or to make it appear that Beemapally people had involved in the incident. Further it is very difficult to believe that he would have sustained injuries as stated by him if really he was playing cricket at a distance and the position claimed by him.

A1W19 Sri.Mussamil is another person who alleged to have sustained injuries while he was playing cricket along with the above mentioned persons. According to his proof affidavit, on 17.05.2009, Sunday, at about 2.00 pm, he along with friends were playing cricket in the play ground in the beach area on the western side of Beemapally and he was engaged in fielding as his team was doing fielding at that time and at about 2.45 pm, he heard firing sound from north and when he look at northern side, he saw some people running towards south from north and police were chasing them and firing at them. He suddenly ran towards south and reached the southern side of the beach road which is situated about 300 to 400

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metres south from the end road and at that time, some object hit on his right leg back and it pierced through the front side and he fell down and he lost his consciousness. He regained his conscious from Medical College Hospital and doctor told him that metal pieces were found and they were removed from his leg and there are some pieces still inside. According to him, there was no reason for the police to fire at that time. Apart from them,some people were pulling the fishing net from the sea and some were engaged in loading the fishing net in their boats and some of them were engaged in stitching the net. According to him, some people were sitting beneath coconut trees near the end road. According to him, apart from these people, none were there in the beach area at that time. His house is situated in the second lane from the end road towards south and the place from where they were playing is situated 300 metres south from his house. According to him, his house is situated about 100 metres south from the end road. According to him, if anything happened in the end road, they can hear the same but on the 16th evening,

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though he was in the house, he did not hear the sound of causing damage to the houses of Christians in the end road. He came to know about these things from the hospital. According to him, he went to beach as invited by A1W14 Aslam, their team captain and he reached the beach area at 12 noon and at that time, the play has not started. According to him, about 1 o' clock, their play was over and they came back home and after taking food, they came to beach area at 2.00 pm. Though he had seen police standing in the end road, he did not enquire as to why police had come there and he thought that police came there in connection with election. According to him, he was fielding facing the batsman who was facing towards north and the name of the batsman was Nissam and he did not know his address. One Aneesh was doing wicket keeping for their team. When he turned back, he saw some people running from north to south chased by the police and though he did not know the persons who were running at that time but he can only say that they belong to Beemapally area and they are fishermen of that locality. According to him also,there

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was no incident happened in the end road area for the police to order firing and he did not know what happened at the end road area before the police fired. He had also pretended ignorance about things happened at the end road on the previous day and the damage caused to the houses and shops at the end road area and according to him, the entire episode happened between 2.30 and 2.45 pm on 17.05.2009. It was not mentioned in the proof affidavit that after 1 o' clock, he came back home and again went to beach for playing after 2.00 pm and he was saying so for the first time before the commission during cross-examination. According to him, fishing boats were parked on the northern side from the place where they were playing at that time. According to him, even before he sustained injuries, some people had sustained injuries in the firing and fell down and he did not know who those persons were. According to him, Firose was fielding from his back side facing towards east. He had further stated that when he came back from hospital, his mother told about the incident happened on 16th and some Muslim had sustained

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injuries in the 16th incident.

Ext. C19(a) is the wound certificate of this witness. He was seen in the casualty on 17.05.2009 but the time of examination was not mentioned. He had a penetrating wound right thigh 2x0.5x without mentioning the depth exit anterior and entry wound 0.5 x 0.5 cm on the posterior aspect. He was admitted in the hospital on 17.05.2009 at 7.45 pm and he had seen in the casualty at 4.40 pm. So he is the first person who reached the hospital after the incident. If really the incident happened between 2.15 and 2.45 pm as claimed by them, it is not known how it was delayed up to 4.45 pm. for him to reach the hospital. The X-ray showed tiny pellets inside and it was noted that it does not require exploration and it will not produce any problem. There was no bony injury caused to him. So the fact that he sustained bullet injury is proved by this document and it was not a direct bullet injury but only metal splinters of the bullet had entered the body.

A1W21 Sri.Faizalkhan,is also another person who was playing cricket on that day and sustained

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injuries in the incident. According to him, on 17.05.2009, he was playing cricket in the beach area along with his friends and at that time, he heard firing sound from the north and when he looked at that side, he saw some people running from north to south chased by the police firing at them. Suddenly, he sustained bullet injuries on his left shoulder and stomach and he sustained injuries due to hitting of splinters of the bullet. He fell down unconscious and he regained consciousness from Medical College Hospital. According to him, there was no situation prevailing in the beach area for police to fire and there were only persons engaged in fishing activities including pulling of fishing nets from the sea and loading the fishing net in the boat after their work and stitching the fishing net and some people were standing beneath the coconut trees on the northern side and enjoying the sea breeze at that time and except those people, none were there in that area at that time. He had except stating that the persons playing with them belong to Beemapally area, he did not know the names of those persons and their

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addresses. He went to beach area for playing cricket as requested by their captain Aslum A1W14. According to him, he went to beach area at 12 noon on that day and before that, he had no occasion to see any of his team mates. According to him, his house is situated about 500 metres south from Beemapally junction and he did not go to either Beemapally area or end road either on the 16th or 17th. According to him, his team name is 'Eleven Players'. According to him, Thasmeer and Hashim, though they were in the team, but did not play at that time and they were standing on the sea wall on the side of the road and they did not sustain any injuries in the incident. According to him, at about 12 noon, the play started and it went up to 1.00 pm and thereafter, they went home for taking food and he came back at 1.50 pm to the beach area again. According to him, from the junction of the beach road joining the road parallel to the beach, one cannot see what was happening in the end road. He was showing his back to the sea and fielding from the left side on long on position. According to him, one Shajahan was bowling and

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Aneesh was doing the wicket keeping. According to him, Shajahan and Aneesh did not sustain any injuries in the incident. Apart from Shajahan and Aneesh, other two persons who were playing in the team also did not sustain injury but he did not know their names. According to him, the opposite team's name was 'Alhuda' and their team captain was Nissam and he did not know as to whether any of the persons in their opposite team sustained injuries in the incident. According to him, he came to know about the damage caused to Christian houses in the end road while he was undergoing treatment in the hospital. According to him, one Noushad was there among the persons who were engaged in fishing activities and he did not sustain any injury. He had further stated that he did not hear any blasting sound or cry of the people before he sustained injuries. According to him, after sustaining injury, he moved 4 to 5 feet towards south but he did not enter the road running parallel to the beach. According to him,police fired without any reason. He had pretended ignorance about the damages caused to the houses and shops in

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Cheriyathura area and he had stated that he did not enquire as to how these things happened as well. He had denied the suggestion that it will not be possible for children to play in the beach area on account of the incident happened on the 16th night at Cheriyathura area on the previous day.

Ext. C14(a) is the wound certificate relating to this witness. He was seen by the doctor at Medical College Hospital on 17.05.2009 at 6.30 pm. The cause of injury was shown as alleged police firing at a mob at Beemapally at 4 om on 17.05.2009. He had lacerated wound on the abdomen below xiphi sternum 0.5x0.5 cm and lacerated wound left shoulder 0.5x0.5 cm. It was shown as suspected bullet injury to neck right side. There was no foreign body remove from his injuries.

A1W5 Salam, A1W6 Noushad, A1W8 Iqbal, A1W11 Yahyakhan, A1W12 Salim, A1W13 Harshad, A1W16 Yuni @ yunis, A1W17 Ahmmad Khani, A1W20 Abdul Gafoor and A1W27 Iqbal are all persons who sustained injuries at the time when they were alleged to have engaged in either fishing activity or in loading

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fishing net or stitching the net etc.

A1W5 Sri.Salam had stated that on 17.05.2009, he went home and came back to beach and while he was engaged in pulling the fishing net which was kept there for drying into the boat, he sustained injuries. At the time when he sustained injuries which was about 2.45 to 3.00 pm. While he was doing his work, he saw some persons running from north to south and police chasing them and while so they were throwing grenade at that time. He sustained injuries 20 cms above his left knee. His kaily was also burnt in the incident. He had stated that neither himself nor the persons who were working with him and sustained injuries did not go to Cheriyathura area to attack any persons and there was no commotion occurred between them and the police people and there was no situation prevailing in the beach area for the police to fire. According to him, he was working from a distance of about 200 metres south from the end road. He had stated that his house is situated on the southern side of Beemapally and on the eastern side of Beemapally- Poonthura main road. He was working in

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the boat belonging to Sathar Sahib who is no more and his son Farooque was managing the same now. According to him, six persons were engaged in loading the net in the boat at that time along with him. He had stated that there was no damage caused to his boat or the net at that time. He had further stated that he had only hearsay knowledge about three or four boats being damaged in the incident and he did not know as to whether Alavudeen A1W3 had any fishing boat at that time. He had further stated that police were chasing the persons who were engaged in stitching the net at that time. According to him, while he was doing work in the beach area or from his boat, there were three or four boats parked there and people were working in that boats as well but he did not know their names. He had further stated that it is not possible for them to see what is happening in the end road completely because of the presence of coconut trees in between that place. He had further stated that he did not see any damage being caused to the houses at end road area belong to Christians. He had pretended ignorance even now about any damage caused to any

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of the houses in Cheriyathura area belonging to Christians. He had further stated that he did not give statement before the police or the crime branch officials. He had further stated that prior to he sustained injuries, none had gone to sea in connection with fishing and later he had stated that since he did not care to see the same, he cannot say whether anybody had gone to sea for fishing at that time. He had further stated that he did not know as to whether there was any commotion occurred in the end road before he sustained injuries. He had further stated that he did not know as to whether there was any commotion occurred in that area between 11.30 am and 3.30 pm. He had further stated that he did not see any person using explosive substances in that incident. He had denied the suggestion that he did not produce his lunki before police because if it is produced, it will be revealed that it was damaged in the fire while he was engaged in setting fire to the houses in Cheriyathura area. According to him, Iqbal, Shajahan, and Shukkur who were engaged with him in the work at that time took him to the hospital but he did not

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know their address. He had further stated that while he was engaged in his work there, he did not see any person setting fire to any boat or fishing net and pushing the same to the sea. He had further stated that he cannot say as to whether he sustained injuries at 3.30 pm exactly as he did not remember the time. He had further stated that he did not give any statement to the crime branch Investigating Officer, Shanavas. He had further stated that their boat was parked in north-south direction and he was standing on the eastern side of the boat and the other five persons were also standing on the same side and they were facing west to east at that time. According to him, other boat seen in the seashore were also parked in south- north direction at that time and one of such boats were situated 30 metres north from the boat in which they were working and he did not remember as to whether there was any other boats parked on the southern side of the boat in which they were working. He had further stated that he did not know things happened on 16th evening in Cheriyathura area. He had further stated that at the time when he saw people

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running, it was about 3.00 pm. He had further stated that only when the object hit on his body, he came to know about the incident. He denied the suggestion that none had gone to work in Beemapally area on that day and all of them have joined together and attacked the Cheriyathura people and in that he sustained injuries. He had further stated that he did not see any person running from western side. He had further stated that the police were chasing those people who were running through the sand area in the beach and he had seen the police coming from a distance of 200 metres. He had further stated that before he sustained injuries, he had seen 3 or 4 persons falling down and he did not know their identity. He had further stated that he did not mention the cause of injury to the doctor. He had further stated that he did not see any person who were working with him or persons working nearby sustained injuries before he sustained injury in the incident. He had further stated that he was standing on the north western portion and standing on the eastern side and working at the time when he sustained injuries.

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Ext. C27(a) is the wound certificate relating to this witness and he was seen in the hospital on 17.05.2009 at 5.05 pm and he had a lacerated wound left thigh 15x10x muscle deep bleeding and the history was shown as alleged police firing today at 4.00 pm. Ext. C27 relates to his case sheet. The diagnosis shown as fire arm injury. It is also seen from the case sheet that quadriceps muscle partially cut and wound debridment was done. There is no foreign articles taken from the body. There is no other entry or exit wound found. It was noted as fire arm injury on the basis of the statement given by the injured. If really it is a fire arm injury either caused due to direct bullet injury or caused due to splinters of the bullet, then the nature of injury would be different. So it cannot be completely stated that it was a case of direct fire arm injury as claimed by the witness. Further according to him, his lunki was partially burnt due to this. It is evident from the evidence given by forensic expert Sri. Narayanan Potti CW8 examined on the side of the commission that unless the parties are so close to the firing range, there cannot be any burn injury caused

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on account of the firing. So it could not be possible to have any chance of lunki being burnt on account of the bullet injury as claimed by this witness arises. So the burning of lunki should have been caused due to some other reason but the witness want to suppress the fact before this commission. So considering the nature of injury noted in Ext. C27(a) and C27 wound certificate and the case sheet relating to this witness, I feel that it is not safe to rely on this witness regarding the manner in which he sustained injuries and it can only be concluded that he is trying to suppress some facts before this commission.

A1W6 Sri.Noushad, is the other witness examined on the side of A1 party to prove the incident. According to him, he was also engaged in loading the net in the boat and at that time he sustained injuries. According to him, on 17.05.2009 at about 3.00 pm, while he was engaged in loading the net in the boat, he saw some persons running in a scared manner from north to south chased by police by firing at them. At that time, some object had hit on his left chest and immediately he fell down and he was taken to hospital

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by persons standing there including his father and he came to understand from the hospital that he sustained bullet injury and it was taken by conducting an operation. According to him, there were five persons with him and he was working in the fishing boat belonging to one Ismail. Apart from their boat, there were one or two boats parked in that area. According to him, he was standing on the eastern side of the boat and at that time when he was lifting the net, he sustained injuries. According to him, among the five persons one person was inside the boat and others were standing out side on the eastern side lifting the net loading the same in the boat. Though he had stated that he was able to see the end road from the place from where he was alleged to be doing his work, he had stated that he did not see any houses on the end road on flames at that time. He had further stated that before he sustained injury, he had seen people running from a distance of 50 metres and he did not hear the sound of any bomb blast or firing or hue and cry made by people at that time. He had only seen people running chased by the police and 1 or 2

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persons falling down. He had pretended ignorance about the things happened on the 16th evening in Cheriyathura area or causing damage to any other houses in the Cheriyathura area either on the 16th or on the 17th. He had only stated that he sustained injuries and except that he had stated that he did not see anything or he did not know anything about the incident other than the fact of sustaining injury. In the cross-examination, he had stated that he could not see the things happening in the end road from the place where he was alleged to have been working at that time. He had further stated that he had no document to prove that he is working in the boat of Ismail and he did not know whether he is a member of fishermen welfare fund. He had also stated that he did not see anybody setting fire to any boat or net and pushing the same in the sea at that time. According to him, he was working at a distance of 400 metres from the end road. He had further stated that one Harshad who was examined as A1W13 also sustained injuries in the incident who was working with them at the relevant time. In the cross-examination, he had stated that he

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was not lifting the net at the time when he was sustained injuries but he was only holding and pulling the same. He had further stated that police had no personal grudge against him. He had further stated that if anything happened to the Beemapally people, he will go there to see that but he did not go for quarrelling with any other person in connection with such incident. He had pretended ignorance about the investigation is being conducted by crime branch. He had denied the suggestion that Iqbal, Abu and Farooque were there in the boat in which he was working at the relevant time and he had given statement regarding the incident before the Deputy Superintendent of Police Shanavas on 11.07.2009 of Beema Mahin Auditorium. He had further stated that he did not know Kombu Shibu.

Ext. C28(a) is the wound certificate relating to this witness and it is seen from Ext. C28(a) that he was seen at the hospital on 17.05.2009 at 4.00 pm and the alleged cause of injury was given as history of police firing against a mob at Beemapally today at 3.30 pm as stated by the injured. He had puncturing pericardium

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left para sternal region 0.2x0.5 cm depth not assessed. No active bleeding . Foreign body exploration was done. Exploratory thoraxtomy done on 17.05.2009. Foreign body exploration on 21.05.2009 and retrieval of one inch long 0.303 bullet from left scapular area was done. So it was a case of direct bullet injury and the bullet was removed from his body. Further if he was standing as stated by him facing east to west, then it will not be possible to sustain such an injury as stated by him.

A1W8 Sri.Iqbal, is also a fishermen alleged to have sustained injury in the incident while he was engaged in fishing activity. According to him, on 17.05.2009, at about 11.00 am he went to sea in the boat along with nine persons and at about 2.30 pm they came back and the persons in the boat and about 40 persons standing in the shore were engaged in dragging the fishing net from the boat to the shore and at that time, he sustained bullet injury on his right leg above knee and immediately he closed the wound and lifted his head and at that time, he saw the police personnels standing at the end road coming there by

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abusing the Muslim people in Beemapally area and making boisterous laughter and firing at persons who were engaged in their work and without making any announcement. Since they have fired without making any prior announcement, they could not escape. He had also pretended ignorance about the things happened on the 16th evening at end road. He had also stated that none of the persons who came along with him in the boat had mentioned about the incident happened on the 16th to him. According to him, he had gone in the sea in the morning at 6 am on 17th and came back at 10 am and again went in the sea at 11 am again. But this fact was not mentioned by him in his proof affidavit. Further he had improved certain things in his chief affidavit than the things mentioned by him in the first statement given by him before this commission as his version. Further he was facing the sea and dragging the net at the time when he sustained injuries. He had further stated that the police personnels were firing from 25 metres south from the coconut tree standing near the end road and he was standing about 50 metres south from the end

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road and he did not hear the sound of any blasting of bomb etc at that time. He had further stated that till he sustained injuries, there was no untoward incident happened either in the beach area or in the end road. According to him, there were about 10 to 20 boats in that area at that time and just like their boat in each boat 20 to 30 persons were engaged in doing their fishing work or dragging the net. He had further stated that he had not made any enquiry till the date of his examination as to why police had fired and the reason for their firing etc. He had further stated that he did not know the reason for the police abusing the Muslim people and making boisterous laughter. He had further stated that he did not know any of the police personnels there and police also did not know him and there was no reason for the police to fire at him. He had further stated that he did not hear the sound of bomb blast or throwing of grenade before firing and he heard only the firing sound. He had further stated that he did not know the fact of Crime Branch enquiring about this incident and nobody had told him about the same. He had denied the

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suggestion that he was questioned by the Deputy Superintendent of Police, Shanavas, of CBCID in connection with the investigation. He had further stated that he had not interested in giving evidence before any police officials. But when the consequences of his act was explained to him, he told that he is prepared to co-operate with the investigation. He had further stated that apart from himself, he had seen one Noushad and Harshad engaged in drying the net. But he cannot say their address and he did not see any other persons sustaining injury or falling down before he sustained injury. He had further stated that he did not know who had taken him to hospital but it was learnt from others that his brother had taken him to the hospital. He had further stated that at the time when he sustained injuries, his brother was not there and he came to seashore after attending the afternoon prayer in the mosque. He had further stated that he did not see Harshad (A1W13) and Noushad (A1W6) sustained injuries. He had stated that he knew Khanihaji but he did not see those persons there. He had further stated

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that he did not try to know the reason for police firing and he did not enquire about it by himself or enquired with anybody else. He had further stated that persons belonging to PDP,AP and EK group are functioning in that area. He had further stated that he was seeing the police firing at a distance from 25 metres and children were playing 50 metres south from the place from where he was alleged to be working at that time. He had further stated that he did not see any person setting fire to any boat or fishing net and pushing the same towards the sea at that time when he was working there.

Ext. C18(a) is the wound certificate relating to this witness and he was seen in the Medical College Hospital on 17.05.2009 but the time of examination was not mentioned in the wound certificate. He had stated that he sustained injury at police firing at Beemapally today at 4.00 pm He had an entry wound 0.5x.05cm posterior medial aspect of right thigh and exit wound 6x5x4 cm anterior aspect of right thigh. X-ray showed tiny pellets but it does not require exploration and he was treated with wound

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debridment. He denied the suggestion that he had participated in the riot and in that he sustained injuries.

A1W11 Sri.Yahyakhan, is also a fishermen engaged in fishing activity at that time he sustained injuries. According to him, on 17.05.2009, he was working in the fishing boat of one Shaffi and on that day at 5 am he went to sea for fishing along with others and came back at 11 o' clock and since the quantity of fish obtained was less they did not go for fishing again and they came to shore and after empting the net they spread it in the seashore for drying and went home for taking food. Thereafter, after taking food he came back to seashore at 1.30 pm and he along with Abdeen and Salim were engaged in stitching the tear in the net. At that time, children were playing cricket and five or six persons were watching their play. While he was engaged in stitching the net, he saw the police people coming from north by firing and immediately when he got up he sustained a bullet injury on his left rib and left leg thigh on the front side of the upper portion and he fell unconscious

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and he was taken to Medical College Hospital and he regained his consciousness from Medical College Hospital. According to him there was no situation prevailing in the beach area for the police to fire and they fired at innocent people without any reason. He had admitted in his cross-examination that he had no membership in fishermen welfare fund whereas Salim who is examined as A1W12 had worked with him on that day was a member of that fund. The place from where he was working on that day and the end road there is a distance of 300 metres and they can only saw little things happening in the end road. He had further stated that they have taken the boat to sea from a place which is situated about 600 metres from the end road and they took the boat at the time of coming to the shore which is about 200 metres from the end road. He had further stated that he did not care to see whether there was any policemen at the end road when he came back to the shore and he did not see any houses gutted to fire at the end road area. According to him, he went home at 12 noon for taking food. He had further stated that he did not hear the

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hue and cry of any person before he sustained injury and he heard only the firing sound. He had further stated that the boat was parked in north south direction and he was sitting about one feet east from the boat and he was sitting near the sea wall on the eastern side of the beach. He had further stated that at that time, some of the boats were taken ashore by the fishermen and some were in the sea at the time when he was working there. He had further stated that they were stitching the fishing net and loading the same in the boat he had further stated that he did not remember on which side Abdeen and Salim were at that time. He pretended ignorance about the things happened at the end road on the 16th evening. He had further stated that he had not given any statement to the authorities. He had further stated that he cannot say whose boats were parked at that time on the seashore. He had further stated that he did not know whether Abdeen had sustained any injury in the incident. He had further stated that if it is noted in the case sheet that he was conscious at the time when he was examined by the doctor, it is not correct. He had

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further stated that he did not know the circumstance at the end road which resulted in the firing. He had further stated that he did not know whether the boat of Aboobaker was set to fire on the 16th night. He denied the suggestion that he did not go for fishing work in the boat on that day as claimed by him. He had denied the suggestion given by advocate for 'H' party CBCID that he was questioned by the Investigating Officer. He had denied the suggestion that he was taken to crime branch office by one Ishaque and he denied his signature in Ext. CH1. He had further denied the suggestion that he had signed a mahazar prepared by the crime branch officials when one Mahinkannu had produced a metal piece before them. He had denied any acquaintance with Ishaque s/o. Darhath. He had further stated that since crime branch is also part of the police and it was police officials who had fired at innocent persons and he had no faith in the investigation conducted by crime branch and so he did not give any statement before them. He had further stated that he had no mobile phone and he had further stated that his name was not

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there in the Beemapally voters list. He had further stated that he did not see any person sustained injury before he sustained injury. He had further stated that he did not know whether the workers of PDP, NDF, Polular Front, Jama Ath Islami, EK and AP groups were functioning in that area but he had seen some posters of SYS in that area.

Ext. C6(a) is his wound certificate and Ext. C6(a) shows that he was seen by the doctor on 17.05.2009 at 5.00 pm. The alleged caused of injury was given as police firing at Beemapally today at 4.00 pm. Ext. C6 is the case sheet relating to him. He had an entry wound in left hypo chondrium guarding rigidity. It was noted that he was conscious and oriented. He had undergone laprotomy and closure. He had also injury on his left thigh. So he sustained injury on his front side. There was no injury on his left rib as claimed by him. No foreign body was recovered from his injury.

A1W12 Sri.Salim S/o. Ismail, is another injured who was also engaged in fishing activities along with A1W11 on that day. He had more or less corroborated the evidence of A1W11 regarding the incident.

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According to him, he along with Abdeen, A1W12 Yahyakhan were engaged in stitching the net and at that time he saw police people coming from north to south firing and when he got up, he sustained injuries on his right chest and below right hand armpit and the object caused injuries to his chest pierced his body and went through his stomach area. He underwent operation from Medical College Hospital and even now the pieces of the bullet are inside his body. According to him, there was no situation prevailing at the beach area for the police to fire. He was working in Soudi Arabia and he came to his native place for three months leave and he did not go back after the incident. He had admitted that he was having good salary at Gulf. But he denied the suggestion that there was no necessity for him to go for fishing work on that day. He had also pretended ignorance about the incident happened on 16th at end road. He had also stated that he did not see Yahyakhan, A1W12 sustaining injury in the incident. He was holding the net in his hand at the time when he sustained injury and he was sitting facing north and Yahyakhan was sitting behind him at

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that time. He had pretended ignorance about the Poonthura communal clash happened in 1992 in that area. According to him, he came to the seashore first at 2.00 pm and within ten minutes, Abdeen came there. But according to A1W12, he came to seashore at 1.30 pm. According to him 10 to 15 children were playing cricket and 10 to 15 were sitting on the sea wall at that time. He had further stated that he did not know the reason for the police firing. He had further stated that there were 10 to 15 country boats on the seashore and 4 or 5 boats in the sea at that time and he did not know the names of persons who were working in the seashore. He had denied the suggestion that it will not be possible for him to sustain injury as stated by him. He had further stated that police had no grudge against him. He had further stated that he did not give statement before the crime branch officials and he did not enquire as to whether any person sustained injury in the incident had given statement before them. He had further stated that he did not know as to whether any damage has been caused to the shops of Gireesan and Moni at the end

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road and he did not know Peer Muhammad who was conducting C.D. shop in that area. He had further stated that when he enquired about the same, one lady by name Beema told him that persons belonging to two side sustained damage and she is residing near the mosque and conducting vegetable shop there. But he did not know her address. He had further stated that he did not file any complaint before any authorities to change the Investigating Agency though he had some complaint about the manner in which the investigation is being conducted by the crime branch.

Ext. C24(a) is the wound certificate relating to this witness. He was seen at the Medical College Hospital at 4.40 pm on 17.05.2009 and the cause of injury was given as alleged police firing at mob at Beemapally at 4.00 pm on 17.05.2009 as stated by the patient. He had lacerated wound right arm 7x5x muscle deep (2) Penetrating injury right chest 0.5x0.5 cm above nipple right. (3) Penetrating injury right chest 0.5x0.5 cm supra lateral right nipple. Ext. C24 is the case sheet relating to this witness. No foreign body was recovered from his injury. He was treated

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with secondary suturing of lacerated wound. The presence of any foreign body was not noted in the case sheet. Since both injuries seen on the right chest are having same measurement, it cannot be treated as an exit and entry wound. Either it could be two separate wounds caused on account of penetration of some object. There is no explanation as to how the lacerated injury of 7x5x1cm came on the right hand. It could not be said to be a bullet injury. Further he sustained injury on the front side not on the back side. So it cannot be said that he sustained injury at the time when he was running and police fired at him while chasing as stated by some other witnesses examined earlier or in the manner stated by him as well.

A1W13 Sri.Harshad, is also an injured in the incident. According to him, he sustained injuries at the time when he was engaged in loading the net in the boat along with A1W16 Yuni @ Yunis. According to him, on 17.05.2009, he was working in the boat of Puthiyaveettil Ismail and he went in the sea at the early morning and came to shore at 11.00 am and

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dried the net there and went home and thereafter he came back to sea shore and while he was loading the net in the boat, he heard firing sound and when he looked at that side, he saw some people running from north to south chased by police by firing at them. At that time, he saw Noushad A1W6 falling down due to bullet injury. Immediately, he also sustained injury on his front right thigh and he fell down, lost his consciousness and he regained his consciousness from Medical College Hospital. According to him, there was no situation prevailing in Beemapally area for police to fire and according to him, police fired without any reason against persons who engaged in their work in connection with fishing activities or playing there. He had also pretended ignorance about the things happened on the 16th evening in Cheriyathura area. He went home through beach road situated on the side of Libas store and shops were opened in the main road as usual. He came back to beach at 2.00 pm. He had further stated that if there was any tumult happened in Beemapally area, the persons in his house will be able to hear the same. He had pretended

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ignorance about the things happened at the end road on the 16th evening and he had further stated that he did not know as to whether any damage had been caused to any of the houses or shops in that area even now. He had further stated that his boat was parked in north- south direction and he was standing on the eastern side of the boat facing north and Noushad was standing about 10 feet from the place where he was standing. According to him, there were about 150 people at the seashore at that time who were engaged in either loading the net in the boat or engaged in pulling the net from the sea while the boat was nearing the shore. He had further stated that he sustained injuries between 2.30 and 2.45 pm on that day and till then he was working in the boat at that time. He had further stated that he is not a member of fishermen welfare fund and he had further stated that he had seen Noushad sustained injuries and he did not go there as he also sustained injuries by the time. There was one person standing inside the boat at that time. He had also pretended ignorance about the things happened at the Cheriyathura junction on the

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previous day and also damage caused to the houses and boats in Cheriyathura area on the north of the end road even on 17th. He had further stated that he can only say the persons who were working with him belong to Beemapally area but he did not know their address. He had further stated that he knew Yahyakhan, Abdeen and Salim and used to go for work along with them as well. He had further stated that he did not give any statement before the crime branch officials He denied his signature in Ext. CH2, the copy of the notice served on him asking him to appear before them namely Ext. CH3, He had denied the suggestion that he appeared before the crime branch officials and gave his statement and now deposing before the commission that he had not given statement before the crime branch officials. He had further stated that he had not seen Kombu Shibu and police people were at a distance of five metres from him when he sustained injuries. He had further stated that he had not enquired about the reason for the police firing but he came to understand that police fired without any reason and neither himself nor Noushad

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had filed any complaint before any authorities against the police for firing at them without any reason. He had further stated that he had seen people running at a distance of 50 metres from where he was working and the people were running from north to south chased by the police firing at them. Out of them, 15 persons were running through the beach area while five persons were running through the road. He had pretended ignorance about any meeting held in Jama Ath office involving District Collector and others. He had further stated that A1W3 Alavudeen had told him that a District Judge was appointed as commission to enquire about the incident and till then he was not aware of the same and it was thereafter, he came to give evidence. He did not know whether Alavudeen had sustained any injuries. He had further stated that since police and crime branch belong to same category, he was not prepared to give statement before them and he is afraid of them as well. He had further stated that if two community people engaged in clash, he will not join in it because there is none to look after his mother.

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Ext. C17(a) is the wound certificate and he was seen on 17.05.2009 at Medical College Hospital. But the time of examination was not mentioned. Further the cause of injury was given as police firing at Beemapally today at 4.00 pm. He sustained lacerated wound anterior aspect of left mid thigh 1x1x? depth. The case sheet shows that he had wound 1.5x1.5x depth cannot be assessed, large 15x10 cm haematoma (penetrating injury left thigh). In the front sheet of the case sheet it was noted as suspected foreign body left thigh seen on X-ray and in the discharge summary in the summary sheet of the case sheet, it is noted that X-ray left thigh showed evidence of foreign body; wound exploration done foreign body removed. The nature of foreign body removed was not mentioned in the case sheet. In page 14 of the case sheet showed foreign body removed (metallic bullet). So he sustained injuries in the police firing and he sustained injury on his front side of his left thigh. If really he was engaged in doing his work as stated by him, there is no possibility of sustaining any injury at that point of the body as seen in Ext. C17(a) and C17.

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A1W16 Sri.Yunus @ Yunis is a fisherman by profession and he is also an injured in the case. According to him, on 17.05.2009, during morning, he went to sea shore and engaged in pulling the fishing net (Kambavala) and he came back home at about 12 noon on that day. Thereafter he went to mosque and came back home and after taking food at about 2.30 pm, he went to beach again and at that time, children were playing cricket in the sea shore and some people were watching the play by standing and sitting near the road and some were engaged in stitching the net and some were engaged in loading the net into the boat. He went there for pulling the net again from the boat which is coming towards shore from the sea after catching fish. While he was standing there, he saw police coming towards south from north firing and on seeing the same, he tried to move away from that place. At that time, some object hit on his right leg above knee. He pressed the injury spot with his hands and since he could not move, he fell down and lost his consciousness. There was no situation prevailing in that area for the police to fire and police had fired at

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persons who were engaged in their fishing activities, playing cricket and standing there enjoying the sea breeze etc. It was revealed from the hospital that several persons sustained injuries due to using of bullet and grenade by the police. It is also understood from others that with the help of police after firing, Kombu Shibu and his associates had set fire to the houses and boats and caused damage to the houses. He had further stated that he had no personal acquaintance with Kombu Shibu and he has only hearsay knowledge about him as stated by others. It was revealed from others, when he enquired about the incident after his return from hospital, he came to understand that the damage were done by Kombu Shibu and his associates with the help of police after police firing and it was told by one lady by name Beema who was residing near end road. He had seen her at about 2.45 pm on 17.05.2009. He had further stated that he was standing about 150 metres south from the end road and he had consciousness only for 3 to 4 seconds after sustaining injury and he went to sea shore at 2.40 pm and within five minutes, he sustained

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injuries. He had seen the persons damaging the houses within a short span of 2 to 3 seconds during which he had consciousness after sustaining the injury. He was standing at about 300 metres south from the end road for drawing the net. He had pretended ignorance about the incident happened at end road on 16th evening. According to him, he was standing in the sea shore facing west and before hearing the firing sound, he did not hear any other sound. When he heard the firing sound, he turned to the south and at that time, he sustained injuries. On 16th night at about 8.45 pm, he went to Beemapally mosque to offer his prayer and even at that time, he did not know about the incident happened at the end road. He came to know from the hospital that some people died and lot of people sustained injury in the incident. He had further stated that within two seconds during which he had consciousness after sustaining injury, he was able to identify that the Christian people were engaged in causing damage to the houses and none of the persons who had acquaintance with him were seen among them. According to him, there was no incident

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occurred involving Christians of Cheriyathura and Muslims of Beemapally. He had pretended ignorance about the incident happened at 4.30 pm at the end road. He had also pretended ignorance about the meeting held at the Jama Ath on the 16th night involving Collector and high police officials. He had denied the suggestion that after incident on the 16th evening, the ladies and children near end road area of Beemapally were given assylum in Beemapally mosque and none of them were in the beach area at that time. He had further stated that he did not care to see whether the persons engaged in stitching and loading the nets ran away from that place. He had further stated that he sustained injury on the front side of his right thigh. According to him, the lady by name Beema who had told about the incident happened on the 16th was doing business in vegetables in Beemapally area. He had only hearsay knowledge about causing damage to the boats and fishing implements and houses in Beemapally area by Kombu Shibu and his associates. He regained his consciousness at 9.00 pm and he was not present at

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the sea shore between 3.00 and 3.30 pm. He denied the suggestion that he did not sustain injury in the police firing and sustained injury on account of bomb blast happened in that area. He had further stated that he had seen some houses near the end road on flames and he had seen these things from a distance of 150 metres south from the end road. He had further stated that he had not seen any person setting fire to any boat and pushing the same in the sea. He had further stated that he had given statement before the police officials at Beema Mahin Auditorium. He went there to give statement as requested by Abdul Azeez A1W24 the then President of Jama Ath. He had pretended ignorance about Poonthura incident happened in that area during 1992. According to him, police were responsible for the incident. The manner in which police had fired at them had given an impression that they were doing it with some prior enmity. He had pretended ignorance about getting fish by using explosive substance in that area. He had further stated that except the organisation of Sunni sect, there are no other organisations functioning

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there. He had further stated that he did not remember as to whether he had seen Abdul Khadar A1W10 when he went to Beemapally mosque on the night of 16.05.2009. He had further stated that he had seen police running behind persons firing at them indiscriminately and he had seen all these things within 2 to 3 seconds after his sustaining injury and before losing his consciousness. According to him, while he was turning towards north, he sustained injuries and he had stated earlier that while he turned towards south and it was a mistake.

Ext. C16(a) is the wound certificate of this witness and he was seen in the hospital on 17.05.2009 at 6.00 pm and he had given the cause of injury as police firing against mob at Beemapally today at 4.00 pm. He had penetrating injury right thigh medial aspect just above knee right 7x0.5x0.5 cm. Ext. C16 is the case sheet relating to him. It was noted in the discharge summary in Ext. C16 that X-ray showed small foreign body inside but it does not require exploration and he was treated with wound debridment. He sustained injury on his lower medial

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aspect of right thigh. If he had turned towards south as stated by him while facing towards west, there was no possibility of he sustained injuries as stated by him. Realising this impossibility when he was examined on the subsequent day, he had corrected the same by stating that when he turned towards north on hearing the sound, he sustained injuries as only if he turned towards north, there is a possibility of sustaining injuries on his right leg as stated by him otherwise the possibility of sustaining injury on the right side will not be possible. Further he was seeing things of Christian causing damage to the houses within three seconds of his remaining consciousness after the firing injury sustained by him appears to be unbelievable. Probably he might have sustained injury in the incident while he was in the sea shore but it cannot be said that he sustained injuries as claimed by him. Since he sustained injury his presence at sea shore at that time cannot be ruled out.

A1W17 Sri.Ahammad Kani is also a fisherman who sustained injury in the incident. But on 17.05.2009, he did not go for fishing in the sea but he

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went at 6 am to the sea shore for drawing the net. He came home by taking the fish obtained by him as his remuneration for that. Thereafter at about 2.30 pm, after taking food, he came to beach and standing near the end road beneath the coconut trees waiting for some boat to come from the sea to join the pulling of net from such boat. At that time, he happened to see some children playing cricket in the ground in the beach and some persons engaged in stitching the fishing net and loading the fishing net in the boats. Apart from himself, some other persons were standing beneath the coconut trees at that place. At about 2.45 pm, police from the end road and also from the sea shore came towards south and fired at persons who were standing beneath the coconut trees and engaged in fishing activities in connection with their fishing work without any reason. There was no commotion or quarrel occurred in the beach area at that time. From their act, it appeared that they have done this in a calculated manner. On seeing this, he got up and ran towards the road running parallel to the beach and when he moved three to four feet, some

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object used by the police hit on his right leg palm and caused injury and fracture. When he tried to run away from that place and turned towards south, some other object hit on the back of his left thigh and due to that, he fell down. The person standing beneath the coconut trees and drying the net had run towards south due to fear and police had fired at those people and thrown grenade against them. He had further stated that he had seen Kombu Shibu and his associates causing damage to the houses on the southern side by pelting stone using iron rod and sticks and this was not prevented by the police people. He lost his consciousness and he regained consciousness from hospital. He had stated that he knew Kombu Shibu for the last ten to fifteen years and Kombu Shibu was aged about 27 to 28 years but he did not know his correct age and he was residing in a colony near Sewage Farm at Cheriyathura. He had further stated that he came to know the incident happened on 16th night on 17th evening when he went to beach and when he enquired about the presence of police present at the beach road. He had

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further stated that he did not knew about the incident happened at Cheriyathura end road when he went to beach at 2 pm on 17th and he came to know about the same while he was undergoing treatment in the hospital. He had further stated that he was sitting at a distance of 30 metres south from the end road and 3 metres west from the beach road running parallel to the beach. He had further stated that he had seen persons drawing the net from the sea from the boat at a distance of 150 metres south from the end road and no boat had come near the place where he was sitting and they have completed the drawing of the net at the time when he was sitting there. He denied the suggestion that about 500 Muslims from Beemapally area entered the end road and threw bomb and attempted to attack the church and in order to prevent them, police was forced to fire at them. He had further stated that he did not know who had taken him to the hospital. He had further stated at the time when he was sitting there, he did not see the setting fire to houses on either side of the end road. He had further stated that he did not hear the blasting of

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bombs in that area. He had further stated that he did not enquire as to why police had fired at innocent people without any reason. He had further stated that he did not see any of the persons known to him or his relatives near the beach at the time when he was waiting for the boat to come at the sea shore. He had further stated that he came to give evidence before the commission as told by one Salam but he did not know his address. He came to know from Salam that he also sustained injury in the incident while he was undergoing treatment in the hospital but he did not see Salam sustained injuries. He had further stated that he did not know that crime branch was entrusted with investigation of the incident.

Ext. C9(a) is the wound certificate of this witness and he was seen at Medical College Hospital on 18.05.2009 at 6.15 am. He had crush injury on right foot. It is seen from Ext. C9 case sheet that he had a wound measuring 10x8x5 cm on dorsum of right foot and another wound measuring 5x4x3 cm on the back of right leg. It is seen from the discharge summary noted in Ext. C9 that he sustained blast injury right

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foot. Multiple meta tarcel communited fracture right foot type 3(b) compound extensor tendons cut. It is seen from the case summary that loose pro line suturing and BK slap given on 17.05.2009 and grafting was done up to 75%. He sustained injuries due to grenade blast. So it cannot be said that he sustained bullet injury as claimed by him. Further the nature of injury sustained will go to show that he was present very near to the place of firing or commotion. Even his evidence is admitted to be true, it can be seen that police had used grenade before firing and it cannot be said that they have simply fired without taking any precautions as claimed by the witnesses.

A1W7 Sri.Saidali is a fishermen by profession but occasionally an autorikshaw driver who also sustained injuries in the incident. According to him, on 17.05.2009, he did not go for fishing and he went for autorikshaw driving on that day. At about 2.30 pm, he had stopped his autorikshaw in Beemapally auto stand and then came to his aunt Mussorias's house for taking food. According to him, when ever he was going for autorikshaw driving and stopping at

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Beemapally area he used to go to her house for taking food during lunch. According to him, while he was taking food, he heard the tumult of people and firing sound and immediately he got down from the house and went through beach road which according to Beemapally people the road passing on the side of Libas Store starting from Valiyathura-Poonthura main road and leading to beach on the west. According to him, when he reached there, he saw people taking the injured person who sustained injuries in the police firing. He had also reached the sand area in the beach and he tried to go back to his house and at that time, some object hit on his left buttocks and he lost his consciousness. According to him, there was no situation prevailing in that area for police firing and while he was in the hospital, he came to understand that he sustained bullet injury. He had further stated that police had fired without giving any precautions or announcement. In the cross-examination, it was admitted that he is not a professional autorikshaw driver but whenever his brother was not taking autorikshaw, he used to take the same and though he

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had given the number of the autorikshaw as KBT 2854, he had stated that he did not know the owner of the autorikshaw. According to him, his aunt's house is situated 50 metres west from Beemapally and it is situated 150 metres south from the end road. He had further stated that he did not know about the incident happened on the 16th evening in Beemapally area. He had pretended ignorance about the damage caused to the shops and houses in Cheriyathura area on the 16th evening. He had further stated at the time when he reached there, he saw some people lying on the ground and people gathered there taking the injured person through the beach road mentioned above and others leading to the beach from the main road. He had further stated that when he reached the beach, he understood that some thing wrong was happening in the end road. He had denied the suggestion that he along with other Muslims tried to enter Cheriyathura area and sustained injuries in that incident he had further stated that there was no bomb blasting occurred in the end road and no houses were damaged in the end road area. He had further stated that he did

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not know the persons who sustained injuries or the persons who were engaged in taking the injured person at that time. He had further stated that he did not know as to what happened in the end road before he reached in that place. He had admitted in the cross-examination that he did not mention in the affidavit that he had seen somebody falling down in the incident. He had further stated that he did not see any person running from the end road towards south and he did not see any houses on flames at the end road at that time. He had further stated that he did not know the circumstances which led to police firing. He had further stated that he used to go for fishing work in the boat belong to one Shaffi but he did not know the names of persons who are working in that boat. He had further stated that none had told him about the incident happened on the 16th evening in Cheriyathura area. He had further stated that he did not know about the deployment of police in Cheriyathura area as he had gone to Vizhinjam along with his wife on the 16th evening and came back only at 10 pm on that day to his house. He had further

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stated that he did not know whether the Beemapally people were anticipating some incident on the next day in continuation of the incident happened on 16th. He had further stated that he did not hear the sound of blasting of country bomb before he reached that place. He had further stated that police had no grudge against him. He had further stated that he had no friends at Cheriyathura area and he was not co-operating with him as well. He had denied that he was questioned by CBCID Deputy Superintendent of Police, Shanavas who is investigating the cases in connection with these incidents. He had further stated in the further cross-examination that when he reached the sand area in beach, people were passing him. He had further stated that he had seen A1W3 Alavudeen who had engaged in taking some person injured in the incident but he did not know his address. He had further stated that he did not see any person sustained bullet injury and falling down. He had further stated that before he came to give evidence before this commission, he had contacted the other injured persons Noushad (A1W6) and Iqbal (A1W8) and they

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did not tell him that they were questioned by crime branch officials.

Ext. C26(a) is the wound certificate relating to him and it is seen from the wound certificate that he was seen by the doctor at casualty on 17.05.2009 at 4.30 pm and the cause of injury was given as alleged police firing against mob at Poonthura today at 4.00 pm as stated by the patient. He was conscious and oriented and he had a lacerated wound left buttocks 6x6 cm. Ext. C26 is the case sheet relating to him. It is seen from the case sheet that he had sustained lacerated wound 9x8x6cm left gluteal region. Though wound exploration was done, there was no foreign particles noted inside the wound. It was noted in the report of operation as pre operative diagnosis as bullet injury to left gluteal region. But no foreign body or splinters of the bullet were taken. So considering the nature and measurement of injury, it cannot be said that it was a bullet injury as claimed by him.

A1W9 Sri.Muhammad Yusuf is a PDP worker in that area and he is not an injured. He claims to be an eye witness to the incident. According to him, he is

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conducting business and on 17.05.2009 at about 3.00 pm, while he was sitting in his maternal aunt Samitha's house, he heard a hue and cry and firing sound and he came to beach area and saw Firoskhan falling down due to sustaining injury in the firing and police people dragging him through the beach area. He had also seen Hukkim sustaining injury in the incident and saw two or three persons taking him. He had also seen the deceased Ahammad kani Haji standing there and pacifying the people and asking the police not to fire and at that time saw him falling down sustaining injury in the police firing. According to him, there was no occasion prevailing in the end road or in the beach area for the police to fire at that time. He had further stated that people gathered there had taken Ahammad khani Haji to hospital and he sustained injury on his forehead above eye. He had further stated that people gathered there standing about 20 metres south from the beach road which is a road passing by the side of the Libas store from the main road to the beach and that road is situated about 400 metres south from the end road. According to

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him, the Beemapally people did not go to Chriyathura area or at the end road and police were standing south of the beach road and after lapse of long time of the incident, he heard police making some announcement in the mike. He had further stated that he came to know from others that Kombu Shibu and others had engaged in causing damage to the houses of the Muslim people in Beemapally area and looted articles from there and they also set fire to the boats and fishing nets and other fishing implements kept in the sea shore. He had further stated that he is conducting a margin free shop by name MSP Margin Free Market near Jawahar Mosque belonging to his brother and he had no licence to conduct the shop. According to him, though he had applied for licence, he did not get licence. He is now working as driver in private buses and driver of Milma vehicle on contract basis. He had further stated that his aunt Samitha Beevi's house is situated about 10 metres east from Thaikkappilli and 300 metres south from the beach road mentioned above. He had further stated that he could not understand as to whether there was any problem in

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end road at that time. He had also stated that when he reached that place, he saw people coming there from end road and they did not tell anything about any problem in end road. He had further stated that when he saw people running from north to south from the end road area chased by police by firing at them, he understood that there was some incident happened there. He had further stated that at the time, when he went to the sea shore, he was not aware as to whether there was any of his relatives there at that time and Firoskhan who died in the incident is his relative. He had further stated that when he reached the seashore, he did not see the children playing in the beach area. He had further stated that he did not mention about these facts either to the police or to any authorities. He had further stated that he was there in the beach area for about 45 minutes. He had given to know that some incident happened on 16th at the end road and when he came to know about the same, he went to Beemapally area on the 16th night at 10.30 pm but he did not go to the place where the incident happened on that day and he did not come to know as to the place

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where the incident happened on that day and he did not come to know that any of the Christian houses were damaged in that area on that day and he did not understand at that time regarding any commotion occurred in Cheriyathura area and he came to know that since Kombu Shibu had asked for gunda pirivu from a shop in Beemapally area, there was some altercation occurred between them and except that, he did not come to know about that any incident happened in that area on the 16th. He had further stated that there were only 100 people gathered in front of Jama Ath on the night of 16th and when the president of the Jama Ath told that steps will be taken to arrest Kombu Shibu and others by the police and they will have to disperse from that area they left the place. He had further stated when Jama Ath president announced this, it was about 11.30 pm and he did not see MLA or Collector there but he came to know from Jama Ath President that Collector and MLA had come there. He had further stated that from the newspapers on the 17th, he came to understand that some houses and shops in Cheriyathura area were damaged in the

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incident happened on 16th but he did not go to that area. He had further stated that he did not know Kombu Shibu personally. He had further stated that though he had stated in the proof affidavit that Kombu Shibu and his associates had done the mischief, he did not know the names of other persons in the association of Kombu Shibu involved in the incident. Though he claims to be a public worker and worker of PDP party, he did not go to Cheriyathua area to enquire about the incident and know about the reasons for the incident. He had further stated that he did not sustain any injury and he had contested the election representing PDP party and he did not contact the police and he did not ask them not to fire. He had denied the suggestion that Khani Haji was trying to pacify the people who were in restive mood. He had further stated that he did not know why Khani Haji had involved in resisting the people who were standing there. He had further stated that he did not interfere on seeing the police people dragging Firoskhan, though he happens to be his relative. He had further stated that he did not mention this fact to his relatives as his relatives were

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also witnessing the incident. He had further stated that he had no occasion to go to the end road and north of end road. He had not engaged in helping the persons sustained injury in the incident. He had pretended ignorance about any illegal trade being conducted in Beemapally area. He had further stated that police had no personal grudge or enmity towards him or anybody in Beemapally area. He had further stated that Kombu Shibu had come and made trouble in the shop of Kochi Peer Muhammad. He had further stated that he did not know another Peer Muhammad S/o. Habeeb Muhammad who is conducting C.D. shop in Cheriyathura area. He had further stated that he did not remember whether any road block was conducted by Cheriyathura people on 17th afternoon and whether the police had diverted the traffic at that time. He had further stated that from the place where he was standing, he cannot hear even if any announcement was made from end road through megaphone. He had further stated two or three persons gathered there took Hakkim who sustained injury in the incident but he did not know who those

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persons are and except that they belong to Beemapally area. He had further stated that he did not know as to whether Khani Haji had any heart problem and he did not see bullet hitting Khani Haji but he saw him standing there closing his eyes and two or three persons taking him to the main road and he did not know their names or addresses. He had further stated that he did not show the place where he had seen persons falling down either to police or to Jama Ath Office bearers. He had further stated that injured persons were taken in car and tata sumo and not in the ambulance or police jeep. He had further stated that though he is a member of Vyapari Vyavasai Ekopana Samithi, he may not be able to produce any document to prove this fact. He had further stated that he did not know as to whether the then Valiyathura Sub Inspector of Police Johnson had sustained injuries and he did not notice such a news came in the newspapers. He had further stated apart from Muslim League, PDP, other Muslim organisations like SKSSF and SSF were functioning in that area. He had further stated that as a member of PDP party, he did not take

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any steps to take action against the police personnels who according to him had fired at innocent people and his party was not in the habit of conducting any protest if police attempted to arrest any of his party leaders. He had admitted that the police personnels were deployed in that area were not belonging to that area and they have no occasion for them to have any grudge against Beemapally people. He had pretended ignorance that Beemapally shop owners will not allow the police or other authorities conducting inspection of their shops. He had pretended ignorance about the crime branch officials questioning the injured persons from Beema Mahin Auditorium and he did not enquire about the same as well. So it is clear from his evidence that his presence at the place of occurrence as claimed by him appears to be doubtful and it cannot be expected from a person who is having some political allegiance will be keeping quite without taking any involvement in a matter like this as stated by him.

A1W10 Sri.Abudlkhadar is also claimed to be an eye witness to the incident. He was the past president

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of Beemapally Jama Ath. According to him, on 17.05.2009 at about 2.30 pm, while he was in the house, he heard some hue and cry of the people and firing sound from the northern side of his house and immediately he came out of his house and reached the beach road near Libas store and he heard the sound of police firing. When he moved further, he saw police firing indiscriminately and saw Firoskhan aged 15 years playing cricket in the beach area falling down and police people dragging him by holding his two legs towards north and he had also seen police people dragging another injured Nissam by holding his hand through the beach area towards end road. According to him, there was no provocation for the police to order firing in that area. There is no incident happened or any circumstance prevailed in that area for the police to order firing. The police had fired at innocent people who were engaged in their fishing activities and also playing cricket in that area. No prior announcement was made by the police before that. He had stated in the cross-examination that on 16th evening at 8 pm, he went to Beemapally area as

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usual but he did not come to know about any unusual incident happened in that area. He had further stated that though he was present in Beemapally area up to 8.30 pm on that day, there was no incident happened at that time and he did not come to know about the incident happened as well. He had further stated that as requested by the then Jama Ath secretary over phone, he went to Jama Ath office on that day night to attend the conference conducted by MLA and District Collector from the Jama Ath Office at 11 pm on that day. He had further stated that the conference was not held in connection with any incident or commotion happened in Cheriyathura area and he did not come to know about any damage being caused for any of the Christian houses and shops at Cheriyathura area but he came to know about the same from the newspapers on the next day. Though he claimed that on the 16th night at 9.00 pm, he went to the end road area but he did not see any damage caused to any of the houses at that area though he had seen police standing there. He had further stated that he did not see any vehicle in damaged condition in that area at that time. He had

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further stated that even in the meeting held in the Jama Ath office, none had mentioned about any damage caused to the houses and shops in that area and any serious incident happened in that area till he came to know about the same from the newspapers. He had admitted that there was no such conference called during night on prior occasions. He had further stated that none had gathered near the Jama Ath office while the conference was going on and he went to the end road on hearing the hue and cry and also the bell from the church. He had further stated that he was present in the end road after 9.30 pm and during that time, he had not seen any commotion going on in that area. He had further stated that the police were deployed there and he felt that since it was election result declaring day, police was standing there. Further he asked the police personnels there and at that time, they told that at 6.00 pm on that day, Kombu Shibu and his associates came to the shop of Peerkannu at Beemapally area and caused damage to the shop and at 9.00 pm, he rang the church bell and collected his brothers and declared that he will make

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some incident there and so police had come there. He had gone there alone and thereafter he had gone back to his house and while he was going to his house, he saw the shop of Peermuhammad was closed and he did not enter the Jama Ath office to enquire about the same. He had further stated that though he came to know about the damage caused to the Christian houses from the newspapers, he did not make any enquiry regarding the same. He had further stated that he did not hear the blasting of bombs from the end road area. He had further stated that when he was going towards beach through the above said beach road, he did not see any person taking any injured person through that road. He had further stated that at the time when he was witnessing this incident, he was alone in that place and he was standing there for about ten minutes and thereafter the police people had retreated towards end road area. In the evening after the incident, police people under the leadership of Collector and Higher Police Officials attempted to conduct flag march through Beemapally road and that was prevented by them along with MLA and according to

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them, they had done this to avoid further incident being happened due to the entry of police in Beemapally area. A reading of his evidence will go to show that he was trying to suppress so many facts which is likely to go against the Muslim people and he was very anxious of protecting the interests of Muslim people and fastening the liability on the police. He had further stated that even prior to 16th, some incident happened in Peer Muhammad's shop on 10.05.2009 and he did not know whether any complaint had been made regarding that incident by the said Peer Muhammad. He had further stated that there was no occasion for the police people to have any grudge against Beemapally people. He had also admitted that apart from Jama Ath, organisations like SKSSF, SSF, SYF headed by religious leaders are functioning in that area. He had further stated that he cannot say whether there were any workers of PDP and Mujahideen functioning in that area. He had admitted that generally there was a feeling among communal people that unless they join together in the name of religion, they cannot achieve their goal and

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such belief should not be encouraged. According to him, he reached the end road area at 2.45 pm and he had also admitted that there used to be some incidents happening in between EK and AP group. According to him, the entire firing episode was closed before 3.00 pm. He had further stated that he could not identify the persons who were lying there with injuries at that time. He had further stated that he did not see any person preventing the police or addressing the police not to fire at that time. So the evidence given by A1W9 that he had seen Khani Haji asking the police not to fire and sustained injuries at that time appears to be not correct. If the evidence of this witness is accepted, then the evidence of A1W9 cannot be believed. So the evidence of this witness is also not helpful to ascertain the real things happened in that area which led to the firing.

A1W18 Sri.Shafeeque is an alleged eye witness and also an injured in this case. According to him, he is working as an autorikshaw driver and on 17.05.2009 after his trip in the afternoon, he came to his house and after taking food, while he was coming to

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Beemapally and when he reached near market and Muttathara Co-operative Bank, he heard the firing sound at seashore. He stopped his autorikshaw in the main road and rushed towards sea shore along the cemented by- lane and reached the southern side of the beach road passing by the side of Libas store. When he reached there, he saw people running towards south and police firing at them. On seeing this, when he tried to enter the by-lane through which he came, he sustained injuries to his left chest and he fell down at the junction of that lane meeting the road parallel to the beach. He lost his consciousness and regained his consciousness from Medical College Hospital. The police had fired without any reason in a predetermined manner. He had admitted in his evidence that he obtained licence three or four days prior to the incident and he was driving his brother Shajahan's autorikshaw and his brother was also an autorikshaw driver. He got the licence only on 14.05.2009 but he had applied for licence earlier. Muttuthara Co-operative Bank is situated about 300 metres south from the end road and it is situated about

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150 metres south from Beemapally. He had pretended ignorance about any damage caused to the shops at Cheriyathura in the incident happened on 16th evening and he had further stated that while he was undergoing treatment in the hospital, he heard that the damage were done by Kombu Shibu and his associates but he had no personal acquaintance with Kombu Shibu. But he knew that he is residing in Cheriyathura area. He had further stated that he did not hear the hue and cry of people or blasting of bomb before hearing the firing sound. According to him, it was about 2.30 and 2.45 pm on 17.05.2009 when he heard the firing sound. According to him, none of the shops in Beemapally area were closed at that time. He had further stated that when he was going through that road, none had passed him. He had only seen some people running through the sand area of the beach. He had further stated that in the place where he stopped his autorikshaw, shops were not opened as it was Sunday. He had further stated that while he was running towards beach from the place where he stopped the autorikshaw, he did not see any person

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known to him. when a question was put to him earlier, he had admitted that he heard the firing sound from the end road side but when this question was repeated, he had corrected and stated that it was not from the end road but from the beach road side. He had further stated that he heard the sound of firing of two or three firing sound. He had further stated that there was no commotion happened in Cheriyathura area or at the end road. He had further stated that he did not see any person known to him before he sustained injuries except seeing some persons running there and he did not get into the beach area but he only reached the road parallel to the beach and on seeing the police people firing and chasing persons, he immediately turned back to return and at that time he sustained injuries on his left chest. He had further stated that while he was in the hospital, he came to understand that nothing happened in the end road to provoke the police to fire. He was standing at a distance of 300 metres from the end road when he sustained injury. But in the process of cross-examination, he had stated that he had seen one or

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two persons lying there. But he denied the suggestion that even at that time people were running from north to south. He had further stated that he did not know who had taken his autorikshaw which he had parked at the main road and he did not enquire about the same as well. He had further stated that he did not see blasting of bomb or throwing tear gas at the end road. He had further stated that he did not see any house being set fire at that time. He had further stated that he did not enquire as to why police had come to end road on that day. He had further stated that considering the manner in which police had fired at the people, he presumed that they have got some enmity towards Beemapally people. He had further stated that there was no reason as to why he had not mentioned in the proof affidavit that he heard two or three firing sound before reaching the sea shore and at the time when he reached there, he had seen one or two persons lying there. He had further stated police was not there in front of him at the time when he sustained injury. He had further stated that he did not know as to whether he was first taken to SR hospital

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and when X-ray was taken from there, it was revealed that there was some particle inside and then thereafter he was taken to Medical College Hospital. He had further stated that he did not mention the time of firing as 4 pm to the doctor. He came to know from the hospital that some person sustained injury in the stone pelting happened on the 16th evening and they were taken to SR hospital. He had further stated that he had not seen Kombu Shibu earlier and he was hearing about him for the first time when he was undergoing treatment in the hospital. He had further stated that there were no workers of PDP party in their area but he had come to know that NDF party members were working in Poonthura area. He had further stated that he did not enquire about the reason for police firing with any one. He had further stated that he had given statement before crime branch officials and none had told him that any of the injured persons were questioned by the crime branch officials. He had further stated that since the crime branch also belong to police department and they were enquiring about the incident in which police had involved, he was

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not interested in giving statements before them. He had further stated that he did not see the police driving away the persons from that area. At the time, when he went there, he saw police standing there and firing at the people at a distance of 35 metres from the place where he was standing. According to him, 10 to 100 police people were there in the beach area and the road on the side of the beach. He had further stated that he did not see persons running through the by roads at that time. His evidence is contradictory to the evidence given by other witness regarding the incident.

Ext. C12(a) is the wound certificate of this witness and he was seen at Medical College Hospital on 17.05.2009 at 6.30 pm. He had punctured wound right mamory area 0.5x0.5cm with depth not assessed. Ext. C12 is the case sheet relating to him. The case sheet shows that it was an entry wound right mamory area and bullet seen in media sternum. There was no foreign body detected from his injury. So it cannot be said that he sustained injury at the time when he was running as claimed by the A1 party that police fired at

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persons who are running from behind.

A1W20 Sri.Abdul Gaffoor is a fishermen by profession and he sustained injuries in the incident. According to him, he was working in the boat belonging to one Shahabudeen and he went for fishing work on the 16th and since he was having fever, he purchased medicine from Safa medicals in Beemapally and since he was not well, he did not go for work on the 17th. According to him, on 17.05.2009 at about 10.30 am, he went to medical store again and purchased medicine and after taking medicine, he was taking rest in his house. While so, after 2.45 pm on that day, he heard firing sound from end road immediately he rushed to that place through the by lane in front of his house and saw at the end road and there was no tar road parallel to the beach at that time and there was only a mud road. When he went there, he saw police people firing at persons standing beneath the coconut trees and Kombu Shibu and his associates were standing behind police on the northern side with iron rod, stone, sword and sticks etc. At that time, he saw a person by name Badusha

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who was running towards south falling down due to police firing. On seeing this, when he tried to turn back towards the by lane, he sustained injuries on his left pinna and right eye with the splinters of the bullet. He reached the Beemapally main road and even at that time he was hearing the police firing from the beach area. He took an autorikshaw and went to Al Arif hospital, Ambalathara and they dressed the wound and discharged him. Since he was not having money, he did not go to Medical College Hospital. When he was returning from hospital, he saw his wife and children standing in his grandmother's house and when he went there, they told that Kombu Shibu and his associates had pelted stone and caused damage to his gate and broken the glass of the ventilator and that was the reason why they came there. Since he had some pain to his eyes, he went to Medical College Hospital on 20.05.2009 and he was discharged on 27.05.2009 and at that time, he had seen the damage caused to his house. He had stated that his house is situated 30 metres south from the end road and there are two by lanes in between in his house and the end road. He

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had further stated that if anything happened in the Cheriyathura junction, he can hear the same from his house. He had further stated that he did not know as to what happened at the end road on the 16th and none had told him regarding any incident happened at the end road on the 16th. He did not come to know about the incident even on the 17th morning at 10.30 am when he went to end road for purchasing medicine. He did not enquire as to how these damages happened to any one. He had also stated that to his knowledge, such an extensive damage has not been caused to any of the houses in that area earlier. He had further stated that when he came back from hospital, he came to understand that the incident happened on the 16th and 17th, several houses in Cheriyathura area sustained damage. He had further stated that he did not file any complaint against Kombu Shibu for the damage alleged to have been caused to his house by firing. He had further stated that he did not see any person coming in front of him at the time when he went to the sea shore. He had further stated that he knew Badusha even earlier but he did not know where

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he has residing. He had seen Badusha falling down from a distance of five feet and he sustained injuries on his head. He had further stated that there were about 100 policemen and they were chasing the persons running from beneath the coconut tree followed by Kombu Shibu and others. He did not care to see as to whether any boat parked in the beach area. He had further stated that on the 17th morning, when he went to purchase medicine, shops at the end road area were not opened but shops in Beemapally area were seen opened. He had pretended ignorance about the meeting held in the Jama Ath office in which Collector and MLA had attended. He had not made any application for getting compensation for the damage caused to his house and no compensation was paid to him as well for that purpose. He had stated that Badusha had injury on the back side of his head. He denied the suggestion that Badusha had not sustained any bullet injury as stated by him. He had further stated that he did not get any compensation for the injuries sustained in the incident and he did not make any complaint to Jama Ath officials for this

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purpose. He had pretended ignorance about the investigation conducted by the crime branch. He had denied the signature in Ext. CH5 postal acknowledgement though he had admitted his address shown in that document. He denied the suggestion that on the basis of that notice, he came to Beema Mahin Auditorium and gave statement before the crime branch officials. He had also denied the suggestion that he sustained injuries when the persons involved in the riot had beaten him. He had further stated that when he came to Beemapally area, he did not care to see whether any injured persons were brought there. and there was no mob collected in that area. He had further stated that he did not know as to whether police had conducted any route march in that area on the 17th evening. He had further stated that he had not seen Kombu Shibu and others involved in any riotous act but they were only abusing others from standing behind the police. He had further stated that when he came from the hospital, he came to know from Yahyakhan that injured persons obtained compensation. He had further stated that he is not

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prepared to co-operate with the investigation even if some other agency had undertaken investigation in connection with this incident. The fact that he did not get any compensation shows that he had not sustained injuries as stated by him. Ext. C7 is the case sheet relating to this witness and he went to Medical College Hospital on 20.5.2009. He had contusion 3x3 cm right thigh and pinna injury left and he had sub conjunctival haemorrhage to right eye. He had no case that he had sustained any injury to his thigh and chest and he had no explanation as to how he sustained injuries to his chest and thigh as well. So this shows that the story of his sustaining injury as claimed by him appears to be not correct and he had not sustained any injury in the police firing but he might have sustained injury otherwise when he participated in the riot or he was among the persons who participated in the commotion.

A1W22 Sri.Nissamudeen is also a fishermen by profession and an injured in this case. Deceased Firose is his maternal aunt's son. On 17.05.2009 at about 2.30 pm, he went to his maternal aunt Beema's

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house and at that time, she told him that her son Firose had gone to beach area for playing cricket and since they wanted to go to their family friend's house at Valiyathura, she wanted him to go and bring Firose from seashore area. So he went to beach road as a pillion rider in the motor cycle driven by one Shafeeque and he took him in his motor cycle and left him in the main road where beach road starts. When he reached near the beach road, (the road in front of Libas store), he heard firing sound from beach area and he rushed to the place through beach road and when he reached the end of beach road, he heard the firing sound from the northern side and he saw ten to fifteen persons running towards south chased by police firing at them. He had seen 5 to 6 persons lying in the play ground. At that time, he sustained injuries to his right leg below knee at the ankle portion and though he tried to go away from that place, he lost his consciousness and fell down. When he regained consciousness, he was in Medical College Hospital. From the hospital, he came to know that six persons died in the police firing and several persons injured.

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He further came to understand that Firose also died in the incident and the police had fired at innocent persons when they came up to beach road for knowing the reason for the firing. He had pretended ignorance about the incident happened on the 16th. He had further stated that on 17.05.2009, he did not go for fishing in the sea but he went to beach area for pulling the fishing net from the boat from the shore and he was there in the beach after 12 noon on that day. He had further stated that none had told him about any commotion happened between two community people at end road before he sustained injuries and he did not know the reason as to why suo motu police had come there. He had further stated at the time when he reached the beach area, he did not see any children playing there but saw 5 to 6 persons lying there. According to him, all the shops were opened in the main road at that time. He had further stated that he did not see any persons known to him in that area. He had further stated that he did not see any police at the place where he reached the sea shore. He had further stated that he did not see any person coming in front

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of him or behind him. At the time, when he sustained injury, he was in the beach road itself. He had further stated that he did not see any person running towards beach road at that time. He had further stated that at the time, when he was in the hospital, he came to understand from others that there was some commotion happened at the beach road at that time and he did not know as to what happened at the end road at that time. He had also stated that he came to know from others that police had fired at innocent persons without any reason. He had further stated that he had gone to Beema Mahim Auditorium and gave statement before crime branch officials. He had pretended ignorance about the incident happened at the end road on the 16th evening. He had further stated that when he heard the firing sound before entering the beach road. He cannot say whether it was fired by the police in the air. He had further stated that after he reached the beach area, he did not see any person falling down after sustaining injuries in the firing. Police were at a distance of 20 metres at the time when he sustained injuries. He had stated

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that he had seen Kombu Shibu while standing near the shop at Beemapally area. He had further stated that he did not see any person asking the police not to fire at the time when he was in the sea shore.

Ext. C11(a) is the wound certificate of this witness and as per the wound certificate, he was seen in the Medical College Hospital on 17.05.2009 at 6.00 pm and he had a penetrating wound 0.5x0.5 cm right leg upper part lateral aspect and penetrating wound 0.5x0.5 cm right foot lateral aspect. Further he had given the cause of injury as alleged police firing at Beemapally at 4.00 pm on 17.05.2009. Ext. C11 is the case sheet relating to him. There was no bony injury seen. There was no gross foreign body seen. It was noted as bullet injury in the case sheet. He had further stated that he was not aware that Firoskhan was lying there dead at that time, whom he wanted to bring from there as requested by his material aunt. A perusal of his evidence will go to show that it may not be possible for him to sustain injury as claimed by him unless he was also among the mob facing the police at that time as the injuries sustained by him were on the

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lateral aspect o his right leg and foot and he could not have sustained injury in that area when he was about to turn to the beach road as claimed by him.

A1W23 Sri.Abdul Hassan was the joint secretary of Beemapally Jama Ath during the relevant time. According to him, on 15.05.2009 between 7 and 7.30 pm Kombu Shibu, workship Raju @ Kolachi Raju @ Rajan and their associates Kunjumon, Manikuttan, Alex, Victor, Kunjumon, Grand son of Alexander and 20 others under the leadership of Kombu Shibu had come to the shop of one Kochi Peer Muhammad and abused him and since they have maintained tolerance, no untoward incident happened. They have caused damages to the shop and left the place. Jama Ath had filed a complaint before the Circle Inspector of Police requesting him to arrest Kombu Shibu and create peaceful situation in the locality. On 16.05.2009, at about 10 am, after opening his office, he had telephoned Circle Inspector of Police and he told that Kombu Shibu is suffering from AIDS and it is not possible to arrest him. They were in the office up to 2-2.30 pm on that day. President, Vice President, and

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Joint Secretary of the Jama Ath were also present at that time. On 16.05.2009 at about 9.00 pm, the above persons came in a group and created problem at the end road and pelted stone against the shops near the end road in Beemapally area and knowing this fact, the then Jama Ath President Sri. Abdul Azeez (A1W24) went to that place and tried to pacify them and in spite of that, they were indiscriminately pelting stones and caused damage to the shops in Cheriyathura area. The shops of Moni Sir and Gireesan were also damaged by them. They have set fire to some vehicles as well. They have also set fire to the boat belonging to one Aboobaker which was kept on the north western side of the Cheriyathura church. Thereafter MLA, Collector, RDO, Tahsildar and Circle Inspector of Police were appraised of the situation by the Jama Ath officials and they came to the place and convinced on seeing the boat and net on flames at that time. Thereafter a meeting was convened in the Jama Ath office involving Collector, MLA and higher police officials and office bearers of Cheriyathura Church and a request was made to arrest Kombu Shibu

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immediately and police people told that he is an AIDS patient but Collector had assured that before dawn of the next day, Kombu Shibu will be arrested. On the basis of that assurance, the Jama Ath Office bearers left the office peacefully and went to their houses. In continuation of the assurance given, police pickets were established. Kombu Shibu and others along with police people prevented vehicles coming to Beemapally area through Cheriyathura area. On 17.05.2009 as usual he opened the office of the Jama Ath and at that time, the Poonthura Circle Inspector, Assistant Commissioner of Police Sri. Sherafudeen and Jama Ath officials were there in the office of the Jama Ath and they were talking at that time. While so, a person came and informed the Jama Ath officials that a family came in Sumo from Malabar area was blocked by Kombu Shibu and others. When this fact was informed, the above police officials were also present. On the directions of Sri. Sherafudeen the steps were taken to leave the vehicle from there towards Beemapally area. At that time the shops which were damaged in the previous day stone pelting were closed

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and other shops were opened. At about 2.00 pm he along with President, Vice President, Secretary and Joint Secretary and others left to their houses. After taking food and while taking rest, he heard some sound and tumult on the northern side and immediately he took his motor cycle and came to Beemapally compound and then went to the Cheriyathura junction. At that time police people were going to the western side through the end road and he followed them. At that time he saw some people resting beneath coconut trees and some people had involved in the fishing activities and children were playing cricket. He saw Assistant Commissioner of Police Sherafudeen there and while he was talking with him, he told that the then Deputy Commissioner of Police George had left the place and he is in charge of that also and at that time some people gathered on the northern side started pelting stones and bricks towards south among them h had seen Kombu Shibu and others in the forefront. They have also thrown explosive substances which felt on the southern side of end road and blasted. On seeing this, under the

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misconception that it was done by Beemapally people, Sherafudeen got emotion and started firing towards south using his pistol and ordered police to fire and accordingly police started firing indiscriminately and he saw two persons falling down due to hit of bullets. On seeing this he got frightened and returned to main road along the end road towards east. Even at that time he had seen the police personnels standing on the eastern side going towards west. When he reached the Beemapally junction after some time, he saw the injured persons being taken to the main road by the persons. Since the vehicle facilities were less they found it difficult to take the injured to hospital. However, they have taken to SR hospital and Medical College Hospital for treatment. The police had not followed any precautions before order firing. They have not obtained the permission from the higher authorities for that purpose. After some time MLA, Collector, RDO and Tahsildar reached the Beemapally Jama Ath Office and when they asked who was given the order for firing. Collector told that they have not given any order and they did not know as to who had

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given the order for firing and then collector left the place. They were engaged in making arrangements to send the injured persons to hospital along with MLA, Jama Ath President and Vice President, Secretary and Joint Secretary. Collector went to the beach area the police had raised a red flag and make announcement that 144 has been declared in that area. Collector had conducted route march from Cheriyathura junction towards south. On seeing this MLA, Jama Ath President, Secretary and Joint Secretary rushed to the place and laid down before them to prevent the march proceeded further. MLA had talked to Collector and police officials and the route march was withdrawn. In the police firing six persons died and several persons injured. After this, the people from Beemapally were prevented from doing their work in Cheriyathura area by the local people there. Youngsters from Cheriyathura area were working in Beemapally area and they were engaged in business as well. There are two branches of Asha Finance in Beemapally and the Cheriyathura people are engaged in painting and other maintenance work in Beemapally area and they were

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keeping good relationship. Electrical, plumbing and construction work in Beemapally area were done by Cheriyathura people and they have no enmity with them. All these mischieves were done by Kombu Shibu and his associates. In order to make a peaceful situation in that area and allow both people to go for their fishing work peacefully in the seashore, a peace committee was constituted including Adv. Celin Wilfred. In the meeting on 16.06.2009 at the Bishops House, Vellayambalam, a committee was formed with Athiroopatha Bishop Sri. Dr. Suzapakyam as Chief Patron, Jama Ath President M.P. Azeez and Adv. Celin Wilfred as joint patrons and 15 committee members were selected. Though such a committee was formed, Kombu Shibu and people were preventing from doing their work. But the residents of Cheriyathura people were fully co-operating with them in their activities. Thereafter meetings were held in the auditorium situated on the eastern side of Cheriyathura Church and in Beema Mahin Auditorium. Kombu Shibu and his associates and higher police officials were responsible for the firing and no person from

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Cheriyathura area or police officials sustained any injury in the incident on 17.05.2009. He had admitted that he is a joint secretary of Beemapally Muslim League Pourasamithi and he is residing 1 km away from Beemapally. One of his children is in Dubai. He worked in Soudi for 20 years. He had further stated that he had seen Kombu Shibu earlier and he had last seen him on 15.05.2009 evening when he was abusing the Beemapally people from Beemapally junction. He had further stated if the wind had not blown from north to south he would not have heard the sound from the northern side. He had further stated that since he felt that there was some trouble in the end road area, he rushed to that place. He had further stated that he had heard huge sound at that time. He had further stated that when he was standing in the end road area he did not see any shops or houses gutted to fire. He had further stated that when he went to the end road, there were only 5 to 6 police people in that area and he reached there at about 2.45 pm at the end road where police picketing was established. He had further stated at the time when he went there people

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were taking rest beneath the coconut trees which were situated about 100 metres south from the end road and the persons engaged in fishing activities were doing their work from a distance of 20 to 25 metres from the end road. He was there only for ten minutes and even at that time he had seen huge quantity of stone falling down and bombs thrown and some of them blasted. Immediately he turned back and returned. Even at that time stone pelting and bomb throwing were continuing from the northern side to southern side and some of them fell in the end road. He had further stated that he had not seen any houses burnt at that time. He had categorically stated that it was Sherafudeen who had first fired using his revolver and thereafter ordered police to fire and police officials started firing indiscriminately and started moving towards south and it was at that time, he saw two persons falling down at a distance of 25 metres from where he was standing. He had further stated he could not realise who those persons were at that time but later he came to understand that they were Ahammadali and Badusha. He had admitted that

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compare to the Christian population in that area Muslim population is on the higher side and the Christian population is only 1/10th of the Muslim population in that area. According to him, when he went there, he saw 30 to 35 persons including male and female were standing on the northern side of the end road and ladies were simply standing there at that time. He had further stated till he returned from that place the persons who were playing were playing continuously and persons engaged in fishing activities were engaged in their work and persons resting were still resting there at that time. It was after police started firing that they started running towards west. He denied the suggestion that more than 1000 Muslim persons came there with dangerous weapons and entered the Cheriyathura church compound and caused heavy damage to the houses there and attempted to even cause damage to the church and according to him, no such incident had happened there. He had further stated that after police picketing was established on the night of 16th, he did not go to Cheriyathura area. He had also admitted that on the

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16th night, there was pelting of stone and tensed situation in Cheriyathura area and it was thereafter to avoid further incidents happening in that area that police picketing was established. He had pretended ignorance about any damage caused to Christian houses at that time. He had denied the suggestion that there were persons engaged in sale of pirated CDs from Beemapally area. He had stated that he did not know whether most of the shops in Beemapally area are being conducted without obtaining proper licence. He had also pretended ignorance that when electricity officials came there to inspect the electric meters in the houses, they were prevented by the people. But it will be seen from the documents produced from 'E1' party and the registers of supply regarding arms and ammunitions, no bullet given to Sherafudeen was used in that incident. So the fact that he had seen Sherafudeen first fired using his revolver appears to be false and that will go to show that there was no possibility of this person going to the place and witnessing the incident as claimed by him. He had also stated that high police officials had participated in

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the meeting conducted in the Jama Ath office on 16th night but Sri. Surendran Pillai, the then MLA and Minister and then District Collector stated that the police personnels were not permitted to enter Beemapally area and they did not participate in the meeting. Though this witness had stated that there was no mob collected in front of Beemapally area on that day, the evidence of District Collector and Surendran Pillai will go to show that there was mob collected at the end road on the 16th night when they came there and till the meeting was over at 11.45 pm the mob was collected there and only after the Jama Ath Officials informed the decision taken in the meeting, the agitated mob had left the place. So this will go to show that this witness is also not divulging the entire true things happened on that day and he is also trying to protect the interest of the Muslim community people. He had further stated that at about 3.15 pm on 17.05.2009 ,he came to Jama Ath office and at that time, he had seen the then Jama Ath President A1W21 Abdul Azeez and A1W25 Anzar then secretary of Jama Ath in the office. According to him,

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the District Collector had come to the Jama Ath office at 6 pm on 17th evening. He had further stated that since Urus Festival was approaching and filing any complaint will cause hindrance to that festival, they told the affected person on 15th evening not to file any case and Jama Ath directly intervened in the matter and filed the complaint. But no such copy of the complaint has been produced before the commission to prove their bona fides. Further the statement given by the said Peer Muhammad whose shop was alleged to have been attacked on 15th and 16th had not mentioned these facts in the statement given by him after one month of the incident. So that falsifies the case of this witness that some incident had happened in the shop of Peer Mohammad in Beemapally area involving Kombu Shibu on 15th and 16th as claimed by them. The said Peer Muhammad had only mentioned about the incident happened on 10.05.2009 in the first information statement given by him and this witness had pretended ignorance about the statement given by the said Peer Muhammad before Poonthura police on 13.06.2009. He had also pretended ignorance about

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the statement given by Aboobaker whose boat was gutted to fire on the night of 16th and in that statement he had only stated that some Christians from Cheriyathura had done this, though this witness categorically stated that this was done by Kombu Shibu and associates with the help of police. He had further stated that at the time when he went to seashore and on his way back, he did not see any person known to him either standing there or asking the police not to fire. He had further stated that on seeing the situation there, he felt that the situation will become more worse. He had also stated that the police had started firing after the stones and bombs were thrown at them indiscriminately. He had also admitted that only due to the intervention of the District Collector, they have decided to hand over the two dead bodies kept there. He had further stated that he did not go to the end road along with Jama Ath President to enquire about the incident happened on the 16th evening. He had also stated that he had seen Kombu Shibu and others causing damage to the shop of Kochi Peer Muhammad on the 15th evening and he

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was taking tea from Royal Hotel at that time. According to him, Kombu Shibu and others went up to Beemapally junction abusing the shop owners and then went back. He had admitted that he did not inform this matter to the police and no complaint was also filed regarding the same except informing the Jama Ath president who had sent a complaint in the letter head of the Jama Ath to the Circle Inspector of Police and the Sub Inspector of Police, Poonthura and he did not know as to whether any case was registered on this basis. He had further stated that the did not see any person setting fire to the boat of the Aboobaker and he came to know about the same from the police people. He had further stated that police had come to that place on the 16th night on the basis of one lady from Cheriyathua informing the situation to the control room. He had further stated that he did not know whether police had taken any steps to get Kombu Shibu on 17th. He had pretended ignorance about ladies and children from Cheriyathura area blocked vehicles in Cheriyathura area and according to him, his enquiry revealed that it was done by Kombu

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and others. He had pretended ignorance about the fact that since police felt that on account of the blockade if vehicles were allowed to pass through Cheriyathura area there is a possibility of law and order situation and that was the reason why they have diverted the vehicular traffic. He had further stated none had come and made complaint in the Jama Ath regarding setting fire to any of the boats or nets in Beemapally seashore on the 17th. He had admitted that the persons who were standing on the northern side whom he had seen were holding weapons and according to him he had enquired about the welfare of Sherafudeen who was standing there at that time and according to him, Sherafudeen was there in the Jama Ath office till 2.00 pm when they left for their houses on that day. So the attitude of this witness enquiring about the welfare of Sherafudeen at a time when some mob according to him was standing on the northern side with weapons appears to be unbelievable as well. So he is now trying to claim to be an eye witness to the incident to make it to appear that there was no fault on the Muslim community people of Beemapally area and

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police had fired without any reason and they have helped Kombu Shibu and others to do the mischief in that area. So it is not safe to rely on the evidence of this witness regarding the actual thing that has happened in that area.

A1W24, Sri. Abdul Aeez, was the president of Beemapally Jama Ath during the relevant time. According to him, the residents of Beemapally and Cheriyathura are keeping good relationship and both the Jama Ath office bearers and Cheriyathura parish Church Office bearers are keeping good relationship since long time and they used to have contact with each other whenever some incidents happened in that area. On 10.05.2009, at about 9.30 pm, Kombu Shibu and seven of his associates came to the shop of Peermuhammad in Beemapally with name Kochin Stores and purchased some articles and when the owner of the shop demanded money for the same, they caused damage to the shop and threatened him and left the place. According to him, though he had made a complaint about the incident to Poonthura police station, they did not take any action. According to

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him, on 15.05.2009 also Kombu Shibu and others came to the shop of the very same Peermuhammad and abused him and since he felt that allowing this to continue will cause some hindrance to the forthcoming Urus festival, he had filed a complaint against Kombu Shibu to the Circle Inspector of Police, Poonthura. On 16.05.2009 at about 4.30 pm, Kombu Shibu and associates came to end road and abused the shop owners in Beemapally area and as an office bearer of Beemapally Jama Ath, he went to that place and talked to Kombu Shibu and others and asked them to go back and also requested the people to be tolerant as Urus festival is coming and on hearing this, they left the place. Kombu Shibu and his associates were accused in several cases. According to him on, 16.05.2009 at about 7.30 pm, Kombu Shibu and others again came to Beemapally area and abused the shop owners there and also abused the persons coming to Beemapally and caused damage to a car that was kept there. On hearing this, he contacted the Poonthura Police and requested their presence and accordingly, the Sub Inspector and some police officials from Poonthura

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Police Station came there. On seeing the police people, Kombu Shibu and others temporarily withdrew from the place and thereafter they again came and abused Beemapally people and pelted stones and bricks over the heads of the police officials as well. They caused damage to the shops of Gireesan and Moni and also caused damage to some of the houses there. They set fire to some motor cycles kept there and it was understood that some police officials had sustained injuries in the stone pelting and they have also caused some damage to police vehicles and fire force vehicles. Since he felt that the situation may worse in that area and it is likely to affect the forthcoming Urus festival, he contacted the then Thiruvananthapuram District Collector, R.D.O. and the local MLA and Deputy Commissioner of police over phone and requested their presence and at about 10.30 pm, they came and there was a meeting held in the Jama Ath Office involving those persons, police officials and Cheriyathura Parish council members and it was decided that before 6 am on 17.05.2009, Kombu shibu and his associates will be arrested and peace

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will be restored in that area and District Collector had given instruction to the police officials present there regarding the same. According to him, Sri. Jolly Cheriyan who was in charge of City Police Commissioner and Sri.Suresh Kumar, then Assistant Commissioner, Shangumugham and Sri.Pradeepkumar, then Circle Inspector of Police, Poonthura and the Sub Inspector of Police, Poonthura were seen at that time. But there was no interest or effort taken on the side of the police to arrest him, but on the other hand, he obtained help from the police people. According to him, either on 16.05.2009 or on any other date Beemapally people did not attack or involve in any altercation with the police. On 17th morning, he came to the mosque to attend Subhi Namaskaram and at that time, he saw a police officer came in Tata Sumo examining the by lanes in Beemapally area. He felt that since it is a duty of the police officials, he did not interfere and went to mosque. At about 6.45 am, he came from the mosque and at that time, the bus belonging to Abdul Khadar with name Sameera Travels stated its trip from Beemapally area and after taking

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passengers in Cheriyathura junction and proceeded towards north and when it reached Rose Mini Convent Kombu Shibu and others stopped the bus and threatened the persons in the bus and on account of that the bus came in the reverse direction and this was informed to him by the local people and immediately he informed Sri. Sherafudeen who was present there and also informed about the decision taken on the previous day meeting in the presence of District Collect and at that time, he had not taken it for face value. So immediately, he called the RDO over mobile phone and as requested by the RDO, he handed over the mobile phone to Sherafudeen but he did not attend the call. Thereafter he called Sri. Jolly Cheriyan who was in charge of City Police Commissioner and though he told that he will come to the place immediately, he did not come there till the police firing happened there. At about 11.30 am on 17th, Sri.Sherafudeen and Sri.Pradeepkumar had come to the Jama Ath Office and they received them and gave refreshment and while they were talking with him, a lady from Aluva came and informed that some police and some people

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in the Cheriyathura area had stopped their vehicle near Cheriyathura church and he told Sherafudeen that what he had told in the morning had come true and immediately Sherafudeen and the Circle Inspector of Police went to northern side and after half an hour the family came in the Tata Somo came to Beemapally but it was revealed that police were not allowing any vehicle to pass through the Poonthura--Beemapally road towards Beemapally side and when they contacted the Circle Inspector of Police Poonthura, he told that they were diverting the traffic as directed by higher police officials. It is revealed from their conduct that they were doing all those things to cause trouble to Beemapally people. At about 2.30 pm, he went to his home for taking food and at that time, he heard continuous firing sound and immediately, he along with Farooque S/o. Abdul Gafoor came to the sea shore through a by lane which is situated 100 metres south from the end road. At that time, he had seen Sherafudeen passing along with the police firing at the innocent people towards south and though he told him that he is Jama Ath President and he wanted to talk to

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him and Farooque also told about the same, he had abused them and took a stone and pelted against them and since Farooque had warded off the same he did not sustain injuries. Fortunately, Sherafudeen had not fired at him. Thereafter they proceeded towards south by firing at the people and they came back to main road through the same road. Thereafter, he came to main road and by the time, people were taking the injured persons to the main road and they made arrangements to take them to the hospital etc. After some time, MLA, District Collector, RDO, and Tahsildar had come to Jama Ath office and when they asked the Collector and RDO as to who had given the order for firing, he told that they did not give any orders and they did not know as to who had given the orders to them and thereafter Collector left the place and after some time, Collector came back with police to conduct route march from Cheriyathura junction to Beemapally area and he had blocked the same and as requested by the MLA Sri. Surendranpillai, the route march was withdrawn. There was no occasion for the police to fire at that time. The allegation that Beemapally

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people went to Cheriyathura area and tried to attack even the church etc are allegations made subsequently by the police with a view to justify their act. They have done the damage to the buildings and the articles with the active connivance of Kombu Shibu and others and they have now created a fake clash to justify their act. In the cross-examination, he had stated that he had improved his case than what was stated by him in his earlier version and he did not mention in his earlier version that Sherafudeen had abused him and pelted stone against him etc. Further in some areas he had improved his version than what was stated by him in his earlier version. Further he had pretended ignorance about the nature of damage caused at the end road on the 17th and also on the 16th evening. He had also pretended ignorance about the involvement of persons in the clash that happened on 16th including Muslims and according to him, there was no provocation made from the side of the Muslim community people and they were keeping calm and quite even at the time when the District Collector came there. According to him, police officials had

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participated in the meeting held on 16th night at Beemapally Jama Ath office and it is from there that the district collector had given instructions to police officials to arrest Kombu Shibu and others immediately. So a reading of his evidence will go to show that he is also trying to improve his version and making embellishments in his version regarding the manner in which he happened to see the incident on the 17th than what was stated by him in his earlier version. Further a reading of his evidence also will go to show that he is also not telling the truth regarding the actual things happened either on the 16th evening or on the 17th and whether there was any involvement of Muslims of Beemapally area in the incidents happened on both days and he is trying to justify the versions given by the witnesses examined on their side to justify their version and put to entire blame either on the police or on Kombu Shibu and his associates and wanted to protect the interest of the Muslim community people stating that they will never involve in any illegal activities. He had admitted that on one day when Inspector General of Police had come there

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there were some incident happened by wrongfully confined him by the shop owners and only when the police from Poonthura came, he was released and this fact was with much reluctance admitted by this witness when it was brought to his notice that such a news had come in the newspapers. Then he told that such an incident happened because his identity was not known to the persons and when they came to know about his identity, the matter was settled. It is quite unfortunate that there was no further action taken in this regard by the police officials. However, I am not at this stage commenting much on that as it is not relevant but that will only project the attitude of the Beemapally people if something caused against their interest on account of the act done by some officials in that area. He had also pretended ignorance about the news came in the newspapers about Beemapally people prevented electricity officials when they came for inspecting the electricity meters in the houses situated in Beemapally area. So it is clear from his evidence that though there is wide rumours that illegal activities are going on in Beemapally area he is

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not admitting those facts so as to protect the interest of a particular community who in majority doing business of such nature in that area. Though the earlier version was given more than six months of the incident, he had stated that certain things were omitted in that affidavit and in continuation of the same he had contributed those omissions in the present affidavit and it is an exaggerated, embellished versions about the things witnessed by him which were not stated in the first statement given by him which was the first opportunity given to him to narrate the things happened on the unfortunate day in Beemapally and Cheriyathura area. So under the circumstances, it cannot be said that his evidence can be treated as an independent evidence that can be taken at its face value without corroboration.

A1W25 Sri. Assanar is the Secretary of Beemapally Jama Ath during May, 2009. He is not an eye witness to the incident but he had only hearsay knowledge about all the incidents that had taken place on 16th and 17 of May, 2009 at the end road as well as at the sea shore. Further he had also only hearsay

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knowledge about the incident happened in the shop of Peermuhammad either on the 10th, 15th or 16th. Even on the 17th at the time when he was in the house, he heard the firing sound and immediately, he came to Jama Ath office. According to him, he left for his house from the Jama Ath office on that day at 2.30 pm only. He had further stated that while he was coming there, he had seen people running here and there and some persons were taking the injured person from the beach side towards the main road. He had pretended ignorance about the nature of damage caused to the houses and shops on either side of end road on 16th and 17th. He had also stated that at the time when he was coming from his house on hearing the firing sound, he did not hear any other sound of either blasting of bombs or tumult either in the beach road or at the end road. He had further stated that he did not even go to the end road when he came to know about the incident on 16th and according to him, president went to that place and he had only hearsay knowledge about the incident. He had also stated that though he came to understand that several persons in

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Beemapally area had sustained injuries in the stone pelting, none had come to the Jama Ath office with any complaint. He had further stated that he did not talk to any person who sustained injury in the incident and he is not able to give the name and address of the eye witness to this incident. He had further stated that some of the organisations run by Sunni Sect and AP and EK group are functioning in that area. So his evidence is not helpful to know the real situation that was prevailing either at the end road or at the beach area which led to the firing on that day.

A1W26 Smt. S. Beema, was an alleged eye witness to the incident and she was residing near the end road at that time along with his daughter-in-law as his son, Badusha had gone abroad at that time. According to her, on 16.05.2009 at about 5.45 pm, one Nizamudeen had parked his car in the place where now a police picketing was established in Cheriyathura area and at that time Kombu Shibu and others came there and abused him and asked him to take the vehicle form there. He had abused him by using obscene language and beaten on his face. Again when

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Kombu Shibu tried to beat Nizam, he moved from there and thereafter there was some scuffle occurred between them and somebody from the area came and removed them and Nizam left the place. On the next day morning, he went to Gulf. According to her, at about 9 pm on that day, Kombu Shibu's brother Manikuttan and their associates Kolachi Raju and others along with Kombu Shibu came there and abused the Beemapally people and pelted stone and bricks against them. Though the president of the Jama Ath came there and tried to pacify them, it was not successful. By the time police had reached that place and in spite of that, Kombu Shibu and his associates were pelting stones and bricks from Cheriyathura area above the heads of the police and in that police people sustained injuries. Further they have also caused damage to the shop of Mani Sir and Gireesan and some houses nearby and also caused damage to some motorcycles by setting fire to the same. She had seen a boat burning on the north western side of Cheriyathura church at about 9.30 pm on that day. Later it was understood that it belonged to one

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Aboobaker. After some time, District Collector, RDO and police officers came to Cheriyathura and went to Jama Ath office and she came to understand that they came there as requested by Beemapally president and the office bearers. After some time, they left the place and gave assurance that before dawn of the next day, Kombu Shibu and his associates will be arrested. At about 2.00 am, on 17.05.2009 she heard some sound from the shops of Gireesan and Mani Sir and when she woke up and came, she saw police people causing damage to the shop and throwing articles to the road. According to her, on 17th morning at 11 am, she went to Beach side for purchasing fish and thereafter she came to the shop of one Illias Habeeb and she was waiting there and at that time she saw police firing at five or six persons standing near them and they were firing without any fear and out of fear she left the place. There was no occasion for the police to fire at that time. According to her, after the incident, she went to the Jama Ath office on 20th and informed about the matter within her knowledge. She had further stated that her house is situated near Buhari

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Nagar area but at the time of incident, she was residing in her son Badusha's house as he had gone to Gulf 12.05.2009. She knew Kombu Shibu and his brother Manikuttan and their friend Kolachi Rajan for the last ten to twenty years. She had further stated that she knew Nizam after she started residing in her son Badusha's house near end road. But she had stated that she did not know his address and she had not talked to him earlier. So it is not known as to how she had identified the person came with car and quarrelled with Kombu Shibu as Nizam. Further she had also stated that she did not tell about this incident to any one. She had further stated that she had seen the incident happened at 9 pm while she was standing in the courtyard of her house. She had further stated that on both the occasions, none of the Muslim people had gathered in that area except 5 to 8 persons standing there and they were standing by the side of the road. According to her, though her daughter -in-law was also residing with her, she did not see the incident. She had further stated that from 11 am till the police firing happened, she was standing in the

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beach road and at the time when police started firing it was about 2.45 pm and except some people engaged in pulling the net and some persons drying and stitching the net, there were none in the beach area. She had further stated that she did not know what was happening at the end road at the time when police started firing. She had further stated that while she was returning, she entered the house of her brother Ayoob and at that time her brother was not there. She had further stated that she did not see any persons who is known to her either in the beach or in the road through which she returned and when she reached the main road, she saw the Jama Ath officials coming from Jama Ath office but she did not tell the incident to them. According to her, among the persons seen who were coming from the Jama Ath office, she knew only the Jama Ath President. If that be the case, then the Jama Ath President Abdul Azeez examined as A1W24 going to the beach road and seeing the incident as claimed by him could not be belived. According to her, no shops were closed on the 17th morning and it was closed only in the evening in the Beemapally area. She

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had further stated that she did not see any of the house being damaged in Cheriyathura area. She had further stated from the place where she was standing there was lot of distance to end road. She had further stated that at the time when she was seeing police people running and firing at persons who were engaged in stitching the net, she saw 5 or 6 people falling down and saw four police men lifting Firose and dipping him in the sea. But she had not mentioned this fact in her proof affidavit but this was developed by her at the time of her cross-examination. Further it was also admitted by her in the cross-examination that the said Firose is her brother's daughter's son. But she had not mentioned anything about she seeing persons falling down who sustained injuries in the police firing in her proof affidavit. So it is clear from this that this is an improvement made by her at the time of cross examination. In the cross examination, she had further stated that she did not see the president Abdul Azeez coming from the Jama Ath office on the 17th and she had seen him coming so on the 16th evening and this is contrary to what was stated by her in the cross-

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examination of B1 party. She had further stated that she did not see the houses of any Christian people being damaged on the 16th evening. She had further stated that she did not see any person setting fire to Aboobakar's boat and net but she was only seeing the same burning at that time. She had further stated that only if she stood in the second floor of the house, she will be able to see things happening in the Cheriyathura junction and the end road. But according to her, she had seen the incident happened in the evening of 16th while she was standing in the courtyard of her house. She had pretended ignorance about any incident happened in the CD shop of Peermuhammad between 3.45 and 4.00 pm on the 16th evening. She had further stated that she did not know as to whether there was any incident happened between Nizamudeen and Kombu Shibu at 4.00pm on 16.05.2009 and whether Kombu Shibu had sustained any injury in that incident. She had further stated that Kombu Shibu and some people had not come to the end road at 8.30 pm on 16.05.2009 but they came at 9.00 pm. She had further stated that there were none

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come from Beemapally area when Kombu Shibu and his associates were abusing and pelting stone at Beemapally people. She had further stated that she did not know with what weapon the police had caused damage to the shops when she alleged to have seen them damaging the shops of Girisan and Monisir. She had further stated that Mani Sir's shop and house are situated in the same building. She had further stated that she did not know the reason as to why police had damaged to the shops of Mani and Gireesan. She had further stated that on 11.00 am to 2.45 pm while she was in the seashore, no boat had come from the sea. She had further stated that there is no reason as to why she did not mention about her seeing some persons engaged in pulling the net from the boat and some persons engaged in stitching the net at the time when she was in the beach area in her proof affidavit. This is also a development made by her at the time of her cross-examination. According to her, though fire engine had come to end road area, it was not engaged in putting of the fire. She had further stated in the cross-examination of 'G' party that on 16th, she did not

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see any person falling down due to injuries and being taken to hospital on that day. According to her, the stone pelting continued from 9.00 pm to 9.45 pm and she did not know from where the miscreants had brought the stones for pelting. She had further stated that before giving evidence before the commission, she did not mention these facts to any one. She went to Jama Ath office to enquire as to what happened to Firoskhan and they did not show the body to her. There is no two storied house in that locality except that of her son Badusha and there were only single storied houses in that area. She had further stated that even at the time when police were lifting the injured Firoskhan, she could identify him as her relative Firoskhan. She had stated that somebody was taking photos in the mobile phone but she did not know their name. She had further stated that she had not gone to crime branch office to give statement regarding the things within her knowledge about the incident though she came to know from mother of Firoskhan that she was questioned by them in respect of the incident. So all these things will go to show that she had not really

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seen the incident but now she is deposing before the commission that she had seen the incident in order to support the case of A1 party and also make it appear that there was no involvement in the incident for her brother's grandson Firoskhan who died in the incident. She had also deposed that at the time when she was running on seeing his brother's grandson falling down and running through the road crying, this was seen by Jama Ath officials but none of the Jama Ath officials examined before this court has stated this fact though they have acquaintance with this lady even earlier. So it is not safe to rely on the evidence of this witness as her evidence did not inspire confidence in the mind of this commission to come to the conclusion that she had seen the incident and the incident happened as stated by her.

A1W27 Sri.Iqbal is an alleged eye witness to the incident. According to him, he was working in the boat of Aboobakar. On 16.05.2009, they went to sea twice and they got some fish and they auctioned the same and he had sustained some injuries on his hand while shifting the fishes from the boat. He collected

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some amount which he obtained by sale of the fish and went to his house on the 16th evening. While he was lying down in the house, he heard some tumult in the end road and immediately he rushed to that place. At that time, he had seen Kombu Shibu and Kolachi Raju and Manikuttan throwing stones and bricks towards Beemapally area and lot of police persons were standing there at that time. It was about 9.00 pm at that time. He had also seen Jama Ath president coming there and since police personnels were standing there, he was asking the Beemapally people not to stand there and go back to their houses and so he went to his house. After half an hour somebody came and told him that their boat was set to fire and he went to that place and saw the burning boat and police was there. According to him, he along with Aboobakar and Ahammadali also came there and thereafter they went to their houses. On the next day morning Aboobakar and Ahammadaly went to Valiyathura police station and gave complaint regarding the incident. At about 2.00-2.30 pm, Aboobakar and Ahammadaly called him for settle the

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accounts of the cash collected by him by selling the fish on the previous day and accordingly, he went to that place and at that time five or six persons were engaged in pulling the net from the sea and he had also seen Abdul Hassan A1W23 the then Joint Secretary of Beemapally Jama Ath talking with the police officer there. At that time, he had seen some male and female persons standing on the north of the end road under the leadership of Kombu Shibu and Kolachi Raju and pelting stones and bombs towards south and some of the bombs fell on the southern side and blasted and immediately the police officer had taken his revolver and fired towards south from where he was standing and thereafter the police people started firing towards south against the persons who were engaged in their work. On seeing this, he got frightened and went towards east through the by-lane. The persons who were standing near them were also running towards south and he saw some of such persons running and falling down due to police firing and he came to his house and told the members in the house that police was firing and they should not go

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from there and the police firing continued for nearly half an hour. He came to know later that four persons died and several persons injured in the incident and they were taken to Medical College Hospital and other hospitals for treatment. Since he was frightened on account of the incident, he along with his family went to Beemapally compound and stayed there. Police did not make announcement prior to the firing. According to him, at about 2.30 to 2.45 pm on that day, a boy came and told him that Aboobakar and Ahammadali wanted him to come to the seashore with money but he did not know the name of that person. According to him, Aboobakar and Ahammadali were standing 50 metres south from the end road beneath a coconut tree. According to him, he had only spoken with them for 2 to 3 minutes and he was not able to hand over the money or the amount to them. He had also stated that he had heard blasting of two bombs at that time. According to him, on the southern side, children were playing cricket and some people were engaged in pulling the net but these aspects were not mentioned in his proof affidavit. He had further stated that he had

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run 25 metres south and then went towards east through the by-lane and reached his house and at that time, he did not see any person known to him coming towards beach area and he did not see any person running in front of him through that by-lane at that time. According to him, at the time when he went to end road on the 16th night, there were about 10 to 25 persons standing there when Jama Ath president asked them to go to their houses. He had also stated that there was none known to him at that time among them. He had also stated that he had not seen any of the Christian houses or shops burning at that time. He had further stated that he did not know whether Muslim community people under the leadership of Nizamudeen and Noohoo went to that area and caused any damage. He denied the suggestion that he had sustained injuries in the incident happened on 16th night as he had involved in that incident. He had further stated that he went to A1W23 and told that he had seen the incident and as instructed by him, he came to the office of the advocate and gave the statement. He had further stated that he did not know

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the present secretary of the Jama Ath or any of the members of the present committee of the Jama Ath. He had further stated that he knew Kombu Shibu, Kolachi Raju and Manikuttam for more than ten years. He had further stated that though he had seen Aboobakar on the 16th night, he did not entrust the money collected by him on that day to him. He had further stated that he did not know as to why Kombu Shibu, Kolachi Raju and Manikuttan and their associates had pelted stones at Beemapally area. He had further stated that he did not go to the beach area at the time when police was preparing mahazar in respect of the burnt boat of Aboobakar and he had further stated that he did not know whether Aboobakar was present at that place at that time. He had further stated that at the time when he went there Abdeen and Azeez were there in the beach apart from Aboobakar and Ahammadali and himself. He had further stated that at the time when he was coming to the beach area that he had seen A1W23 Abdul Hassan was talking to a police officer and within 2 to 3 minutes of that incident, he had heard the blasting of

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bombs. He had further stated that he had not seen any of the bomb so thrown by Kombu Shibu and others falling in any of the houses in the Beemapally area but according to him, they were throwing the same against the people. According to him, in the incident happened on 17th, there was severe throwing of bombs and he denied the suggestion that police had tried to remove the persons engaged in the clash. He had also stated in the cross-examination that on the 16th evening when he went to end road, he had seen some tumult between Cheriyathura people and Beemapally people and police was standing in between them. According to him, even at the time when he went there, stone pelting was going on. He had further stated in the cross-examination of 'H' party that apart from Kolachi Raju, Manikuttan, and Kombu Shibu, Antony, Jose, Kunjumon and Elias were also present along with them. He had further stated that there was no meeting held in the Jama Ath office on the 16th night to his knowledge. He had further stated that he did not know the houses of Antony, Jose,Kunjumon and Elias who were alleged to have been present on the 17th

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afternoon along with Kombu Shibu and others and involved in the incident. He had also stated that he did not know their address as well. He had further stated that though he knew about the incident and also knew about the fact that crime branch was investigating the matter, he did not go and give his statement before them. He had also further stated that there is no special reason as to why he had not mentioned the names of Antony, Jose and Kunjumon and Elias in the proof affidavit as the persons who were there along with Kombu Shibu and others. He had also stated that there is no special reason as to why he had not mentioned in the proof affidavit that he had seen one of the persons who were talking with him at that time falling down due to police firing in his proof affidavit. He had pretended ignorance about the crime branch officials questioning and recording the statements of the injured and other persons in connection with the investigation of the case. He had further stated that at the time when he had seen Hassan talking with police officer, he had seen 10 to 15 police officials standing there and apart from that there were about 100 police

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officials standing on the western side further west of the sea wall and he could not see as to whether there was any police officials on the end road because of the presence of compound wall there. It is also seen from his evidence that he is also making improvements and embellishments regarding his knowledge about the incident than what was stated by him in his proof affidavit while he was giving evidence before the commission. The conduct of the person who had seen the incident and also seen a person who was standing there falling down did not go and give statement before the Investigating Officer regarding the incident throws some suspicion about his presence at the place of occurrence and witnessing the incident as claimed by him. Further A1W23 had no case that he had seen this witness passing him or talking with Ahammadali and Aboobakar at that time. A1W23 also had no case that he had seen Aboobakar at the place of occurrence at that time. If really Aboobakar was there at that time, he must be the best person to speak about the incident but any of side had attempted to examine that person to prove the incident. Further Aboobakar had

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not mentioned any names in the case registered on the basis of his statement regarding the loss caused to his boat. So considering the circumstances, it is not safe to rely on the evidence of this witness to come to the conclusion that the incident happened as stated by him.

A1W28 Sri. P.A. Pouran is the General Secretary of Peoples Union of Civil Liberties and according to him, his organisation had gone to the place at Beemapally area and conducted an enquiry and submitted Ext. A1(5) report regarding the incident. He had also stated that except Kombu Shibu, Nizamudeen and Joy, names of none other persons were mentioned by the persons whom they have questioned. He had further stated that during the enquiry, it was revealed that at least the life and property of one section of people could be saved on account of the police firing and that was the opinion of one section of people at the time of their enquiry. He had also stated that whether the persons involved in the riot had sustained injuries could not be stated by him because they have not wholeheartedly co-operated

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with their enquiry. It was revealed from his enquiry that the incident happened on 16th and 17th May, 2009 had caused due to some enmity developed between two community people and in order to find out the real culprits unless the Jama Ath and Cheriyathura church committee members wholeheartedly co-operated that will not be possible and they have no impression that they have wholeheartedly co-operated with their enquiry. It is also seen from his evidence that there was a clash occurred between the members of both community people before police fired at them but he may not be able to say as to who was the aggressor in the incident. It is also stated by him that explosive substances were used extensively in that incident. According to him, the police firing occurred on the south eastern side of the mud road leading to Assumption Church. It was also stated by him that before firing, police had used tear gas in that area. He had also stated that there was feeling that it is not possible for the police to arrest people or take any preventive measure in that area is to some extent

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correct. He had further stated that the incident had started due to involvement of an antisocial element but there was possibility of this has become a communal clash later. He had alsc stated that if the incident happened there was not seriously handled by the police, the possibility of this being converted into communal clash cannot be ruled out. He had also stated that there was a feeling among the people since long time that it is not possible for the police to prevent the illegal activities being conducted in Beemapally area. It is seen from the report Ext. A1(5) given by the organisation led by this witness that it has been noted that the incident happened after 3.00 pm on 17.05.2009 on the southern side of the mud road leading to Assumption church at the western end and it was not mentioned that this is going towards further south or how much distance it has gone. But at the time of evidence, according to him, this is about 100 to 150 metres south from this area and it has not been mentioned in ext. A1(5) report. Further the evidence of this witness would go to show that there was clash between two community people namely Christian and

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Muslim but he will not be able to say who was the aggressor but it will be seen from report Ext. A1(5) that a different version was given by the Cheriyathura people and their version or the version of police cannot be believed and there was no evidence of any gravity of action happened in the Cheriyathura church compound as claimed by the parties. But it may be mentioned here that there was no reason stated in their report as to why the team is not believing the statement of the Christian people alleged to have been questioned by their team. Further they have not enquired about the cases registered in respect of the incident and also the police officers who were in charge of that place at the relevant time before forming their opinion. So under the circumstances the evidence of this witness and Ext. A1(5) cannot be relied on for the purpose of coming to the conclusion that there was no justification for the police firing or there was no incident happened as claimed by the police personnels which according to them resulted in the police firing etc. But at the same time the evidence of this witness will go to show that there was

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a clash occurred between two community people involving both Christians and Muslims and there was extensive use of explosive substances in the incident but since both parties did not wholeheartedly co-operate with their enquiry, he is not able to say at present as to who was the aggressor in the incident. So that will cut at the root of the case of A1 party that there was no involvement of Beemapally Muslims in the incident and police had simply fired at them without any reason.

A1W29 Sri.Biju was the Revenue Divisional Officer at the relevant time. He had no direct knowledge about the incident happened of 16th or 17th of May, 2009 but he had reached the place after the incident on both these occasions. According to him, on 16.05.2009 at about 10.15 pm, he got information from the District Collector about some incident happened in Beemapally-Cheriyathura area and as requested by the District Collector, he came to Cheriyathura area and he came there at 10.30 pm and he was accompanied by District Collector as well. When they reached that place, police personnels were there and Beemapally

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Rasheed, the then ward councillor who was examined as A3W4 and the then MLA and Minister Sri. Surendran Pillai who was examined as A1W30 were present at that time and they were standing on the southern side of Cheriyathura junction and the Muslim people were standing there in an agitated mood and they went to Jama Ath office and had participated in the meeting held there which took around one hour to arrive at decisions and the Beemapally people and Jama Ath people did not allow the police people to participate in the meeting. Four decisions were taken there (1) instructions will have to be given to the police (2) antisocial elements Kombu Shibu and Rajan were to be arrested immediately (3) instructions will have to be given to revenue officials to assess the damage and give report to the District Collector and (4) the antisocial elements of both community responsible for the incident has to be dealt with in accordance with law. The manner in which forth coming Urus festival has to be conducted was not the subject matter. After the decision was taken, this was informed to the agitating mob standing out side by the

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Jama Ath President and other office bearers and on hearing this, the mob dispersed. Thereafter District Collector informed the decision taken in the meeting at the Jama Ath office to ADGP Rajeevan who was examined as E1W6 before this commission. Thereafter the District Collector went to the Church office and discussed with Vicar General Sri. Fr. Yugine and other committee members and informed about the decisions taken in the meeting held at the Jama Ath Office. The church authorities also agreed with the decisions and they wanted to take action against the persons responsible for the mischief and also take steps to pay compensation to the damage caused to the persons whose properties were damaged in the incident and that was assured and this was informed to the persons gathered in the church compound. He had also stated that he received an unknown phone message about the road block happened in Cheriyathura area on 17.05.2009 and this was informed to the concerned police station. He had not received any communication from Jama Ath officials regarding the same. This was contrary to what was stated by A1W24

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Abdul Azeez that he contacted the Revenue Divisional Officer in the morning about the blocking of the bus by Kombu Shibu and others and handed over the mobile phone to Sri. Sherafudeen and Sri. Sherafudeen did not talk to the Revenue Divisional Officer. Further he had also stated that at about 3.45-3.50 pm, he received information from District Collector that there was some law and order problem in Beemapally-Cheriyathura area and wanted him to go there and immediately he reached the Cheriyathura -Beemapally area at 4.20 pm and by that time, police firing was over. It was further stated that at the time when he reached there, he went to the beach area and found lot of people gathered at a long distance on the southern side and none were seen on the Cheriyathura area and he was able to see the presence of blood near the end road and also the granite stones of the sea wall and beneath coconut trees standing on the western side of the end road. He had also seen one boat in burnt condition in Beemapally area. He had also seen some houses in damaged condition and he had also seen the remnants of explosion of bombs, stone pieces and

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glass pieces in Cheriyathura end road and also on the northern side of the end road. Huge damage were seen done on the north of the end road side than the damage caused on the southern side. At about 4.50 pm, District Collector came there and they conducted the flag march along the beach area and made announcement of imposing prohibitory order in that area and they saw the mob dispersing from there. Thereafter, they came to Cheriyathura junction and when they tried to conduct the flag march towards south, they could not proceed further and more than 1000 Muslim people gathered on the south of the Cheriyathura junction road and they did not want the police to enter that area. So District Collector and himself discussed with Sri. Surendran Pillai, Jama Ath office bearers and they instructed the police not to enter that area and asked them to go to the junction area and only thereafter the mob dispersed from there. He had further stated that there was a clash occurred between Muslim and Christian people which resulted in the police firing but he did not know whether police firing could have been avoided under the situation as

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he was not present at that time. His evidence also will go to show that lot of explosives were used on the northern side of the end road and more damage has been caused to the properties in the northern side of the end road than on the southern side of the end road at the beach area and he could see the blood stains on the granite stones on the sea wall and also beneath the coconut trees standing on the western side of the end road. So this will give an indication that the place of firing was on the western side of the end road and it was done from eastern side towards west and not towards south as claimed by 'A' parties. Further the story projected by A party members and their witnesses that there was no involvement of Muslim community people in both the incidents happened on 16th and 17th of May, 2009 and they were innocent and police fired at innocent people without any reason cannot be accepted. It is also seen from the evidence of this witness that the Beemapally people were adamant in not allowing the police people to enter their area either on the 16th night or on the 17th evening and they did not even allow to police officials

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to participate in the meeting held in the Jama Ath office on the night of 16th. But the evidence of A1W24 Abdul Azeez, A1W23 Abdul Hassan, A1W25 Assanar and A3W4 Abdul Rasheed is entirely different and according to them, police also participated in the meeting and the District Collector and the Minister had given directions to the police officials to arrest Kombu Shibu and others immediately from the Jama Ath office itself. This is against the evidence given by the officials who attended the meeting. This also will go to show that the attitude of Jama Ath officials and the persons belonging to Beemapally area will go to show that their case that they are peace loving and co-operating with the police in all their activities appears to be not correct. They have got some restriction in allowing the police personnels to enter their area without their co-operation and consent.

A1W30 Sri.Surendran Pillai was the then MLA and Minister for Ports during the relevant time. His evidence also is not helpful to prove the real things happened on the 16th and 17 of May, 2009 as he reached the place only after the incident on both days.

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On 16.05.2009 at about 9 pm, he received a phone call from his party worker that some untoward incidents were going on in Beemapally-Cheriyathura area and immediately at about 9.25 pm, he reached that place. At that time, the Revenue Divisional officer was present. But the District Collector was not there and within ten minutes of his arrival there, District Collector also reached there. He had also deposed that at the time when he reached there, there was commotion prevailing between two community people and it was being prevented by the police. According to him, at the time when he went there, he had seen about more than 100 persons standing there and he went to Jama Ath office to see Sri. Abdul Azeez who was examined as A1W24 before the commission and he told the person gathered there that he had come there for finding out the solution for the situation and they must co-operate with them and it was at that time that District Collector and Revenue Divisional officer also reached there. Thereafter they had a meeting and discussion in the Jama Ath office and it was revealed from the discussion that there was a commotion

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occurred between Christian and Muslim community people and it was also revealed from the persons gathered there that Kombu Shibu was responsible for the entire incident. He had further stated that none of the office bearers of Cheriyathura church or police officials participated in the meeting. According to him, following decisions were taken in the meeting. (1) persons responsible for the incident have to be arrested and necessary legal action has to be taken against them (2) the damages caused to the properties has to be assessed by the Revenue Officials within two days and submit report to the District Collector and District Collector will have to forward the same to the Government with his recommendations for payment of compensation to those persons.(3) in order to bring peace in the locality, necessary police force will have to be deployed in the area where the commotion had taken place and such a situation is subsisting. He had entrusted the District Collector to implement the decisions and thereafter he went to Cheriyathura church to inform about the decisions taken in the meeting and also request the people to co-operate with

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them in restoring peace in that area. He had further stated that District Collector did not inform the decisions to the police officials in his presence. He had further stated that on 17.05.2009 at about 10 am he came to that area but no untoward incidents were reported to him. If really an incident of not allowing trip of the bus starting from Beemapally area to Kizhakkekotta on the morning of 17.05.2009 was blocked by Kombu Shibu and others as stated by A1W24, this would have been brought to the notice of this witness when he visited that area. No cross-examination was done in this regard to this witness and no suggestion was given to this witness that such a thing had happened in the early morning of 17th and that was informed to the officials but no steps were taken. So the incident spoken to by A1W24 regarding the block of the trip of the bus in the early morning of 17.05.2009 by Kombu Shibu and others appears to be an afterthought after the incident. Further this witness has deposed that on 17.05.2009 at about 4.00 pm Jama Ath president telephoned and informed him that police firing had happened in that area and 2 or 3

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persons died and he wanted him to come to that place immediately and accordingly he reached the place before 4.30 pm and when he reached there, he had seen people in both sides were in an uncontrollable manner. If really the incident had happened between 2.15 and 2.45 pm as claimed by A1W24 and the witnesses examined on the side of 'A' Party, they would have informed about the matter even earlier to this witness and that also shows that the incident could not have happened between 2.15 and 2.45 pm as claimed by 'A' parties. This witness has stated that when he reached the place and while he was there in Jama Ath office, it was revealed that about 5 persons died in the incident and lot of persons injured and they were taken to different hospitals. It was about 5.00 pm, when he came to know about the particulars of the dead and injured persons in the incident. He had further deposed that when he was talking with Jama Ath officials, he heard the announcement of imposing preventive order under section 144 of the Code of Criminal Procedure and saw the District Collector had decided to conduct flag march in Beemapally area

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along with the police. When this was seen by the people gathered there, they became more agitated and they further told that if police entered Beemapally area, they decided to stop them at any cost. So he felt that if police was allowed to enter that area at that time, the situation would be worsend and he prevented the police from entering that area and told District Collector not to conduct flag march at that time and if it was done, the situation would become more worse and they wanted the dead bodies to be taken to Medical College Hospital for conducting post-mortem and arrangements had to be done for that purpose. He had further stated that he did not receive any information regarding the incident happened on 16th and 17th from the police in the capacity as the MLA of that constituency. It is also revealed from his evidence that the place of firing was on the western side of the end road and the people belonging to the both communities had effectively participated in the commotion which resulted in the firing. He had also deposed that if severe action was not taken by the police at that time, the possibility of this being spread

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to other area and becoming a communal clash cannot be ruled out as well. He had also stated that at the time when he talked to the people who lost their houses in Cheriyathura area, they told that Muslim people from Beemapally had come and caused the damage and they did not mention the names of any person at that time. He had also admitted in his evidence that on both days when he came to the affected area, he came to understand that more damage was caused to the properties of Cheriyathura people than the Beemapally people. He had also admitted in cross-examination that the workers of NDF and PDP party were in that area and they have no majority in that area. He had further stated to the question put by the commission that whether he is not feeling that if police officials were also allowed to participate in the meeting held in the Jama Ath, the meeting would have been more effective, he answered in the affirmative. He had also stated that none of the persons who had participated in the meeting had stated that police also helped Kombu Shibu in committing the mischief. He had further stated that

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none had informed him about the diversion of vehicular traffic leading to Beemapally area through some other route at that time. He had further stated that there is a general opinion among the police and other government officials that it is not possible for them to do their duty effectively in that area and if any severe action was taken in that area, they will not be getting any protection from their higher authorities. But he had stated that though there are some stray such incidents happened, the authorities were trying to declare that area as an area where law enforcement is difficult and such an attitude is not proper. According to him, the people in the locality were living harmoniously even now and according to him attempt will have to be made by both community leaders to enforce this situation more effectively in that area. He had also stated that both the communal people must resolve themselves that they should protest against each other only after knowing the real state of facts and before that they should not take any decision and react immediately to make the situation worse in that area and for that purpose both community leaders

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must work together sincerely. So it is clear from the evidence of this witness also that there are involvement of the community leaders in small issues in that area as there was large tendency to make it a communal issue even if it was really an issue between two individuals belonging to that area and to some extent they were succeeded in bringing peace among them but at some time it goes beyond their control. So his evidence also will go to show that in the incident happened on both days, there was involvement of the people of both community and a decision was taken in the previous day meeting that the persons responsible from both community have to be dealt with in accordance with law. But quite unfortunately, no such sincere efforts were done by both community people though the Christian community people blaming the Muslim people for the incident without informing the names of the persons who had really involved in committing these mischieves and Jama Ath people were placing the entire responsibility on Kombu Shibu and associates and they have even gone to the extent of saying that police is also helping them and there

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was conspiracy between high police officials and criminals like Kombu Shibu in creating a situation that happened on 17th so as to order firing at innocent Muslim people. So it is also clear from the attitude of the community people that even now, they are not interested in bringing the real culprits before law but they want to see that none should blame their respective community people to make them responsible for the unfortunate incident happened on the 16th and 17 of May, 2009 especially the incident happened on 17th which resulted in the police firing.

No witnesses were examined on the side of A2 party. Four witnesses were examined on the side of A3 party.

A3W1 Sri.Hyderali is not an injured but claims to be an eye witness to the incident.

A3W2 Sri.Nizzmudeen and **A3W3** Sri.Salim are injured in the incident.

A3W4 Sri.Beemapally Abdul Rasheed is not an injured nor an eye witness but he was the ward councillor of Beemapally ward at that time. He had only hearsay knowiedge about the incident.

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A3W2 Sri.Nizzamudeen had deposed that he was working as car driver. According to him, on 17.05.2009 from 2.00 pm onwards, he was playing cricket in the play ground near his house. While so at about 3.00 pm, he heard some tumult and noise on the western side of beach road and Beemapally in the seashore and he came to understand that police was firing in that place and immediately he along with the persons playing there stopped playing and reached the seashore through the beach road situated on the side of Liba stores and reached the beach and the sand area in the beach after crossing the seawall and at that time, he sustained a bullet injury on his buttock from the back. He had also stated that two police personnels had caught hold of his hands and dragged him through the beach area up to the road and thereafter two other police personnels also joined and lifted him and after taking him to the road in front of Beemapally, he was placed on the area where waste were collected. Thereafter since there was no other vehicle available in that area, a police vehicle was called and when police jeep came there, two police personnels lifted

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him and threw him inside the jeep and ignoring his right leg was projecting out side the jeep, they closed the rear door of the jeep forcibly and that caused injury to his right leg. Thereafter he was beaten with lathy by the police from the jeep. He was taken to Medical College Hospital and treated there for long time. According to him, there was no situation prevailing in the beach area for the police to order firing and he sustained injuries when he came to beach area on knowing about the police firing happening in that area. There was no prior announcement made by the police not to go to beach area at that time. He had further stated except hearing the crying sound of the injured persons who sustained injuries prior to him and other persons standing there watching the incident, there was no other commotion or situation prevailing in that area for the police to order firing. He had also admitted that he was playing in the foot ball ground situated on the eastern side of Beemapally which was about 700 metres from that place. According to him, more than 100 persons were playing in the foot ball ground at that time and on hearing the

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tumult and firing sound, all the 100 persons present in the foot ball ground had run to the main road and then to beach area. He had further stated that 10 to 15 minutes would have been taken for them to reach the beach area from the place from where they heard the sound and within this period, he did not hear the sound of blasting of any bomb etc in that area. He had further stated that though he came to understand that some incident had happened in Cheriyathura junction, he did not understand that houses belonging to Christian community people were damaged in that incident. He had further stated that he did not know as to whether any other person who came along with him sustained injury in the incident but later he came to understand that one Salmankhan who came along with him and played cricket with him had sustained injury. He had further stated that at the time when he was about to go to beach he was not aware that police firing was going on in that area. But on hearing the sound, they only felt that some untoward incident was happening in that area. He had further stated that at the time when he reached the hospital he was

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conscious. He had also stated that he could not identify the persons whom he saw running in front of him at that time. He had further stated that he was lying in the beach area after sustaining injury for about 10 to 15 minutes but none had tried to take him from that place till police came there and took him. He had further stated that none was told about any damage caused to the houses in Cheriyathura area while he was undergoing treatment in the hospital. He had pretended ignorance about the people residing in Patheacre area and Milk colony and Fishermen colony involved in sale of narcotic substances. He had further stated that if it is noted in the medical records that he sustained injury on his right leg, right thigh it is correct. He did not care to see as to whether any other injured persons were taken by the police in the same manner in which he was alleged to have been taken by them. He had denied the suggestion that he sustained injuries when he involved in the riot in the end road area happened on the 17th and he had also involved in carrying bomb and throwing them at police and in that he somehow sustained injuries. He had

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denied the suggestion that he was questioned by the crime branch officials earlier and he had stated the same things stated by him before the commission as well. He had further stated that he did not see Salmankhan sustained injury in the incident and only when he came to hospital, he came to understand that he had also sustained injury and he was treated at SR hospital. He had further stated Salmankhan who according to him sustained injury who is known to him is also known in the name Hameed. It may be mentioned here that the said Salmankhan is residing near Alpha mosque and he had sustained injuries on his fingers and he went to SR hospital for treatment. So it is clear from his evidence that he is now trying to impress upon the commission that the Salmankhan who had alleged to have sustained injury and examined as A1W15 is not the Salmankhan who is known to him and sustained injury as according to him the said Salmankhan was playing cricket with them in Patheacre area whereas A1W15 Salmankhan was claiming that he was playing cricket in the beach area on the western side of Beemapally.

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Ext. C10(a) is the wound certificate of this witness which shows that he reached the hospital at 4.45 pm on 17.05.2009 and he had stated to the doctor that he sustained injuries in the police firing against mob at Poonthura today at 4.00 pm. He had a punctured wound right thigh with haematoma. According to the case diary summary sheet which is marked as Ext. C10 relating to this witness, it is stated that he had bullet shot injury right thigh and entry and exit wound. Femoral artery was shattered. His right leg was amputated at the above knee portion. There was no other injuries noted either on the buttocks or on the right leg toe as claimed by him. If really he was dragged and thrown in the jeep and the back door was closed while his leg was stretching outside, then there would have been other injuries noted on his body which was not noted either in Ext. C10(a) or in Ext. C10.Further the fact that he reached the hospital at 4.45 pm only shows that he would not have sustained injuries between 2.45 and 3.00 pm as claimed by him. No foreign particles were removed from his wound. So it is not safe to rely on the evidence of this witness also

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regarding the manner in which the incident happened as claimed by him. Further the injury was sustained by him on his right thigh on the front side and that could be possible only if he was facing the police men at the time of firing and not otherwise. He had no such case when he was examined before the commission. Further his evidence also will go to show that normally if some incident happened in the seashore, there is tendency to mobilise people and they will involve in commotion. But he denied the suggestion that it will become a communal clash later. According to him, since the investigation was not proceeding in the proper manner, he had decided to give evidence before the commission though he had not given his statement before any authorities including the crime branch earlier. Though according to crime branch officials, he was questioned and his statement was recorded, he denied the same. When a specific question was put to him as to what prompted him to think that the investigation was not proceeding in the proper way, he deposed before commission that it is seen from the newspapers that the police officials who were

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suspended in connection with the incident were reinstated and that made him to think that it is likely to upset the investigation. So his evidence is also not reliable because he is denying before the commission that he was not questioned by the crime branch though crime branch officials had a case that he was questioned by them. Further he is also very careful in giving evidence to the effect that there was no incident happened in the end road area or in the beach area or there was using of any explosives in the incident though A1W23 Abdul Hassan had stated that explosive substances were used before police order firing but according to him, it was thrown by Kombu Shibu and others. Further it will be seen from the mobile phone clippings produced by the "A1" party and the vedio clippings produced by "E1" party as taken by the Assianet TV and the evidence of the police officials examined will go to show that the injured taken by the police was this witness and not Ferosekhan as stated by the witnesses.So it cannot be said that he is also telling the truth regarding incident happened.

A3W3 Sri.Salim is also an injured. He was an

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autorikshaw driver by profession. His house is situated on the western side of Beemapally near end road. On 17.05.2009 at about 2.00 pm, he came to his house for taking food and after taking food, while,he was taking rest, at about 3.00 pm, he heard some tumult and firing sound from beach area and immediately he rushed to the beach area and at that time he sustained injuries on his right leg below knee and he lost his consciousness. According to him, there was no situation prevailing in beach area for the police to order firing and they fired without any prior intimation or announcement. According to him, his house is situated in the second by-lane from the end road and from his house, one can able to see the seashore. He had further stated that another Salim is residing 15 metres from his house but he did not know his father's name. He had further stated that he had parked his autorikshaw in the Beemapally area and he came through cheriyathura area on 16th night and at about 8.30 pm on that day, he parked his autorikshaw and then came to his house but at that time he did not see any evidence of untoward incident happened in

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that area. He had further stated that he did not hear any sound or tumult or any commotion in the end road area on the 16th night though he claims to reside very near to the end road area. He had also pretended ignorance about any damage caused to any of the houses or shops or vehicles in the end road area on the night of 16th and he was not aware of these facts even on the 17th till he sustained injuries. According to him, he was facing the sea at the time when he sustained injury. That means he is facing west standing on the eastern side of the road parallel to the beach. According to him, only when he reached the beach area, he came to know about the firing of the police. When he was going towards that road, he did not see any person coming in front of him but saw four or five persons running towards beach road. According to him, except the police firing, he did not hear any bomb blast sound. At the time when he reached the beach area, there were only five or six persons running towards beach road and except that he did not see any person in the beach area. He had further stated that he did not see the Jama Ath president at the time when

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he was returning home on the 16th night. He had further stated that since he cannot see the end road from his house, he cannot say whether the police had taken any precaution before order firing at the end road before he reached the beach. He had further stated that he did not know the son of Beema by name Badusha and he did not know Beema who was examined as A1W26 before this commission. He did not see the house of Nazeema at flames when he reached there. He had further stated that he did not know the owner's name of the autorikhsaw KLJ 1648 which he was alleged to have driven at that time. He had pretended ignorance about the fact of the incident being investigated by crime branch. Thereafter he had further stated that he came to know that police people were taking the statement of the victims from Beema Mahin Auditorium and he went there and he had given statement before them regarding the things within his knowledge. He had further stated that he did not enquire as to why police had fired in that area on that day. He had further stated that he did not see any person asking the police not to fire and he had seen

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two persons lying there and except that he did not see anything.

Ext. C23(a) is the wound certificate of this witness. It is seen from Ext. C23(a) that he was seen at Medical College Hospital on 18.05.2009 at 6.30 am and he had compound fracture of right tibia. Ext. C23 is the case sheet relating to this witness. That shows that he was admitted in the ward on 17.05.2009 at 8.27 pm. The case sheet shows that he had compound fracture of both bones of right leg and he was seen at 6.45pm in the casualty and he was referred to surgery consultation. He was seen at Ortho casualty at 6.10 pm on 17.05.2009. There was no foreign body detected. Further page 3 of Ext. C23 shows that he had lacerated wound 10x5 cm lower right 1/3rd of leg exposing fractured tibia anteriorly. Another wound 2x2 cm in the posterior lateral aspect of right leg. So both these wounds cannot be said to be either an entry wound or an exit wound caused on account of bullet injury. So it cannot be said that he sustained bullet injury as claimed by him. The possibility of this witness sustained injury in some other manner in the

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commotion cannot be ruled out. However, he was given compensation and the possibility of he being sustained injury as an on looker also cannot be ruled out. But his evidence regarding the fact that there was no situation prevailing in the end road which prompted the police to fire cannot be accepted considering the manner in which he had given evidence regarding the incident happened in that area.

A3W1 Sri Ali Hyder is not an injured but claims to be an eye witness to the incident. According to him, he is a fishermen by profession and apart from that he is a social worker as well. He is residing 750 metres south from Beemapally beach area. According to him, on 17.05.2009 at about 2.45 pm, he along with two persons came to Beemapally junction and at that time, he had seen a group of police people diverting the bus and other vehicles coming to Beemapally area. He along with two persons talked to them and according to him, Poonthura Circle Inspector and Valiyathura Sub Inspector were there at that time and he told them that there is no situation for diverting the vehicles and the vehicles can be taken through that road without

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any hindrance. They did not heed for his request. But at that time, some police officials standing there rushed towards beach area towards west and he had also followed them. According to him, those officers who ran towards west turned towards south and started firing at persons who were doing their work in the beach area at about 300 to 400 metres south from the end road without any provocation. They did not follow the procedure to be followed before order firing. They have fired at innocent children who were playing cricket and also persons who were engaged in their fishing activities and persons were running due to fear caused on account of the firing of the police. There was no commotion or any incident happened in the end road on that day. According to him, earlier he was having own boat but he is now going for pulling the net. The two persons who accompanied him were one Abdul Rasheed and Peer Muhammad and they were residing near his house. According to him, at the time when they reached that Beemapally area, there was no much rush in that area. According to him, he went to end road knowing that the vehicles coming to

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Beemapally area were blocked and according to him, this has happened at 2.45 pm. According to him, one Peer Muhammad who is doing Onion business in Vallakadavu came in his scooter to go to Cheriyathura area but he was not allowed to go through that area. It was he who had told him about this incident. According to him, he stood there only for five minutes. He had followed the police officers who ran towards beach and he had seen the police officials running through the road parallel to the beach on the eastern side towards south for a distance of 100 metres and it is thereafter he had heard the firing sound. He had not heard any blasting of bomb in that area before hearing the firing sound. But this is against the statement given by A1W23 Abdul Hassan. Further he had no case that he had seen A1W23 Abdul Hassan standing there and talking to Sherafudeen who ordered firing in that area. He had also stated that he did not see any of the houses or boats set to fire at that time. He had further stated that some people had told him that with the help of Kombu Shibu, later police had caused damage to the houses in that area. He had

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further stated that he did not see any mob standing behind the police or hurling bombs at the police at that time. In the cross-examination, he had stated that at the time when he reached Cheriyathura area, Valiyathura Sub Inspector was not there but A.S.I. was present and this was against what was stated by him in his proof affidavit. He had also stated that the two persons who alleged to have accompanied by him did not come to beach area but they returned from the junction itself. He had further stated that A1W9 Muhammad Yusuf is his brother and he is a worker of PDP party but he did not see him in that area on that day and he did not tell about the incident happened on 16th or 17th to him or he disclosed this fact to his brother. He had also stated that he did not see his brother on 17th either at 2.45 pm or prior to that in that area and they did not talk to each other regarding this aspect at all. It is quite unbelievable that brothers engaged in social work in that area and also working for some political party did not talk about these things among themselves when both of them claim to have witnessed the incident and did not do anything

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regarding the same and this is quite unnatural to the normal conduct of such persons. He had also pretended ignorance about the things happened in the end road on the 16th. He had also stated that he did not know as to why police people suddenly rushed to beach area at that time. He had further stated none had sustained any injury in the police lathi charge done on 17th. According to him, police firing had taken place between 2.45 and 3.15 pm but at any rate before 3.00 pm. He had also stated that he did not sustain any injury in the incident. He had further stated that he did not enquire about the reason for the police firing or whether there was any conspiracy between the police officials for ordering firing in that area and from the manner in which the police had acted, he had believed that there was conspiracy between the police officials in order firing in that area. According to him, at the time when he reached the end road, he had seen the police officials blocking the road and no other person engaged in the same. According to him, A1W1 is his brother's son and both of them were working in congress party. He had further stated that either in the

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proof affidavit or in the affidavit filed by him earlier, he did not mention that he had seen any person falling down or lying there at the time when he reached there. He had further stated since he had immediately run away from the place on seeing the police persons firing, he did not sustain any injury and he could not see any person sustaining injury and falling down on account of that. He had further stated that he was not interested in going to Beema Mahin Auditorium to give statement regarding the incident before crime branch officials. He had further stated that since police officials themselves were conducting the investigation regarding the incident though they are termed as crime branch officials, he had no much interest in that investigation. He had further stated that though he was not satisfied with the manner in which the investigation conducted by crime branch, as a political party worker, he did not make any complaint to any authorities showing his dissatisfaction about the manner in which the investigation was conducted by the crime branch or to change the investigation to be conducted by some other person. He had also stated

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that apart from political workers, people belonging to AP and EK group and five or six persons belonging to Mujahideen are working in that area. A reading of his evidence will go to show that it is highly unbelievable that claiming to be a political worker, he did not react regarding the incident and he is pretending ignorance about the incident happened on the 16.05.2009 evening at the end road and damages caused to the houses and shops of various persons including vehicles on the northern side of the end road in the incident happened on the 16th evening and he pretended ignorance about witnessing the incident by his brother though according to him his brother A1W9 was conducting business in his shop during that time. So it is highly improbable that this witness had witnessed the incident as claimed by him and it is not safe to rely on his evidence regarding his aspect.

A3W4 Sri.Beemapally Abdul Rasheed is not an eye witness to the incident. He is the successor president of the Jama Ath after the incident and he was the Corporation Ward Member of Beemapally area at the relevant time. He had only narrated the things he

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collected from others in his proof affidavit though he had no direct knowledge about so many things mentioned in the proof affidavit. According to him even on the 16th evening at 7.00 pm when he came to Beemapally area to attend the prayer, he had heard some tumult out side but he did not go to the end road and enquire about the same and he had only hearsay knowledge about the things spoken to him by Jama Ath president at the end road. Though he was there up to 9 pm, he had not seen any incident happening in the end road. He got information about the same at 10.15 - 10.30 pm on that day and he came to Beemapally area. According to him, at the time when he attended the meeting in the Jama Ath office, more people were seen than the people seen by him at the time when he came to Beemapally in the evening, but they were not agitative. He had further stated that no such meeting had been called in his knowledge on any prior occasion. According to him, he came to know about the incident happened on the 17th only at 2.45-3.00 pm when the Madrassa teacher Abdul Hukkim called him and informed him over his phone. According to

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him, at the time when he reached there, he had seen the persons taking the injured with bleeding injuries through the by-lanes. But he did not go to the beach area nor had he made any attempt to have discussion with police officers regarding this. According to him, he did not visit Cheriyathura area on the 17th evening but he went to that place only on the 18th when he came to know that Chief Minister and others have come to that place. According to him, he did not go to Cheriyathura area on the 17th morning or on the 18th morning to enquire as to whether any damage has been caused or any person had been affected on account of the incident in that area and according to him, since none had made any complaint regarding the loss sustained by them in that area, he felt that there was no necessity to go and enquire in that area. He had further stated that except the play ground in Jama Ath Higher Secondary School in Patheacre area, there is no other recognized play ground in that area. He had pretended ignorance about injury caused to one Joy of Cheriyathura area admitted in the Medical College Hospital and left Medical College Hospital on

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account of the threat made by the Beemapally people who were admitted in the hospital for treatment. He had pretended ignorance about any illegal trade being conducted in Beemapally area. He had denied that it is not possible for the police or other authorities taking any stringent action in Beemapally area without any fear. He had further stated that he did not go to the place where damage occurred and police were engaged in preparing mahazar. He did not deny the suggestion that since the persons injured in Cheriyathura area were afraid of Beemapally Muslims, they did not go to any recognized hospital for treatment. He had further stated that there was no bomb blast occurred in that area prior to police firing. A reading of his evidence will go to show that he had not taken any sincere effort to go to the affected area and make any earnest enquiry regarding the reason for the police firing or things happened on 16.05.2009 night or on the 17th evening but he has only developed an impression on the basis of the hearsay knowledge collected by him from the Jama Ath officials and the residents of Beemapally alone which was not expected

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of from an elected representative of the people. According to him, he did not hear the names of any other person other than Kombu Shibu who was responsible for the entire episode. He had also pretended ignorance about the reason for the residents of the locality being so sensitive than the other area residents. He had further stated that he can only identify Kombu Shibu but without seeing the person he may not be able to say whether it was Kombu Shibu or not. He had also stated that he did not know personally the mother or the brother of Kombu Shibu. He had also pretended ignorance about the nature of deployment made by the police in that locality. He had admitted that he had not seen police dragging the body of Firoskhan who sustained injuries but he had only hearsay knowledge about the same. He had also stated that he did not see the video clipping and he cannot say whether police had taken either Firoskhan or Nizzamudeen like that. He had further stated that out of some persons died some were beaten by police with bud of the gun but none of the witnesses examined before this commission had

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such a case. So his evidence is not helpful to come to the conclusion that police was entirely responsible for the incident. Further at the time when I inspected the affected area on the last occasion, after the evidence was over, I wanted Sri. Sherafudeen, the police officer who ordered firing at that time to come to that place to show the actual place of firing but at that time this witness and the office bearers of the Jama Ath present told me that if the said officer came to that place, there will be possibility of agitation by the Beemapally people as he was responsible for the death of six persons and injury to several persons. Though I wanted to convince them that it is the duty of the commission to ascertain the real state of affairs happened on the date of the incident and an opportunity must be given to the police officials also to state their case as I am hearing the other affected parties, they were not prepared to heed for my request. Though I insisted for the presence of Sherafudeen again to ascertain the actual place of firing according to the police and also to ascertain the place from where they have taken position before

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executing the order of firing etc as according to counsel for A1 party, it will not be possible for the police officials to take position from the place from which it was alleged to have been taken by them at the time of their evidence, but there were murmuring from the Jama Ath officials and also this witness and he was discussing with other people and told me that it may not be possible for them to say whether his presence will not cause any commotion. Considering the situation there, police officials told me that it is better not to insist for the presence of Sri. Sherafudeen at that place as if something happens in that area, force will have to be used. So I was compelled not to summon Sherafudeen at that place on that day. So that shows the attitude of this witness as well as the people of Beemapally area that things will have to move in the manner in which they like and they will not allow the police or any person to enter their area without concurrence with them. Though this witness was insisting the women seen in the by-lanes of Beemapally side to tell the Commission about the police atrocities seen by them, they were reluctant

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to give any statement as voluntarily as Cheriyathura people were and when insisted by this witness they were showing some places from where the police fired. So I had to examine the place of occurrence in the presence of other police officials who could help me in this regard. So his evidence is also not helpful to prove the actual place of occurrence or the cause of firing or things happened at the end road before Sri.Sherafudeen ordered firing etc as he is having only hearsay knowledge about those aspects.

A4W1 Sri. James @ Kombu Shibu was really summoned as Commission witness though he was cited as the witness of A4 party but later when this witness was summoned, the counsel for A4 party wanted to examine him as his witness though he had not participated in the proceedings for some time and his request was allowed and he was examined as witness of A4 party. But his evidence is not helpful to prove the incident at all because according to him, on 16.05.2009 at about 11.00 am, he came to Cheriyathura junction near the teashop of Gireesan and at that time, he was attacked by some people and

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he came to know later that the person who attacked him was one Nizzamudeen. According to him, Nizzamudeen had stopped his car in front of Gireesan's tea shop and since it was causing obstruction to the traffic, he wanted him to change the same but he opened the door of the car and came and beat him and due to that, he fell down. The persons gathered there took him and he went to a barber shop nearby and then went to his house. He did not make any complaint to any one and after that, he did not come to either Beemapally area or Cheriyathura junction either on that day or on the 17th till 17th night. He denied the suggestion that he went to the shop of Peer Muhammad of Beemapally on 10.05.2009, 15.05.2009 and 16.05.2009 and did not pay for the amount for the articles purchased and when that was insisted, he had committed damage to the articles there. He had also denied the suggestion that thereafter, he along with his brother and associates came to Cheriyathura junction and pelted stone and caused mischief and he was responsible for the entire incident. He had also denied the suggestion that on the

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17th morning, he blocked vehicles coming to Beemapally area and also in connivance with the police officials committed damage to the houses in beach area on the western side of Beemapally. He had also denied the suggestion that he was not available in that area for the police to arrest him. When a question was put to him regarding his going to Beemapally area and collecting gunda pirivu his answer was like this "ബീമാപ്പള്ളി പരിസരങ്ങളിലുള്ള കടകളിൽ നിങ്ങൾ ഗുണ്ടാ പിരിവിന് പോകാറുണ്ട് എന്ന് ആരെങ്കിലും പറഞ്ഞാൽ അത് നിങ്ങൾ നിഷേധിക്കുമോ (Q) അത് തികച്ചും സത്യവിരുദ്ധമാണ്. പോലീസിനെ പോലും കടക്കാൻ പറ്റാത്ത Beemapally പരിസരത്ത് എന്നെപോലെ ഒരാൾ അവിടെ ചെന്ന് ഗുണ്ടാപിരിവു നടത്തുക എന്നു പറഞ്ഞാൽ വിശ്വസിക്കാൻ പറ്റുന്ന ഒരു കാര്യമല്ല."

Ext. A4(1) and A4(2) were produced to prove that Baptism was done for him from Cheriyathura Assumption Church and he is a member of that Edavaka under that church. But it will be seen from Ext. A4(1) and A4(2) that they were obtained on 14.3.2010 long after this incident. There is nothing to show that they were regularly attending the church

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and they were recognized by the church people etc. Ext. A4(2) will go to show that the entire arrears from 2007 to 2009 was paid on 14.3.2010 by mother of this witness. Ext. A4(3) will go to show that baptism was done for this witness and he was named as James on 23.4.1989 though he was born on 27.7.1982 in an illegal relationship. So his evidence is also not helpful to prove the incident. It is quite natural that this witness will deny all incriminating circumstances against him and it cannot be expected that he will be telling the truth before this commission especially when he was made accused in several criminal cases registered in respect of these incident.

B1W1, Sri.Syrus Miranda, is examined on the side of B1 party to prove the incident happened on 16th evening and 17th after noon. He is a committee member of Cheriyathura Assumption church and he is the cashier of that church. According to him, on 16.5.2009 at about 3.00 pm, there was some altercation occurred between Kombu Shibu and some people from Beemapally area and it resulted in small clash and thereafter in continuation of the same, at

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9.00 pm on that day, more than 300 Muslims from Beemapally area under the leadership of Nizzamudeen came to Cheriyathura area and pelted stones against the police and created a fearsome situation and caused damage to houses and shops and they had thrown petrol bomb, bricks and used crowbar and sword etc for committing such mischief. When the seriousness of the situation was convinced, the District Collector and police officials came to the place and consulted the local people. Later it was revealed that on the same day night, somebody had set fire to the boat belonging to a Muslim of Beemapally area. On 17.05.2009 at about 3.00 pm, when he came to understand that there was some commotion happening in Cheriyathura beach area near the end road, he came to that place and when he came to the church compound, he saw lot of people belonging to Muslim community entering the church compound with deadly weapons and throwing bombs against the church and also towards the houses in that area. Though police personnels present there prevented them, they did not heed for their request and they were proceeding towards the church area. So

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the police personnels in main road also came there and made announcement for the assembly to disperse and they used tear gas but unmindful of those things, the miscreants continued their attack. According to him, one of the bombs thrown even hit the wall of the church and blasted. On seeing these things, out of fear, he moved to the northern side of the church and after some time, he heard the police firing sound. According to him, the police firing was justifiable and according to him, even for small things, the people in that area, especially coastal area, used to get provoked quickly and that will result in small clashes between the Cheriyathura and Beemapally people. While so, the leaders of both community will interfere and it will be settled. When he was cross-examined, it was brought out that he had not seen the actual firing but he had only heard the firing sound. He had also stated that if the police had not fired at that time, this would have been a grave communal riot in that area. He had stated that he did not know as to whether in order to defend the Muslims, Christian people also collected in the Cheriyathura area from 16th night itself. He had

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further stated that he cannot say the name of the persons belonging to both community who involved in the incident. So his evidence will go to show that there was commotion in the beach area on the 17th after 3.00 pm and Muslim community people had even encroached into the Cheriyathura church area and explosive substances were used. According to him, he heard the firing sound at about 4.00 pm. He had further stated that it was at the time when a commotion was going on between Chriyathura people and Beemapally people that he had reached that place. He had also further stated that whenever some clashes occurred between Cheriyathura and Beemapally people, the peace committee formed by Jama Ath and the church will discuss about the same and settle the issue and they never used to file any complaint before the police regarding such incidents. He had also stated that Beemapally people were using explosive substances for catching fish and for that purpose, Muslim people from Vizhinjam used to come to Beemapally area. He had also stated that because of the attitude of the people in seashore, they will get

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provoked easily even for small things and if it is not attended, it will be flared up. But before that they used to interfere and see that the situation is not precipitated into a larger issue. According to him, in order to give protection to both people and assure peace in the locality, a permanent police establishment has to be made in that area and peace committees will have to be formed and they must work effectively and sincerely.

B1W2 Sri.Rajan Netto, a resident of Cheriyathura is an eye witness to the incident happened on the 16th night and 17th afternoon. According to him, on 16.05.2009 at about 9.30 pm, he came to understand that there was commotion happened in the Cheriyathura junction and so he came to church compound and found lot of people gathered in the church compound. He had also seen that a group of Muslim community people attacking the house and causing damage to the houses, shops and vehicles parked there. Thereafter he went to his house. On 17th at about 3.00 pm, while he was sitting in the house, he heard the sound of blasting of a bomb and

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immediately, he came to Cheriyathura church and at that time, lot of police people were standing in the main road. A person by name Jerom of Chieryathura told the police that Muslims were throwing bombs in the beach area. At that time, he had heard from Beemapally area making announcement by calling "Allahu Akbar" and somebody rang the bell of the Christian church as well. He went to the back side of the Christian church and witnessed the incident happened at the end road. At that time, he saw some youngsters from Beemapally area including a small boy coming towards church area and throwing bombs towards the houses near the church area. The boy was holding a knife with him and later it was understood that his name was Firoskhan and he died in the incident. He had also stated that on seeing the police people coming from the main road towards the church, the Muslim miscreants who came and attacked with bombs in the Cheriyathura church compound retreated and at that time, lot of Muslim people were standing at the sea shore and they were throwing bombs towards Cheriyathura area. He had also seen

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that some of the miscreants had set fire to the boat belonging to Dasan of Cheriyathura which was kept on the northern side of the end road. Though police people were announcing the mob to disperse by using mega phone, they did not heed for the request and they were throwing bombs and trying to enter the church area. After some time, he heard the firing sound. Though he was cross-examined at length, nothing was brought out to discredit his evidence regarding his presence at that time. Though he had not seen the actual firing, he was able to say about the things that was going on in that area between 3 pm till the firing sound was heard by this witness. He denied the suggestion that the announcement made in the mike of Beemapally is the regular announcement made for prayer. But according to him, it was an announcement made for collecting Beemapally people to face an attack. He had also stated that he came to understand that Valiyathura police Sub Inspector, Johnson sustained injury in the incident happened on the 16th. It is true that there are some contradictions in the evidence of this witness regarding the number

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of police persons present and the number of persons seen in the Cheriyathura church compound etc. But when a person who is witnessing such an incident may not be able to concentrate on such minute things as he will be anxious to see the fearsome things going on there. He had also stated that number of houses were set fire in the Cheriyathura area. He had also stated that he had understood later that vehicles coming to south from northern side through Poonthura Beemapally road were blocked at Rose Mini Convent area and police had diverted the traffic. He had also stated that he could identify the boy as Firoskhan from the photograph that has come in the next day newspapers as the person died in the incident. So it will be seen from his evidence that there was some commotion occurred in the area on the 17th before police order firing and there was involvement of both Christian and Muslim people in that area in that commotion and explosives were used in large scale in that commotion. There is no enmity for this witness to give any false evidence regarding the incident. Further he is not identifying any person probably

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because he was afraid of disclosing the name of the persons involved or he wanted to see that peace must prevail in the locality among the community people and if any names were disclosed and if any action is taken in this regard, then that may affect the peace in the locality. Further his evidence also will go to show that even if any small clashes occurred between two community people on smaller issues, they used to settle the issue themselves in order to avoid a bigger clash ensuing between the two community people and that may be the reason why they are not coming forth with the names of the persons who really involved in the incident though they may be knowing about the real culprits involved in the incident. So they cannot be blamed for that purpose because the situation in seashore among the fishermen community appears to be so that unless such attitude is changed and they were also made to understand their responsibility to bring the culprits before court of law, it will be very difficult to find out the real culprits who are responsible for such mischieves being committed in such areas which may lead to communal violence if it

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is not suppressed in the bud itself.

B1W3, Sri.Gireesan is the owner of the teashop which was damaged in the incident happened on 16th night. According to him, on 16.05.2009 at about 4-4.30 pm, there was some altercation occurred between Kombu Shibu and Nizamudeen in the junction where Beemapally-Cheriyathura end road starts from the main road and at that time, police came and dispersed them and they left the place. At about 8.30 pm, some group of people gathered in that area and within ten minutes, about 200 Muslims from Beemapally area suddenly came from Beemapally area and started attacking the shops in that area. They entered his shop and damaged his shop and they also damaged some shops and houses in the nearby area in Cheriyathura junction on the northern side of the end road. He can only identify them as people from Beemapally area and he cannot say their names. He had also stated that they caused some damage to the motor cycles parked in front of his shop and the owners of that motor cycle could not take them as well. He had also stated that they caused damage to

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the house of one Celin Allotious who was examined as B1W4 as well. He had also stated that he had given a statement regarding this incident before Valiyathura Police and that was marked as Ext. CH(6) and on that basis Ext. CH(6)(a) first information report was registered as crime No. 246/2009 of Valiyathura Police Station under sections 143, 147, 148, 149, 380, 427 and 452 of the Indian Penal Code and section 27 of the Arms Act against unknown mob and mahazar was also prepared in respect of this incident and it is seen from the mahazar that it was prepared on 17.05.2009 at 4.00 pm by Assistant Sub Inspector of Police Sri. K.S. Vijayakumar of Valiyathura Police Station and it appears to be an impossibility because even if the case of A party was accepted that the incident occurred between 2.30 and 2.45 pm or the case of the police that the incident occurred between 3.00 and 3.45 pm on 17.05.2009, it is not possible for the police officer to prepare a mahazar at 4.00 pm as mentioned in the scene mahazar from that area as claimed by him in his explanation to the memo issued as well. I have issued a memo to this person as to how this happened and he

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had submitted his explanation to the same which will be considered by me later while giving my findings. He had also not identified the persons who caused damage to the shop as well as the vehicles parked in front of the shop except stating that they are Muslims from Beemapally area. He had also stated that when the mob entered the shop and started damaging the same, he escaped from there and came only on the next day morning. He had also stated that if there is any issues arose in that locality, that will be decided by the heads of the Muslim and Christian community people and if any issues arose between the community people or any incident happened in those areas, that will be settled by them. He had denied the suggestion that he is giving falsehood that Muslim community people from Beemapally area attacked his shop and caused damage to his shop and in fact it was done by Kombu Shibu and his associates. It may be mentioned here that there is no necessity for him to give any falsehood regarding the incident happened on the 16th night so as to justify the police firing which had happened in the afternoon on 17.05.2009 so as to help

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the police. So it is clear from his evidence that there was involvement of Muslim community people in the incident happened on the night of 16.05.2009 and they cannot be termed as innocent people as claimed by the Jama Ath officials or by the counsels appearing for them so as to make it appear that they are peace loving people and entire episode happened on the 16th without the involvement of the Muslim community people but only with the involvement of Kombu Shibu and his associates with the help of police so as to get a chance for them to enter Beemapally area to enforce effective policing in that area. He had also stated that if he did not escape from that place, he would have been killed in that incident. He had also stated that only after he left the place, police, fire engine, etc; came there. He had also stated that he did not know as to what happened on the 17th afternoon which led to the police firing. He had further stated that in the incident happened on 16th night, some police persons also sustained injury. According to him, the police came there for preparing mahazar at 3.00 pm on that day and after preparation of the mahazar, he left the

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place. He had also stated that he did not see the incident between Kombu Shibu and Nizzamudeen happened at 4.30 pm on the 16th and he had only hearsay knowledge about the same. He had also stated that on account of the incident happened on the 16th, no shops were opened on the 17th either in Cheriyathura area or in Beemapally area. So his evidence is not helpful to arrive at any conclusion regarding the circumstances which led to the police firing on 17.05.2009 but his evidence is useful only to prove that there was an incident happened on the 16th night involving Beemapally Muslims who were responsible for causing damage to the shops or houses and the vehicles parked on the northern side of Cheriyathura junction.

B1W4, Smt.Celin Allotious is an eye witness to the incident happened on 16.05.2009 and also a portion of the incident happened on 17.05.2009 as well. It is she who had alerted the police in the evening and also in the night of 16.05.2009 when some commotion started in that area involving the people of two community of Cheriyathura and Beemapally area.

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She had deposed that on 16.05.2009 at about 3.00 pm, she heard some tumult at the end road and when she came out side, she saw Kombu Shibu, Nizzamudeen, Noohoo, and Noushad standing there and Nizzamudeen beating Kombu Shibu mercilessly with the help of Noohoo and Noushad. After some time, while this was going on, Kombu Shibu's brother came there and caught hold of the shirt of Noohoo and sensing some grave incident likely to happen there, she informed the police by phone and police came and removed them. After some time, police also left the place. On that day night at about 8.30 pm, there was again a commotion occurred in that area and at that time there was some altercation going on between Kombu Shibu and Rajan on the one side and persons from Beemapally area and while such altercation was going on, more than 300 Muslims from Beemapally area came there and took firewood etc. Immediately she telephoned the police and though police came there and tried their level best, they could not control them. According to her, the Muslim community people were shouting "La Ilaha Illalla,Bolo Takbeer, Allahu

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Akbar" and they entered Cheriyathura area and she immediately took her children and escaped through the rear side of the house and rushed to the church compound. The miscreants had attacked and caused damage to her house and in that her mother also sustained injuries. They spent the night in the church compound. The miscreants had reached up to the front side of cemetery of Christian church. They caused damage to several houses and also set fire to some of them and police and fire engine came. She spent her night in the church compound on that day. At about 5.00 am on 17.05.2009, she came to her house and found the house completely damaged and a portion of the newly constructed compound wall was also damaged by throwing bomb etc. Though District Collector had come there on the night of 16th, he did not come and enquire with them. No shops were opened in the main road as well as in the end road on 17.05.2009. At about 3.00 pm on 17.05.2009, her brother's wife informed her that there was some commotion going on in the seashore and asked her to escape from there and go to the church compound.

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Immediately she along with her mother and children came out of the house and went to the Cheriyathura church compound. At that time, she had seen her neighbours of Cheriyathura area also rushing towards the church compound. At that time, more than 1000 Muslims from Beemapally area were standing in the beach area and throwing bombs and stones towards Cheriyathura area and trying to encroach into the Cheriyathura church compound. Though police were preventing them from coming towards that side, they were not heeding for that request and they were coming towards the church area by throwing bombs etc. She had seen some bombs exploding in the church compound. She had also seen police people standing in the main road rushing towards end road along the church compound. Though police made announcement to disperse the mob and used tear gas, they could not control the miscreants. Seeing the fearsome atmosphere, she went to northern side of the church and stood beneath the tree there and at that time, she heard the firing sound. She had stated that her mother had given statement to the police and it was on

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the basis of the statement given by her that a case was registered and the first information report registered on the basis of the statement given by the mother of this witness was crime No. 245/2009 of Valiyathura Police Station under sections 143, 147, 149, 452 and 427 of the Indian Penal Code and section 27 of the Arms Act against unknown persons. Ext. CH(7) is the mahazar prepared in that case. It is seen from the mahazar that it was prepared at 3.00 pm on 17.05.2009 by Assistant Sub Inspector Valsalan, Valiyathura Police Station and it is unlikely that mahazars would have been prepared at that time because even as per the versions of both parties, there was commotion going on in that area at that time. I have also issued a memo to him regarding this discrepancy and he had also given his explanation which I will be considering later. She had also stated that though she telephoned the control room from her land No. 2507366, she did not disclose her identity but only stated that there was some commotion going on and she is afraid of the same. These two telephone messages were seen recorded in the voice log

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maintained in the control room and produced and marked by this Commission as Ext. E15. She is also careful to make it appear that there was no involvement of Christian people in the incident happened on 16th night. She had also stated that if police had not taken such a severe measure, it would have been a greater calamity and more danger to the life of persons and damage to property would have been caused. She had also stated that she came before the commission to give evidence to avoid any communal riot in that area in future and in order to avoid communal violence in that area, she had informed the police as well. She had further stated that when people from Beemapally area started pelting stones towards Cheriyathura area some people from Cheriyathura area also took those stones and threw at them. She had also stated that there must be a permanent police establishment in that area to avoid happening of such things in future as even a small incident in those areas will boomerang as a bigger issue if it is not properly handled. It is also seen from the video clippings produced on the side of the E1

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party and marked as Ext. E1(11) and E1(9) and E1(7) that she was explaining the incident happened on the 16th night. So it cannot be said that she is not an eye witness to the incident. Further a reading of her evidence will go to show that she had no personal enmity against Muslim community people and she wants to have a peaceful atmosphere in that locality. The fact that she alerted the police by telephoning them in the control room on the basis of which police reached there also will go to show that she is not interested in promoting communal hatredness but she wants to see that the problems to be solved by the intervention of the police. So I do not find any reason to disbelieve her evidence regarding this aspect. She had also stated that at the time when the police started firing, she was near Rose Mini Convent. She had further stated that after she left the house at 3.00 pm on 17th, she came back to her house only on 18th morning. She had also stated that it is not correct to say that more than 500 Christian people were armed with weapons in the compound and they collected there for attacking the Beemapally people. She had

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stated that she did not know whether police had registered case against unknown 500 Christians in respect of this incident. She had stated that no incident happened at 4.30 pm on 16th in that area. She had also stated that neither herself nor her mother had got any enmity towards Nizzamudeen. She had denied the suggestion her mother had said so in the first information statement given by her mother. But when the portion in the first information statement given by her mother on the basis of which a crime was registered in respect of damage caused to their house and confronted with the portin " since her mother had abused or scolded Nizzamudeen for selling ganja in that area". She had stated that if such statement was given by her mother, she was not aware of that fact. She had further stated that she did not see any boat that was parked on the north western side of the church guttered to fire on the 16th night and that she had only seen some houses damaged and set to fire. She had denied the suggestion that all these damages were caused by Kombu Shibu and his associates with the help of police and now she is deposing falsehood

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before the commission to help the police people in order to justify the police firing as instructed by them. She had also stated that the incident happened on 16th and 17th some people from Cheriyathura area also sustained injuries but they did not go to any hospital for treatment due to fear. She had further stated that since her mother was not aware of the using of bomb in causing damage to their house that was not mentioned by her in her statement. She had also stated that due to God's grace, none sustained injuries on account of the throwing of bomb by the miscreants. Regarding the communal harmony when questions put to her she had stated as follows" ചെറിയതുറക്കാരും ബീമാപ്പള്ളിക്കാരും കുറെ കാലങ്ങളായി സൌഹാർദ്ദത്തിലും സ്നേഹത്തിലുമാണ് കഴിഞ്ഞിരുന്നത് എന്നു പറയുന്നു (Q) അങ്ങനെ വലിയ സൌഹാർദ്ദത്തിൽ ഒന്നും അല്ല.രാത്രി കാലങ്ങളിൽ ബീമാപ്പള്ളിഭാഗത്തു മാത്രമേ കട തുറന്നിരിയ്ക്കുകയുള്ളൂ അവിടെ പോയിവരുന്നവർക്ക് ചിലപ്പോഴൊക്കെ പരിക്കുകൾ പറ്റാറുണ്ട്. അത് ആരും വലിയ പ്രശ്നമാക്കാത്തതുകൊണ്ട്, അവിടെ പ്രശ്നമില്ലാതെ കഴിഞ്ഞുപോവുകയാണ്. (A)

She had also stated as follows:" അവിടെ ചെറിയ

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സംഭവങ്ങൾ നടന്നാലും ജാതിയുടെ പേരു പറഞ്ഞ് അത് വലുതാക്കാനുള്ള ശ്രമങ്ങൾ നടക്കാറുണ്ട്."

She had also stated for the question put by advocate for commission as follows: "16 ാം തീയതി 3 മണിയ്ക്ക് പോലീസ് വന്നപ്പോൾ അവർ പ്രശ്നങ്ങൾക്ക് ഉത്തരവാദികൾക്കെതിരെ കേസെടുക്കുകയും അവരെ അറസ് റ്റു ചെയയ്ുകയും ചെയ്തിരുന്നു എങ്കിൽ പിന്നീടുള്ള പ്രശ്നങ്ങൾ ഒക്കെയും ഒഴിവാക്കാമായിരുന്നില്ലേ (Q) Kombu Shibu വിനെ arrest ചെയ്താൽ അവിടെ പ്രശ്നമൊന്നും ഉണ്ടാകുമായിരുന്നില്ല. Nizzamudeen നെ arrest ചെയ്തിരുന്നു എങ്കിൽ പ്രശ്നം വലുതായേനെ" (A).

Her evidence also will go to show that though both the party claimed that there was communal harmony prevailing in that locality, there used to happen some incident between two community people of that locality and attempts being made to make it a communal clash but due to tolerance of the people, it will not become a major issue. But in order to avoid such things in future, there must be a permanent police establishment must be made in that area.

B1W5, Smt.Phelicita is an eye witness to the incident happened on 16th and 17th and their boat

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was also damaged in the incident happened on 17th afternoon. According to her, on 16.05.2009 at about 9.00 pm, she heard some tumult in the main road at the end road junction and when she went there, she saw more than 300 Muslim people from Beemapally area came to Cheriyathura area by throwing stones and she ran towards north due to fear and only after two hours, she came back and she had left her children in her friend's house. When she came back, she saw several houses and shops damaged in Cheriyathura area. On 17.05.2009, while she was sleeping in the house after taking food in the afternoon at about 3.00 pm, a small boy came and informed that there was some tumult happening in the beach area and wanted her to escape from there. Immediately, they got out of the house and went to the compound on the western side of Cheriyathura Church. At that time, she saw some Muslim people coming from south from the end road towards north and pelting stone. Some youngsters in the church compound were retorting the same by pelting stone against them. At that time, more people from Beemapally area came through the

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beach side by pelting stones and bombs. Though police came and tried to dissuade them and disperse them, they could not succeed and they were throwing stones and bombs continuously against the police and towards Cheriyathura area. After some time, more than 1000 people belonging to Muslim community gathered at the beach area on the south of the end road and started throwing bombs and causing damage to the houses in Cheriyathura area. Some people even came to the church area and set fire to their boat and fishing net. Some bombs even fell in the church compound and exploded. Though police from main road came and tried to control the situation, they could not succeed in their attempt. Since miscreants were coming and exploding bombs in the church compound they went to the northern side of the church and stood beneath the tree there. Police were making announcement but in spite of that, the miscreants did not go from there but their attack continued and they heard the police firing. She had also stated that on the basis of the statement given by her, a case was registered as crime No. 249/2009 which was later

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renumbered as CBCID Crime No. 249/2009 and the first information report was marked as Ext. CH(9) and the mahazar prepared in that case was marked as Ext. CH(8). The case was registered on the basis of statement given by this witness on 19.5.2009. The fact that the boat of this witness got damaged by fire by the miscreants involved in the incident was not in dispute. But the only dispute raised by 'A' party was that it was done by Kombu Shibu and others and not by the Muslim community people. She had also stated that her husband was also attacked by the miscreants and he as treated by private doctor. Though she was cross-examined at length, nothing was brought out to discredit her evidence regarding this aspect. It is true that she had also not seen the actual firing by the police but she had deposed that her husband also sustained injuries in the incident and he was treated in a private hospital. She had further stated that she was afraid of the Muslims of Beemapally area. But she had stated that she did not know whether the Christians of Cheriyathura area are afraid of the Muslim people of Beemapally area. She had also stated that since the

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population of Christians is small in that area, it is not possible for them to resist the acts of Muslims in Beemapally area and in order to bring peace in that locality, it is necessary to have a permanent police establishment in that area. She had also stated that the act of the Muslims were retorted by the Christian community people also and it was at that time more people from Beemapally area came there. She had also stated that because of the presence of police in that locality, they are living there peacefully now. Merely because there are some discrepancies in her evidence, it cannot be said that she is deposing falsehood and her evidence will have to be discarded as such. So her evidence also will go to show that it cannot be said that there was no incident happened in the end road involving the Christians and Muslims on 17.05.2009 afternoon which led to the police firing later. So the case of the A parties that police fired without any reason cannot be believed.

B1W6,Smt. Celine Jerom D/o. Aitha Karunakaran is also an eye witness to the incident. She was working as nurse in Jubilee hospital and on

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16.05.2009, she was not having duty and so she was in the house. According to her, at 3.00 pm on that day there was some tumult heard in the end road area and immediately she came and saw Nizzamudeen, Noohoo and Noushad beating Kombu Shibu and some people from Beemapally area also came there. After some time, police came there and dispersed all of them. At 8.30 pm, on that day she heard some tumult in that area and at that time, she saw that Kombu Shibu was talking to somebody in high voice and by the time, more than 300 Muslims assembled there and they went to the nearby firewood shop and took the firewood. Though police came there, they did not heed to the request of the police and they pelted stone against the police by shouting "La Ilaha Illalla, Bolo Thaqveer Allahu Akbar". After some time, under the leadership of Noohoo, lot of Muslims came and caused damage to her house. They had broken the glass of the windows, tube lights and roof of the house and also caused damage to her Activa scooter KL01 AT 3915. Though huge police force came and used water canon, they could not prevent them. They also caused

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damage to sister Kumari's house as well. They have caused damage by throwing petrol bomb to her sister's son's cycle as well. They also caused damage to Gireesan's teashop and damaged the vehicles parked there by setting fire to the same. They also caused damage to the shop of Moni Sir. After 11 pm, on that day, she came out of the house and went to her mother's house and from there she went to the church compound. She had seen Collector and MLA going through the road and they shouted at them stating that the miscreants from Beemapally area will again come and attack them and they want protection. The MLA and District Collector talked to some persons standing in front of the church and left. On 17th morning, she went to her house and took some articles and went to her sister's house. Later she came to understand that on 17th after noon, Muslim community people attacked and showed vandalism at Cheriyathura area and caused damage to several houses. On the basis of her statement, a case was registered as crime No. 242/2009 of Valiyathura Police Station on 17.05.2009 at 9.30 am and the first information statement was

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marked as Ext. CH10 and the first information report was marked as Ext. CH11 and the mahazar was marked as Ext. CH12. It is seen from Ext. CH12 that the mahazar was prepared at 2.30 pm on 17.05.2009. According to her, police came and prepared the mahazar even earlier. According to her, police had handled the situation strongly and if it was not done, the damage would have been more severe and they would have even lost their life. It is true that she had no direct knowledge about the incident happened on 17th. But her evidence will be helpful to prove the incident happened on the 16th night and the damage caused to the properties there. It will be seen from the evidence that she is also trying to help her community people to see that they should not have been projected as aggressors in that incident. However, the evidence of this witness also will go to show that there was some incident happened on the 16th and 17th involving Christians and Muslims which led to the police firing on the 17th afternoon. So the version of A party that there was no involvement of Muslim community people in any of the incident

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happened either on the 16th or 17th is hard to believe.

E1W1, Sri. A.V. George, then Deputy commissioner of Police, Thiruvananthapuram city law and order (traffic), E1W2, Sri. Remesh Babu, then Assistant Commissioner of Police, Narcotic Cell, Thiruvananthapuram, E1W3, Sri. Vinod Kumar, Sub Inspector of Police, Thiruvananthapuram city, AR camp. E1W4, Sri. Britto, Assistant Sub Inspector of Police, SAP Camp, Head Quarters, Thiruvananthapuram, E1W5, Sri, Sherafudeen, then Assistant Commissioner of Police, DCRB, Thiruvananthapuram city, E1W6, Sri. V.R. Rajeevan, then Additional Director General of Police, E1W7, Sri. P.D. Somarajan, then Assistant Director, Explosives Forensic Science Laboratory, Thiruvananthapuram were examined on the side of E1 party while E3W1 Sri. Janarajan was examined on the side of E3 party who was an Executive Committee member of Kerala Police Pensioners' Welfare Association, Kollam and FW1 Sri. C.G. Sureshkumar, then Assistant Commissioner of Police, Shanghumughom and FW2 Sri. Pradeepkumar then Circle Inspector of Police, Poonthura were

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examined on the side of F party to prove the circumstances which led to police firing on that day. As far as E3W1, Janarajan is concerned, he is not an eye witness to the incident. He had only given evidence to alert the commission to analyse about the consequences of filing a reports always blaming the police for all justifiable acts and action of the Government in such circumstances to please some vested interested parties and preventing police officers who are discharging their duty in good faith in such a manner as to affect their morale etc and also project certain views as to how the commission will have to analyse the situation in a case where incidents like this happened in a sensitive area of seashore and involving two communal forces. So his evidence can only be considered as a material for the commission to suggest valuable suggestions, if any to avoid happening of such things in future.

E1W2, Sri. Remesh Babu was examined only to prove that he was the person who conducted the preliminary investigation in crime No. 247/2009 of Valiyathura Police Station suo motu registered on the

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basis of the suo motu report of FW1 Sri.Sureshkumar, the then Assistant Commissioner of police, Sanghumughom regarding the incident happened on 17.05.2009. He had only stated that on 18.05.2009, as part of the investigation, he visited the place of occurrence along with E1W7, Sri. P.D. Somarajan and also CW9 Sri. James Philipose, former Director of Forensic Science Laboratory, Thiruvananthapuram and prepared Ext. E16 scene mahazar and collected remnants of the explosive substances and the alleged neogel-90 explosive substances etc and P.D. Somarajan who was examined as E1W7 had given Ext. E17 report regarding the things done by him for collecting the explosive substances found at and around the place of occurrence. He was also examined to prove that FW2 Sri. Pradeepkumar, the then Circle Inspector of Police, Poonthura collected 32 unexploded bombs from the area and handed over the same to the Bomb Detection and Disposal Squad and the mahazar prepared by Poonthura Circle Inspector is Ext. CF(2) and the certificate given by Sri.Sathyadas, the Circle Inspector of Police, Bomb Detection and Disposal Squad is Ext.

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E18. He had proved Ext. E19 to E21 as the Forensic Science Laboratory reports obtained after examination regarding the material objects collected as per Ext. E16 mahazer and sent for examination. His evidence is not much helpful to prove the case. He had also stated that he had gone along with flag march through the southern side of the end road along beach and he did not see any signs of firing happened in that area. He had further stated that since the Muslims from Beemapally area did not co-operate with the investigation they did not sign as witness in the mahazar prepared. He denied the suggestion that all these remnants of the explosives collected were planted with the help of the police and created evidence to justify the police firing. He had collected the skin with hair from the scalp area seen in between the granite stones laid as sea wall in that area which is situated on the west of the end road and he had also seen blood stains on the granite stone pieces in the seawall in that area and he had also seen the marks of bullet in two coconut trees standing on the west of the end road near the sea wall and all these things

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prompted him to locate that place as the place of occurrence and the place of firing.

E1W6, Sri. A.R. Rajeevan, the then Additional D.G.P. (Southern Region) was examined to prove the arrangements made in that area when he came to know about the incident happened on the 16th night and the incident after police firing on 17th evening. According to him, he came to know about the incident at Beemapally area at about 9.30 pm on 16th. Immediately, he came to the spot and saw the police standing between the Beemapally agitated mob and the Chieryathura people standing in the church compound. By the time, he reached there Sri. Surendranpillai (A1W30), the then MLA and Minister also reached there and after some time, the District Collector (CW1) and RDO (A1W29) also reached there. They had discussion with Jama Ath people. He came to understand that they had meeting in the Jama Ath Office and they did not allow the police officers to participate in the conference. Thereafter District Collector came and told him that the responsible persons for the incident had to be arrested and if the

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allegations against Kombu Shibu was genuine, to take steps to arrest him and also requested him to make arrangements for protecting the properties in that area. He had discussed with the police officials present there and prepared a plan of action and necessary police deployment was made. Since he was convinced that the place was under control and the agitated mob had dispersed from that area, he left the place. At about 4.30 pm, on 17.05.2009, he got information from the special branch that police firing had taken place in Beemapally seashore and immediately he came to the spot and when he was discussing with the police officials regarding the things happened, District Collector and RDO also reached the place. Thereafter they conducted flag march along the seashore and dispersed the probable mob that is likely to collect in that area and thereafter they came to Cheriyathura junction and they decided to conduct march through Beemapally Poonthura main road towards south. But they were prevented by the Jama Ath officials and the agitated mob in that area. District Collector had discussion with Sri. Surendran

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Pillai A1W30 and the Jama Ath President Sri. Abdul Azeez A1W24 and they told that allowing police inside would create more problems and considering the circumstances, District Collector wanted the police force to go back and accordingly police force retreated to Cheriyathura junction. Thereafter, after discussion with the District Collector, they have decided to give two dead bodies retained by them and arrangements were made to send the two dead bodies retained by them for post-mortem examination. The District Collector and himself made arrangements to get necessary force in that area and after convincing that the situation was under control, he left the place. He had further stated that when a preliminary enquiry was made by him regarding the 16th incident, he came to understand that in the evening at about 4.30 pm, there was some incident happened in which Kombu Shibu A4W1 went to the shop of one Peer Muhammad and demanded gunda pirivu and there was some altercation occurred and when this was informed, police came and dispersed them and thereafter at about 8.30-9.00 pm, they came again and some

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altercation occurred and the Muslim people from Beemapally area came there and caused damage to the houses and the shops and vehicles there. Regarding the 17th incident, he came to understand that after 1.30 pm, there was some blockage of vehicles coming to Beemapally area was done by Cheriyathura people and in order to avoid untoward incidents being happened, E1W1 Sri. A.V. George, the then Deputy Commissioner of Police, Law and Order and Traffic diverted the traffic with the concurrence of the Jama Ath Officials and at about 3.00 pm, there was some commotion occurred whereby Muslim people suddenly came through the beach area from the south and west and entered the church compound and hurled bombs there. FW1 Sri. Sureshkumar, then Assistant Commissioner of Police, Sanghumughom along with some police officials retreated them towards west and then to south but by the time some Christians also came behind them and Sureshkumar had driven them towards north. Sri.Sherafudeen, E1W5 was in charge of beach area at that time and there was a bomb exploded in the end road area and

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when he went to enquire about the same, lot of Muslim people entered end road area hurling bombs and Christian people also came with weapons like Ore etc and attacked the Muslims and according to his information, one Muslim died in the attack from the spot and in spite of efforts made by Sherafudeen and Sureshkumar to disperse the agitated mob and when their attempt failed, Sri.Sherafudeen, in consultation with Sri.Sureshkumar ordered firing and according to him, if firing had not taken place, a communal violence would have occurred which would have spread through out the State. He denied the suggestion that a plan of action was prepared to make it appear that policing in Beemapally area is properly done that such a scene was created by the police.

E1W1, Sri.A.V. George was the then Deputy Commissioner of Police, Thiruvananthapuram city Law and Order traffic. On 16.05.2009 at about 9 pm, he got information that there was commotion going on between Muslims and Christians in Beemapally and Cheriyathura area and immediately at about 9.30 pm, he along with police party reached Cheriyathura

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junction. He had seen damage caused to the houses, shops and vehicles on account of the mischief committed by Beemapally people and also damage caused to the fire engine in the stone pelting. He had also come to know that Sri. Johnson, the then Sub Inspector of Police, Valiyathura and Sri. C.G. Sureshkumar, the then Assistant Commissioner of Police, Sanghumughom sustained injuries in the incident. When he reached there, he saw Muslim community people of Beemapally area standing in the junction on the southern side of the end road towards south in an agitated mood and they were resisting the action of the police. So he asked his gun man to use six tear gas shells and after some time the agitated mob receded. By the time, District Collector, MLA, ADGP southern region also reached there. Sri. Surendran Pillai, then MLA and District Collector had discussion with Beemapally Jama Ath officials and due to the timely action by the police, situation was brought under control. Since they felt the possibility of this being recurring in that area, he had prepared a plan of action and opened a temporary control room in

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Cheriyathura and established four police pickets and deployed sufficient police force there. He had also requested for further strength of police force for the next day and prepared a bandobast scheme. Police pickets were created in Cheriyathura junction, at the line of control, on the west of Cheriyathura junction, at the beach area, near Cheriyathura church and sewage farm. Apart from these, two mobile patrolling units were also established. On 17.05.2009 at 8 am, the police officials deployed took charge of those area and the beach area was kept under control of Thiruvananthapuram DCRB Assistant Commissioner Sri.Sherafudeen E1W5 and Peroorkada Circle Inspector Sri. Sivaprasad. It was revealed from enquiry that the incident happened on 16.05.2009 was a continuation of the small altercation occurred between Kombu Shibu and Nizzamudeen in the evening on that day and he entrusted FW2 Pradeepkumar, then Circle Inspector of Police, Poonthura to enquire about Kombu Shibu and instructed E1W5 Sri. Sherafudeen to have a general supervision of the area. On 17.05.2009 at about 11

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am, in protest against the violence done by Beemapally people some Christians ladies of Cheriyathura conducted road block, blocking the vehicles coming to Beemapally and he had after consultation with FW1 Sri. Sureshkumar decided to divert the vehicles in order to avoid further incidents in that area. The elder persons wanted to go to Beemapally were taken in the police vehicle and left them there. Since 17.05.2009 was a Sunday, no shops were opened in Beemapally area. Since he was convinced that the situation was under control, he went to his camp office at 2.00 pm on that day. At about 3.00 pm, he got information that Muslim people had collected in large scale in sea shore area on the west and south of the end road and they were hurling bombs in Cheriyathura area against the Christian church. So he came to Cheriyathura junction at about 3.15 pm. When he reached there, he found huge number of persons from Beemapally area were trying to enter Cheriyathura junction and so he along with FW2 Sri. Pradeepkumar, the then Circle Inspector of Police, Poonthura prevented them. They were making gestures with anger by showing sword

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etc. He had taken control of that area and prevented them from entering the Cheriyathura area. At that time, he got information that Muslim community people were attacking the police officials by using explosive substances. Since he was engaged in preventing Beemapally people entering Cheriyathura junction, he could not go there. He heard the violent noise of the people and blasting sound of bombs occurring in beach area. He had also seen person standing in the terrus buildings in the southern portion of Beemapally and throwing bombs. So he had sent information to Sri. Sherafudeen through a police official to take position against these acts. Since he felt that his presence in Cheriyathura junction is highly necessary, he did not go to beach area. He was hearing the blasting of tear gas shells and country bombs and he had also heard the sound of firing in the air and since the mob did not disperse, it is understood that E1W5 Sri. Sherafudeen had ordered firing against the mob and since firing was ordered in the beach area, the tension increased in the Cheriyathura junction. On account of his action and since police had

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fired in the beach area, the people collected in the junction receded backwards. Thereafter he went to the beach area and by the time, the firing was over and the situation was brought under control in that area but some people were seen assembled at a distance of 300 metres south from the end road. He had given instructions to the police officials to collect the injured if any and make arrangements to give medical aid to them and he came to understand that one person sustained injury ran and fell down in the beach was taken by the police officials and he was taken to the hospital in the police jeep. According to him, the police firing was justifiable. He had denied the suggestion that the police officials from Valiyathura police station were engaged in preparation of mahazars in respect of 8 or 9 crimes registered regarding the incidents happened on 16.05.2009 between 2.30 pm and 4.30 pm on that day. He had further stated that he cannot say the place from where the police had taken cover before firing. He had further stated that since Sri. Sherafudeen was the senior officer at the place of firing, he was competent

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to take decision to order fire and he need not get any instruction from his higher authorities for that purpose. Further it was revealed that Sri. Sureshkumar and Sri. Sherafudeen had discussion with each other and come to the conclusion that if necessary firing had to be done and with that conclusion, they proceeded with their plan of action. He had further stated that no permission was obtained or sanction obtained from Executive Magistrate and they did not ask for the presence of Executive Magistrate in that area at that time as these things happened all on a sudden as up to 3.00 pm, there was no untoward incident happened in that area and entire place was under absolute control of the police. He had also deposed that even during 1998, while he was conducting investigation in respect of a crime from Calicut area, he got information that arrangements and help was being given to promote terrorist activities in Beemapally area and they were giving protection and shelter to such persons. So according to him, the police action was perfectly justifiable. Though he was cross-examined at length, nothing was

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brought out to discredit his evidence regarding these aspects. He had explained as to why though he being a senior officer did not go to the end road where the actual firing had taken place. He had also stated that it is for the officer in that place has to decide what is the course of action to be taken to meet the situation. He denied the suggestion that police had not followed the procedure and with a view to have access in Beemapally area, police had falsely created a situation and ordered firing without any reason.

E1W3, Sri. Vinodkumar was working as Sub Inspector in city AR Camp and he had gone to Cheriyathura area on 17.05.2009 at 7.30 am with tear gas party and reached Cheriyathura and relieved the police officials on duty on 16.05.2009. He had taken charge of the Vajra vehicle which was kept there. He had reported before Poonthura Circle Inspector Sri. Pradeepkumar FW2 and Sri. Anilkumar, Assistant commissioner of police. At about 3.00 pm on 17.05.2009, he heard blasting of bomb in the end road area from a distance of 50 metres east of beach side and when he saw that place, he saw smoke coming

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from there and E1W5 Sri. Sherafudeen had reached that place with police party. At about 3.15 pm, E1W5 Sri. Sherafudeen had reached their picket and took them to beach area. Thereafter he had stopped them at the beginning of the end road and then went to beach area and at that time, there was clash going on between Christian and Muslim people and Sri.Sherafudeen and Sri. Sureshkumar had reached there. Though they tried to pacify the people and send them back, they did not go back and the situation had worsened. So after following the procedure, as instructed by Sri. Sherafudeen, police firing was ordered and prior to that they used used 68 different types of non lethal weapons including tear gas, grenade, rubber bullet etc. Thereafter as instructed by Sri. Sherafudeen, after following the procedure, rifle party forwarded and they fired in the air and thereafter since the violent mob did not disperse, they fired at the mob. When people started dispersing, Sri. Sherafudeen ordered to stop firing and immediately that was stopped. Thereafter they made recovery proceedings but they could not get injured or dead

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persons from that area except only one person who was taken and made arrangements to send him to hospital. The persons who gathered there themselves made arrangements to take the injured and dead bodies from that area quickly and that shows their predetermined act in this regard. According to him, if the firing was not ordered the situation would have been worsened and more damage to the property and life of Christian community people in that area would have caused. He had also stated that since they had taken position and cover in safety areas, not much injury had been caused to them. Though he was cross-examined at length, there was nothing brought out to discredit his evidence regarding this aspect. It is true that there are some discrepancies in the evidence of this witness when compared with the evidence of E1W1 Sri. A.V. George, E1W5 Sri. Sherafudeen, E1W4 Sri. Britto and FW1 Sri. Sureshkumar regarding the number of persons who crossed the beach area and found chased by Sri. Sureshkumar in the church compound etc, that is not sufficient to disbelieve his evidence as such. It is clear from his evidence that

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Sri. Sureshkumar and Sri. Sherafudeen were discussing about the situation in that area as they were under control of those areas at that time. He denied the suggestion that there was no occasion prevailing in that area for the police to order firing and they fired at innocent Muslim people without any reason.

E1W4 Sri. Britto, E1W5 Sri. Sherafudeen and FW1 Sri. C.G.Sureshkumar are the persons who were really present in and around the places where the actual firing had taken place.

E1W5, Sri. Sherafudeen had deposed that from 8.10.2006 onwards, he was working as Trivandrum City DCRB Assistant Police Commissioner and on 16.05.2009 at about 11.00 pm, he got information from Deputy Commissioner of Police, Law and Order, Thiruvananthapuram to come to Cheriyathura area on 17.05.2009 at 8.00 am and to relieve the Cantonment Police Assistant Commissioner who was in charge of that area from 16th night. Accordingly, he went to that area and took charge at 8.00 am on 17.05.2009 and DCP Law and Order Sri. A.V. George and

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Sanghumughom Assistant Commissioner Sri. Suresh were coming and going there and he took charge of that area. He was given the assistance of Peroorkada Circle Inspector Sri. Sivaprasad at that time. Sri. A.V. George had instructed him to have an over all control over the area as well. Accordingly, he had made visits in Beemapally, Valiyathura and Cheriyathura areas and also went to Cheriyathura Christian Church and Beemapally several times. The Christians of Cheriyathura area were expressing their dissatisfaction about the incident happened on 16th night communal clash and they were blocking the vehicles coming to Beemapally area and so they have decided to divert the traffic through Poonthura and this has been done in consultation with DCP Law and Order Sri. A.V. George. No shops were opened either in Beemapally area or in Cheriyathura area. Tahsildar and Valiyathura police officials were engaged in preparing the mahazar and making assessments regarding the damage caused to the houses etc. Whenever the blockage of vehicles were informed DCP Law and Order and Sanghumughom Assistant

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Commissioner were making necessary arrangements to remove the block and make the traffic smooth. At about 3.00 pm, he came to his duty point and at that time, he heard the blasting of bomb at 50 metres east towards the end road. Immediately he went to that place along with some police officers and he had inspected the possible places from where this could have come from Muslim area and Cheriyathura junction. At that time, he got information that the Muslim people were in angry with Poonthura Circle Inspector. He went to that place and he was trying to pacify them and at that time, a police constable came and told that there was clash going on in beach area. Immediately he took the tear gas party and went to the beach area along the end road. At that time, he saw huge number of Muslims standing on the western side of the sea wall and Sri. Sureshkumar was chasing the Muslim community people through the church compound and Christian community people following him and he was standing in between them and preventing them from clashing with each other. In spite of that, more than 1000 people of Muslim

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community came from south and west of end road with bombs and weapons and thrown bombs towards Cheriyathura church side and against the houses and set fire to the boats and net kept there. Some of the Christians who followed them attacked them and one person sustained severe head injury. Even the Christians were shouting "ഈ മേത്തൻമാർ അങ്ങനെ ഈ കടപ്പുറത്ത് ആളാകണ്ട അവന്റെ ഒക്കെ പള്ളി തകർക്കണം" and hit on the head of a Muslim community man and he fell down. On seeing this, the Muslim community people became more aggressive and started attacking forcibly. Sri. Sureshkumar had driven the Christian community people towards north and to some extent, he succeeded in his attempt. But the Muslim community people did not heed for these measures and they entered the north western portion of the end road and even attacked the police personnels and so they had no other option but to retreat from that place. He had discussion with Sri. Sureshkumar and Sri. Sureshkumar told that if necessary he can use force by even firing to disperse the mob. The Muslim miscreants had even removed

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the helmet and lathis from the police personnels standing there. So they were asked to go back to the end road area and they have reached 50 metres east from the beach area in the end road and in spite of announcements made, since the mob did not disperse, he ordered to use tear gas and other non lethal weapons and since those attempts failed, he asked the tear gas party to go back and asked the rifle party to advance. Accordingly Vinod and others went back and under the leadership of Britto A1W4 the rifle party advanced and they took position and then fired in the air about 30 rounds and thereafter since the mob did not disperse, they had no other option but to fire at the mob and immediately firing started and the mob dispersed. So he asked to stop firing. By the time Sri. Sureshkumar also reached there. So according to him, only when all attempts failed, he had no other option but to fire at the mob to disperse them. Since they have taken proper cover and take all precautions, fortunately the police personnels did not sustain much injury in the incident. The miscreants used heavy explosive substances including launcher bombs, petrol

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bombs and neogel 90. The injured persons were immediately removed by the miscreants themselves. So he may not be able to say how many people sustained injuries in the incident and when exactly the injured fell down, etc; Thereafter ADGP, District Collector and RDO came there and conducted flag march and imposed prohibitory order in that area. At the instance of the District Collector, CRPF and RAF came and took control of the area. According to him, the police firing was perfectly justifiable. He denied the suggestion that the police firing was not justifiable and he had without taking any precaution and unmindful of the consequences fired at innocent Muslim people who did not involve in any illegal activities and engaged in their fishing activities and some children playing cricket and took away the lives of six innocent people. He had admitted that erlier on 3 or 4 occasions, he was kept under suspension in connections with the actions taken by him but he had stated that in all those occasions, it was found later that his actions were justifiable and he was taken back into service without any punishment. The

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circumstances stated by him which led to his suspension also will go to show that he is a bold officer who had taken steps to arrest an abkari accused involving huge quantity of contraband and at that time on the basis of the complaint given by the accused, he was kept under suspension for some time and thereafter he was reinstated. It is also seen from his evidence that when he arrested a pastor in connection with some crime who later committed suicide. On the allegation that he was responsible for the same, he was kept under suspension, then he was reinstated. So all these things will go to show that whenever he had taken bold steps to arrest some persons who are engaged in large scale illegal activities, he had to face some problem from the higher authorities and subsequently when it was revealed that he was justified in his action, he was reinstated. It was also brought out in evidence that he was posted in Marad area after the incident for maintaining law and order in that area and he was helping the investigating team in that area immediately after the incident as well and on account of his bold steps crucial evidence could be

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collected in that area. So all these things will go to show that he is a capable officer to contain the situation and take the discretion in an appropriate manner to face the situation. Further he being a Muslim, it cannot be believed for a moment that he will be joining with other community people and act against his own community people to take away the life of innocent people as claimed by A party and others supporting them.

The evidence of E1W4 Britto corroborated the evidence of E1W5 Sherafudeen in this regard and also circumstances which led to the police firing. Though this witness was cross-examined at length, nothing was brought out to discredit his evidence regarding the circumstances which led to the firing. He had also denied the suggestion that they have proceeded towards south from the end road for a distance of 300 to 400 metres and fired at innocent persons who were engaged in fishing activities and also against children who were playing cricket and innocent persons who were enjoying the sea breeze in that area.

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FW1, Sri. C.G. Sureshkumar also corroborated the evidence of E1W5 Sri. Sherafudeen regarding the circumstances which led to the police firing. He had deposed about the things happened on the 16th night and he had also stated that he also sustained injuries in the stone pelting happened on 16.05.2009. According to him, he went to hospital on the 16th night after the situation was brought under control and thereafter as advised by the doctor, he went to his house for taking rest at 12 mid night. On next morning, he came to the place of occurrence and verified the police deployment there. At about 12 noon when some people in the Cheriyathura area blocked the flow of vehicles coming to Beemapally area, he made arrangements to divert the traffic. Up to 2.00 pm on that day both himself and E1W1 Sri. A.V. George were there in that area and thereafter he went to Airport for looking after the security arrangements for the then Chief Minister who is coming to the Airport. While he was engaged in the security arrangements duty at Airport, he got information that some commotion was going on in Cheriyathura area.

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Immediately he came to that place and informed the control room to inform the executive Magistrate about the same and asked the control room to send tear gas party and others to Beemapally area since there was commotion going on between Christian and Muslim people. At the time when he reached Cheriyathura junction he saw the Muslim miscreants throwing powerful bombs in Cheriyathura church area. So he took some police constables from SAP camp and went to that area and he had driven them towards the beach area. By the time, the entire seashore area was filled with the miscreants from Beemapally area. He had prevented the Christian people and driven them towards north and the Muslim people towards south. When they were chasing the Muslim people, Christian people came behind him and they engaged in altercation and clash with the Muslim people. At that time, the Muslim people were throwing bombs and other things which resulted in setting fire to houses and a boat. The Christian people had overcome their force and even attacked a Muslim house and even they attacked police personneis and he had contacted Sri.

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Sherafudeen and told him even to use force if necessary to disperse the mob and he was engaged in driving away the Christian community people towards north. While he was driving away the Christian community people, he heard firing sound from beach area. After removing the Christian people, when he came to beach area, the firing was over. Before that, he had informed the control room to send more force with arms. When he reached the place, he did not see either the dead body or the injured persons at that place and Sri. Sherafudeen was able to disperse the mob but he could see damage had been caused in large extent in Cheriyathura area when compared to Beemapally area. According to him, the police action was perfectly justifiable. Though he was cross-examined at length, nothing was brought out to discredit his evidence and he had more or less corroborated the evidence of E1W5 Sri. Sherafudeen regarding the circumstances which led to the firing on that day. He had also sustained injuries in the incident happened on the previous day which is evident from Ext. F1 wound certificate. It is true that there are

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some discrepancies in his evidence regarding the number of persons who were present and the number of persons chased by him and driven out of the area etc. But that alone is not sufficient to come to the conclusion that there was no situation prevailed in that area as claimed by the police officials though there may be some exaggerations when they are giving evidence after lapse of some time. Further there is no enmity brought out for this witness also to give any false evidence in this regard. He had also denied the suggestion that as part of implementing the circular received from the Central Home Ministry, they have sorted out a plan of action and created a situation to make it appear that the policing was effective in Beemapallyu area. It may be mentioned here that none of these officers had any prior acquaintance with Beemapally people or Cheriyathura people and there is no possibility of any conspiracy being hatched by them to create such a situation to claim the life of six persons and causing injury to several persons as claimed by A party people. Further there is no evidence adduced on the side of A party to prove this

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fact as well. Further there is no necessity for them to develop any ill feeling with Beemapally people within a short period during which they worked in that area during the election period.

FW2, Sri.Pradeeepkumar, is the Circle Inspector of Police, Poonthura who was there on the 16th and 17th. According to him, on 16th being election result publication day of the parliament election, he was doing law and order duty and apart from that he had made arrangements to complete the investigation as the custody period of the accused in crime No. 223/2009 under section 302 of the Indian Penal Code of that Police Station was to expire on that day, he completed the questioning of that accused and produced him before the court. Thereafter he was monitoring the victory processions conducted by several political parties in connection with the election result declared on that day. At about 6 pm, he came to Cheriyathura junction and at that time, he saw Valiyathura police party and Poonthura Sub Inspector and party there and came to understand from them that Kombu Shibu belonging to Christian community

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had abused the Muslim community people and the Muslim community people had assaulted him and his relatives and friends had taken him from there. But when he went to there, there was no tense situation and there was no commotion there and it was understood from the police officials that they dispersed the persons from there and brought the situation under control. Since it was revealed that the persons responsible for the incident belonging to Christian and Muslim community people, he entrusted Sub Inspector Mohanachandran, Head Constable Thangaswamy and Assistant Sub Inspector Venu to enquire about them and they went and came back and told that none of them were available in the locality. Thereafter he gave instruction to junior A.S.I. that if any complaint has been filed in this regard, to register a case and enquire about the same and he had also given necessary instructions to the Sub Inspector of Police of that area as well. Thereafter at about 7.00 pm, while he was doing patrol duty in striker 4 vehicle, he got information that in Poonthura and Vallakkadavu there were some clashes between different political

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parties, he went to that place and removed them and thereafter while he was in Vallakkadavu, at about 9.00 pm, he got information that the relatives and friends of Kombu Shibu belonging to Christian community and Muslims from Beemapally were collected together and engaged in clash and they were pelting stone against police officials present there and he got this information through wireless message. He immediately went to Cheriyathura junction and saw some houses and shops in damaged conditions and some two wheelers were on flames. When he reached there, lot of police officials including Sub Inspector, Circle Inspector and Assistant commissioners were there. The fire force also reached there and when the fire force was trying to put off, the fire it was resisted by the Muslim community people by pelting stone and on account of that, the fire force officials sustained injuries and damage had been caused to their vehicles and FW1 Sri.Sureshkumar sustained some injuries. They were also hurling bombs and stones and caused damage to the houses. By that time, District Collector, RDO, MLA, ADGP south zone reached there and after

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discussion with both community people, they left the place and the mob dispersed. As per the directions of ADGP, E1W1 Sri. A.V. George who was the DCP law and order at that time prepared a plan of action for deploying police force for two days in that area and temporary control room was also opened. He had taken charge of the picket duty in Cheriyathura junction on 17th morning at 7 am and he was accompanied by then Thampanoor Sub Inspector, Vanchiyoor Sub Inspector, Valiyathura Junior A.S.I. and 25 other police officials. As directed by the DCP, E1W5, Sri. Sherafudeen also had undertaken the charge of two pickets one in the Cheriyathura junction and other in the beach area and he was supervising the same. At that time, there was some incident occurred of blocking the vehicles coming to Beemapally area in Cheriyathura area and as directed by the DCP law and order, the vehicles were diverted. DCP had directed him to enquire about Kombu Shibu and others at about 11 am and he enquired about the them but he could not trace them out. After 2.30 pm, he came to know that in Beemapally area Muslims

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were collecting on large scale and at about 3.00 pm, they came to Cheriyathura junction from Beemapally area. Immediately he gave instruction to the police officials to block them. At that time, he heard blasting of bomb in the middle portion of the end road and immediately E1W5 Sri. Sherafudeen came to that area and also he came to Cheriyathura junction and they wanted the mob to go back. At that time, lot of people came from beach area with deadly weapons like sword, bomb, stick etc and immediately E1W5 Sri. Sherafudeen went to that area. While he was controlling the mob in Cheriyathura junction, E1W1 Sri. A.V. George came and he had taken control of that area and mob receded backwards and no untoward incidents happened in that area. By the time, they heard blasting of country bombs and the sound of tumult in the beach area. They were also able to see flames from the area and falling in the nearby buildings. These views could not be seen from the mobile clippings produced by E1 party as taken by a resident of Cheriyathura when the commotion was going on and the same is not marked as the person

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who took it was not available to give evidence, but it was seen in open court in the presence of the counsels for all parties. He was also seeing the Muslim miscreants throwing bombs from the terrus of the buildings. As requested by E1W5, Sri. Sherafudeen four armed police were sent to beach area and they heard bugle sound and thereafter heard the firing sound and after the firing was over, they went to beach area and came to understand that the miscreants had gone up to the church compound and even tried to attack the Christian church and caused damage to the houses and boats etc. Thereafter ADGP southern region came there and took control of the situation. So according to him, the police firing was justifiable. Though he was cross examined at length, nothing was brought out to discredit his evidence regarding this aspect. It is true that from the documents produced from the E1 party from the control room and the voice log produced by them, these developments were not informed the control room in sequence, but it will be seen from the CDs of the voice log produced that from 3.00 pm onwards instructions were received in the

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control room regarding the incidents happening in this area. But it is clear from the conversation that the conversation was not some times clear, broken messages were seen received from that area from different persons. Some of the messages were seen broken at the time it was passed. As per the voice log CD as well as the certified copy produced, it will be seen that the actual firing had taken place after 3.42 pm and from 3.00 pm onwards there was commotion going on in that area. Further he is also a person who was posted in connection with the election and there was no necessity for him to have any grudge against either Muslim people or Christian people. There is no necessity for him to favour any person in the locality as well.

CW1,Sri.Sanjay Kaul is the then District Collector examined on the side of the commission. He had only given statement in tune with his report filed before the commission. According to him, till 9.30 pm on 16.05.2009, he did not get any information regarding the situation in Cheriyathura area. He was at Kovalam with Central Election Observer and at that

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time, he received a call from his mobile from a reporter that some incident was going on in that locality. Thereafter he had also received phone calls from the MLA and others and he along with RDO went to that place and at that time, he had seen Muslim mob collected on the south of Cheriyathura junction and they were in violent mood and there were some people standing in the church compound and they were separated by a heavy police force. He could see heavy damage caused to houses, vehicles and shops in Cheriyathura area. He had discussion with the Jama Ath officials who were there but they didn't want the presence of police in the discussion. The then MLA Sri. Surendran Pillai also came and after discussion with him, they decided to have a meeting in the Jama Ath office. So he went there and had discussion with them and in the discussion, it was revealed that Kombu Shibu and his associates had caused some damage to shops in Beemapally area and threatened by declaring even causing hindrance to the forthcoming Urus festival. So they decided to give instruction to the police to arrest the miscreants including Kombu Shibu

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and others before the next day itself if the allegations against them were genuine and instruct the revenue officials to assess the damage and make report to the Government for payment of compensation. Thereafter they came out side and the Jama Ath officials informed the decision to the agitated mob standing there. Thereafter the mob dispersed. Then he went to Cheriyathura church and talked with the vicar and the committee members and informed the decision taken and they were satisfied with the decision and as requested by him, the vicar informed the decision taken to the mob collected there. He was there up to 1.25 am on 17.05.2009 and since he was satisfied that the entire situation was under control, he went to his residence. On 17.05.2009 till 3.38 pm, he did not receive any information and he got some information that some clash was going on in Cheriyathura area between Muslims and Christians and he contacted the then RDO A1W29 Sri. Biju and asked him to go there and at about 4.00 pm, he received a telephone call from Sri.Surendran Pillai that some police firing had taken place in that area and he told him that he was

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enquiring about the same. He had also received call from Fr. Yugine in Vellayambalam regarding this and he told him that he was making necessary enquiries about the same. Thereafter he went to Cheriyathura area. He had seen agitated mob standing in Beemapally area at large scale shouting slogans against the police. Then he went to the beach area where the firing happened and he happened to see some people gathered at a distance towards south from the end road and also people gathered in the by-lanes in the beach area towards south and he had conducted a flag march through the beach area and declared prohibitory orders and thereafter he came to Cheriyathura junction and decided to continue the flag march towards south but it was resisted by the Muslim people. Thereafter MLA also came and after discussion with him, they decided to send back the police force and he instructed the police force to go to Cheriyathura junction. Accordingly, the police force retreated to the junction area. Later it was revealed that two dead bodies were there in the area with them and earlier they were not prepared to hand over the

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same but later as requested by him, they decided to give the body to send it for post-mortem and arrangements were made for that purpose. Thereafter he contacted several officials including the Chief Secretary, Home Minister etc and made arrangements to deploy CRP and RAF in that area and the things were brought under control. He had categorically stated that the Muslim people were violent at that time. But he had also stated that from enquiry, it was revealed that there was involvement of both Christians and Muslims as there was a commotion between them and large scale explosives were used there. But he did not make any comment when a question was put to him as to whether the police action was justifiable and he had stated that since he was not present at that time, it is not proper to make any comment on that aspect. He had further stated that when a question has put to him as a question to be considered under section 8(B) of the Commission of Enquiry Act as to why he had not imposed prohibitory orders on the 16th night itself when he came to know there was involvement of two community people which resulted

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in large scale damage to the properties of particular set of people and police personnels were also attacked and why this cannot be treated as a laches on his part as head of the District administration, at that time he had answered that he never felt that it was a communal clash but according to him a small fight between two individuals belonging to two community had become later a clash between two community people and according to him on the basis of the assurance given by the Jama Ath officials and the Christian parish people that no untoward incident will happen thereafter, he believed their assurance and did not impose any prohibitory order on that day and he was also convinced that by taking some decisions in the meetings, they were satisfied and the situation was brought under control and he was also under the impression that the situation had come to normalcy and no untoward incidents would happen thereafter. So he had also admitted in away that on both these days, there were clash between people belonging to two different community namely Muslims and Christians but they do not want to term it as a

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communal clash or a communal violence. He had also stated that at the time when he came to Cheriyathura junction and the beach area on 17.5.2009 after the firing, he had seen one or two house completely damaged by setting fire to the same and one boat was seen completely damaged setting fire and he had seen large scale of the remnants of exploded and unexploded explosive substances on the end road as well as on the northern side of the end road. He had also stated that he can see the shells of lethal and non lethal ammunitions like grenade and tear gas used in that area. He had also stated that even at the time when he came there the Muslim mob was restive and violent when compared to the people in Cheriyathura area. He had also stated according to his information the firing had taken place on the western side of the end road and not on the southern side of the end road and damage caused were more on the northern side of the end road than the damage caused to the properties on the southern side of the end road at the time of his inspection. He had also stated that in the meeting, the Jama Ath officials had in away admitted that

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Muslim community people also involved in the incident happened on the 16.05.2009. He had also stated that he had not given any blanket direction to arrest Kombu Shibu and others immediately but he had only stated that if the allegations made against Kombu Shibu and others were genuine take steps to arrest them immediately and also take steps to arrest the miscreants from both side responsible for the incident and this was conveyed to ADGP Sri. Rajeevan who was examined here as E1W6. So the case of 'A' party that there was a decision taken to arrest Kombu Shibu and others immediately by the District Collector appears to be not fully correct. Further there was no evidence to show that there was any case registered against Kombu Shibu in respect of any of the incidents mentioned by the witnesses examined on the side of A1 party either on 10.05.2009, 15.05.2009 or 16.05.2009 so as to effect his arrest immediately as claimed by them. Further more damage were caused to the northern side when compared to the damage caused on the southern side of the end road and the allegation that all these damage were caused by

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Kombu Shibu and his associates were not established by and supported by the persons who lost their property on the northern side. So it is not possible for the police to arrest him immediately. But they ought to have done it as a preventive measure but that was not done. No case was also registered in respect of the incident happened on the evening on 16.05.20090 involving Kombu Shibu and Nizamudeen though according to the police, they came and dispersed them when they got information from the control room. Further police had not registered any suo motu case on the 17th itself regarding the incidents happened on the 16th but individual cases were registered on the basis of the statements given by the persons who lost their properties in the incident. But a suo motu case was registered by the Assistant Sub Inspector of Police Valiyathura on 18th regarding the incident happened on 16th night and then arrested Kombu Shibu on 18.05.2009. So his evidence is not helpful to prove the circumstances which led to the firing but his evidence is helpful to prove the attitude of the parties belonging to both community, he had handled on both

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occasion and also inference drawn by him by interacting with the people in that area immediately after both the incidents.

CW2 Dr. K. Sreekumari was the then Head of the Department of Forensic Medicine, Medical College Hospital, Thiruvananthapuram at that time and she had conducted post-mortem examination of Badusha involved in crime No. 247/2009 of Valiyathura Police Station and she issued Ext. E1(22) post-mortem certificate and she had stated that he died due to head injury and she had also had clinical examination of the dead body and there was nothing seen to show that it was a bullet injury and according to her this would have been happened by hit with blunt weapon. She reserved her final opinion in respect of the same after receiving the chemical examination report of the remnants from the head taken by her and sent for examination. Subsequently Exts. H82 to H86 chemical analysis report were obtained in respect of deceased Abdul Hakkim, Khani Haji, Ahammad Ali, Badusha, Firose and Sayedali. Ext. H85 is the report relating to Badusha. On the basis of this, this witness had given

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final opinion Ext. H88 as to cause of death of all the persons in respect of whom post-mortem examination was conducted from the Medical College Hospital under her supervision and also by herself in which she had stated that no explosive substances, iron or radicles or decomposition products were seen in the sample sent from the head of deceased Badusha and she had given opinion as to the cause of death regarding Badusha that the back of head of Badusha did not show any characteristics of bullet injury on cross-examination, chemical analysis of the scalp hair and the skin edge of the wound yield negative results, this injury could have been sustained as a result of application of appropriate blunt force using means other than fire arms or explosions. So It is clear from this that death of Badusha was not as a result of firing injury but he died on account of injury sustained by application of blunt force in the commotion. So it cannot be said to be a case of death as a result of police firing. Further CW2 had stated that scoot particles were seen in the lungs portion of this person and she had stated that this could be possible only if

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this person was present in the place where mischief by fire had occurred and he had swallowed or inhaled the smoke and he was in the area covered with smoke prior to his death. So her evidence will go to show that he could not be present at a distance as stated by the witnesses examined on the side of A1 party and he must either be an active participant in the clash and present among the persons who set fire to the houses or the boat and he must have sustained injury in the clash and died on account of the same or he could have been among the persons involved in the incident and was very close to the place where mischief by fire was done by the miscreants in Cheriyathura area just south of end road. So as rightly pointed out by the counsel for E1 party the death of Badusha cannot be said to be on account of any bullet injury and the possibility of his presence among the miscreants cannot be completely ruled out. She had also deposed that on the same day, Dr. Siva Suthan, Assistant Professor of Forensic Medicine had conducted post-mortem examination on the body of one Ahammadali and issued the original of Ext. E1(23) post-mortem

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certificate. According to her, he died on account of penetrating injury sustained to the victim shown as No.1 in Ext. E1(23). On the same day, Dr. Sreedevi, Assistant Professor of Forensic Medicine Medical College conducted the post-mortem examination of Firose and issued the original of Ext. E1(24) post-mortem certificate in which the cause of death was given as death due to penetrating injury sustained to right lower limb. On the same day, Dr. Mini K.S., Assistant Professor, Forensic Medicine had conducted post mortem examination on the body of Sayedali and issued the original of Ext. E1(25) post-mortem certificate in which the cause of death was given as death due to penetrating injury sustained to chest. She had also deposed that on the same day, Dr. N.A. Balram Assistant Professor of Forensic Medicine had conducted post-mortem examination on the body of Abdul Hukkim and issued the original of Ext. E1(26) post-mortem certificate in which the cause of death was given as death due to penetrating injury sustained to chest. On 20.5.2009, Dr. V.M. Rajeev, Assistant Professor of Forensic Medicine had

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conducted post-mortem examination on the body of Ahmmad Khani @ Khani Haji, 65 years and issued the original of Ext. E1(27) post-mortem certificate in which the cause of death was given as postmortem findings has consistent with death due to occlusive coronary artery disease. The injury sustained to eye could have precipitated or accelerated the existing heart disease to cause death. In the cross-examination of E1 party, she had stated that it may be correct to some extent that the deceased would have survived if there is no serious heart disease. She had also stated that the metal piece taken from the wound could be either from the bullet or from any other metallic object and there is no evidence to show at the time of autopsy that a full bullet had entered the body of the deceased. The metallic piece could have come either directly or by ricochet. So in this case also it cannot be said that the death was due to the direct result of bullet injury and the post-mortem certificate suggests that the deceased was having severe heart disease which may not be known to the victim and the injury to the eye would have either precipitated or accelerated the

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death due to heart disease. The witness also deposed that on 06.06.2009 Dr. N.A. Balram Assistant Professor of Forensic Medicine had examined the amputated leg of Nizzamudeen, 26 years A3W2 and issued the original of Ext. A1(6) certificate. She had also proved Ext. C10 as the case sheet relating to this witness and he was fully conscious and oriented at the time of admission and he sustained bullet shot injury to his right thigh which caused injury to the blood vessels which compromised with the blood supply to the limb in spite of attempted repair of blood vessels. The amputation was done as a life saving procedure as per the opinion given by the medical board. Further in the cross-examination of E1 party, this witness has deposed that all the injuries sustained by the deceased except Badusha were on the front side and this could be possible only if they and the assailants were on the face to face position. Injury sustained by Firose were on the lower limb and injury No.5 was on the back of the left thigh. To the questions put to the witness by the commission, she had stated that in the case of Firose, there was nothing to suggest that he was

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dragged along the sand portion of the seashore. But she had stated that they need not necessarily be present if he was dragged through sand and that part was covered with cloth. She had stated that linear lacerations can be caused by metallic particles of appropriate dimensions and strength. Incised wounds are not described generally in bullet injury. She had also deposed that generally it is not safe to conclude merely because they are described as penetrating wound showing entry and exit wounds without the presence of foreign body detected from the wound as bullet injury. But if the characteristics of fire arm injury such as the effects of fire blast burnt or unburnt gun powder and the effects caused by trajectory of the bullet in the wound track and the edges of the wound were present, then even without the presence of foreign body , such a conclusion could be possible. If there is any possibility of foreign body being extruded by any means and without noticing any of the things mentioned in the earlier answer it is not safe to conclude that it was a case of fire arm injury. Even in cases where the bullets glanced through the outer

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aspects of the body, the possibility of lacerated wound being caused cannot be excluded. Her evidence is not helpful to prove the correct time since death of the persons which may give some clue regarding approximate time of firing because she has stated that since bodies were kept in cold storage it is difficult to assess the same.

CW3 Sri.Gopinath was the then commissioner of police, Thiruvananthapuram city. He had deposed that since his wife met with an accident on 16th evening and admitted in the Intensive Care Unit of Thiruvananthapuram Ananthapuri Hospital in a critical stage, he was in the hospital on 16.05.2009 and 17.05.2009 and he could not personally present at the place of occurrence on these two occasions and DCP law and order Sri. A.V. George was there throughout and managing the affairs there. He had also stated that he was not in a position to hand over charge to somebody else at that time. He had also given a detailed report to the D.G.P. on the basis of the report obtained from Special Branch and also the materials collected by him directly when he went to the place on

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the morning of 18th. He had further stated that since the situation was properly handled by the Government, District Administration and the police effectively, no further untoward incidents had happened in that area and further spreading of this clash to other area was also effectively prevented. His evidence is also not helpful to prove the circumstances which led to the firing as he had no direct knowledge about the same.

CW4 Sri. Jacob Punnoose is the Director General of Police. He had also no direct knowledge about the incident and he had got information at about 9.10 pm on 16th from State Police Monitoring room that there was some commotion prevailing in Cheriyathura area and immediately he contacted ADGP Sri.Rajeevan E1W6 and instructed him to take necessary steps and informed the AR camp and SAP camp to provide necessary police force. He had also stated that E1W6 Sri. Rajeevan had contacted him during mid night and informed that no untoward incident happened after 10 pm on that day. He had also informed that to prevent further incidents, necessary arrangements were made and police pickets

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were established. He had also deposed that he was contacting State Police Monitoring room on the 17th morning and thereafter till 12-12.30 pm, no untoward incidents were reported. But at about 12-12.30 pm, a message received stating that the vehicles going to Beemapally area were blocked by some people and he made enquiries and it was revealed that E1W1 Deputy Commissioner of Police Sri. A.V. George was there and he was handling the issue and at about 2 pm Sri. A.V. George had contacted him and informed about the same thing. On 17.05.2009 at about 3.30-3.45 pm he received information from State Police Monitoring room and also from E1W6 Sri. Rajeevan that big commotion was going on in Cheriyathura area and after some time he got information that police firing was done and he was getting information about the situation from others as well. Sri. Rajeevan informed him that additional force will be required and he suspected some death occurred in the police firing and arrangements were made to provide more police force from CRPF Pallippuram camp, Central CRPF and RAF from Coimbatore. Then he went to that place at 6.30-

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7.00 pm on that day and inspected Cheriyathura and Beemapally areas and interacted with the persons and he came to understand that at about 3.00 pm on that day, some people from Beemapally area came to end road from beach side and attacked the police picketing there and also attempted to attack church and caused damage to houses by setting fire and there was clash occurred between two community people and explosive substances were used extensively against police and in spite of using tear gas, the situation could not be controlled and so police was forced to order firing. He came to understand at 8.00 pm that four persons died and several persons were injured. Since he felt that there was possibility of further commotion on the 16th night, police picketings were established in the areas where further incidents were anticipated. He had also stated that though there is a feeling among the officials that they could not discharge their duty effectively in Beemapally area and if any action is taken, no protection will be obtained from the Government but there is no written report obtained in this regard but he was able to realise such

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feeling from several police officials when they were discussing several issues. He had also stated that in cases where small issues developed into major issues and when severe action of the police was necessitated which resulted in death or severe bodily injury, then that will be termed as police excess and it is viewed in a sympathetic manner belonging to a particular community against which such action was taken and the local leaders or the community leaders did not take initiative to analyse the issue and take proper decision in this regard. So in such situation, there are occasions where police is reluctant to use force in such circumstances. He had stated that after discussion with Central Home Minister after the Bombay blast, several steps were taken to monitor the seashore area to avoid intrusion of any antisocial elements or terrorists activities being promoted in such areas. He had further stated in the meeting held on 09.02.2009 in which Hon'ble Central Home Minister had participated, they have not stated that police do not venture for that in Malappuram or Beemapally area but they have only stated that in some areas police

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hesitating to venture. He had denied the suggestion that since they have received a message from Central Home Ministry stating that there is no proper policing in Beemapally area, in order to show that there is effective policing in that area, police had prepared a plan of action and created a scene which resulted in police firing. So his evidence is also not helpful to prove the circumstances which led to the police firing as he reached the place after the incident and collected information from others and it is on that basis, he is giving his opinion in this regard. His evidence also will go to show that there was no prior special intelligence report or report from either Central or State Intelligence agency that such an incident was going to happen in that area. Even on 17th, they did not get any clue from any quarters that such an incident was going to happen in that area and in spite of care taken and deployment of police force in that area, an incident had started all on a sudden without any prior information. He had also stated that it cannot be said that the incident would have been avoided if police picketings were established in

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Beemapally area and on the south of the end road in beach area. He had stated that he had given a report to the Government regarding this and the report was produced as directed by this commission as a confidential report by the Additional Chief Secretary in a sealed cover. I have perused the same and found that in the report , after analysing the situation, he found the police firing on 17th justifiable but found some laches on the part of the police in not registering any suo motu case in respect of the incidents happened on 16th night or making any arrangement to arrest Kombu Shibu and the miscreants responsible for that incident. Considering the confidentiality of the report I am not enlisting the report, but only taking relevant portion for my purpose alone.

CW5 Sri. Joy is an injured in this case. According to him he was not aware of the incident happened on 16th but he had only hearsay knowledge about the same. He sustained injury in the incident happened on 17.05.2009. According to him on that day at about 3.00 pm, he went to his friends house and when he reached the church compound after walking along the western side, some people from south came in a group towards church side and he was frightened by the

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same. Among them one person known to him had inflicted a cut injury on his head and due to fear he cried aloud. Thereafter another person also inflicted a cut injury on his head. The person who first inflicted cut injury on his head is known as Sulfi and he is residing in Beemapally area on the western side. He lost his consciousness and his ring also lost in the incident. He was taken to Medical College Hospital by police people. He had given Ext. H22 statement on that basis a case was registered as crime No. 250/2009 of Valiyathura Police Station. Though he was cross-examined at length nothing was brought out to discredit his evidence regarding this aspect. It is true that in the wound certificate of this witness the cause of injury was shown as injury sustained in the police lathi charge. But he had categorically stated that he had not given the cause of injury to the doctor. He had also stated that he had seen the miscreants and they have brought something in a bucket and threw the same but he did not know what was in the bucket. He had further stated that while he was in the hospital the Muslim people who sustained injury wanted to inform

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the police that he had sustained injury in the police firing and he did not heed for their request thereafter he was changed to another ward. From there also he was threatened by them asking to depose before the police that he sustained injury in police firing. Since he was afraid of attack by the Muslim people he got discharged from the hospital. He denied the suggestion that he is now trying to help the police party and he did not sustained injury as stated by him and he was beaten by police when he made some mischief after consuming alcohol. It is true that he had not mentioned the name of any person in Ext. H22 though when he was examined before the Commission he had stated one Sulfi as a person known to him among the person who inflicted injury on him. There is nothing to disbelieve the evidence of this witness regarding the incident. On 19.05.2009 itself he had given statement regarding the incident while he was in the hospital and he did not want to change his stand as well. It cannot be said that he was giving statement as instructed by the police to help the police. So it is clear from this that he sustained injuries after 3.00 pm on

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17.05.2009 from church area in Cheriyathura and he was attacked by some Muslim people belonging to Beemapally area. So this cut at the root of the case of the A party that none from the Christian area sustained any injury in the commotion.

CW6 Sri.G.Anand was working as principal correspondent, Hindu daily in Trivandrum unit. According to him he had occasion to go to the places in Cheriyathura area on the 16th and 17 evening after the incident and he had made reports about the same in Hindu daily which were marked as Exts. E2(1) to E2(7). According to him on 16.05.2009 was an election counting day of Parliamentary elections and on that day at about 4-4.30 pm he got information that some commotion is going on in Beemapally area. At about 5.30 pm he reached Cheriyathura-Beemapally junction and at that time he saw a group of youngsters and business men were standing in Beemapally area in an aggressive mood and the Beemapally President Sri. Azeez and Jama Ath secretary were trying to pacify those people. But it appears from the conduct of the mob gathered there that they could not control them.

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When he enquired about them the reason for the same it was revealed that Kombu Shibu (he had misspelt the name of this person when he gave evidence) and his brother Rajan had come there and made some problem there and even declared that he would cause hindrance to the forthcoming Urus festival in Beemapally and it is revealed from them that on account of this incident there was communal hatredness provoked in that area and on account of that the Beemapally people got agitated. When he enquired with police officials present there it was revealed that the said Kombu Shibu was involved in several criminal cases including drug peddling and he is an AIDS patient and he was evading arrest from the police. At the time when he reached there, he did not see any people belonging to Cheriyathura area of Christian community there. He had also seen that one shop and a house were damaged and that they did not belong to either Christian or Muslim and it was a house and shop of Hindu. He had also seen a boat in a burnt condition and he was not aware whether it belongs to Christian or Muslim. He had also stated

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that at about 7.30 pm District Collector, Assistant Collector and Sri. Surendran Pillai MLA reached there and they had discussion in the Jama Ath office with Jama Ath officials and the organisations of the shop owners etc. According to him some people belonging to Cheriyathura area namely one Babu Stancillas came there. It was gathered from the people that the incident happened not due to any communal problem between the two community people there but it was due to the action of some criminals and it cannot be turned as a communal violence or communal riot. The person gathered there convinced Collector that Kombu Shibu and others were responsible for the same and steps will have to be taken to arrest the miscreants and give protection to the life and property of the persons and take necessary steps to conduct Urus festival without any difficulty. The persons who gathered there told that if police had taken steps to arrest Kombu Shibu and others the incident happened on 16th night would have been avoided. According to him he went back to his office after 9.45-10.00 pm and prepared the report and forwarded the same to the

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office for publication. It may be mentioned here that the time mentioned by him does not tally with the time stated by Sri. Surendran Pillai, MLA, RDO and the then District Collector though he was able to give the picture of the incident happened in the same manner. He had further stated that on 17th at about 2.00.2.45 pm he got information that some commotion was going on in Beemapally Cheriyathura area and immediately at about 3.20 pm he left his office and reached Assumption church area in Cheriyathura at 3.45 pm. He was accompanied by his press videographer Sri. S. Gopakumar. According to him, police people were preventing the persons from entering that area. When they informed that they are from the press they were accompanied by some police people. They were able to see the remnants of explosive substances on the end road and in beach area. They have also felt the irritation by use of tear gas in that area. They have also seen the presence of white powder in the area where the blasting had taken place. He had also felt the smell of kerosene and also sand in a bucket in the church compound. Ladies and children were

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assembled in church area and police force was less in that area. He could see persons belonging to both community in an aggressive mood. Two or three policemen were having rifles and they were asking the people gathered there to disperse. He had also seen the skin portion of the scalp hair with hair in between the granite stones paved in the sea wall on the western side of the end road. He had also seen the presence of bullet marks in one coconut tree and it was situated towards Beemapally side. He had also seen the bullet marks on the sea wall towards southern side as well and it was about 35 metres from the end road towards south. When police people were asking the people gathered there to disperse they were going from that area. He had also gone to Cheriyathura Assumption church side and there also he found the presence of explosive substances both exploded and unexploded and when he enquired with the Christians gathered there they told that the people from the neighbouring area came there and attacked them and he had made all these reports in his newspaper. By the time ADGP Sri. Rajeevan also came there and they wanted to go

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through Beemapally area with the police but it was prevented by Jama Ath office bearers and other religious leaders present there. It is also revealed that two dead bodies were kept in their house and they were not prepared to hand over the same to the police and the youngsters were emotionally charged and they are not prepared to even allow the police people to enter the area. According to him District Collector had not conducted any discussion separately with Beemapally people and Church people and it was done only from Beemapally office. According to him he had given the time only approximately. He had further stated that police people were not allowed to participate in the meeting and he did not know the reason for the same. Though he had stated that he is prepared to produce the photographs taken by them which they will not normally publish in the newspaper as it is likely to create hatredness between two community people and promote communal violence as part of their policy. But though directions were given to the Hindu daily authorities, they have later informed that they are not in possession of the same. His

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evidence will go to show that there was some aggressiveness seen on the side of the Muslim people and in church area explosive substances were seen used and tear gas was also seen used in that area before firing. Though a reading of his evidence will go to show that he is trying to exaggerate certain things and the time mentioned by him appears to be not correct and he would have gone to the Cheriyathura area on the 16th long after the incident but he want to make it appear that he had gone at 5.30 pm and he was present from in that place till the Collector and MLA left the place but the timing stated by him do not tally with the actual incident happened in that area. So his presence at that place at the time claimed by him appears to be not believable. He might have gone there and collected the information from others and made report in the paper regarding things collected by him from the place. As regards the 17th incident is concerned, the possibility of this witness reaching there immediately after the firing appears to be probable because his office is situated very near to the place of occurrence than other media people. The

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position of the coconut tree where he had seen the marking of bullet appears to be not correct because it is against the true things and also the location of the tree as found by me at the time of my inspection of the place of firing. It is situated on the west of the end road in between the sea wall and the end road and it is just on the south western portion of the end road and it cannot be said to be on the Beemapally side as stated by him. His evidence can be relied on for the purpose of proving the fact that at the time when he reached there, he felt the user of tear gas in that area and also he was able to see the remnants of the explosive substances on the end road as well as in beach area and the church compound and he was also able to see damage caused to the house in that area as he came there immediately after the firing incident and within that time the possibility of creating such a scene in that area by the police is not possible.

CW7 Sri. Mohanan is the owner of motor cycle bearing No. KL 01 J 5354 which was damaged in the incident happened on 16.06.2009 at Beemapally Cheriyathura area. According to him, he went to the

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shop of Gireesan at about 6.30-7.00 pm and while he was taking food there, some people came in a group and pushed five two wheelers including his vehicle and placed the coconut leaves and stumps and set fire to the same. He had stated that he did not know the name of the persons who had done the same but according to him it was done by Beemapally people. They escaped from the shop somehow. According to him, police was not present at the time when his vehicle was set to fire. He denied the suggestion that Beemapally people had not done this. He had also stated that on 17th morning he went to Police Station and gave complaint but he did not know whether police had registered any case or not. So his evidence will go to show that on 16th night while he was in the teashop of Gireesan, his vehicle was damaged by miscreants came from Beemapally area and he does not know the name of the persons who had done this mischief. So the fact that his motor cycle was damaged in the 16th incident and that was done by Beemapally people is proved by his evidence.

CW8 Sri. Vishnupotty was the former Director of

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Kerala State Forensic Science Laboratory, Thiruvananthapuram and is a Ballistic Expert. He was examined as an expert on ballistic aspect. He had deposed that 0.303 Cal rifle is a service rifle and a shoulder weapon. According to him, an expert shooter can attack a target at a distance of 600 yard and its killing range will be more than that. The deviation caused on account of the hit of a bullet after it is released from the rifle is known as ricochet and it will affect the spinning motion and velocity and presentation of the projectile as well. He had stated that the entry wound will be smaller in size when compared to the exit injury and the projectile had passed through the human body it will cause corresponding changes in the muscles and the organ through which it had passed through. He had further stated that if the bullet had entered the lung area and if there is no exit wound caused the possibility of the bullet going out of the body due to severe coughing after sustaining injury cannot be ruled out. Similarly, if it enters the intestine area there is a possibility of being extruded through human excreta. Normally the

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splinters will be caused after the bullet hitting against the hard object and if any splinters have released from any explosives, it may not have spinning motion. So his evidence is only helpful to know about the general idea of the motion of the projectile released from 0.303 service rifle and its effect and target, etc; He had also stated that a repeated firing is not possible with 0.303 cal bolt action service rifle. So his evidence will go to show that the police had indiscriminately fired at the innocent people by chasing them appears to be unbelievable as such a thing is not possible by using 0.303 cal bolt action service rifle which is used in this incident. He had also stated by using gun shot fire it may produce lacerated, abraded or contused injuries. He had also stated that while using 0.303 call rifle needs some training so as to accommodate for the recoiling less, otherwise he may not be able to aim, catch the target or stand firm with the weapon during the course of firing. He will have to make himself suitable position and accommodate the weapon properly also with the body. This also will rule out the possibility of the police officials using the rifle in

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indiscriminate manner by running and chasing the miscreants as stated by the witness. So his evidence will go to show that firing with 0.303 call service rifle will be possible only after taking suitable position for accommodating the weapon to avoid recoiling while firing with the weapon. So that falsifies the case of A1 party and the witnesses examined on their side that police people were chasing the innocent Muslim people for a distance of more than 500 metres and then firing at them in an indiscriminate manner. Because some of the witnesses had stated that they were seeing the police people from a distance of 10 to 15 metres and it was at about 150 to 300 metres from the end road.

CW9 Sri. James Philipose was the former Director of Thiruvananthapuram Forensic Science Laboratory and he is also a Ballistic Expert. According to him on 18.05.2009 as requested by Sri. Remesh Babu who was examined as E1W2 he went to Cheriyathura Beemapally police firing area along with Assistant Director of Explosive Division, Scientific Assistants of Biology Department. He had inspected

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the area and prepared the manuscript plan which was marked as Exts. C75 and C76 respectively showing the location of the coconut trees and electric post on which he had seen the bullet marks. He had further stated that he could not see the bullet marks on the granite stones of the sea wall. According to him, he had not given any separate report though he had prepared one as the consolidated report was given by E1W7 Sri. P.D.Somarajan. He had given the report prepared by him in a sealed cover which I have verified and that tallies with the manner in which he has given evidence before this commission. He had further stated that if a bullet had hit the granite stones, it will peel off the portion and so it will be difficult to find out whether there was bullet hit or not as in the case of wood. He had further stated that though he had gone up to 500 metres on north from the electric post, he could not see the remnants of any bullets or hit marks on that side. He had further stated that from the inspection, he could gather that the firing had taken place from the east to side of the electric post on which he had seen the bullet hit mark.

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He had further stated that he did not go to the south of the electric post. He had further stated that in Exts. C75 and C76, he had not mentioned the direction of the exit and entry wound in the coconut tree. According to him this entry would have been caused earlier. He had further stated that if there is any obstruction caused to the bullet after entering the object it may devoid and the direction of the exit wound may be changed. Being a ballistic expert and also a person went there to find out the place of firing and effect of firing etc he ought to have prepared a report and plan and submitted the same to the Investigating Officer so as to help the court later in the case to locate the place of occurrence as there is dispute regarding the place of occurrence in this case.

It appears that this witness had not shown the enthusiasm and the sincerity which is required to be done in a case like this in preparing the reports. Though he happened to be the Director of Forensic Science Laboratory, Thiruvananthapuram and a ballistic expert instead of giving the final report it was delegated to E1W7 Sri. P.D. Somarajan who is an

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expert exclusively in explosive substances. His report would have been a better one than the report given by E1W7 to find out the place of firing and effect of firing etc.

CW10 Smt. Sumi Mithra S., the Scientific Assistant worked in Forensic Science Laboratory, Thiruvananthapuram and DCRB. She had inspected the place on 17.05.2009 and 18.05.2009 to help the police officials to prepare the scene mahazars and also collected the material objects from there in respect of cases registered regarding the incident happened on 16th and 17th. On 17th she had collected the material objects from the place of occurrence in respect of crime No. 239/2009 and 241/2009 of Valiyathura Police Station and she had given a report regarding the same copy of which were produced and marked as Ext. C77 and C78 respectively. She had stated that approximately she went to the place 17th afternoon but she did not remember the time spent by her for that purpose. She had stated that she had nothing to say, if in the scene mahazars the time of preparation of the mahazar was shown between 2.30 pm and 4.00

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pm. But it may be mentioned here that the police had produced Ext. E1(7) video clippings of the scene on 16.05.2009 and 17.05.2009 and also the video clippings of Kairali TV, India Vision, Assianet channel which were marked as E1(8), E1(9) and E1(10) and it is seen from Ext. E1(7) that there is video graph taken regarding the presence of this witness collecting materials from the place of occurrence of incident happened on 16.05.2009 and her presence was seen there from 12.45 pm to 2.00 pm. Thereafter the video graph does not show the presence of the witness or anything video graphed in that area. So it can be presumed from this her presence was there after 12.45 pm till 2.00 pm. It is true that she has not stated about the exact time of her presence at that place when she was examined before the commission. But that does not mean that she is deposing falsehood in order to help the police personnels that the firing had taken place after 3.00 pm as the time of preparation of mahazars were shown between 2.30 pm and 4.00 pm by the police officials who prepared the mahazar.

Ext. G1 is the case diary maintained in

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Valiyathura Police Station dated 16.05.2009 and this has been produced to prove that there was inter leneation regarding the entry written between 3.00 pm and 5.00 pm on that day and there was an entry made at 4.00 pm that there was an intimation received from control room regarding some problem in Cheriyathura area and immediately junior Sub Inspector had gone to that place. **Ext. G2** is the duty abstract of 'G' party Sri. K.J. Johnson, formerly Sub Inspector of Police, Valiyathura to show that he was on duty in Valiyathura on 15.05.2009 and on 16.05.2009 and he worked there till evening as he was hospitalised due to attack by mob related to Cheriyathura Beemapally incident and he was on medical leave from 17.05.2009 to 21.05.2009. **Ext. G3** is the certified copy of the wound certificate of 'G' party Sri. Mr. Johnson K.J. to show that he had sustained injury on 16.05.2009 at 10 pm hit by brick stone in riot and he was brought to hospital by policemen on 16.05.2009 at 10.25 pm. He had abrasion in face and stone particles in the eyes. It was issued from Ananthapuri Hospital and Research

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Institute, Thiruvananthapuram and his medical certificate shows that he was treated for Facio Maxillary injury and he was advised rest for seven days from 18.05.2009 to 24.05.2009 and he was fit to resume duty on 25.05.2009. **Ext. G4** is the transfer order given to this witness to show that he was transferred and posted to Valiyathura Police Station as Station House Officer as per order No. CO No. 201/2009 TC dated 20.02.2009. **Ext. G5** is the certificate given by Sri. Rethnakumar Rajaram Kammath, the then Chief Judicial Magistrate, Thiruvananthapuram dated 29.09.2009 to show that Mr. Johnson was present before him for about 45 to 60 minutes on 16.05.2009 around 4.30 pm as he had come to his chambers with the accused by name Sunil Thomas S/o. James, Philo House, TC 81/285, Valiyaveli, Thiruvananthapuram in crime No. 236/2009 of Valiyathura Police Station. This is to prove that he was not present in Cheriyathura area at the time when the firing had taken place.

Ext.E1 is the bandobast duty arrangements made in connection with law and order duty at

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Cheriyathura on 16.05.2009 at 11.50 pm to 17.05.2009 at 8.00 am and 17.05.2009 at 8.00 am to 8.00 pm on that day. This will go to show that sufficient arrangements were made to meet this requirement and picket posts were made at Cheriyathura junction, near Christian Church, beach side, Sewage Farm and two mobile patrol units were also provided on 16th night. On 17th pickets were posted at beach area, Cheriyathura junction near church, Sewage Farm and near Cheriyathura junction. Beach area was given under control of E1W5 Assistant Commissioner, DCRB, Sri. Sherafudeen along with Circle Inspector of Police, Peroorkada Sri. Sivaprasad and Additional Sub Inspector Poonthura and 25 policemen from SAP camp. So it is clear from this that beach area is under control of Sri. Sherafudeen.

Ext. E1(2) is the certified copy of the General Diary maintained in control room, Thiruvananthapuram. It will be seen from this at 4.55 pm on that day a telephone call from phone No. 2507356 was received stating that there is some quarrel going on between some youngsters in

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Beemapally Cheriyathura area and it is noted that this was intimated to Valiyathura Police Station. Thereafter at 9.08 pm another communication from the same phone number came to control room informed by a lady stating that there was some commotion going on in Beemapally Cheriyathura area and immediately instructions were given to several police officials to meet the requirement. Communications were seen received regarding the things going on there at 9.50 pm, 10.05 pm, 22.15, 22.20, 22.25, 22.32, 22.50, 23.05, 23.30, 23.35. Further it will be seen from this that 22.20 hours an information was received that District Collector was informed about this fact and it is seen from the series of entries that necessary instructions were given to send sufficient force including Vajra and Varun to this area.

Ext. E1(3) is the general diary maintained in Thiruvananthapuram control room on 17.05.2009. It is seen from this document that at 11.25 pm instructions have been given to the videographer and scientific assistant to go to Cheriyathura area. At 1.35 pm

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another information was received that vehicles going on to Cheriyathura, Valiyathura, Beemapally area are being blocked and at 2.00 pm another information was received that in fishermen colony about 15 ladies have assembled for this purpose and this was informed to Poonthura Circle Inspector and they have wanted to increase the strength there. At 2.07 pm it was noted that A.S.I. Ramachandran along with some police men were asked to go to Cheriyathura Fishermen colony area. Thereafter at 3.25pm they received information to send Varun and Vajra to report before Sanghumughom Assistant Commissioner and necessary instructions were given to send larger force to that area. At 3.30pm a direction was given to go to Patheacre area and 3.40 pm another instruction was given to go to Patheacre area. At the same time another information was received that there was firing occurred in Cheriyathura area and RDO and District Collector has to be informed and this information was given by Assistant Commissioner Sanghumughom who was examined as FW1 Sri. Sureshkumar. It is seen from this document that at 3.42 pm more firearms

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were requested from Cheriyathura area and at 3.43 it was mentioned that Assistant Commissioner DCRB who was examined as E1W5 Sri. Sherafudeen was firing in the air and more tear gas was also asked for. At 3.45 pm an information was received that on the backside of Cheriyathura church boats were set to fire and thereafter instructions were being received regularly regarding the incidents going on and at 3.54 pm it was mentioned that police people were attacked from the church area. At 4.05 pm it was mentioned that on the north of the church from the seashore crackers were being thrown and this was intimated by Additional Sub Inspector, Poonthura and requests were made for more police force. Thereafter informations were giving regarding injured person being taken to Al Arifa Hospital and other hospitals and also collection of people in Beemapallay area and people coming to Beemapally area from Poonthura, Patheacre area etc and instructions were given to other cases to curb more flow of persons from these areas to Beemapally area. So from this it is seen that information was received in the control room that Sherafudeen had

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fired in the air at 3.43 pm and boats were seen set to fire at 3.45 pm. Actual time of firing at the mob was not seen informed.

Ext. E1(4) is the attested copy of the hard copy of wireless message received in the control room. That will go to show that from 1.45 pm onwards informations were received regarding the situation in that area regarding blockage of vehicle etc. It was seen from this document that at 1.45 pm and 1.46 pm information was received that vehicular traffic has been diverted. At 1.55 pm it was received from Valiyathura mobile to control room that some ladies were blocking the vehicles at fishermen colony and they were 10 to 15 in number. They included men also and it was cleared at about 1.56 pm. Again at 1.57 pm an information was received from Bravo Poonthura that fishermen colony, ladies were gathered. At 2.16 pm also information was received from Junior Sub Inspector, Valiyathura that in sewage farm area some ladies were sitting in the road and they were trying to remove them and at 2.16pm it was informed that they were removed. Same information was intimated by

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some other person to 2.20pm. At 3.19 pm an information was received from Bravo Peroorkada that the persons from both community have gone to Cheriyathura beach. It is also seen that from control room to CRV 10 an information was received and CRV10 replied that the persons assembled in beach area were proceeding towards Cheriyathura area and they are youngsters carrying sticks and again they received information from Cobra set that fight is going on between those two people. At 3.21 pm it was again informed by Cobra that there was tense situation prevailing between these two people and it was in continuation of the previous incident and at the same time information from Bravo Peroorkada stating that there was fight going on between two community people and requested the presence of Executive Magistrate and this information was received from Alpha Sanghumughom and thereafter informations were being given regarding this aspect requesting for sending more person and at 15.27 hours bravo poonthura had informed Alpha Sanghumughom that tear gas is being used and though there was no

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problem in the main road they are standing violently and controlling them. People are coming from Patheacre area and they are assembled there. Continuous informations have been given regarding the tensed area and collection of people in Patheacre area and coming to beach area etc. At 3.30 pm Alpha Sanghumughom informed the control room that situation was worse in Cheriyathura area and wanted this to be informed to District Collector and it is also informed that firing is going on in that area. So it is clear from this that at 3.38 pm it was informed that there was firing and RDO and District Collector have to be informed. At 3.39 pm it was informed by Alpha Sanghumughom to send more arms and ammunitions to that area. At 3.40 pm the information was received from Alpha DCRB to control room stating that firing is going on and firing will have to be done at the mob and at the same time information received that the boats were set to fire from behind the church area and they wanted more force. Informations were thereafter given to several areas to take necessary action etc. So it is clear from this that tension was prevailing in that

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area from 3 pm onwards and fight between the people started at 3.30 pm and firing was ordered at 3.40 pm they have also produced the voice log of 16.05.2009 to 23.05.2009 maintained in the control room and that was marked as Ext. E1(5) and Ext. E1(4) is the attested copy of the hard copy of this CD. **Ext. E1(12)** is the report regarding the non lethal weapon used from A.R.Camp and that will go to show that 68 tear gas smoke ammunition were used in that area and the names of the person who used it were also mentioned. **Ext. E1(13)** is the arms and ammunition issue register dated 17.05.2009 that will go to show that 8 police constables deputed to this area and each were given ten rounds each bullets. **Ext. E1(14)** is the copy of the stock register from SAP camp D Company Arms and Ammunitions. **Ext. E1(15)** is the schedule regarding the objects lost during their official duty on 17.05.2009. Ext. E1(14) will go to show that 50 rounds were used on 17.05.2009 at Beemapally area out of which 33 empty cases were returned, four were misfired and 13 were lost. Ext. E1(15) shows that 4 helmets, 15 shield and five body protector were lost in

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the incident happened on 17.05.2009 and these reports were given by the police constables who were deployed for this purpose.

Ext. E1(19) to (21) are the chemical analysis report obtained from the Forensic Science Laboratory and it will be seen from Ext. E1(19) that the packet containing four sticks covered in a polithene packet with a blue coloured rope is identified as neogel 90 an explosive substance and it was manufactured by Amin Explosives Private Limited, Yenvera 441502 Nagput, India. It is true that in Ext. E1(16), it was not mentioned as Neogel 90 and it was explained by E1W7 Sri. Somarajan that this could be identified as neogel only after examination in the lab. It is also seen from Ext. E1(19) that explosive substances were found in the remnants collected and sent and petrol was also detected in some of the items. Ext. E1(20) shows that the samples collected from the place shown as item No. 47 and 49 contained human blood. Item No.51 contained human scalp tissue bearing human scalp hair. The identity of the person from whose head this was lost is yet to be traced out and this cannot be

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related to Badusha who died in the incident as no such injury was noted on his head in his postmortem examination.. Ext. E1(21) shows that the coconut fibres collected from the coconut trees on the western side of end road shows that it was due to gun shot from a distant range. Metal, copper, zinc and lead are the major constituents of the material objects contained in item Nos 52, 53, 55 and 56 and they are the metalic pieces recovered from Noushad, Shaffeeque, Harshad and Khani and they were identified as part of the bullets. **Exts. E1(22) to (27)** are the postmortem certificate of the deceased persons and it has been discussed in detail while CW2 Sri. Sreekumari, Professor of Forensic Medicine of Medical College Hospital was examined. **Ext. E1(28)** is the report given by E1W7 Sri. Somarajan and he had not mentioned about the presence of neogel in the report. **Ext. E1(29)** is the certified copy of the inquest report of Ahammadali. **Ext. E1(30)** is the inquest report of Abdul Hukkim. **Ext. E1(31)** is the inquest report of Badusha. **Ext. E1(32)** is the inquest report of Firose. **Ext. E1(33)** is the inquest report of Sayedali. **Ext.**

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E1(34) is the inquest report of Ahammed Khani) and these inquest reports were prepared by the Executive Magistrate and not by the police officials. In all these inquest reports, it was mentioned that they sustained injuries in the communal clash occurred in Beemapally-Cheriyathura area. **Ext. E1(35)** is the report given by Assistant Commissioner of Police, District Special Branch, Thiruvananthapuram city to Commissioner of Police, Thiruvananthapuram city and this report was dated 17.05.2009 regarding the incident happened on 16.05.2009 and **Ext. E1(36)** is the report given by Assistant Commissioner of Police, District Special Branch, Thiruvananthapuram City to Commissioner of Police, Thiruvananthapuram city regarding the incident happened on 17.05.2009 and according to him the tensed situation of clash between two community people happened at 3.30 pm which ultimately resulted in the police firing.

Ext. CF1 is the wound certificate of Sri. Sureshkumar examined as FW1 then Assistant Commissioner, Sanghumughom to show that he sustained injuries in the incident happened on 16th

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night and he had small contusion on the right leg and he went to hospital at 11.45 pm on 16.05.2009. **Ext. CF2** is the mahazar prepared by FW2 Sri. Pradeepkumar then Sub Inspector of Police regarding seizure of 32 unexploded bombs at 8.00 am on 18.05.2009.

Ext. CH7 is the mahazar prepared in crime No. 245/2009 of Valiyathura Police Station (CBCID Crime No. 82/CR/S1/2009) and it is seen that it was prepared on 17.05.2009 at 3.00 pm by Valsan Assistant Sub Inspector, Valiyathura Police Station and B1W4 Celin Allotious had signed the same as a witness. This crime was registered on the basis of the statement given by one Thressiamma at 11.00 am on 17.05.2009 regarding the incident happened at 9.15 pm on 16.05.2009 at Cheriyathura junction in which her house was damaged. **Ext. CH8** is the First Information Statement given by B1W5 regarding the incident happened on 17.5.2009. On 19.05.2009 at 10.00 am on the basis of which **Ext. CH9** crime was registered as crime No. 249/2009 of Valiyathura Police Station (CBCID Crime No. 89/CR/S1/2009) and the

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mahazar int his case was prepared at 11.30 am on 19.05.2009. **Ext. CH11** is the FIR in crime No. 242/2009 of Valiyathura Police Station (CBCID Crime No. 79/CR/S1/2009) which was registered on 17.05.2009 at 9.30 am on the basis of **Ext. CH10** statement given by Celin who was examined as B1W6 against Nizzamudeen and Noohoo and several other persons alleging damage to the house and he mahazar **Ext. CH12** was seen prepared at 2.30 pm on 17.05.2009 by H. Muhammad Khan, Junior Sub Inspector, Valiyathura Police Station. **Ext. CH13** is the suo motu report given by FW1 Sri. C.G. Sureshkumar, Assistant Commissioner of Police, Sanghumughom in respect of the incidents happened on 17.05.2009 on the basis of which **Ext. CH14** first information report was registered as crime No. 247/2009 of Valiyathura Police Station (CBCID Crime No. 84/CR/S1/2009) and this case was registered on 17.05.2009 at 6.00 pm against identifiable 1500 Muslim community persons and 500 Christian community persons. **Ext. CH15** first information report was registered as crime No. 254/2009 of Valiyathura Police Station (CBCID Crime

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No. 94/CR/S1/2009) on the basis of the statement given by one Antony Perera against 200 Muslim community people of Beemapally regarding the incident happened on 17.05.2009 at 3.00 pm and it was registered on 19.05.2009 and in the mahazar it is true that nothing was mentioned about the damage caused to the church. But none had a case that any serious damage has been caused to the church building on account of the bomb blast but they have only stated that attack was made on the church building as well and they came near the church compound and thrown country bombs and other explosive substances. **Exts. CH16 to 21** are the Forensic Science Laboratory reports some of which were already marked as Exts. E1(19) to E1(21). It is seen from Ext. CH20 that metalic fragments contained in items 10 and 11 could be part of 0.303 call ammunition and when they were compared with item Nos. 42 to 46 and 52 to 56 and they were found dissimilar. It is shown in the result of examination in Ext. CH20 that gun short residues could not be detected on the clothes contained in item Nos. 1 to 9

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and the punctured hole found on the shirt in item No.1 and the teashirt item No. 8 could have been caused due to a bullet injury from a distant area and lead fragments contained in items 10 and 11 could be part of 0.303 call ammunition. **Ext. CH22** is the first information statement of CW5 Roy which was recorded by the police from the hospital on 19.05.2009 on the basis of which crime No. 280/2009 of Valiyathura Police Station (CBCID Crime No. 90/CR/S1/2009). **Ext. CH23** is the first information report in crime No. 239/2009 of Valiyathura Police Station (CBCID Crime No. 76/CR/S1/2009) which was registered onthe basis of the statement given by G party Sri. K.J.Johnson regarding the incident happened on 16.05.2009 and this was registered on 17.05.2009 at 8.00 am. **Ext. CH24** is the first information report in crime No. 240/2009 of Valiyathura Police Station (CBCID Crime No. 77/CR/S1/2009) on 17.05.2009 at 8.30 am regarding the incident happened on 16.05.2009 on the basis of the statement given by Mary whose shop was damaged. **Ext. CH25** is the first information report in crime No. 241/2009 of Valiyathura Police Station

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(CBCID Crime No. 78/CR/S1/2009) which was registered on the basis of the statement given by Soppy Perera regarding the damage to her house and house hold articles in the incident happened on 16.05.2009 and this was registered on 17.05.2009 at 9.00 am. **Ext. CH 26** is the first information report registered in crime No. 243/2009 of Valiyathura Police Station (CBCID Crime No. 80/CR/S1/2009) in respect of the incident happened on 16.05.2009 on 17.05.2009 at 10 am on the basis of the statement given by one Ajithkumar regarding the damage caused to his motor cycle KL01 AM 3573 and the motor cycles in the incident happened on 16.05.2009. **Ext. CH 27** is the first information report registered in crime No. 244/2009 of Valiyathura Police Station (CBCID Crime No. 81/CR/S1/2009) in respect of the incident happened on 16.05.2009 on 17.05.2009 at 10.30 am on the basis of the statement given by one Aboobaker regarding the damage caused to his boat on the night of 16.05.2009 and he had not mentioned in the name of any person in his first information statement and though there was a roumer raised by the Beemapally

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people that all these incidents were caused by Kombu Sbibu and his associates. **Ext. CH 28** is the first information report registered in crime No. 248/2009 of Valiyathura Police Station (CBCID Crime No. 88/CR/S1/2009) in respect of the incident happened on 16.05.2009 on 18.05.2009 at 8.30 pm on the basis of the report given by T.Sathikumar Additional Sub Inspector of Valiyathura Police Station alleging offence under section 294(b) and 153A of the Indian Penal Code against Kombu Shibu. **Ext. CH 29** is the first information report registered in crime No. 251/2009 of Valiyathura Police Station (CBCID Crime No. 91/CR/S1/2009) in respect of the incident happened on 16.05.2009 on 17.05.2009 on the basis of the statement given by one Ouseph regarding incident happened on 16.05.2009 and 17.05.2009. **Ext. CH 30** is the first information report registered in crime No. 252/2009 of Valiyathura Police Station (CBCID Crime No. 92/CR/S1/2009) in respect of the incident happened on 16.05.2009 and registered on 17.05.2009. **Ext. CH 31** is the first information report registered in crime No. 253/2009 of Valiyathura Police

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Station (CBCID Crime No. 93/CR/S1/2009) in respect of the incident happened on 16.05.2009 on the basis of the statement given by one Remani regarding the damage caused to her house and articles. **Ext. CH 32** is the first information report registered in crime No. 255/2009 of Valiyathura Police Station (CBCID Crime No. 95/CR/S1/2009) in respect of the incident happened on 17.05.2009 on the basis of the statement given by one Mema regarding the damage caused to her house and according to her the incident started at 3.00 pm. **Ext. CH 33** is the first information report registered in crime No. 256/2009 of Valiyathura Police Station (CBCID Crime No. 96/CR/S1/2009) in respect of the incident happened on 17.05.2009 on the basis of the statement given by one Medona and as per the statement also the incident started at 3.00 pm when Muslim miscreants attacked the Christian people and the houses with explosive substances and this statement was given on 19.05.2009. **Ext. CH 34** is the first information report registered in crime No. 257/2009 of Valiyathura Police Station (CBCID Crime No. 97/CR/S1/2009) in respect of the incident

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happened on 17.05.2009 on the basis of the statement given by one Stella Thomas and according to her the incident started at 3.00 pm. and the case was registered on 19.05.2009. **Ext. CH 35** is the first information report registered in crime No. 258/2009 of Valiyathura Police Station (CBCID Crime No. 98/CR/S1/2009) in respect of the incident happened on 17.05.2009 on the basis of the statement given by one Flora and according to her the incident started at 3.00 pm. and the case was registered on 19.05.2009. and according to her also more than 200 Muslim miscreants trespassed into Cheriyathura area with sword etc and caused damages. **Ext. CH 36** is the first information report registered in crime No. 259/2009 of Valiyathura Police Station (CBCID Crime No. 99/CR/S1/2009) in respect of the incident happened on 17.05.2009 on the basis of the statement given by one Sunny Victor and according to him the incident started at 3.00 pm. and the case was registered on 19.05.2009. According to him also on 17.05.2009 at about 3.00 pm about 200 Muslim people came through beach area and attacked the houses and

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pelting stones and throwing country bombs and petrol bombs. **Ext. CH 37** is the first information report registered in crime No. 260/2009 of Valiyathura Police Station (CBCID Crime No. 100/CR/S1/2009) in respect of the incident happened on 17.05.2009 on the basis of the statement given by one Lilly and according to her the incident started at 3.00 pm and the case was registered on 19.05.2009. According to him also on 17.05.2009 at about 3.00 pm when the Muslim people came from Beemapally area pelted stones and bombs in Cheruyathura church area. **Ext. CH 38** is the first information report registered in crime No. 261/2009 of Valiyathura Police Station (CBCID Crime No. 101/CR/S1/2009) registered on the basis of the statement given by one Rosella regarding the incident happened on 17.05.2009 and according to her the incident started at 3.00 pm on that day when the Muslim people started throwing bombs and other explosives. **Ext. CH 39** is the first information report registered in crime No. 262/2009 of Valiyathura Police Station (CBCID Crime No. 102/CR/S1/2009) and this was registered on the basis of the statement given by

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one Shalet regarding the incident happened on 17.05.2009 and according to this person also the incident started at 3.00 pm on 17.05.2009 and Muslim community people came in a group and attacked the Cheriyathura people. **Ext. CH 40** is the first information report registered in crime No. 263/2009 of Valiyathura Police Station (CBCID Crime No. 103/CR/S1/2009) registered on the basis of the statement given by one Mema on 19.05.2009 and according to her also the incident started at 3.00 pm on 17.05.2009 and the Muslim people came in a group and caused the mischief by throwing bombs etc. **Ext. CH 41** is the first information report registered in crime No. 264/2009 of Valiyathura Police Station (CBCID Crime No. 104/CR/S1/2009) on the basis of the statement given by one Sherly regarding the incident happened on 17.05.2009. According to her also the incident started at 3 pm when the Muslim people from Beemapally area came and attacked the Cheriyathura people. **Ext. CH 42** is the first information report registered in crime No. 265/2009 of Valiyathura Police Station (CBCID Crime No. 106/CR/S1/2009) on the

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basis of the statement given by one Joseph. According to him also the incident started on 17.05.2009 at 3 pm and Muslim people attacked them and their houses. **Ext. CH 43** is the first information report registered in crime No. 266/2009 of Valiyathura Police Station (CBCID Crime No. 109/CR/S1/2009) registered on the basis of the statement given by one Muthamma Balkis. According to her also the incident started at 3 pm on 17.05.2009. **Ext. CH 44** is the first information report registered in crime No. 267/2009 of Valiyathura Police Station (CBCID Crime No. 108/CR/S1/2009) registered on the basis of the statement given by one Amaloth Bava in respect of the incident happened on 17.05.2009 and according to him Muslim people had attacked them and their houses. **Ext. CH 45** is the first information report registered in crime No. 268/2009 of Valiyathura Police Station (CBCID Crime No. 109/CR/S1/2009) registered on the basis of the statement given by one Jain Mary in respect of the incident happened on 17.05.2009. According to her the incident started at 3.00 pm on 17.05.2009. According to her also Muslim people came and attacked their

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houses and caused damage to articles. **Ext. CH 46** is the first information report registered in crime No. 279/2009 of Valiyathura Police Station (CBCID Crime No. 165/CR/S1/2009) registered on the basis of the statement given by one Lissy Joseph in respect of the incident happened on 17.05.2009 at 3.00 pm and according to her also about 200 Muslim people from Beemapally area came at 3.00 pm on 17.05.2009 and caused mischief. **Ext. CH 47** is the first information report registered in crime No. 272/2009 of Valiyathura Police Station (CBCID Crime No. 166/CR/S1/2009) registered on the basis of the statement given by one Margret in respect of the incident happened on 17.05.2009 at 3.00 pm and she had seen group of Muslim people coming with iron bar, stick etc and immediately she ran away from the place and she came back only on 21.05.2009 and thereafter gave the statement. **Ext. CH 48** is the first information report registered in crime No. 273/2009 of Valiyathura Police Station (CBCID Crime No. 167/CR/S1/2009) registered on the basis of the statement given by Mema in respect of the incident happened on 17.05.2009 and

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according to her at 3pm on 17.05.2009 Muslim people came with stick, iron rod, etc; and caused damage to her house and immediately she escaped from there and went to her daughter's son's house and came back only on 21st and gave the statement. **Ext. CH 49** is the first information report registered in crime No. 274/2009 of Valiyathura Police Station (CBCID Crime No. 168/CR/S1/2009) registered on the basis of the statement given by one Lusia in respect of the incident happened on 17.05.2009 and according to her also the incident started on 17.05.2009 at 3.00 pm and on seeing the Muslim people coming with dangerous weapons, she left the place and she came back only 21.05.2009. **Ext. CH 50** is the first information report registered in crime No. 275/2009 of Valiyathura Police Station (CBCID Crime No. 167/CR/S1/2009) registered on the basis of the statement given by one Cicily in respect of the incident happened on 17.05.2009. According to her also the incident started at 3.00 pm on 17.05.2009 and according to her more than 200 Muslim people came and caused damage to her house and immediately she escaped from there and she went

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to Cheriyathura church and then went to her uncle's house and came back only on 21.05.2009 and lodged the complaint. **Ext. CH 51** is the first information report registered in crime No. 276/2009 of Valiyathura Police Station (CBCID Crime No. 178/CR/S1/2009) registered on the basis of the statement given by one Glaribal Parera in respect of the incident happened on 17.05.2009 at 3.00 pm and she saw more than 200 Muslims from Beemapally area coming with dangerous weapons and caused damage to the houses and boats. **Ext. CH 52** is the first information report registered in crime No. 277/2009 of Valiyathura Police Station (CBCID Crime No. 171/CR/S1/2009) registered on the basis of the statement given by one Reetha and according to her on 17.05.2009 at about 3.15 pm her house was attacked by Muslim miscreants from Beemapally area who came there with dangerous weapons and she left the placed and stayed in her sister's house and came back on 21.05.2009 and lodged the complaint. **Ext. CH 53** is the first information report registered in crime No. 285/2009 of Valiyathura Police Station (CBCID Crime No.

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118/CR/S1/2009) registered on the basis of the statement given by one Rajesh and according to him he had seen Badusha who died in the incident was being attacked by Christian community people with stick on his head and later he came to know that Badusha died. This statement was given on 28.05.2009. According to him this particular incident happened on 17.05.2009 at 3.30 pm.

From these documents it is clear that the incident happened between 3.00 pm and 3.45 pm and the incident started at 3.00 pm when Muslim community people came in a group through beach area on the western side and entered Cheriyathura area and attacked the houses in Cheriyathura area with dangerous weapons including the explosive substances and caused damage to the house hold articles, boats and other fishing implements and these statements were recorded within 2 or 3 days of the incident and they have given the reason for the delay that on seeing the Muslim people coming to Cheriyathura area on a large scale with weapons and causing damage to the articles they left the place out of fear and resided in

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the relatives' houses and came back on the subsequent days and immediately when they came to know about the damage caused to their articles, in the incident, they filed the complaints promptly. It is true that in none of these cases, they have mentioned the names of miscreants except saying that 200 to 300 Muslim people came from Beemapally area and caused mischief. There is no necessity for them to give any false evidence regarding the nature of damage caused to their articles and the persons responsible for the same and nobody will be trying to give the false names of the miscreants with intention to help the police to justify their act of firing and if really these damages were caused by Kombu Shibu and others with the help of police, then the entire Cheriyathura people also would have risen against the police. Further the evidence of B1 party will go to show that they have special interest to protest Kombu Shibu or the police people as claimed by 'A' party.

Ext. CH54 is the first information report in crime No. 168/2009 (CBCID Crime No. 105/CR/S1/2009) of Poonthura Police Station registered on the basis of the

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statement given by one Abdul Shukkur on 19.05.2009 at 3.00 pm regarding the damage caused to his boat. According to him about 3 pm people from Cheriyathura came to Beemapally area under the leadership of Kombu Shibu, Kuttan, Kolachirajan and caused damage to the houses. This is the first first information report registered in Poonthura Police Station on the basis of the statement given by a resident of Beemapally area. Even according to him the incident started at 3.00 pm and people from Cheriyathura area under the leadership of Kombu Shibu came and caused damage. **Ext. CH55** is the first information report in crime No. 172/2009 of Poonthura Police Station which was registered on the basis of the private complaint given by Ishaque, A7 party against Sri. Sherafudeen, Sri. Sureshkumar and Sri. Pradeepkumar and Sri. Johnson alleging offences including 302 of the Indian Penal Code before the Judicial Magistrate of the First Class II, Thiruvananthapuram which was forwarded to the Poonthura Police Station for investigation by the learned Magistrate under section 156(3) of the Code of

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Criminal Procedure on the basis of which this crime was registered. In this complaint also according to the complainant, the firing happened at 3.30 pm on 17.05.2009 and not between 2.30 and 3.00 pm as claimed by the witnesses examined on the side of A1 and A3 parties and this complaint was filed on 27.05.2009 within ten days of the incident. If really the police firing had taken place between 2.30 and 3.00 pm, then this would have been mentioned in this complaint by the complainant who is also a resident of Beemapally area. **Ext. CH56** is the first information report in crime No. 191/2009 of Poonthura Police Station (CBCID Crime No. 139/CR/S1/2009) registered on the basis of the statement given by one Rasheeda on 10.06.2009 regarding the damage caused to her house and according to her also the incident happened on 17.05.2009 at 3.20 pm and this was done at the instance of Kombu Shibu and his brother Manikandon and other 200 Christian community people. It is also mentioned in that statement that there was some incidents happened on 16.05.2009 between Christian community people involving Kombu Shibu and Muslim

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people of Beemapally and on account of that enmity they have done this. **Ext. CH57** is the first information report in crime No. 121/2009 of Poonthura Police Station (CBCID Crime No. 140/CR/S1/2009) registered on the basis of the statement given by one Shihabudeen on 10.06.2009 and it was mentioned in the first information statement that on 17.05.2009 at about 3.30 pm, he heard some tumult in the beach area and came out side and saw Christian community people in Cheriyathura area under the leadership of Kombu Shibu came and caused damage to his boat etc. **Ext. CH58** is the first information report in crime No. 193/2009 of Poonthura Police Station (CBCID Crime No. 141/CR/S1/2009) registered on the basis of the statement given by one Muhammad Kannu on 10.06.2009 regarding the damage was caused to his boat and according to him damage caused by Christian people under the leadership of Kombu Shibu and others on 17.05.2009 at 3.30 pm. **Ext. CH59** is the first information report in crime No. 194/2009 of Poonthura Police Station (CBCID Crime No. 142/CR/S1/2009) registered on the basis of the

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statement given by one Moitheen Kannu on 10.06.2009 regarding the damage caused to his house hold articles and according to him also the incident happened on 17.05.2009 at 3.30 pm and this was done at the instance of Kombu Shibu and others. **Ext. CH60** is the first information report in crime No. 196/2009 of Poonthura Police Station (CBCID Crime No. 143/CR/S1/2009) registered on the basis of the statement given by one Sri. Sherafudeen on 11.06.2009 and according to him the incident happened on 17.05.2009 at 3.30 pm. **Ext. CH61** is the first information report in crime No. 197/2009 of Poonthura Police Station (CBCID Crime No. 144/CR/S1/2009) registered on the basis of the statement given by one Basha Ebini on 11.06.2009 and according to him when he was in the beach area on 17.05.2009 at 3.10 pm Kombu Shibu and others came with dangerous weapon and abused the Muslim community people and in the incident, he lost his Kattamaram (കാട്ടമരം) and though he came to know about the incident on 18.05.2009 the case was registered only on 11.06.2009. **Ext. CH62** is the first

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information report in crime No. 198/2009 of Poonthura Police Station (CBCID Crime No. 145/CR/S1/2009) registered on the basis of the statement given by one Sirajudeen on 11.06.2009 and according to her also the incident happened on 17.05.2009 at 3.30 pm and damages were caused by Kombu Shibu and others. **Ext. CH63** is the first information report in crime No. 199/2009 of Poonthura Police Station (CBCID Crime No. 146/CR/S1/2009) registered on the basis of the statement given by one Sainulabdeen on 12.06.2009 and according to her also the incident happened on 17.05.2009 at 3.15 pm and according to him this was caused by Kombu Shibu and others. **Ext. CH64** is the first information report in crime No. 200/2009 of Poonthura Police Station (CBCID Crime No. 147/CR/S1/2009) registered on the basis of the statement given by one Muhammad Kannu Marikkar on 12.06.2009 and according to him also the incident happened on 17.05.2009 at 3.20 pm and damage were caused to his house by Kombu Shibu and others. **Ext. CH65** is the first information report in crime No. 201/2009 of Poonthura Police Station (CBCID Crime

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No. 148/CR/S1/2009) registered on the basis of the statement given by one Muhammad Kannu on 12.06.2009 regarding the incident happened on 17.05.2009 at 3.25 pm and this was done by Kombu Shibu. **Ext. CH66** is the first information report in crime No. 202/2009 of Poonthura Police Station (CBCID Crime No. 149/CR/S1/2009) registered on the basis of the statement given by one Sulfikkar on 12.06.2009 regarding the incident happened on 17.05.2009 at 3.30 pm and he came to know about the same when his wife informed him over mobile phone and this was done by Kombu Shibu and others. **Ext. CH67** is the first information report in crime No. 203/2009 of Poonthura Police Station (CBCID Crime No. 150/CR/S1/2009) registered on the basis of the statement given by one Muhammad Basheer on 12.06.2009 regarding the damage caused to his house and according to him also the incident happened on 17.05.2009 at 3.35 pm and this was done at the instance of Kombu Shibu and others. **Ext. CH68** is the first information report in crime No. 204/2009 of Poonthura Police Station (CBCID Crime No.

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151/CR/S1/2009) registered on the basis of the statement given by one Nias on 12.06.2009 regarding the damage caused to her house and according to him also the incident happened on 17.05.2009 at 3.35 pm and this was done at the instance of Kombu Shibu and others. **Ext. CH69** is the first information report in crime No. 206/2009 of Poonthura Police Station (CBCID Crime No. 152/CR/S1/2009) registered on the basis of the statement given by one Kabeer on 13.06.2009 and according to him also the incident happened on 17.05.2009 at 3.30 pm and this was done at the instance of Kombu Shibu and others. **Ext. CH70** is the first information report in crime No. 207/2009 of Poonthura Police Station (CBCID Crime No. 153/CR/S1/2009) registered on the basis of the statement given by one Farooque on 13.06.2009 and according to him the incident happened on 17.05.2009 at 3.45 pm and the damage was caused by Kombu Shibu and others. **Ext. CH71** is the first information report in crime No. 208/2009 of Poonthura Police Station (CBCID Crime No. 154/CR/S1/2009) registered on the basis of the statement given by one Abdul

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Shukkur on 13.06.2009 and according to him the incident happened on 17.05.2009 at 3.30 pm. According to him on that day at 3.30 pm accused persons mentioned therein came and caused damage to the articles in the house and according to him it was done by Kombu Shibu and others. **Ext. CH72** is the first information report in crime No. 209/2009 of Poonthura Police Station (CBCID Crime No. 155/CR/S1/2009) registered against Kombu Shibu and Mutta Varkey and identifiable six persons on the basis of the statement given by one Peermuhammad who is the owner of Kochin stores alleging that on 10.05.2009 at 9.30 pm Kombu Shibu and his associates Mutta Varkey and six others came to his shop and purchased articles and did not give the amount and caused damage to the articles and threatened them. Nothing has been mentioned about any incident happened on 15.05.2009 or 16.05.2009 in his shop involving Kombu Shibu and others as claimed by A1W24 and others as the cause for the incident happened on 16.05.2009 night. If really some incident happened on 15.05.2009 and 16.05.2009 evening as claimed by these witnesses

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in his shop he might have mentioned about those incidents as well in this statement but that was not mentioned by him though the statement was given on 13.06.2009 nearly after three weeks of the unfortunate incident happened in Cheriyathura Beemapally area on 16th and 17th of May, 2009. So this will cut at the root of the case of A parties that the incident happened in the shop of Kochin Peermuhammad who is the defacto complainant in Ext. CH72 is the route cause for the entire incident happened on 16.05.2009 which prompted them to request the police to arrest him cannot be believed. This will go to show that in fact the incident had happened in the shop of another Peermuhammad who was conducting a CD shop in Cheriyathura area on the north of the end road and not in the shop within Beemapally area. Probably when a Muslim shop was attacked by a Christian person, persons claiming to have interest in the Muslim community who wanted to take advantage of the same and make use of the same, would have interfered and that would have resulted in the entire episode of 16.05.2009 though the incident had really happened in

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Cheriyathura area and not in Beemapally area. **Ext. CH73** is the first information report in crime No. 210/2009 of Poonthura Police Station (CBCID Crime No. 156/CR/S1/2009) registered on 13.06.2009 on the basis of the statement given by Mahin Kannu alleging that on 17.05.2009 at about 3.30 pm Kombu Shibu and others created a commotion in the beach area and caused damage to his Kattamaram and fishing net. **Ext. CH74** is the first information report in crime No. 211/2009 of Poonthura Police Station (CBCID Crime No. 157/CR/S1/2009) registered on 13.06.2009 in respect of the incident happened on 17.05.2009 on the basis of the statement given by one Muhammad Ismail and according to him on 17.05.2009 at about 3.15pm while he was weighing firewood in front of his house Kombu Shibu and others came there and threatened them and so he took his wife and children and left his place. According to him looting was done by Kombu Shibu and others causing huge damage to his house. **Ext. CH75** is the first information report in crime No. 213/2009 of Poonthura Police Station (CBCID Crime No. 159/CR/S1/2009) registered on

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13.06.2009 on the basis of the statement given by one Beema Kannu alleging that damage has been caused to her shop in the incident happened on 17.05.2009. It was stated by her in the first information statement that on 17.05.2009 at 3.00 pm while she was in the house she heard some tumult in Cheriyathura junction and also in beach area including police firing and she went to Beemapally with her grand children and she came back after two days and found some articles were missing from the house and it is understood that on 17.05.2009 at 3.45 pm Kombu Shibu and others came there and committed theft of the household articles and also caused damage to their house. **Ext. CH76** is the first information report in crime No. 214/2009 of Poonthura Police Station (CBCID Crime No. 160/CR/S1/2009) registered on 13.06.2009 on the basis of the statement given by one Thajudeen that on 17.05.2009 at about 4.30 pm his sister informed over phone that at about 3.30 pm on that day Kombu Shibu and ten others came and caused damage to their boat and other articles. **Ext. CH77** is the first information report in crime No. 217/2009 of Poonthura Police

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Station (CBCID Crime No. 133/CR/S1/2009) registered on 13.06.2009 on the basis of the statement given by one Zakkeer alleging that on 17.05.2009 at about 3.00 pm Kombu Shibu and 100 people came to beach area with stone, stick etc and caused damage to his Kattamaram and nets. **Ext. CH78** is the first information report in crime No. 215/2009 of Poonthura Police Station (CBCID Crime No. 161/CR/S1/2009) registered on 13.06.2009 on the basis of the statement given by one Nadira alleging that on 17.05.2009 since her brother was coming from Mali she went to an Airport and did not open to her shop and when she came to Beemapally, it was revealed that there was some commotion occurred between Muslims and Christians which resulted in police firing and his sister in law's husband died in the incident. It is also stated that when she came to her shop on 23.05.2009, two gas cylinders along with other articles were not seen and when it was enquired, it was revealed that on 17.05.2009 at about 3.15 pm Kombu Shibu and others committed theft and caused damage to the shop. **Ext. CH79** is the first information report

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in crime No. 216/2009 of Poonthura Police Station (CBCID Crime No. 162/CR/S1/2009) registered on 13.06.2009 on the basis of the statement given by one Abdul Hameed alleging that on 16.05.2009 during night at about 10 pm his friend Kassim told him that in Beemapally Cheriyathura area some people had entered the houses and committed mischief and it was understood that his country boat and nets were damaged by Kombu Shibu and others and it was thrown into the sea. **Ext. CH80** is the first information report in crime No. 218/2009 of Poonthura Police Station (CBCID Crime No. 164/CR/S1/2009) registered on 13.06.2009 on the basis of the statement given by one Dharvis alleging that there was some clash occurred between Christians and Muslims at Cheriyathura on 17.05.2009 and his relatives had informed him in Dubai that some damage had been caused to the house hold articles and some articles were lost including gold and so he came to his native place on 25.05.2009 and when made examination of the house, it was revealed that articles worth Rs. 4,37,000/- were lost from his house. According to him

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it was revealed that Kombu Shibu and his associates had come on 17.05.2009 at 3.30 pm along with 100 people and committed these mischieves.

All these documents of the crime records registered on the basis of the statement given by Beemapally people on 10.06.2009 to 13.06.2009 will go to show that they were alleging that the incident happened on 17.05.2009 between 3.15 pm to 3.45 pm and some of them had stated that some incident happened after 3.00 pm and they have got a specific case that all these looting were done by Kombu Shibu and others on 17.05.2009 at about 3.30 pm along with his associates and all these things were done on the southern side of the end road from the houses belonging to Beemapally people. In none of these documents, there is nothing mentioned about the timing of the police firing that had taken place though the A party had a case that along with police firing Kombu Shibu and others were committing the mischieves and looting with the help of police and in none of these documents the presence of police along with Kombu Shibu and others was mentioned as well.

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So this will go to show that it could be an afterthought that after lapse of more than three weeks several cases have been registered on the basis of the statement given by the Beemapally people in Poonthura Police Station to make it appear that the entire episode had taken place in Beemapally area and not in Cheriyathura area.

Ext. CH81 is the first information report registered by CBCID after getting sanction from the Director General of Police as crime No. 02/CR/OCW/TVM/2010 under sections 3, 4 and 5 of Explosive Substances Act when it was revealed that one of the Explosive Substances obtained from the Cheriyathura area was neogel 90 and it was sold from Nagpur and unless permission is granted and separate case is registered and sanction is granted for that purpose he may not be able to do the investigation and accordingly the D.G.P. had given sanction and on that basis, this crime registered against 1500 Muslim community people and 500 Christian community people in continuation of the earlier crimes registered on the basis of the suo motu reports of PW1 Sri.

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Sureshkumar and the Junior Sub Inspector of Cheriyathura Police Station in respect of the incidents happened on 17.05.2009 and 16.05.2009 respectively. Ext. CH 82, 83, 84, 85, 86 and 87 are the chemical analysis reports obtained regarding the samples collected from the bodies of the dead persons at the time of postmortem examination and on the basis of this Ext. CH88 report was given by CW2 Smt. Sreekumari in which she had categorically stated that the death of Badusha was not due to any bullet injury and this would have been caused due to application of blunt force. So it is clear from this that the death of Badusha had occurred not due to any bullet injury but other than firing or explosive substances. So the fact that he died on account of the bullet injury as claimed by the witnesses appears to be not correct on the basis of the scientific evidence available. They have no case that police had beaten this witness with the bud of the gun or rifle so as to cause such injury but according to the witnesses examined on the side of the A1 party and A3 party that they saw Badusha falling down due to firing injury and not due to any other injury. So now

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they are not expected to say that the injury was caused by some other means by using the body of the gun or rifle cannot be accepted. Similarly the death of Ahammad Khani was also stated to be not as a direct result of bullet injury but due to chronic heart disease which he was suffering of which he may or may not have knowledge and the injury would have accelerated the heart disease resulted in his death. So it cannot be said that this was the direct result of the injury.

Exts. C4 and C5 are the first information report and first information statement in crime No. 212/2009 of Poonthura Police Station registered on 13.06.2009 on the basis of the statement given by Alavudeen who was examined as A1W3 regarding loss occurred to his boat and according to him in Ext. C5 that the incident occurred at 17.05.2009 at 3.30 pm. and he had no direct knowledge about the incident and he came to know about the incident only through his wife when he was woke up by her when commotion was going on in the beach area.

Ext. C20(a) is the wound certificate of Nazar who came to Medical College Hospital on 17.05.2009

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with history of alleged police firing at Beemapally today at 4.00 pm. He had penetrated wound 0.5x0.5 cm and depth not assessed 10 cm above right lateral antilocis. **Ext. C20** is the case sheet relating to this witness and the time of admission of the witness was not mentioned in the wound certificate but it will be seen from the case sheet that he was admitted in the ward on 17.05.2009 at 7.53 pm and he had a penetrating wound 0.5x0.5 cm size 10 cm above posterio lateral aspect of right ankle and X-ray showed foreign body found and when wound exploration was done no grave foreign body was found in the wound. He had sustained injuries on the front side of his body below knee and it could not have happened at the time when he was either running or doing any work of fishing as claimed by A party. None had stated about him as to how he sustained injury as well. He was not examined before the commission as well.

Ext. C21(a) is the wound certificate of one Shafeeque and he was seen at Medical College Hospital on 17.05.2009 at 4.45pm the alleged cause of

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injury was mentioned as injury following alleged police firing during riots. He was brought by his uncle S. Hashim. He had lacerated wound 0.5x0.5 cm on the head near the hairline and lacerated wound below the lower lip on the right side 0.5x0.5 cm size. **Ext. C21** is the case sheet relating to this witness. He had sustained injuries on forehead and lower lip of right side. He was discharged on 27.05.2009. CT scan was normal and no foreign body was recovered as well. So it cannot be said that he sustained below injury in the police firing and it cannot be said to be a bullet injury as well. This could be caused due to some other reason as well as it is noted as injury sustained in rioting as well.

Ext. C31(a) is the case sheet on one Mahin of Beemapally. He had a lacerated wound thigh entry wound right thigh anterior aspect 0.5x0.5 cm and exit wound 2x1x?depth through and through. The time of admission was not mentioned in the wound certificate. It is not known as to how he sustained injury as well. The cause of injury was given as alleged police firing at 4.00 pm on that day. No foreign body was found and

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there was no fracture as well. He sustained injury on his front side.

Ext. C33(a) relates to one Peermuhammad of Beemapally area he was brought to the hospital at 4.00 pm on 17.05.2009 and cause of injury was also given as alleged police firing at Beemapally today at 4.00 pm as stated by the patient. It is not known as to how this witness had reached hospital at 4.00 pm itself. He had a penetrating injury right groin two numbers each 0.5x0.5x? depth. So this injury was caused above knee portion and he was seen in the ward at 5.45 pm. He was also concious and oriented. No foreign body was recovered from his body. **Ext. C34** is the case sheet of Firose aged 18 years. He was admitted in the hospital with the type 3 compound fracture right femour. He was seen on 18.05.2009 at 6.00 am. The case sheet relating to this witness is not available. **Ext. C35** is the wound certificate of one Sabeer issued from Medical College Hospital, Thiruvananthapuram who was seen in the casualty on 17.05.2009 at 5.00 pm with a lacerated wound 10x0.5 with bone deep left perietal scalp. **Ext. C36** is the

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wound certificate of one Abdul Rassaque aged 16 years and he was seen in the hospital on 18.05.2009 at 6.30 am with fracture febula right.

Ext. C37 is the same as Ext. P1 which was marked through FW1 Sri. Sureshkumar. **Ext. C38** is the wound certificate of Johnson. **Ext. C39** is the wound certificate of Sherafudeen issued from the Medical College Hospital on 18.05.2009 at 12.05 am and the cause of injury was given as "കണ്ടാൽ അറിയാവുന്ന ആൾ അടിച്ചതിൽ വച്ച്" at 3.30 pm on 17.05.2009. He was none other than P1W5 Sri. Sherafudeen. There was no external injuries noted. He was treated as outpatient. **Ext. C40** is the wound certificate issued from General Hospital, Thiruvananthapuram issued to Sri. Lal M.S., SAP Camp and he was seen on 18.05.2009 at 12.30 am with a cause of injury of injuries sustained from violent mob on 17.05.2009 at 3.30 pm and no external injuries seen. **Ext. C41** is the wound certificate of Satheeshkumar, another police constable from SAP Camp with similar cause of injury and similar injury seen on 18.05.2009 at 12.15 am. **Ext. C42** is the

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wound certificate of Saju R, another police constable from SAP Camp with similar cause of injury with history of abrasion over right arm seen on 18.05.2009 at 12.15 am. **Ext. C43** is the wound certificate of Vinod S, police constable from SAP Camp, Thiruvananthapuram with same cause of injury seen on 18.05.2009 at 12.45 am. He had complained of pain on left foot and there was no external injuries seen. **Ext. C44** is the wound certificate of Viswakumar, police constable from SAP Camp, Thiruvananthapuram with same cause of injury seen on 18.05.2009 at 12.10 am with abrasion over dorsal aspect of right wrist. **Ext. C45** is the wound certificate of Gouthaman, police constable from SAP Camp, Thiruvananthapuram with same cause of injury seen on 18.05.2009 at 12.35 am with complaint of pain at thigh and head and there was no external injuries seen. **Ext. C46** is the wound certificate of Aswini J.S, police constable from SAP Camp, Thiruvananthapuram with same cause of injury seen on 18.05.2009 at 12.30 am with complaint of pain left shoulder and no external injuries seen. **Ext. C47** is

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the wound certificate of Anish P.K, police constable from SAP Camp, Thiruvananthapuram with same cause of injury seen on 18.05.2009 at 12.40 am with complaint of pain over the right side of chest and no external injuries seen. **Ext. C48** is the wound certificate of Dinesh, police constable from SAP Camp, Thiruvananthapuram with same cause of injury seen on 18.05.2009 at 12.30 am with complaint of pain left thigh and no external injuries seen. **Ext. C49** is the wound certificate of Praveen.S, police constable from SAP Camp, Thiruvananthapuram with same cause of injury seen on 18.05.2009 at 12.50 am with complaint of pain left arm and no external injuries seen. **Ext. C50** is the wound certificate of Sureshgopi, police constable from SAP Camp, Thiruvananthapuram with same cause of injury seen on 18.05.2009 at 12.25 am with complaint of pain over back and no external injuries seen. **Ext. C51** is the wound certificate of one Suresh F.D. 1378 Fire Force, Chakkah, Thiruvananthapuram who was seen on 16.05.2009 at 11.20 pm with history of assault today at 9.30 pm near Beemapally and he sustained

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lacerated wound on the occipital region of 2 cm. **Ext. C52** is the wound certificate relating to another fire force staff with name Dineshkumar seen at on 16.05.2009 at 11.30 pm with small abrasions of right forearm and left thigh. **Ext. C53** is the wound certificate of another Fire Force staff with name Santhoshkumar with the complaint of pain chest. Cause of injury was given as "ചുടുകല്ലുകൊണ്ട് ഏറിഞ്ഞതിൽ വച്ച്" on 16.05.2009 at 9.30 pm near Beemapally. He had contusion on the middle of chest with tenderness. **Ext. C54** is the wound certificate of another Fire Force Officer, with name Gireesan with same cause of injury seen on 16.05.2009 at 11.35 pm with small contusions on the middle of right leg. **Ext. C55** is the wound certificate of one Pradeepkumar another Fire Force Officer, Chakkah, Thiruvananthapuram with same cause of injury seen on 16.05.2009 at 10.50 pm and he had small abrasions of left little and ring fingers small contusions of occipital region small contusion left arm with mild contusion. So these things will goto show that some of the officers had sustained injuries in the incident

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happened on 16.05.2009 and 17.05.2009.

Exts. C56(a) to C64(a) are the wound certificates issued from S.R. Surgical Centre, Ambalathara. Exts. C56 to 64 are the respective case sheets relating to them. Ext. C56(a) is the wound certificate of one Kabeer aged 31 years and he went to that hospital self with history of alleged lathicharge by police and fall during police firing. He had lacerated wound 1x0.5 cm over medial aspect of ankle left foot and lacerated wound left big toe 1/2x1/2 cm and abrasion left ankle lateral aspect. The time of admission was not mentioned. Ext. C56 is the case sheet relating to this patient and it is seen that he was admitted in the hospital at 5.45 pm on 17.05.2009 and he had no fracture. He had no case that he sustained injuries in the police firing but according to him he sustained injuries in the police lathi charge and due to fall while running on seeing the police firing. None had a case that there was any case of lachi charge done by the police. Ext. C57(a) is the wound certificate of one Ali of Beemapally area and he came to SR hospital self with alleged cause of injury of alleged

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assault at police firing and he had lacerated wound 2x3 cm subcutaneous deep at left side of Eppi gastrium . Ext. C57 is the case sheet relating to this witness and he was seen in the O.P. at 4.15 pm on 17.05.2009. If really the incident had happened between 2.30 and 2.45 pm he would have reached the hospital much earlier. He had no serious injuries. Ext. C58(a) is the wound certificate of one Ameer Hamsa and he came to hospital on 17.05.2009 at 4.45 pm with alleged cause of injury during police lathi charge and firing and he had lacerated wound scalp frontal region 3x1 cm bone deep and Ext. C58 is the case sheet relating to this patient which shows that he was seen at the O.P. at 4.30 pm on that day. If really the firing happened as stated by A1 party, then he would have reached the hospital much earlier. Ext. C59(a) is the wound certificate of one Haji and he came to the hospital on 17.05.2009 at 4.25 pm with self and he had mentioned the cause of injury as during police firing and he had lacerated wound 1/2 cm subcutaneous deep left forearm small lacerated wound 1/4cm right arm and the injuries were not serious and Ext. C59 is

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the case sheet relating to this witness. Ext. C60(a) is the wound certificate of one Hameed who came to the hospital on 17.05.2009 at 4.40 pm with alleged injury during police firing and he had lacerated wound left middle and little finger each 1x1/2cm subcutaneous deep. Ext. C60 is the case sheet relating to this witness. He also had not sustained any severe injury. Ext. C61(a) is the wound certificate of one Moitheen of Beemapally area and he came to hospital self on 17.05.2009 at 4.35 pm with alleged history of police firing he had through and through subcutaneous deep over posterior aspect of right leg with lacerated wound of entry of medial aspect 2 x 1 cm and exit wound of lateral aspect of right leg. It cannot be said to be a bullet injury because the diametre of the injuries is more than the diametre of the bullet and the exit wound is shown as having lesser length than the entry wound. Ext. C61 is the case sheet relating to this witness. Ext. C62(a) is the wound certificate of Nizzamudeen who came to hospital on 17.05.2009 at 4.25 pm with alleged history of police lathi charge with lacerated scalp injury over vertex of size 2x1 cm

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subcutaneous deep. None had a case that there was police lachi charge on that day. So it is clear from this he might have sustained injury while he was engaged in the rioting along with the miscreants and Ext. C62 is the case sheet relating to this injured. Ext. C63(a) is the wound certificate of one Shajahan who came to the hospital on 17.05.2009 with history of alleged police lathi charge/firing. He had lacerated wound scalp vertex 2x2 cm subcutaneous deep and Ext. C 63 is the case sheet relating to this injured. He was seen in the hospital at 4.20 pm on 17.05.2009. So this also could not be a bullet injury sustained and this could only an injury sustained while he was engaged in the riot. Ext. C64 is the wound certificate of one Sulfikkar who came to the hospital at 4.30 pm on 17.05.2009 with alleged history of lathi charge and police firing and he had small lacerated wound left eye brow skin deep 1/3 cm in size. This also could not be said to be an injury sustained in the lathi charge or from the police firing. He might have sustained the injury in some other manner.

These are all the wound certificates and medical

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records relating to persons sustained injury on 17.05.2009 and treated at SR Surgical Centre, Ambalathara and all these people have given cause of injury as police firing and lathi charge and none of the injuries could be said to be a fire arm injury considering the nature of injury sustained. So this probabilise the case of the police that they may be either participants or sustained injuries in some other manner while the commotion was going on and it cannot be said that they sustained injuries in the police firing as such.

Ext. C65 is the wound certificate of one Iqbal who came to the hospital on 16.05.2009 at 10.20 pm with history of group clash and by stone throwing and he had lacerated wound left eye brow 3 x 1 cm muscle deep and fracture nasal bone and echimosis and swelling around left eye. **Ext. C66** is the wound certificate wound certificate of Alma who came with the history of alleged stone throw on 16.05.2009 at 11.20 pm and had injury scalp. **Ext. C67** is the wound certificate of one Rasulkhan of Beemapally area who came to the hospital with history of alleged assault by

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stone throwing and seen at the hospital on 10.30 pm on 16.05.2009 and he had lacerated wound right eye brow of size 3 x 1 cm muscle deep. **Ext. C68** is the wound certificate of Jabbar who also came with a history of assault by stone throwing and seen at the hospital at 11.20 am on 16.05.2009 and he had lacerated wound scalp occipital region bone deep 6x1 cm. X-ray normal. **Ext. C69** is the wound certificate of Nazeer of Beemapally area who sustained in the alleged stone throwing during group clash seen at hospital at 11.30 pm on 16.05.2009.He had abrasion over right leg. **Ext. C70** is the wound certificate of Abdul Vahid of Beemapally area with alleged history of group clash and stone throwing and seen at 11.30 pm on 16.05.2009. He had contusions and abrasion right side of forehead. **Ext. C71** is the wound certificate of one Sadique with alleged history of group clash and stone throwing seen at 11.25 am on 17.05.2009 with lacerated wound lower left leg of seize 2x1 cm and abrasion right foot. **Ext. C72** is the wound certificate of Abdul Shaman came to the hospital on 16.05.2009 at 11.20 pm with alleged history of injury sustained

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during group clash and stone throwing. He had lacerated injury 3x1 cm muscle deep in right leg. **Ext. C73** is the wound certificate of one Shajahan of Beemapally area who came to hospital at 11.20 pm on 16.05.2009 with history of alleged assault by stone throwing and he had lacerated wound bone deep over right frontal area of seize 3x1 cm. These documents will go to show that several persons had sustained injuries in the incident happened on 16.05.2009 at 9.10 pm in Cheriyathura junction in the clash between Beemapally and Cheriyathura people. None of these people had made any complaint either to the police or to any authorities. That shows that they were either participants in the incident and if they came with complaint, they were likely to be exposed as the miscreants in the incident and so they did not want to expose themselves before any authorities to say the real cause of injury caused to them and as to how they sustained injury if they are not involved in the incident.

Ext. C74 is the circular No. 18/2009 issued from the police head quarters regarding formation of costal area Jagratha Samithi. This was dated 24.7.2009.

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Probably this has been initiated on the basis of the decisions taken in the meeting attended by Hon'ble Central Home Minister on 17.02.2009 at Kollam to monitor the costal areas. **Ext. C75 and C76** are the reports given by CW9 Philipose then Director of Forensic Science Laboratory, Thiruvananthapuram showing the marks of the bullet in two coconut trees. There were two entry and exit wound seen in Ext. C76 and the coconut tree marked in Ext. C76 while one exit and entry wound was seen in one of the coconut trees in Ext. C75 and it will be seen from these two documents that the exit wound was towards sea. Further these two trees were situated on the western side of the end road just on the south western corner of the end road and it does not go to Beemapally area but within the end road portion itself. There is also electric post was seen near the same on the western side of the end road in between the sea wall and the end road. At the time of my inspection I could see these two bullet marks in the coconut tree and also one hit mark was shown on the electric post. But in Ext. C75 and C76 nothing was mentioned about hit

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mark on the electric post. So I am not able to come to a definite conclusion as to whether the mark seen on the electric post at the time of my inspection was as a result of bullet hit or not. **Exts. C77 and 78** are the carbon copies of the reports given by CW10 Dr. Sumi Mitra, Scientific Assistant of Forensic Science Laboratory, Thiruvananthapuram regarding the things done by her on 17.05.2009. But quite unfortunately, she had not mentioned her time of arrival and time of conclusion of examination done by her in that clash. Her evidence is also not helpful regarding this aspect. But from the video clippings produced on the side of E1 party that they came to the place at about 12.45 pm and they were there till 2.00 pm as there was no further video clippings available thereafter and from that it can be presumed that the scientific assistant was present only up to 2 pm. **Exts. C79, C80 and C80(a)** are the Hindu reports regarding the incident and these were produced by Sri. Madhumohan Thampi who was Bureau Chief of Hindu, Thiruvananthapuram. All these reports were based on hearsay knowledge after the incident. **Exts. C81 to 84 and 84(a)** are the

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computer printouts of the news report came in the Hindu daily. It is also seen from these reports that police had used tear gas before order firing and they also said that four died in the police firing on the same day and two persons died on the subsequent days. **Ext. C85** is the wound certificate of Khani Haji which shows that he came to the hospital on 19.05.2009 at 4.50 pm and he had history of glob injury recently. **Ext. C86** is the case sheet of Abdul Khani maintained in General Hospital, Thiruvananthapuram and he died on 19.05.2009 at 5.20 pm due to cause of death shown as cardio respiratory arrest and he was having acute Pulmonary oedema and hypertension. **Ext. C87** is the wound certificate of the same Ahammed Khani Haji. It is seen from this document that he was seen at the casualty at 4.20 pm on 17.05.2009 with history of right eye caused on account of police firing on 17.05.2009 at 4.00 pm near Beemapally and **Ext. C88** is the case sheet relating to that person from Government Opthalmologic hospital, Thiruvananthapuram. **Ext. C89** is the wound certificate of Khani and it is noted that he has a crush injury right foot and **Ext. C90** is

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the case sheet relating to this patient maintained at Medical College Hospital, Thiruvananthapuram. It was noted that there was rupture glob right eye with foreign body (grenade bullet). So it is clear from this he had not sustained bullet injury but he sustained injury due to user grenade by the police before order firing. So this also will go to show that police had used grenade before order firing apart from user of teargas and this patient died on account of heart disease which he was suffering from probably it can not be known to him and the injury might have accelerated his disease and resulted in his death. He reached the hospital at 4.20 pm on 17.05.2009, probably the first person to reach Medical College Hospital.

CONCLUSIONS

Though the reference was made to enquire into the circumstances which resulted in police firing in Cheriyathura Beemapally area on 17.05.2009 and whether the police action was justifiable and if not who is responsible for the same and the entire incident which is subject matter of enquiry by this Commission is the police firing happened on 17.05.2009, but

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incidentally, unless the incident happened on 16th evening and night of 16th May, 2009 was also considered the enquiry could not be said to be complete. Though both the parties say that both these incidents are distinct and different and there is no connection between the same, from the nature of evidence adduced, it cannot be said that they were distinct and separate but one is an aftermath of the other.

It is seen from the evidence that there are contradictory versions regarding this aspect. But as analysed, it is seen from the evidence that on 16.05.2009 at about 3.30 pm, there was some incident happened between Kombu Shibu who was examined as A4W1 and one Nizzamudeen of Beemapally regarding parking of his car and thereafter on the same day at about 4.30 pm Kombu Shibu and his associates came there and had some altercation with one Peermuhammad who was conducting a CD shop in Cheriyathura area which is situated just 50 metres north from the Cheriyathura junction and thereafter there was some altercation occurred between Nizzamudeen and some people from Beemapally and

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also Kombu Sibu and his associates and this was intimated to the police by B1W4 and police from Valiyathura Police Station came there and dispersed the persons gathered there and when they were satisfied that the situation is under control they left the place as according to the police such minor clashes are common in that area between these two community people, they left the place. Thereafter it is seen from the evidence that at about 6.30 pm Kombu Shibu and others came to Cheriyathura junction and abused the merchants of Beemapally area, though there was some tense situation created on account of that no untoward incidents happened due to the intervention of Sri. Abdul Azeez, the then President of Beemapally, Jama Ath and others, the miscreants temporarily receded from the place. After 8.30 pm on 16th, the associates of Kombu Shibu came and made some threatening words towards Beemapally people and it appears that he had even made a threat that he will cause hindrance to the oncoming Urus festival, this has infuriated the Muslim community people and there was a commotion occurred between

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Cheriyathura Christians on one side and Beemapally Muslims on other side. Considering the ratio of population of both community people in that area, the possibility of Muslim community people more in number cannot be ruled out. When the commotion started there, a fearsome situation created and B1W4 Smt. Celin Alotious again informed control room about the commotion going on there. At about 9.00-9.15 pm on that day the commotion broke out to a worse situation and there was stone pelting on either side and it is seen from the evidence of B1 party that some Muslims under the leadership of Nizzamudeen and Noohoo (though these names were stated in the first information statements given by them, but they did not mention those names when they were examined before the commission) entered the Cheriyathura area and caused damage to the shops of Moni, Gireesan and also houses of Celin Alotious and Celin Jerom and other people which are situated on the northern side of Cheriyathura junction and the end road. It is also seen from evidence that by the time, entire police force alerted. Sri. S. Gopinathan examined as CW3 was the

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then City Police Commissioner in charge of the city, but since his wife had met with an accident and she was in critical condition admitted in the Intensive Care Unit of Ananthapuri Hospital he was with his wife in the hospital at that time and the entire law and order duty was looked after by Sri. Jolly Cheriyan another Deputy Commissioner of Police and E1W1 A.V. George, the then Deputy Commissioner of Police, Law and Order in traffic , Thiruvananthapuram. All these people reached the place and Sri. Rajeevan E!W6, the then Additional D.G.P. (Southern Region) also reached there. This was informed to CW4 Sri. Jacob Punnoose, the Director General of Police and State Police Chief at 9.10 pm on that day from State Police Monitoring room and he had made all arrangements to send enough force to that place to avoid the situation more aggressive though it was a counting day and the results were published in respect of the parliamentary election held during February 2009. It is also seen from the evidence of CW7 Mohanan that while they were sitting in the shop of Gireesan, at about 8.45-9.00 pm, some Muslim people large in number came and

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attacked the shop and set fire to 5 or 6 two wheelers parked in front of the shop which includes his motor cycle as well. But he was not in a position to give the names of the persons. It is also seen from the evidence that one boat belonged to one Aboobaker of Beemapally which was parked on the north western side of the church was also set to fire by some miscreants on that night. Further it is seen from the evidence that at about 9.30 pm, the District Collector CW1 Sri. Sanjay Kaul had come to know about the situation and he along with A1W29 Biju the then Sub Collector, Thiruvananthapuram rushed to the place from Kovalam where they were having discussion with the Central Election Observer who came there in connection with the counting of votes in respect of the Parliamentary elections held during that period and he reached the place at about 10.15 pm. It is seen from the evidence of CW1 and A1W29 that when they came there, the situation was tensed in that area and Muslim community people in large number had gathered in Beemapally area on the south of Cheriyathura junction and they were more restive and

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aggressive. They also deposed that they could see huge damage being caused to the houses and shops in Cheriyathura area and some two wheelers were seen burnt there. At the time when they came, there was no much crowd in the main road in Cheriyathura area but people were seen gathered in the church compound at that time. It is also seen from the evidence that A1W30 Sri. V. Surendran Pillai the then MLA of that locality and former minister for Ports and Youth affairs also came there around that time but before CW1 the District Collector and A1W29 Biju, the then Sub Collector reached that place. They had discussion with A1W24 Sri. Abdul Azeez, the then Beemapally Jama Ath President who was present there along with other Jama Ath office bearers. But they didn't want the police to participate in any discussion. Thereafter as suggested by the then District Collector Sri. Sanjay Kaul (CW1) and Sri. Surendran Pillai (A1W30), a meeting was held in the office of the Jama Ath and decisions were taken that the persons responsible for the incident have to be arrested immediately including Kombu Shibu and others and steps will be

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taken to assess the damage caused to the properties in the incident.

By the time Sri. V.R. Rajeevan the then Additional Director General of Police, Thiruvananthapuram also reached there. After the discussion was over, the District Collector and MLA came out and the Jama Ath office bearers informed the aggressive mob gathered there about the decisions taken and asked them to disperse and accordingly the mob dispersed from there. But quite unfortunately the presence of agitated mob in large number in Beemapally area at that time was not admitted by Sri. Abdul Azeez (A1W24) Abdul Hassan (A1W23) who were the then President and Joint Secretary of the Beemapally Jama Ath. This was not admitted by A3W4 Sri. Abdul Rasheed, the then Muncipal Councillor of Beemapally Ward who succeeded A1W24 as the president of the Jama Ath thereafter. According to CW1 after this he went to church and had discussion with the parish priest in charge and the committee members of the church and informed about the decisions taken and they were also satisfied about the same and as requested by him the

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parish committee members present informed the persons gathered in the church compound and requested them not to involve in any untoward incidents. Sri. Surendran pillai (A1W30) also deposed in the same tune as he had also gone to Church after discussion with Jama Ath officials and requested them to keep peace in the locality. Further it is seen from the evidence of CW1 that after this he had discussion with E1W6 Sri. V.R. Rajeevan Additional Director General of Police, Southern Region, Thiruvananthapuram and gave instructions to take necessary steps to arrest the responsible persons for the incident and take steps to ensure and give protection to life and property of the persons of both the area.

There is some dispute regarding the nature of decision taken in the Jama Ath on that day night. According to Jama Ath officials, the decision taken was to arrest Kombu Shibu and his associates who according to them were solely responsible for all these incidents. But Sri.Surendranpillai, the then Minister and MLA had stated that no such decision was taken

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though name of Kombu Shibu was mentioned as the person responsible for all these incidents. But the decision taken was that the persons responsible from both community have to be arrested and steps will have to be taken by the District Collector to assess the damages caused to the properties by deputing Tahsildars and other revenue officials within two days and sent a report regarding the same recommending compensation to them to the Government. CW1 the then District Collector Sri. Sanjay Kaul also stated that though the name of Kombu Shibu was emerged as the sole person responsible for the incident, they have instructed the police officials that if the allegations against Kombu Shibu and his associates were genuine, then take steps to arrest them immediately. So it is clear from the evidence that there is no decision taken as such to arrest Kombu Shibu and his associates as the persons responsible for the incident but the direction given was that if the allegations against Kombu Shibu and his associates were genuine, then take steps to arrest them immediately. Further the evidence of Sri. Surendran Pillai, Sri. Sanjay Kaul and

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Sri. Biju will go to show that both persons from both community had involved in the commotion and they were responsible for the mischief committed and severe damage was caused in Cheriyathura area than in Beemapally area. It is also seen from the documents produced that in the stone pelting, police officials, Sri. Johnson 'G' party, the then Sub Inspector of Police, Valiyathura and Sri.Sureshkumar, the then Assistant Commissioner of Police, Sanghumughom (FW1) and some fire force officials had sustained injuries apart from some people of Beemapally area sustained injury in the stone pelting which is seen from the wound certificate produced from SR Surgical Centre, Ambalathara. It is true that there is no document to prove that any of the Cheriyathura people had sustained injuries in the incident. The explanation given was that those people had gone for private treatment and the documents were not available regarding the same. Further considering the number of people available in that area, the possibility of those persons sustained injury will be less when compared to the people of Beemapally area as they gathered in

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large in number.

It is clear from this that a small incident happened between two individuals belonging to Cheriyathura and Beemapally area had developed into a small communal clash though not a communal violence resulted in severe commotion involving both Christian and Muslim community people of that area and resulted in heavy loss to the property of Cheriyathura people and also damage caused to Beemapally people as well in the incident apart from some personal injuries sustained to persons including the police officers and Fire Force officers. But it is also clear from the evidence that the damage caused to Cheriyathura people is more when compared to the damage caused to Beemapally people in the incident. The allegation that this was done by the police with the help of Kombu Shibu on that day appears to be unbelievable. There is no necessity for police people to join hands with Kombu Shibu and commit any mischief on 16th especially when the police officials were posted in that area are knew to that area and they have no grudge against any of the people either in

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Beemapally or in Cheriyathura area. Further none of the documents subsequently produced also will go to show that there was any involvement of police in causing damage to the articles as claimed by A party. Further though no complaints were made by the Beemapally people regarding any damage caused to their articles in the incident happened on 16.05.2009, some compensation was paid to some persons whose properties were affected in the incident on the basis of the enquiry conducted by the revenue officials as recommended by the District Collector by the Government. It is also seen from the evidence that due to the intervention of police, District Administration and to some extent with the co-operation of Jama Ath office bearers and Cheriyathura Church Administrative committee members, leaders like Sri. Surendran Pillai and others normalcy was brought to that area at about 1.00 am on 17.05.2009 and it was thereafter then District Collector CW1 Sri. Sajay Kaul, Sri. Surendran Pillai the then Minister and Sri. Biju, the then Assistant Collector, Sri. V.R. Rajeevan, Additional Director General of Police, Southern region had left the place

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satisfying that the situation was under control.

Further, it was brought out in evidence of E1 party that after the discussion that the District collector and as directed by Sri. Rajeevan ADGP, a plan of action was drawn regarding the deployment of police force in that area to prevent further incidents being happening in that area. A Special control room was opened and four police pickets were established and Vajra and Varun and fire force vehicles were brought there and this will be clear from Ext. E1, the bandobast duty report produced on the side of the E1 party. So it cannot be said that police had not taken adequate steps to provide necessary police protection to ensure protection of life and property of people of Beemapally and Cheriyathura junction. But I feel from the circumstances that if a prohibitory order had been passed on that day, then the situation would have been brought under control more effectively but that has not been done in this case. When a question was put to CW1 the District Collector as a question to be considered as an explanation to notice under section 8(B) of the Commissions of Inquiry Act, the witness

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had stated that since he felt that the situation was brought under control and on the basis of the assurance given by both the community leaders that no untoward incidents will happen there, he had not imposed any prohibitory order on that day. But that appears to be not convincing to me. But at the same time since such things are common in those areas and peace used to be brought in the society by the community leaders, he might have moved away by the assurance given by them. Further there is no police picketing provided in Beemapally area or on the western side of beach area of Beemapally on that day as part of the bandhobast system. When a question was put to the police officials, they said that since the troublesome area was in Cheriyathura junction, they have concentrated in that area to avoid further untoward incidents in that area and that was the reason why no police picketing was provided in Beemapally area or on the western seashore of Beemapally area. Further since the Beemapally people did not want the presence of police in their area they did not provide the same in that area. That also did

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not appeal to me as they should have anticipated the mobilisation in Beemapallay area and provided picket in these areas as well. Since that was done, I will have to consider the question whether the police action on 17.05.2009 was justifiable or not on the basis of the things happened on 17.05.2009 on the basis of the evidence adduced and circumstances made out in the case. If really these arrangements were made at that time, it would have been possible for them to monitor the movement of the people in that area as well so that further mobilisation of Muslim community people in that area could have been avoided and that would have prevented the entire untoward things happened on 17.05.2009.

However, as assured by the community leaders no untoward incidents happened on 17.05.2009 till 2.00 pm. But according to A1W24 Sri. Abdul Azeez, the then President of the Beemapally Jama Ath, when he came at 6.30 am, he saw B1W5 Sri. Sherafudeen came in a Tata Sumo vehicle to Beemapally area and examining the by lanes there which was denied by E1W5 Sri. Sherafudeen. According to him, he took

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charge only at 8.00 am on 17.05.2009. This was supported by the evidence of FW1 Sri. Sureshkumar and FW2 Sri. Pradeepkumar as well. Further this was supported by the evidence of E1W1 Sri. A.V. George then Deputy Commissioner of Police, Law and Order and Traffic Control, Thiruvananthapuram city. Further according to A1W24 Sri. Abdul Azeez at the time when he came there after attending the morning prayers, he came to understand that the morning trip of a bus to be started from Beemapally area was not allowed to take its trip and it was blocked by Kombu Shibu and others and according to him, this was informed to E1W5 Sri. Sherafudeen but he did not heed for the same and he called E1W29 Sri. Biju, Sub Collector and wanted to talk to Sri. Sherafudeen but Sherafudeen switched off the mobile. But this was not supported by A1W29. So there is no evidence to show that Sri. Sherafudeen was present in the morning and trip started from Beemapally was blocked in the early morning of 17.05.2009 as claimed by A1W24. Further A1W30 Sri. Surendran Pillai also deposed that he visited Beemapally area on the early hours of

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17.05.2009 but he did not get any report regarding any untoward incident happened at that time. If really such a thing had happened as stated by A1W24, then this would have been brought to the notice of Sri. Surendran Pillai and so there is no necessity for Sri. Surendran Pillai to give any false evidence on this aspect. Further, no written complaint has been made either by the owner of the bus or A1W24 regarding this aspect to the authorities. So this story projected by A1W24 appears to be not believable without getting any corroborative evidence on this aspect.

It is seen from the evidence of E1W1 Sri. A.V. George and also FW1 Sri. Sureshkumar that till about 2.00 pm they were in that area and no untoward incidents happened except blockage of vehicles coming to Beemapally area by some females and children of Cheriyathura area at Rose Mini Convent and at Sewage Farm Area, the arrangements were made by them to remove the people who were blocking the vehicles and decided to divert the vehicles to Poonthura area to avoid further untoward things happening in the area and made the vehicular

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traffic smooth Thereafter E1W1 Sri. A.V. George went to his residence while FW1 went to Airport to check the security arrangements of Hon'ble Chief Minister who was expected to come in the Airport at that time. According to E1W1, at about 3.00 pm, he received message from Beemapally that some commotion was going on there and immediately he rushed to the spot. Similarly, FW1 also deposed that at about 3.00 pm while he was in the Airport, he got information that some untoward incident was happening and commotion was going in Beemapally-Cheriyathura area and there was altercation going on between two group of people at that time. Immediately he had informed the control room about the same and it is seen from the documents produced namely E1(4) wireless hard copy and E1(5) voice log CD from 16.05.2009 to 23.05.2009 maintained in the control room as well. Immediately both E1W1 Sri. A.V. George and FW1 Sri. Sureshkumar reached Cheriyathura junction and according to E1W1 there was some attempt on the part of the Beemapally people to enter Cheriyathura area and Pradeepkumar FW2 alone was

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there and so he took control of that area and at the time when he was coming, he saw people from Beemapally area throwing bombs from the terrus of house situated on the south of the end road. According to him he conveyed this matter to Sri. Sherafudeen through a police constable and according to E1W1 the said Police Constable went and informed Sri. Sherafudeen about this fact and came back and reported to him but E1W5 Sri. Sherafudeen had stated that no police constable had directly informed this matter to him but later he came to know that E1W1 had sent a person to convey this message to him and that person had conveyed the message to some police officer there who later told him about this to him. So that cannot be taken as a contradiction as claimed by the counsel for A1 or A3 party and this alone is not sufficient to disbelieve the evidence of E1W1 or E1W5 on this aspect.

According to E1W5 Sri. Sherafudeen at about 3.00 pm while he was patrolling in that area, he heard the blasting sound of a bomb in the middle portion of end road and immediately he rushed to the place along

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with two or three police constables deployed in beach area. After examining that area, he went to Cheriyathura junction and at that time he came to know that Muslim community people in large scale were trying to enter Cheriyathura area through the western beach area and immediately he along with some police personnels rushed to the spot. He had seen the Muslim community people in large scale trying to enter the Cheriyathura church compound along the north western portion of the church compound from the beach area. He had also seen FW1 Sri.Sureshkumar then Assistant Commissioner of Police, Sanghumughom driving the people who had entered the church compound. FW1 also deposed that when he came to that area from Airport, he saw some Muslim community people throwing bombs and causing damage to the boat, etc; entered the church area by throwing bombs and immediately he along with some police officials entered the church compound and drove out the Muslim community people who came there and they rushed to the north western portion of the beach compound and thereafter

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they went to the southern side. At that time, he had occasion to talk to E1W5 Sri. Sherafudeen and instructed him to use force, if necessary if the situation was uncontrollable.

According to FW1, when he was retreating the Muslim community people, some Christians also came behind him and he was trying to drive them away but in the mean time there was clash occurred between the Christians and Muslim people gathered in the beach area on the north western portion near the police picket. FW1 had stated that, some miscreants of Christian community had attacked a Muslim among the miscreants of Muslims and he sustained severe head injury and they had thrown fire ball towards southern side which fell on the house situated just touching the end road on the southern side and caused damage to the same. On seeing this, he tried to push the Christian community people towards north and to some extent he had succeeded in his attempt. By the time when he was engaged in driving the Christian community people and managing with them he heard the firing sound from the beach area.

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According to E1W5, while he was managing the crowd assembled there, it became uncontrollable and he had withdrawn the police personnels standing in the picket established in the beach area and asked the armed police to take charge and according to him, Sri. Vinodkumar E1W3 had taken charge of the same and though they tried their best to avoid using of force by using non lethal weapons like tear gars, grenade etc they did not disperse, but the situation became more worse and Muslim community people in large number were throwing bombs both country and petrol bombs. E1W5 had stated that he had not seen such a user of explosive substances in any clash during his service. When things became uncontrollable tear gas and grenade were used, but in spite of that people did not disperse. Though they have stated that announcement was made through mega phone, there is no such convincing evidence available on this aspect.

Further, the evidence of E1W4 Sri. Britto will go to show that when all attempts made to disperse the mob became fruitless, as directed by E1W5 he took control of the rifle party and ordered to take position

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and thereafter after making necessary announcements, to disperse the mob, the rifle party fired around 30 rounds in the air and since in spite of that the mob did not disperse, they fired at the mob. According to him, 30 rounds were fired in the air and out of the balance, four misfired and remaining alone was fired at the mob. This tallies with the number of ammunitions used and produced as per Ext. E1(13) and E1(14).

Further, though the A party had a case that the place of firing was not at the end road and it is not possible for them to take position and fire as stated and the real place of occurrence was about 300 to 400 metres south from the end road, there is no acceptable evidence available on record to substantiate the same. None of the dead bodies were recovered from the place of occurrence as they were removed by the mob itself. Though they have got a case that children were playing cricket at a distance of 300 to 400 metres from the end road the evidence adduced on the side of A1 party or A3 party will go to show that there is contradictions in the evidence of A1 party and A3

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party regarding the distance from where the children were alleged to be playing at that time. Further on going through the video clippings taken after the firing, it is seen that the District Collector had conducted the flag march through the beach area, no such things were seen in that area. Further, at the time when I inspected the place an attempt was made by the Jama Ath office bearers and A3W4 Sri. Beemapally Rasheed, asking the woman residents of Beemapally area to say from where police had fired, they were reluctant to give their answer and only when they had insisted them to say, they have stated that they have come up to the beach area and they were also not sure about the place from where the firing had taken place. Further if really the firing had taken place as stated by A1 and A3 party in the open area of the beach towards south of end road, then the casualty would have been more and people including female and children would have sustained injuries. None of the children or female members of Beemapally area had sustained any injury in the incident. That probabilise the version of the police party that all the

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residents of this area were shifted to some other place so as to make arrangements for others to assemble there and effect the operation.

Further, the fact that three bullet marks were seen in two coconut trees on the western side of end road and also the alleged bullet hit on the electric post near that place shows that the firing would have taken place only along the end road and also from the middle of end road towards west. Further evidence of CW8 Sri. P.Vishnupotti, former Director of Forensic Science Laboratory, Thiruvananthapuram also would go to show that using 0.303 call service rifle it is not possible to have indiscriminate firing as stated by the witnesses examined on the side of A1 and A3 parties. According to him, without taking position a person using service rifle will not be able to fire. So that also will go to show that there must be some place available for the police party to take position. According to E1W5 and also E1W4, the rifle party had taken position from the gate of a house situated on the southern side of the end road and also behind the trees on the northern side of the end road at a distance of 50

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metres from the seawall towards the east and it is from that place that they have fired. Further, the mobile clippings produced by E1 party as one taken by the resident of Cheriyathura throws some light on this aspect as visual pictures in this clipping will go to show that flames and smoke were seen just on the south western side of the Assumption church near the end road and not from the area suggested by the A party. Even in the mobile clipping produced by A party a conversation can be heard that the persons running with sword and they were driven by police and if it is really done by Kombu Shibu and party with the help of police, such a conversation from Beemapally side will not be possible. Further blood stains were seen in the video clippings produced after the incident only on the seal wall on the western side of the end road and not on the southern side of the end road. A scalp hair portion with hair was also seen in between the granite piece of the sea wall in that location. All these things will go to show that a commotion had taken place involving both Christians and Muslim community people of Cheriyathura and Beemapally area on the

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western and northern side of the end road and the scene of occurrence as seen from Ext. E1(16) scene mahazar and the video clippings taken will go to show that explosive substances were used in large scale and damage had been caused to the properties of both Beemapally and Cheriyathura people and all these things happened, as seen from the nature of evidence given and also the statements given by them earlier and also the documents produced, had started between 2.45 pm and 3.00 pm and ended at 3.45 pm. The possibility of people coming to beach area mistaking the firing of tear gas and grenade as police firing cannot be ruled out. Merely because the mobile CD produced on the side of A1 party showing the picture of police men taking A3W2 along the beach area alone is not sufficient to come to the conclusion that the place of occurrence was far beyond south of end road. The victim going and falling down at a distance after the getting injury cannot be ruled out as well. Further the fact that except this injured no other injured or dead body could be retrieved by the relieving party of the police also will go to show that

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all these things were done by the members of the mob itself involved in the commotion and this could be possible only if it was a well arranged and preplanned attack. Further if they have got grievance against the police or against Kombu Shibu alone they could have done this in the eastern part of Cheriyathura where the fishermen colony and Sewage Farm is situated in which place all these alleged miscreants are residing. The fact that, that was not done and the attack was made in Cheriyathura area by the Muslim community people will go to show that there was an attempt among the Muslim people want to take advantage of this situation and create a problem among the two community people which resulted in this incidents. So the case of A party that Muslim people were innocent and they were not responsible for any incident happened on 16th or 17th of May, 2009 cannot be believed.

Further, there was no evidence to show that there was any conspiracy hatched between the police officials and Kombu Shibu in order to create such a situation in that area as claimed by them. The story

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trotted by the A party that in the guise of a message received from Central Home Ministry on the basis of the discussions held in the meeting of high police officials in the presence of Hon'ble Central Home Minister that effective policing was not done in Beemapally area, they created a situation to make it appear that effective policing is possible in that area also cannot be accepted. Most of the police officers examined deposed that they came to know about such message of this incident. Further there was conspiracy between high police officials and criminals in the locality for creating such a seen also cannot be accepted because there is no acceptable evidence adduced to prove this fact and all the police officials who were posted in that area have no personal acquaintance with either Beemapally people or Cheriyathura people and there was no occasion for them to create any vendetta for them to act against the interest of any particular community people alone as well. If really they wanted to create a scene they could have done this on the previous day namely on the 16th night when also there was an incident occurred

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involving clash between two community people of that locality and causing damage to properties and injury to police officials etc. So the conspiracy of the police officials alleged and non involvement of Muslim community people in the incidents happened on both days as alleged by the A party cannot be believable and it is unsustainable in view of the evidence available on record.

Merely because they did not arrest Kombu Shibu on the 17th morning itself is not a ground to come to such a conclusion as well. When A party witnesses were examined like the Jama Ath officials they have stated that they did not know as to whether any steps had been taken by the police officials to enquire about Kombu Shibu after the decision was taken in the meeting. Further those persons who had stated that it was Kombu Shibu who had blocked the vehicle also had no direct knowledge about the incident or persons who are having no acquaintance with Kombu Shibu were stating about these facts that it was Kombu Shibu who had blocked the vehicles and created prevention of inflow of vehicles towards Beemapally

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area with the active connivance of the police. Further even the witnesses examined on the side of B party also did not want to support the case of the police that some females and children in Cheriyathura area had caused blockage of vehicles towards Beemapally area either at Rose Mini Convent or at Sewage Farm and it appears that they also want to make it appear that they were not doing anything against the undertaking given by the office bearers of the church on the previous day night to the District Collector and they were responsible for the subsequent incident happened on the 17th. So it is clear from this that only after 12.30 pm and 2.00 pm there was an attempt to block the vehicles happened in Rose Mini Convent and Sewage Farm respectively and that was effectively managed by the police and in order to avoid further incidents, decisions were taken to divert the traffic to ease the situation in that area. Probably this would have irritated the minds of Muslim community people as they may be thinking that the Christians and police are acting against their interest and that prompted them to react and with that intention the possibility of

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mobilising people to engage in unlawful incidents in beach area avoiding Cheriyathura area as it will be difficult for them to enter Cheriyathura junction area because of the presence of lot of police personnels in that area also cannot be ruled out.

It is very easy to kindle the communal feeling in weak minded people stating that it is on account of things happened on the previous night Christian community people were acting against the Muslim community people and they are likely to cause hindrance to the on coming Urus festival and it is their duty to prevent the same at any cost with this messages mobilising the Muslims by Muslim community people who want to take advantage of such situation in their favour cannot also be ruled out. So this may be the reason why they would have selected the beach area for the attack. Further, it will be seen from the evidence of A party as well as the statements given by them earlier that all these incidents started after 2.45 pm and ended by 3.45 pm. Though in one or two cases the medical records shows that some injured had reached the Medical College Hospital at 2.45 pm

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stating that it was a case of police firing at Beemapally, it cannot be believed because even if the police firing had taken place at 2.45 pm as claimed by A party, it is not possible for them to reach Medical College Hospital within that short time. Further the possibility of persons sustained injury in the commotion before police firing also cannot be ruled out.

There is no evidence as such available to come to a definite conclusion as to whether there was any involvement of any external agency in the incidents. The source of neogel 90 found at the place of occurrence also has not been traced out so far by the investigating agency. When explanation was sought for from the H party, the counsel for the H party submitted that it will be difficult to trace out the person to whom it was sold as the batch number was not available in the material object collected and that will be normally found in the box containing number of Jalatin sticks packed. So it is not possible at this stage to come to a conclusion without further investigation that there was any involvement of any outside agency in creating trouble in this area. The

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case of A party that neogel 90 was planted there by police also can not be accepted as it will be seen from the evidence of E1W7 that it was recovered form the place of occurrence in the unexploded state and there is nothing to disbelieve this evidence.

The main attack on the part of A party to say that police action was not justifiable because the procedure to be followed were not followed before order firing and it was done against the norms and though there was time for them to obtain the presence of Executive Magistrate that was not done and Sri. Sherafudeen was not the competent person to order firing as E1W1 Sri. A.V. George was the person to order firing being the senior officer in that locality at that time. As regards the person competent to fire is concerned it was stated by all the police officials including the State Police Chief Sri. Jacob Punnoose that it is for the officer in that location has to decide the course of action to meet the situation and it is not necessary to obtain prior permission from the senior official for that purpose, if the situation so warrants and there was no time available and immediate action is required to

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prevent major calamity to protect life and property of the persons. It is brought out in evidence that Sri. Sherafudeen is also a senior most police officer and it was also brought out in evidence that he had discussed that FW1 Sri. Sureshkumar the then Assistant Commissioner of Police, Sanghumughom and they have taken decision to use force if necessary considering the situation prevailing in that area. Sri. A.V. George and other police officials in Cheriyathura junction may not be in a position to assess the situation prevailing in the beach area and it is not possible for all the police officials in cheriyathura junction to run to beach area to meet the situation leaving the Cheriyathura junction unprotected where major incidents happened on the previous day and the possibility of collection of people more in that area is more likely than the beach area. So the senior officer Sri. A.V. George did not go to beach area to monitor the situation and it cannot be taken as a ground to say that there was dereliction of duty on his part because he is expected to monitor the situation in Cheriyathura junction and also to avoid any further incidents

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happening in that area. So his action or decision at Cheriyathura junction cannot be said to be not justifiable under the circumstances of the case.

It is also brought out in evidence of the District Magistrate and Sub Divisional Magistrate that it is not always necessary and possible to obtain prior sanction of using force and in some cases the action will be ratified later, if they have satisfied the situation which led to use of force by firing. Further it was brought out in evidence that it was not a premeditated incident and none had anticipated such an attack and so it is not possible for the police to take all precautions earlier in such cases.

It is true that Chapter X of Code of Criminal Procedure deals with the manner in which maintenance of public order and tranquillity has to be maintained and section 129 to 132 deals with the procedure to be followed for disposal of unlawful assembly by using force which reads as follows:

"Sec. **129 Disposal of assembly by use of civil force**: (1) Any Executive Magistrate or office in charge of a police station or, in the absence of such officer in

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charge, any police officer, not below the rank of a sub inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or police officer referred to in sub section (1) may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

Sec.**130 Use of armed forces to disperse assembly**: (1) If any such assembly cannot be otherwise dispersed, and if it is necessary for the

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public security that it should be dispersed, the Executive Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

(2) Such Magistrate may require any officer in command of any group of persons belonging to the armed forces to disperse the assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(3) Every such officer of the armed forces shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Sec. **131 Power of certain armed force officer to disperse assembly**: When the public security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any

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commissioned or gazetted officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law: but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

Sec. **132 Protection against prosecution for acts done under preceding sections**: (1) No prosecution against any person for any act purporting to be done under section 129, section 130 or section 131 shall be instituted in any criminal court except -

(a) with the sanction of the Central Government where such person is an officer or member of the armed forces;

(b) With the sanction of the State Government in any other case.

(2)(a) no Executive Magistrate or police officer

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acting under any of the said sections in good faith.

(b) no person doing any act in good faith in compliance with a requisition under section 129 or section 130;

(c) no officer of the armed forces acting under section 131 in good faith;

(d) no member of the armed forces doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby, committed an offence.

(3) In this section and in the preceding sections of this Chapter-

(a) the expression "armed forces" means the military, naval and air forces, operating as land forces and includes any other Armed Force of the Union so operating;

(b) "officer", in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non commissioned officer and a non gazetted

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officer;

(c) "member", in relation to the armed forces, means a person in the armed forces other than an officer."

Further clause 239 to 243 of the Police Manual deals with dispersal of mobs and mob firing which reads as follows:

"239(1) The detailed instructions for the dispersal of mobs and for firing on mobs are given in the Police Drill Manual. These instructions should be constantly practised by Armed Reserves and by the District Police, who must be thoroughly familiarised with the procedure to be followed. Some of the instructions given below may be read along with the instructions on the subject in the Police Drill Manual.

(2) An unlawful assembly may be ordered to disperse by a Magistrate or Officer-in-charge of a Police Station and, when so ordered, it is the duty of the members of the unlawful assembly to disperse. If they do not, force may be used to disperse them. A Police officer below the rank of a Station House Officer has no power to disperse such assembly himself, but

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he may, without warrant, arrest the members of an unlawful assembly and thus disperse the assembly. The following points must be carefully remembered:

(a) Police must invariably make it a point to secure the presence of a Magistrate where a breach of the peace necessitating the use of the force is anticipated.

(b) When an actual situation arises and a Magistrate is present at the spot, he should be in complete charge of the situation, and he has in law all the necessary legal powers to order any Police Officer to assist him in handling the situation.

(c) The senior most police officer present is bound to assist the Magistrate by mobilising the available police force and utilising them as best as possible.

(d) If the crowd becomes defiant and the use of tear smoke, lathi charge or both are inexpedient or fail in their purpose, resort may be had to the use of fire arms. The Magistrate is responsible for taking a decision as to when an unlawful assembly has to be dispersed by force and also as to what kind of force is

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to be used.

(e) After the Magistrate has decided on the kind of the force to be used, the Officer in charge of the Police is solely responsible for deciding the exact amount of force to be used, the manner of using it and the settling of the details of the operations connection with the use of the force; the Police Officer should, of course, bear in mind the principle that no more force than is necessary should be used.

(f) All commands of the police are to be given by the Officer in Command of the party.

(g) Police used for dispersing mobs should wear uniforms including steel helmets. The tear smoke section should wear anti gas respirators.

(3) To improve mob dispersal work under the direction of Sub Divisional Officers, Inspectors and Station House officers, Superintendents of Police of District should ensure that Officers of these ranks from time to time, during their visits to the District Head Quarters see demonstrations by the Armed Reserve. Such demonstrations, may be given on occasions when meetings of Inspectors are held.

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Dispersing mobs by the use of "Tear Smoke"

240.Tear smoke may be used for dispersing mobs. It affects chiefly the eyes, thereby causing tears to flow, and an instinctive desire on the part of the affected men to get out of the area into fresh air. Tear smoke of the type commonly used (C.N.) causes no bodily injury and persons affected recover in about half an hour not give rise to rancour against the police, which may result from lathi action or firing. It will act against all parts of the mob equally and not only those who happened to be in front. It will be an ideal weapon to use against passive resisters, including women where the use of other forms of force may not be desirable. It will avoid undue dispersal and premature tiring out of the Police force.

Tear smoke by itself cannot disperse many but a small gathering. Where the crowd is large it is necessary to use lathi, after the crowd is tear smoked where the use of tear smoke is likely to serve no useful purpose.

Dispersing mobs by the use of lathi (Canes)

241 (1) When a decision has been taken to

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disperse a mob by lathi, action must be taken without delay. If the mob is allowed to organise resistance, the task of the police will become more difficult, and the use of greater force may become necessary. All preparatory movements of the Police party must be carried out with expedition and an air of determination, so that it will serve as an ocular warning to the mob that effective force is about to be used. Mobs will be of different types and temperaments and the severity of lathi action must be regulated to the character of the mob. Unnecessary violence as well as ineffectiveness in action must alike be avoided.

(2) **Warning**: Before lathi action commences the mob will be clearly warned of the intention to use force. The warning will be given after drawing the attention of the mob by means of a bugle or whistle call. The Officer or Havildar giving the warning will step forward and announce in a language understood by the mob that if they do not disperse, force will be used, and that it will be effective. The warning will be given loudly. The public address loud speaker or

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megaphone will be used, when available. The riot flag, when available, will also be exhibited.

However, if the Officer in charge is satisfied that the situation is so pressing and uncontrollable that a warning is not practicable,lathi action may be resorted to without giving any warning of the intention to use force.

(3) If, after being warned, the mob refuses to disperse, the order for lathi action may be given. If the mob has been completely dispersed after the lathi action, the party engaged in action will close at the place directed by the Officer in charge. It is important that the operation must not cease until the mob is completely dispersed and has ceased to be a menace to the public peace. If the mob does not disperse by the lathi action, then firing may be resorted to on receiving orders from the Magistrate or other competent officer present.

(4) As the intention is only to disperse the mob all lathi hits should be on the soft portions of the body from the thigh to the shoulder and contact with the head or collar bone should be avoided, as far as

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practicable. Lathi charge should be by sections of the men each and as every section in action is likely to turn out early fresh sections should replace them and earlier sections withdrawn for rest.

Dispersing mobs by the use of fire-arms

242 (1) When a police party is formed for dispersing an unlawful assembly, it should be numbered and told off into two or more sections, if the size of the party and the time available admit of it. Bayonets must be fixed as soon as possible.

(2) All commands to the Police are to be given by the Officer in Command of the party. The Police are not, on any account, to fire excepting by word of Command of their Officer.

(3) As soon as a decision is taken to resort to the use of fire arms, the Officer in command will give the order to the files to load with ball ammunition and will bring the men to the loading position. This will prevent the party from being rushed while the crowd is being warned.

(4) In order to guard against all misunderstanding, Officers commanding Police parties

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are on every occasion when employed in the suppression of a riot or enforcement of the law, to ensure that the fullest warning is given to the mob in a clear and distinct manner before any order is given to fire and to take the most effectual means to explain beforehand to the people opposed to them that in the event of the police party being ordered to fire, the fire will be effective.

95) If, after being warned, the mob refuses to disperse, the order to fire may be given. If the Officer is command of the party is of opinion that it will suffice, he will give the order to fire to specified files only.

(6) Under no circumstances should a warning short be fired in the air, nor should the fire be directed over the heads of the crowd. Firing should cease the instant that it is no longer necessary.

(7) Men ordered to fire shall reload immediately after firing without further word or command until the order to cease firing is finally given.

(8) Firing should cease the moment the rioters show signs of dispersing, and all help should

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immediately be rendered to tend and convey the wounded to the Hospital.

(9) An Armed Force never be brought so close to a large and dangerous mob as to risk its either being overwhelmed by numbers or being forced to inflict heavy casualties. Firing should be carried out from a distance sufficient to obviate the risk of being rushed and to enable strict fire control to be maintained. Aim should be kept low and directed at the most threatening part of the crowd.

(10) Blank cartridges and buckshots shall never be issued to Police employed to suppress a riot.

(11) Police officers will not leave the scene of disturbance before satisfying themselves beyond all reasonable doubt that tranquillity has been restored and that there is no longer any risk of a recrudescence of the disturbance.

Procedure during and at the conclusion of Mob operations

243 (1) It is most important that an accurate diary of all reports, incidents, orders and action with the times at which those occurred, should be

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maintained. Officers in charge may not get the time to write up their own note books as the incidents occur, but they will personally ensure that the individual detailed to keep a diary does his work promptly and correctly.

(2) At the conclusion of operations, attend to the casualties, both among the mob and among own force. First aid will be given and those who need treatment should be sent to the hospital.

(3) If firing was resorted to, the number of fired cases should be counted and the balance of unfired cartridges should be verified to ensure that all ammunition is correctly accounted for.

(4) Check the men, their arms and equipments and verify their correctness.

(5)(i) A full report of the incidents should be prepared as early as possible. The diary, which should have a record of all details, with the times at which these occurred, will be the basis of this report. It will be the duty of every person who resorted to firing to give a report showing the number of rounds fired and the details regarding the firing. The names and

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address of the dead and wounded should be given as far as possible. The total number of rounds issued to each, the balance of rounds and the number of fired cases should also be shown in the reports.

(ii) These reports from the men who fired should be attached to the report submitted by the Officer in charge of the firing party.

(iii) Superintendent of Police concerned should send RT message to the range Deputy Inspector General and Inspector General Immediately after the incident followed by detailed report. "

Clause 244 and 245 of Police Manual deals with right of private defence of body and property which reads as follows:

"**Right of private defence of the body**

244. In addition to the legal provisions regarding the dispersal of unlawful assemblies, Section 100 of the Indian Penal Code confers on every person including a Police Officer to use force in the exercise of the right of private defence of the body to the extent of causing death or any other harm to the assailant, if

(1) an assault, as may reasonably cause the

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apprehension that death or grievous hurt will otherwise be the consequence; or

(2) an assault, with the intention of wrongfully confining a person under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release, is made. If the assault be not any one of these descriptions mentioned above, the right of private defence of the body does not, under section 101 of the Indian Penal Code, extend to the voluntary causing of death to the assailant, but does extend subject to the restrictions mentioned in section 99 of the Indian Penal Code, to the voluntary causing to the assailant of any harm other than death.

Right of Private defence of property

245 (1) In addition to the right of private defence of the body mentioned above, section 103 Indian Penal Code confers power on every person including a Police Officer to use force in the exercise of the right of private defence of property to the extent of causing death or any other harm to the wrong doer, if any of the following offences, the committing of which, or the

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attempting to commit which, occasions the exercise of the right;

(a) robbery;

(b) house breaking by night;

(c) mischief by fire committed on any building, tent or vessel,which building, tent or vessel is used as a human dwelling or as a place for the custody of property;

(d) theft, mischief or house trespass under such circumstance as may reasonably cause apprehension that death or grievous hurt will be the consequence, if the right of private defence is not exercised.

(2) If the offence, the committing of which or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief or criminal trespass, not of any of the descriptions mentioned above, the right of private defence of property does not, under section 104 of the Indian Penal Code, extend to the voluntary causing of death, but does not extend, subject to the restrictions mentioned in section 99 of the Indian penal Code, to the voluntary causing to the wrong-doer of any harm

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other than death. "

The Government has issued circular No. 28/2002 regarding the manner in which law and order situation regarding communal violence has to be dealt with.

Extracts from D.O. letter No. 19/69/70-Poll.I(A) dated 10th June, 1970 from the Secretary to Government of India Ministry of Home Affairs, New Delhi, to the State Government copies of which were communicated by Government for necessary action to officers, including all District Collectors and SPs in letter No. 33006-SS4/70/Home dated 02.07.1970 are reproduced below for the information and guidance of all concerned. Special emphasis to these principles will be given in the training institutions and in periodic instruction of Police personnel both in the armed police and in the local police.

"In the informal discussion of the communal situation in the country that the Prime Minister and the Home Minister had with some Chief Ministers on 23rd May, 1970 there was general agreement that communal activities and situations have to be dealt with in an entirely different manner from other law

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and order problems and that there should be no hesitation in taking the most stringent action at the first sign of communal trouble.

As you are aware our approach has been that law and order situations generally should be dealt with tactfully and with conspicuous restraint, that use of force should be avoided as far as possible and when rouse to it becomes unavoidable only the minimum force that is necessary should be used. We have advised that use of fire arms should be resorted to only when other remedies including use of tear gas or lathi charge had failed to produce the desired effect and when there was a clear and imminent danger to human life or threat of serious damages to property. This approach is essentially sound and should be repeatedly enjoined on all officers who have to deal with law and order situations, such as agitations and demonstrations by political parties, student's agitations labour demonstrations, etc. But we have also emphasised in the past that at the earliest indication of communal violence here should be no hesitation to open effective fire to break up riotous

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mobs, or those intent on communal violence and that any failure of Hesitation to take such action should be punished as grave dereliction of duty on the part of the officers concerned. And with this should be coupled the assurance that in acting firmly the officers would have the fullest support and protection from Government.

There has been a tendency to invoke, as a justification for not acting firmly right from the beginning in dealing with communal situations, the usual public criticism of ill advised or premature action in dealing with other problems of law and order. This can only be due to a failure to appreciate the distinction between the nature and consequences of communal disturbances and other law and order problems. It has been found again and again that communal disturbances if not firmly put down at the start spread rapidly, causing heavy loss of innocent lives and property, brutalization of the population involved, and destruction of the values of civilized life. They leave behind mutual jatred and bitterness, and their repercussions are wide and lasting. There is a

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fundamental difference between situations arising out of ventilation of real or imagined grievances against Government or other authorities, and those involving violence between difference communities. This difference should be brought home clearly to Magistrates and all ranks of the Police force at training institutions, be written communications and through oral advice and instruction from supervisory officers. "

So it is clear from the above provisions that in case where there is threat to life of person or property then in exercise of their private defence they can use force and in such circumstances it will not be possible for them to follow all the procedures mentioned in the preceding sections or process before order firing. Further, in case of attack between two communities, slow action to disperse is deprecated and this must be nipped in the bud itself.

It is true that though the police claim that they have followed all the procedure, it will be seen from the evidence that it will not be possible for them to follow all the procedure. Further it was in away admitted by the police officials that no lathi charge

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was ordered before order firing which is one of the preconditions to be followed as per the rules and provisions stated above. Control room was informed to get the presence of Magistrate, but that was not materialised. But it was brought out in the evidence that the miscreants had even removed the lathies from the police personnels who were posted at the end road picket and caused damage to their shield and helmet and they have to rush towards end road to protect themselves. So in such circumstances it is not possible to order lathi charge to disperse the mob. It is seen from the evidence available and also the documents produced that non lethal weapons like tear gas, grenade were used before order firing. Further it was brought out in the evidence of police party that they had fired about 30 rounds in the air which is not justifiable as per rules, the mob did not disperse and thereafter they decided to fire at the mob to disperse them. That also probable because if really all the 50 rounds used were fired against the mob as claimed by the A party, then the casualty would have been more. So it can only be said that police had taken all

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precautions substantially to disperse the mob as provided under the procedure though not in the order of preference mentioned in the for going provisions before order firing. The documents produced on the side of the E party will go to show that no ammunition given to Sri. Sherafudeen was used in the firing and that will falsifies the case of A1W23 examined on the side of A1 party that he had discussion with Sri. Sherafudeen before he ordered firing and it was he who fired first cannot be believed. So from the circumstances and also on the basis of the evidence available and the circumstances inferred by me at the time of my inspection of those place while interacting with the people, it is clear that there was a severe commotion occurred which resulted in a clash between Muslims of Beemapally area and Christians of Cheriyathura area and explosive substances were used by the Muslim miscreants and they even reached the church compound and caused damage to boats and houses and thrown bombs in church compound to create a fearsome situation in that area and this was retorted by Christian people resulted in the clash

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between these two community people. Further the presence of scalp hair skin portion the personal identity and the ownership of that article is yet to be traced and the case of death of Badusha as stated by Cw2 Dr. Smt. Sreekumari that it was not due to bullet injury but due to application of blunt force shows the gravity of the attack happened in that area before police ordered firing. So there is no possibility for the police officials to get the prior sanction from District Magistrate or Sub Divisional Magistrate to order firing arises in this case and that cannot be taken as a serious lapse on their part as well as the police officials were facing a situation involving clash between two community people and if it is not attended immediately that may lead to communal violence or riot and affect the public tranquillity not only in that area but also it may spread to the entire State. Considering the gravity of the situation, I feel that in a case like this the attempt of the communal people to promote communal violence on small issues must be nibbed at the bud itself at any cost and use of maximum force to avoid future major issues being

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developed on account of that the action of the police cannot be termed as police excess. So considering the circumstances and also from the evidence available on record, I feel that the police firing at that place under the given circumstances cannot be said to be unjustifiable. Further, the effective action taken by the police and the district administration had prevented further calamity not only in that area and spreading of such incident in other parts of the State as well. So under the circumstances it cannot be said that police action was unjustifiable under the given circumstances.

FINDINGS

From the foregoing discussions, the following findings are arrived at by me:

Reference Nos. 1 and 3:

The incident happened on 17.05.2009 though cannot be said to be a direct result of the 16th incident but it has some connection and diversion of the vehicles coming to Beemapally area due to blockage made by some Christian community people had kindled the communal feeling of the Muslims which

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prompted them to collect and go to beach area and attack the Christians taking advantage of the fact that the police force in the beach area was less when compared to the police force deployed in Cheriyathura junction and when the Muslim community people entered the church compound and caused damage to the boat and houses by using explosive substances that was retorted by the Christian community people by gathering together and in spite of effective police measures taken that could not be avoided and that resulted in death and serious injury to some persons among the Muslim community identity of one such person is yet to be traced out though some evidence of loss of scalp hair portion with skin was found at the place of occurrence and when situations became more worse and it was not possible for the police to disperse the mob even by using non lethal weapons like tear gas, grenade, etc; they were compelled to order firing and in spite of majority of the rounds were fired in the air and the mob did not disperse, they were compelled to fire at the mob. So from the circumstances, the case of the A party that police used force without any

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provocation against innocent Muslim people who were engaged in fishing activities and children playing cricket and person enjoying sea breeze in the seashore cannot be believed and accepted. Though there was some procedural lapse on the part of the police in fully implementing all the procedure prescribed before order firing, that also cannot be said that it was done in bad faith and the police firing, was not justifiable considering the gravity of the situation prevailed in that area at that time as it is for the commission to visualise the situation prevailing at that time which prompted the police officer in charge of that area to take such decision as it is easy to blame the police officer after lapse of some time on the basis of the evidence created by the local people and termed it as a police excess. Further from the nature of things, it appears that but for the severe police action taken, the commotion was nipped in the bud and it was not spread thereafter. So under the circumstances, the police action is justifiable. Though it cannot be said to be a communal violence in the strict senses, it is a commotion created by two community people who are

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likely to be provoked easily on communal basis which resulted in loss of life and property of people and if it is not handled fast, it may lead to communal violence and riot and this may spread to other areas as well quickly. So sensing the danger, it cannot be treated as meeting the unlawful assembly formed on political issues and same yardstick will not be possible in such circumstances and on that way, the action of police is justifiable in this case.

Reference No.2:

From the evidence, it is not possible to come to a definite conclusion that there was any involvement of any external agency in the incident and it is for the investigating agency to enquire into and find out as extensive investigation is required in this regard.

Reference No.4:

The place of occurrence was not as stated by A party, that is 400 to 500 metres south from the end road. But from the available evidence and the materials collected, it can only be gathered that the place of firing was on the western side of the beach and firing had taken place from a distance of 50

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metres east from the end road towards Cheriyathura junction and the entire episode would have been completed including police firing between 2.45 pm and 3.45 pm on 17.05.2009 and it should not have exceeded that time.

The time of preparation of mahazars (14.00 hours) mentioned in the mahazars in crime numbers 239/2009, 240/2009, 241/2009, 242/2009, 244/2009, 245/2009 and 246/2009 of Valiyathura Police Station prepared by the police officers namely, Sri. C. Valsalan, A.S.I(G), Vizhinjam Police Station, Sri. Mohammed Khan, Sub Inspector of Police, Thannithodu, Pathanamthitta, Sri. K.J. Venugopalan Nair, Additional Sub Inspector of Police, Fort Police Station, Thiruvananthapuram and Sri. T. Sathikumar, Sub Inspector of Police, Vanchiyoor, Thiruvananthapuram who were working in Valiyathura Police Station appears to be not correct because it is not possible for them to prepare the mahazar even if the case of both parties is accepted regarding the time of police firing. It is not known as to why the police officers had taken such a measure in this regard. So the time of

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preparation of mahazar mentioned in the mahazars prepared on 17.05.2009 in respect of the crime registered regarding the incident happened on 16.05.2009 mentioned above appears to be not correct. Notices were issued to the officers who prepared the mahazars in those cases under section 8(B) of the Commissions of Inquiry Act and they have submitted their explanations which are not convincing to me as well.

Though crime branch was authorised to conduct investigation in this matter and they were conducting the investigation satisfactorily and Jama Ath is co-operating with them, some of the witnesses have stated that they are not satisfied with the investigation as they are also police officials. Some of the witnesses who were questioned and whose statements were recorded also deposed before the commission that they have not been questioned by them. I am not really in favour of directing the Government to entrust the investigation to any other agency other than the State agency because such attitude will affect the morale of the State Police unit. I cannot blame the crime branch

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for the manner in which the investigation is conducted considering the attitude of the people in that locality and also without the co-operation of the Jama Ath, it is difficult to identify all the persons or witnesses and it will be difficult for them to proceed with the investigation as well. Further in this case, no immediate search was conducted to find out the source of the explosive substances used. I have called for an explanation from the Investigating Officer and the explanation given by him though appears to be reasonable as from the angle of the investigating officer, I feel that it appears to be not correct as the search and seizure of suspected place will always give an indication of the true picture of the incident and involving the Jama Ath in the investigation process also I do not know how far it can be said to be fair in such cases. Further, the investigating officer also cannot be blamed for not getting the identity of the accused persons involved in the incident as unless the persons affected are free to disclose the names of the miscreants within their knowledge to the Investigating Officer, it is not possible for the Investigating Officer

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to trace them out as well. So under the circumstances I do not think that entrusting the investigation to any other agency will improve the investigation process unless people of the locality decide to co-operate with the investigation and want to bring the real culprits before the Court of Law. Intensive investigation will have to be conducted by the investigating agency regarding the source of explosive substances used including neogel 90 found in that area and also as to whether there is involvement of any external agency involved in this incident as it is not possible for this Commission to give any finding on this aspect due to lack of evidence adduced on this aspect. These aspects have to be considered by the Government regarding the investigation conducted in this case.

It is also not possible for this Commission to come to a definite conclusion as to whether all injured or dead were members of the unlawful assembly involved in the commotion and committing the mischief, for want of co-operation of both parties in adducing evidence in this regard and the manner in which evidence was tendered as described above and

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the police is also not sure about this aspect. Some innocent persons coming to the place to witness the incident sustaining injury also cannot be completely ruled out.

SUGGESTIONS

1) There is a general feeling among the people and officials both police and other department that any strict action in Beemapally area is not safe to their position and they will not get protection from higher authority and there will be a tendency both from political and Government to appease the people of that locality and action will be taken against the persons who show boldness to act and that officer will be in trouble. But there is no concrete evidence or report given by any officials to any authority to solve this problem including the service organisations. Even the higher officers including police chief had a feeling that such a feeling is prevailing among the officials and he is able to feel their feelings while having interaction with them. It is also seen from the evidence that one Inspector General of Police who went to that area was prevented from discharging his duty and he was

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relieved after policemen from Poonthura Police Station came and explanation given by Jama Ath officials was that this has happened because his identity was not known to the people of the locality. But no action was seen taken in this regard whatever be the reason behind it. Similarly it is come out in newspapers that when officers of Electricity Board went to Beemapally area to check about the unauthorised illegal connections taken, they were prevented by the people and they could not discharge their duty. I am not able to justify such acts. It is clear from this that there is a tendency to prevent the officials from discharging their duties in that area and anything could be possible in that area only if the Jama Ath co-operates with them. Such a things is not an appreciable one. No smoke will come without fire and even if such a feeling is prevailing among the officials, it is the duty of the Government to ensure them that any action taken by them in good faith and in discharge of their official duty will be protected in such areas and Government will have to look into the matter and take necessary steps to remove such feeling from the mind

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of the officials and give them a feeling that they can discharge their duty in that area also as in the case of other areas.

2) It is seen from the evidence that though the leaders of both the communities were saying that there is communal harmony and brotherhood prevail among the people of the locality in Beemapally and Cheriyathura, but in reality that appears to be not true. The Christians in the locality have a feeling that there is minority oppression considering their negligible population in that area and there is an amount of tolerance prevailing in that community to create peace in the locality. There is also a feeling among the Christians that unless they go with the Muslims, it will not be safe for them to live in that area. So the leaders of both community and the political leaders of that area has to work sincerely to bring real communal harmony and peace in the locality.

3) In order to ensure permanent law under situation in costal areas like Beemapally and Cheriyathura, effective law and order measures should be planned and implemented and some suggestions

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are given for this purpose as follows:

(i) A police station in Beemapally-Cheriyathura area with sufficient force with all modern technical facility has to be established.

(ii) Web cameras in suspected areas and places where illegal activities are suspected should be installed and it should be monitored by means of a circuit camera system from the police station as well as from office of the higher police officials who are in administrative control of that area. This will prevent the illegal trade or other illegal activities in that area.

(iii) Permanent peace committees should be formed including the leaders of the Beemapally Jama Ath and Cheriyathura Pariesh committee and church, local political, social and cultural leaders, Government Officers like Police, Department of Fisheries, Revenue Department and the committee should convene meetings frequently and discuss about the problems of the locality and find out solution for the same.

(iv) The peace committee must educate the people in the locality of their responsibility to bring the criminals and other miscreants before law in stead of

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patching up their issues among themselves and isolate such persons to bring permanent peace and harmony in that locality.

(v) Sensitisation programmes must be convened by the peace committee involving legal,social and cultural activities and give them moral education and to create secular feeling among them and also educate them that man should not be a slave of the religion or caste and the religion is only a tool to bring the man in the good faith and to lead a good life.

(vi) Effective measures must be made to implement the work of Jagratha Samithis more effective in these areas and that will solve the problem in the locality to some extent.

4) Whenever an issue arose in that area between the individuals of two communities, effort must be made by the political and community leaders that it should not be viewed as a communal issue and whoever responsible for the wrong should be brought before law instead of patching up the issue.If things are patched up without resorting to legal method, then it will only encourage such things in future as well.

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5) The peace committee must arrange cultural, social and religious programmes involving both community people in that locality more often so that there will be involvement of both community people in promoting communal harmony and brotherhood and that will ease the situation in that area and avoid clash between them in future.

6) It is seen from the evidence that the main reason for involvement of illegal activities by person residing in costal areas is due to their educational and economical backwardness. To some extent this may be true as well. Whenever people are not getting opportunity to get good education and not getting good income for their livelihood, there is a possibility of diverting their attention to illegal methods to earn their livelihood. This can be prevented only if sufficient rehabilitation methods are taken by the Government in those areas. Sufficient opportunity must be given to the people of that locality to send their children to schools and educate them and government should take initiative to provide as many educational institutions as possible in these areas to provide education to

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them.

7) Rehabilitation methods for earning their livelihood also must be provided during the leap period in the seashore when they could not get income. Alternate source of income by providing income oriented job schemes for those people must be found out and provided to them at Government expenses.

8) Though there is a tendency to provide compensation to persons died or injured in such incidents to appease the feelings of the particular community people of that locality, without ascertaining the real reason behind it, that should not be encouraged because once compensation is paid, there will not be any interest for the people who sustained injury or loss their kith and kin to bring the real culprits before law. Further if it is later found that some of the persons who sustained injury or died in the incident to whom compensation was paid were also responsible for the incident, it will be difficult to realise the amount paid from them as well.

9) Without conducting proper enquiry against the officials involved in taking stringent action in such

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situation and suspending them immediately to appease the feelings of particular political party or community should be discouraged as it is likely to affect the morale of the law enforcing agency. But at the same time, if it is found that the act of such officials were unjustifiable and they have failed to exercise their discretion properly, then they must be dealt with severely as well by initiating both departmental and other legal enquiries.

10) I feel that it is necessary to strengthen the co-ordination between the District Administration and Police effectively in dealing with sensitive areas like Beemapally and Cheriyathura and such costal areas.

If these suggestions are accepted and implemented in its true spirit by the Government and other agencies, I feel that such unfortunate incidents can be avoided in future in such areas which is termed as sensitive areas.

Before parting with I will have to say one thing that both the Government, Political and Religious leaders of the locality police and the District Administration have taken effective steps to prevent

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the communal issue being spread in other areas. I will have to appreciate the local leaders of the parish committee and the Jama Ath office bearers and also the then M.L.A. Sri. Surendran Pillai, and Beemapally Rasheed, councillor for taking initiatives to prevent any untoward incidents happened thereafter in that locality and bring peace in the locality. This earnest attempt must continue so as to bring permanent peace and harmony in the locality.

I will be failing in my duty if I don't thank the counsels who appeared for different parties in conducting the Commission sittings and also helped me in discharging my duties and arriving at a just conclusion in the matter. I will have to really appreciate the sincere efforts taken by Smt. Celin Wilfred, Advocate appeared for the City Commissioner of Police. who had attended the commission sittings and helped me in finishing my work in spite of her physical impairness and difficulties and shown much enthusiasm in explaining each and every point which is likely to be answered by the Commission with all sincerity. I will have to thank Sri. Muhammad Sali,

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Advocate appearing for A1 party and Kanjiramattom Sri. T.K.Siraj, Advocate appearing for A2 party, Sri. Revisankar, Advocate who appeared for A3 party and Sri. Stephen Rosario appeared some time for A4 party and Sri. Hashim Babu Advocate appeared for Kerala State Muslim League Committee, Sri. Chandra Praveen Advocate appeared for B1 party, Smt. Sandhya Santhosh, Advocate for C party, Sri. Kamaleswaran Manikandan Nair, appearing for D party, M/s.Raman Pillai, and George Philip appeared for E2 party and Sri. A Ajayakumar Advocate for E3 party and Sri. Rajagopala Pillai, Advocate, Mavelikara who appeared for F party through Sri. Jayakrishnan Advocate Thiruvananthapuram, Sri. V.S. Sunil Kumar Advocate appeared for G party, Sri. G. Mohanraj Advocate appeared for H party and Sri. Murikkumpuzha Vijayakumar Nair and Sri. Santhoshkumar Advocates appeared for I party, the State and Sri. K.R. Syamkumar advocate for Commission have also rendered good help to me for the conduct of the proceedings smoothly and effectively. I will be failing in my duty if I don't express

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my thanks for each one of them for the services rendered by them in conducting the Commission sittings and providing the facts required for the Commission to arrive at a just conclusion and furnishing the necessary particulars or materials required for such purposes. I will be failing in my duty, if I don't express my thanks to all my office staff engaged in discharging their duty to assist me in the process of my proceedings. I will have to thank my Confidential Assistant, Smt. P.K.Ushakumari who helped me in preparing the Commission Report at the later stage as I was transferred to Thodupuzha.

Dated this the 4th day of January, 2012.

K. RAMAKRISHNAN,
Commission of Inquiry.
(District & Sessions Judge).

APPENDIX

WITNESSES EXAMINED

A – PARTY'S WITNESSES

A1 party's Witnesses:-

A1w1 - T. Basheer

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A1w2	-	Nizamudeen
A1w3	-	Halaludeen @ Alavudeen
A1w4	-	Hyderali
A1w5	-	Salam
A1w6	-	Noushad
A1w7	-	Saidali
Alw8	-	Iqubal
A1w9	-	Muhammed Yoosuf
A1w10	-	Abdul Khadar
A1w11	-	Yahiyakhan
A1w12	-	Saleem
A1VV13	-	Arshad
A1w14	-	Asiam
A1w15	-	Salamkhan
A1w16	-	Yuni@Yunis
A1w17	-	Khani
A1w 18	-	Shafeeque
A1wl9	-	Mussamil
A1w20	-	Abdul Gafoor
A1w21	-	Faizalkhan
A1w22	-	Nizam @ Nizamudeen

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A1w23 - Abdul Hassan

A1w24 - Abdul Azeez

A1w25 - Ansar

A1w26 - Bhima

A1w27 - Iqubal

A1w28 - P.A.Pouran, Advocate

A1w29 - K. Biju, I.A.S. former Sub Collector, Thiruvananthapuram.

A1w30 - V. Surendran Pillai, former Minister for Ports and Youth Affairs.

A2- PARTY's WITNESSES

Nil.

A3- PARTY's WITNESSES:-

A3w1 - Ali Hyder

A3w2 - Nizamudeen

A3w3 - Salim

A3w4 - Abdul Rasheed

A4- PARTY's WITNESSES:-

A4w1 James @ Kombu Shibu

A5- PARTY's WITNESSES:

Nil.

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A6- PARTY's WITNESSES:

Nil.

A7- PARTY's WITNESSES:

Nil.

B- PARTY'S WITNESSES

B1- PARTY'S WITNESSES:-

B1w1 - Syrus Miranda

B1w2 - Rajan Netto

B1w3 - Gireesan

B1w4 - Celin Alocious

B1w5 - Phelsita

B1w6 - Celin Jerom

B2- PARTY'S WITNESSES:-

Nil.

B3- PARTY'S WITNESSES:-

Nil.

C - PARTY'S WITNESSES

Nil.

D - PARTY'S WITNESSES

Nil.

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E - PARTY'S WITNESSES

E1-PARTY's WITNESSES:-

E1w1 - Sri. A.V. George, former DCP, Law & Order Thiruvananthapuram City.

E1w2 - Sri. Ramesh Babu, Police Assistant, Narcotic Cell, Thiruvananthapuram City. E1w3 Sri. Vinod Kumar, RSI, A.R. Camp, Thiruvananthapuram City.

E1w4 - Sri. Britto, former ASI, S.A.P. Camp, Thiruvananthapuram.

E1w5 - Sri. Sherafudeen, former ACP, DCRB,Thiruvananthapuram.

E1w6 - Sri.V.R. Rajeevan, IPS, former ADGP, Thiruvananthapuram.

E1w7 - Sri. P.D. Somarajan, former Assistant Director, (Explosives). Forensic Science Laboratory, Thiruvananthapuram.

E2 - PARTY's WITNESSES:-

Nil.

E3- PARTY's WITNESSES:-

E3w1 - Sri. K.N. Janarajan, Executive Committee Member, Police Pensioners' Welfare Association, Kollam.

F- PARTY's WITNESSES

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Fw1 - Sri. C.G. Suresh kumar, former ACP, Shangumugham.

Fw2 - Sri. R. Pradeep Kumar, former C.I. Of Police, Poonthura.

G - PARTY's WITNESSES

Nil.

H - PARTY'S WITNESSES

Nil.

I- PARTY's WITNESSES

Nil.

COMMISSION'S WITNESSES

CW1 - Sri. Sanjay Kaul. former District Collector, Thiruvananthapuram.

CW2 - Dr. K. Sreekumari, former Head of the Department of Forensic Medicine, Medical College Hospital, Thiruvananthapuram.

CW3 - Sri. S. Gopinath, I.P.S, former City Police Commissioner. Thiruvananthapuram.

CW4 - Sri. Jacob Punnoosc, Director General of Police and State Police Chief, Kerala.

CW5 - Sri. Joy, Complainant in Crime No. 250/09 of Valiyathura Police Station.

CW6 - Sri. Anand, Reporter, THE HINDU" Newspaper,

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Tvpm.

CW7 - Shri. Mohanan s/o Gopalan, T.C.45/670, Chcriyathura. Muttathura Village.

CW8 - Sri. P. Vishnu Potty, former Director of Forensic Science Laboratory, Thiruvananthapuram.

CW9 - Sri. James Philipose, former Director, Forensic Science Laboratory, Thiruvananthapuram.

CW10 - Smt. Sumi Mithra, Scientific Assistant, Forensic Science Laboratory, Thiruvananthapuram.

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EXHIBITS MARKED

A - PARTY'S EXHIBITS

A1 party's Exhibits:-

A1- 1 - Wound Certificate dated 18.06.2009 in respect of A1W21 Faizal from PRS Hospital, Thiruvananthapuram.

A1-2 - Certified copy of final report in CrimeNo.222/05 of Valiyathura Police Station submitted in the judl. Fist Class Magistrate Court - II, Thiruvananthapuram.

A1-3 - Copy of Voucher No.71 dated 24.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(a) - Copy of Voucher No.63 dated 21.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(b) - Copy of Voucher No.62 dated 21.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

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A1-3(c) - Copy of Voucher No.58 dated 20.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(d) - Copy of Voucher No.54 dated 20.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(e) - Copy of Voucher No.50 dated 19.05.2009 issued by the Secretary Beemapally Muslim Jama-Ath.

A1-3(F) - Copy of Voucher No.49 dated 19.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(g) - Copy of Voucher No.41 dated 16.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(h) - Copy of Voucher No.40 dated 16.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.A1-3(i) - Copy of Voucher No.37 dated 19.05.2009 issued by the Secretary Beemapally Muslim Jama-Ath.

A1-3(j) - Copy of Voucher No.32 dated 14.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(k) - Copy of Voucher No.29 dated 13.05.2009 issued by the Secretary Beemapally Muslim Jama-Ath.

A1-3(l) - Copy of Voucher No. 19 dated 11.05.2009 issued by the Secretary Beemapally Muslim Jama-Ath.

A1-3(m) - Copy of Voucher No.17 dated 10.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(n) - Copy of Voucher No.15 dated 10.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(o) - Copy of Voucher No. 12 dated 9.05.2009 issued by the . Secretary, Beemapally Muslim Jama-Ath.

A1-3(p) - Copy of Voucher No.6 dated 8.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(q) - Copy of Voucher No.5 dated 7.05.2009 issued by

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the Secretary, Beemapally Muslim Jama-Ath.

A1-3(r) - Copy of Voucher No.4 dated 7.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-3(s) - Copy of Voucher No.2 dated 7.05.2009 issued by the Secretary, Beemapally Muslim Jama-Ath.

A1-4 - Copy of minutes (8 sheets) of the meeting of Cheriyathura Souharda Samithi on 01.07.2009.

A1-5 - Enquiry report of People's Union for Civil Liberties (PUCL), Kerala State Branch. Freedom Road, Kaloor, Kochi.

A1–6 - Certified copy of postmortem certificate showing injuries sustained to the leg of Nizzamudeen.

A2 party's Exhibits:- Nil.

A3 party's Exhibits:- Nil.

A4 party's Exhibits:-

A4-1 - Copy of Family Register of James @ Kombu Shibu issued from Cheriyathura Assumption Church.

A4-2 - Copy of receipt of monthly subscription issued to Lilly Antony from do.

A4-3 - Copy of Baptism Certificate of James@Kombu Shibu issued from do.

A4-4 - Letter dtd. 2.7.2009 from the Public Information Officer, S.A.P. Thiruvananthapuram addressed to Sri.Steephen Rozario.

A4-5 - Letter dtd. 2.7.2009 from the State Public Information Officer, Crime Branch CID Head Quarters, Thiruvananthapuram addressed to Sri. Steephen Rozario.

A4-6 - Application dated 10.6.2009 from Advocate Sri.

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Steephen Rozario addressed to the Asst. Information Officer, Office of the DGP, Thiruvananthapuram.

A4-7 - Copy of application dated 9.7.2009 from Advocate Sri. Steephen Rozario addressed to the Asst. Public Information Officer, Office of the CBCID, Muttada, Thiruvananthapuram.

A4-8 - Letter dated 30.6.2009 from State Public Information Officer, Thiruvananthapuram City addressed to Advocate Sri. Steephen Rozario.

A4-9 - Letter dated 9.7.2009 from State Public Information Officer, Superintendent of Police Office, Crime Branch CID, Thiruvananthapuram City addressed to Advocate Sri. Steephen Rozario.

A5 party's Exhibits:- Nil.

A6 party's Exhibits:- Nil.

A7 party's Exhibits:- Nil.

B - PARTY'S EXHIBITS

Bl party's Exhibits:- Nil.

B2 party's Exhibits:- Nil.

B3 party's Exhibits:- Nil.

C- PARTY'S EXHIBITS

NIL.

D - PARTY'S EXHIBITS

D1 - Write-up on "Terrorism" by Sri. Kodiyeri Balakrishnan, former Home Minister in Mathrubhumi daily (Page 4) dated 21.07.2010.

E - PARTY'S EXHIBITS

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El party's Exhibits:-

El- 1	-	Bandbust duty arrangements in connection with Law and Order duty at Cheriyathura on 16.5.2009 at 11.50 am to 17.5.2009 at 8.00 am
El- 2	-	Attested copy of Control Room General Diary 16/5 dated 16.5.2009.
El-3	-	Attested copy of Control Room General Diary 17 dated 17.5.2009.
E-4	-	Wireless hard copy of Cheriyathura incident dated 17.5.2009.(51 sheet)
El-5	-	Voice log CD. Dated 16.5.2009 to 23.5.2009.
El-6	-	Clipping (CD) of preparation of mahazar in Crime No. 247/2009 of Valiyathura Police Station.
El-7	-	Video Clipping of scenes on 16.5.2009 & 17.5.2009 at Cheriyathura before firing.
El-8	-	Video clipping (CD) from Kairali Channel dtd. 17.5.2009.
E1-9	-	Video clipping (CD) from India Vision dtd. 17.5.2009.
E1-10	-	Video clipping (CD) from Asianet Channel dtd. 17.5.2009.
El-11	-	Video clipping (CD.) scene after firing dtd. 17.5.2009.
El-12	-	Report regarding non-lethal weapons used issued from A.R. Camp, (photo copy)
El-13	-	Arms and Ammunitions issued Register dated 17.5.2009 (Photo copy)
El-14	-	Copy of stock register of Arms and Ammunitions from SAP Camp, D company.

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El-15	-	Schedules regarding the objects lost during official duty on 17.5.2009.
El-16	-	Certified copy of mahazar in Crime No.247/09 of Valiyathura Police Station.
El-17	-	Certified copy of report prepared by Sri. P.D. Somarajan, Assistant Director of Explosives, Forensic Science Laboratory, Thiruvananthapuram in Cr. No. 247/09 of Valiyathura Police Station.
El-18	-	Certified copy of certificate prepared by C. Sathyadas, Sub Inspector, Bomb Disposal & Diffusal Squard, SB CID, HQ, Thiruvananthapuram dtd. 18.5.09.
El-19	-	Certified copy of F.S.L. Report in Cr. No. 247/09 of Valiyathura Police Station dated 13.7.2010.
E1-20	-	Certified copy of F.S.L. Report dated 20.5.2010 in Cr. No. 247/09 Valiyathura Police Station.
El-21	-	Certified copy of F.S.L. Report dated 3.4.2010 in Cr. No. 247/09 Valiyathura Police Station.
E1-22	-	Certified copy of Postmortem Certificate of Bhadusha.
El-23	-	Certified copy of Postmortem Certificate of Ahamed Ali.
El-24	-	Certified copy of Postmortem Certificate of Feroz.
El-25	-	Certified copy of Postmortem Certificate of Syed Ali.
E126	-	Certified copy of Postmortem Certificate of Abdul Hakeem.
El-27	-	Certified copy of Postmortem Certificate of Ahamed Khani @ Khani Haji.

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EI-28 - Copy of report prepared by Sri. P.D. Somarajan, Assistant Director of Explosives, Explosive Forensic Science Laboratory, Thiruvananthapuram in Cr. No. 247/09 of Valiyathura Police Station.

EI-29 - Certified Copy of Inquest report of Ahamed Ali, aged 50 years, S/o Bapukannu, Valiyavilakom Purayidom, T.C.46/70-28, Beemapally.

EI-30 - Certified Copy of Inquest report of Abdul Hakim, aged 32 years, S/o Mahadeen, T.C.46/750(1), Muttathara, Beemapally.

EI-31 - Certified Copy of Inquest report of Badusha, aged 35 years, S/o Kanialudeen, Beemapally.

EI-32 - Certified Copy of Inquest report of Firoz, aged 18 years , S/o Mohammed Ismail, T.C.42/633, Beemapally.

EI-33 - Certified Copy of Inquest report of Saidali, aged 23 years, S/o Moideen Kannu, Beemapally.

E1-34 - Certified Copy of Inquest report of Ahamed Khani @ Khani Haji, aged 65 years ,s/o Peerukannu, T.C.45/772, A.S. Manzil, Beemapally.

EI-35 - Situation report of the Asst. Commissioner of Police, District Special Branch dated 17.5.2009.

EI-36 - Situation report of the Asst. Commissioner of Police, District Special Branch dated 17.5.2009.

E2 Party's Exhibits:-

E2-1 - Page No. 3 of THE HIND[1] daily dated 17th May 2009
(News item under the heading 'clashes at Beemapally-Cheriyathura')

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3/3547/2013

E2-2 - Page No. 1 of 'THE HiND' daily dated 18th May 2009
(News item under the heading 'four killed in Cheriyathura violence')

E2-3 - Page No. 3 of 'THE HINDU' daily dated 18th May 2009 (News item under the heading 'Ban orders at Cheriathura-Beemapally)

E2-4 - Page No. 3 of 'THE HINDU' daily dated 19th May 2009 (News item under the heading 'two persons died of bullet wounds : Police')

E2-5 - Page No. 3 of 'THE HINDU' daily dated 20th May 2009 (News item under the heading 'Cheriyathura violence: total rises to six')

E2-6 - Page No. 3 of 'THE HINDU' daily dated 21st May 2009 (News item under the heading 'call to expedite probe')

E2-7 - Page No. 3 of 'THE HINDU' daily dated 23rd May 2009 (News item under the heading 'Firing: 4 Police Officers Suspended')

E3 Party's Exhibits:-

Nil

F - PARTY'S EXHIBITS

F1 - Wound certificate of C.G. Suresh Kumar. (PW1)

F2 - Certified copy of mahazar in Crime No. 247/09 of Valiyathura Police Station prepared by C.I. Sri. Pradeep Kumar (PW.2).

G - PARTY'S EXHIBITS

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G1 - Certified copy of General Diary of Valiyathura Police Station dated 16.5.2009.

G2 - Carbon copy of duty abstract of Sri. K.J. Johnson, former S.I. of Police, Valiyathura dated 16.5.2009 to 21.5.2009.

G3 - True photo Copy of wound certificate of Sri. J. Johnson, S.I. of Police, Valiyathura dated 21.5.2009.

G4 - Letter CO.201/2009 TC dated 20.2.2009 of Commissioner of Police, Thiruvananthapuram City.

G5 - Certificate issued by Chief Judl. Magistrate, Thiruvananthapuram dated 29.9.2009.

H - PARTY'S EXHIBITS

H1 - Carbon copy of Seizure Mahazer produced by CBCID in Cr.No,84/CR/SI/09 (Valiyathura Police Station in Cr.No.247/2009) through Al Wil Yahiyakhan.

H2 - Photo copy of postal acknowledgment card received by Arshad (A1W13) from Shri.A. Shanavas, Dy SR CBCID, Thiruvananthapuram.

H3 - Photo copy of Notice dated 16.06.10 issued to Arshad (A1W13) by -do-

H4 - Photo copy of postal acknowledgment card received by Salmankhan (A1W15) from Shri.A. Shanavas, Dy SP, CBCID, Thiruvananthapuram.

H5 - Photo copy of acknowledgment card received by Abdul Gafoor (A1W20) from Sri. A. Shanavas, Dy SP, CBCID, Thiruvananthapuram.

H6 - First information statement in crime No.

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246/2009 of Valiyathura Police Station.

H6(a) - First Information Report in crime No. 246/2009 of do.

H7 - Photo copy of scene mahazar in Crime No. 245/2009 of Valiyathura Police Station.

H8 - First Information Statement of Phelisita in Crime No. 249/2009 of Valiyathura Police Station.

H9 - First Information report in Crime No. 245/2009 of do.

H10 - First Information statement in Crime No.242/2009 of do.

H11 - First Information report in Crime No.242/2009 of do.

H12 - Photo copy of Scene mahazar in Crime No. 242/2009 of do.

H13 - First Information statement in Crime No. 247/2009 of do.

H14 - First Information Report in Crime No.247/2009 of do.

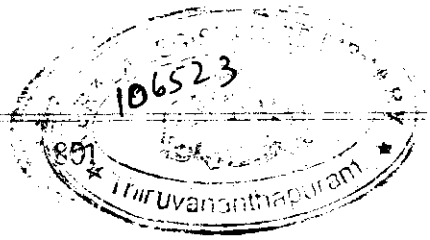
H15 - Photo copy of scene mahazar in crime No.254/2009 of do.

H16 to H21- Forensic Science Laboratory Reports of various material objects involved in Crime No.247/2009 of Valiyathura Police Station.

H22 - FIR and FIS given by Sri. Joy, (CW.5) in Crime No. 250/09 of Valiyathura Police Station. (Photo copy)

H23 - FIR and FIS in Crime No. 239/09 of Valiyathura Police Station. (do)

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H24	-	FIR and FIS in Crime No. 240/09 of Valiyathura Police Station.	(do)
H25	-	FIR and FIS. in Crime No. 241/09 of Valiyathura Police Station.	(do)
H26	-	FIR and FIS in Crime No. 243/09 of Valiyathura Police Station.	(do)
H27	-	FIR and FIS in Crime No. 244/09 of Valiyathura Police Station.	(do)
H28	-	FIR and FIS in Crime No. 248/09 of Valiyathura Police Station.	(do)
H29	-	FIR and FIS in Crime No.251/09 of Valiyathura Police Station.	(do)
H30	-	FIR and FIS in Crime No. 252/09 of Valiyathura Police Station.	(do)
H31	-	FIR and FIS in Crime No. 253/09 of Valiyathura Police Station.	(do)
H32	-	FIR and FIS in Crime No. 255/09 of Valiyathura Police Station.	(do)
H33	-	FIR and FIS in Crime No.256/09 of Valiyathura Police Station.	(do)
H34	-	FIR and FIS in Crime No.257/09 of Valiyathura Police Station.	(do)
H35	-	FIR and FIS in Crime No.258/09 of Valiyathura Police Station.	(do)
H36	-	FIR and FIS in Crime No.259/09 of Valiyathura Police Station.	(do)
H37	-	FIR and FIS in Crime No.260/09 of Valiyathura Police Station.	(do)
H38	-	FIR and FIS in Crime No.261/09 of	

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		Valiyathura Police Station.	(do)
H39	-	FIR and FIS in Crime No.262/09 of Valiyathura Police Station.	(do)
H40	-	FIR and FIS in Crime No.263/09 of Valiyathura Police Station.	(do)
H41	-	FIR and FIS in Crime No. 264/09 of Valiyathura Police Station.	(do)
H42	-	FIR and FIS in Crime No. 265/09 of Valiyathura Police Station.	(do)
H43	-	FIR and FIS in Crime No.266/09 of Valiyathura Police Station.	(do)
1144	-	FIR and FIS in Crime No.267/09 of Valiyathura Police Station.	(do)
H45	-	FIR and FIS in Crime No.268/09 of Valiyathura Police Station.	(do)
H46	-	FIR and FIS in Crime No. 270/09 of Valiyathura Police Station.	(do)
H47	-	FIR and FIS in Crime No. 272/09 of Valiyathura Police Station.	(do)
H48	-	FIR and FIS in Crime No. 273/09 of Valiyathura Police Station.	(do)
H49	-	FIR and FIS in Crime No. 274/09 of Valiyathura Police Station.	(do)
H50	-	FIR and FIS in Crime No. 275/09 of Valiyathura Police Station.	(do)
H51	-	FIR and FIS in Crime No. 276/09 of Valiyathura Police Station.	(do)
H52	-	FIR and FIS in Crime No. 277/09 of Valiyathura Police Station.	(do)

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H53	-	FIR and FIS in Crime No. 285/09 of Valiyathura Police Station.	(do)
H54	-	FIR and FIS in Crime No. 168/09 of Poonthura Police Station.	(do)
H55	-	FIR and FIS in Crime No. 172/09 of Poonthura Police Station.	(do)
H56	-	FIR and FIS in Crime No.191/09 of Poonthura Police Station.	(do)
H57	-	FIR and FIS in Crime No. 192/09 of Poonthura Police Station.	(do)
H58	-	FIR and FIS in Crime No. 193/09 of Poonthura Police Station.	(do)
H59	-	FIR and FIS in Crime No. 194/09 of Poonthura Police Station.	(do)
H60	-	FIR and FIS in Crime No. 196/09 of Poonthura Police Station.	(do)
H61	-	FIR and FIS. in Crime No.197/09 of Poonthura Police Station.	(do)
H62	-	FIR and FIS in Crime No. 198/09 of Poonthura Police Station.	(do)
H63	-	FIR and FIS in Crime No. 199/09 of Poonthura Police Station.	(do)
H64	-	FIR and FIS in Crime No.200/09 of Poonthura Police Station.	(do)
H65	-	FIR and FIS in Crime No.201/09 of Poonthura Police Station.	(do)
H66	-	FIR and FIS in Crime No.202/09 of Poonthura Police Station.	(do)
H67	-	FIR and FIS in Crime No.203/09 of	

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		Poonthura Police Station.	(do)
H68	-	FIR and FIS in Crime No.204/09 of Poonthura Police Station.	(do)
H69	-	FIR and FIS in Crime No.206/09 of Poonthura Police Station.	(do)
H70	-	FIR and FIS in Crime No.207/09 of Poonthura Police Station.	(do)
H71	-	FIR and FIS in Crime No.208/09 of Poonthura Police Station.	(do)
H72	-	FIR and FIS in Crime No.209/09 of Poonthura Police Station.	(do)
H73	-	FIR and FIS in Crime No.210/09 of Poonthura Police Station.	(do)
H74	-	FIR and FIS in Crime No.211/09 of Poonthura Police Station.	(do)
H75	-	FIR and FIS in Crime No. 213/09 of Poonthura Police Station.	(do)
H76	-	FIR and FIS in Crime No.214/09 of Poonthura Police Station.	(do)
H77	-	FIR and FIS in Crime No. 217/09 of Poonthura Police Station.	(do)
H78	-	FIR and FIS in Crime No. 215/09 of Poonthura Police Station.	(do)
H79	-	FIR and FIS in Crime No. 216/09 of Poonthura Police Station.	(do)
H80	-	FIR and FIS in Crime No.218/09 of Poonthura Police Station.	(do)
H81	-	First Information Statement in Crime No. 2/2010 of CBCID.	

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H82 - Photoo copy of Certificate of chemical analysis in respectof Abdul Hakkim dated 11.07.2010.

H83 - Photo copy of Certificate of chemical analysis in respect of Khani Haji @ Ahammed Khani dated 8.1.2010..

H84 - Photo copy of Certificate of chemical analysis in respect of Ahammed Ali dated 11.7.2010.

H85 - Photo copy of Certificate of chemical analysis in respect of Badusha dated 11.7.2010.

H86 - Photo copy of certificate of chemical analysis in respect of Firoz dated 11.7.2010.

H87 - Photo copy of certificate of chemical analysis in respect of Syed Ali dated 11.7.2010.

H88 - Photo copy of the report submitted by Dr. Sreekumari, former Head of the Department of Forensic Medicine, Medical College Hospital, Thiruvananthapuram.

I- PARTY'S EXHIBITS

Nil

COMMISSION'S EXHIBITS

C1 - Photocopy of Driving License of Nizamudeen (A1W2).

C2 - Photocopy of Passport of Nizamudeen issued in 1994.

C3 - Photocopy of Passport of Nizamudeen issued on 15.01.2004.

C4 - F.I. Statement given by Halaludeen (A1W3) before the Poonthura Police Station on 13.06.2009. (Photo copy)

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C5	-	F.I.R in Crime .No.212/2009 of Poonthura Police Station. (do)
C6	-	Copy of Case Record in respect of Yahiya Khan (A1W11) produced from Medical College Hospital, Thiruvananthapuram.
C6(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C7	-	Copy of Case Record in respect of Abdul Gafoor (A1W20) produced from Medical College Hospital, Thiruvananthapuram.
C8	-	Copy of Case Record in respect of Rehuman produced from Medical College Hospital, Thiruvananthapuram.
C8(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C9	-	Copy of Case Record in respect of Khani produced from Medical College Hospital, Thiruvananthapuram.
C9(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C10	-	Copy of Case Record in respect of Nizam (A1W22) produced from Medical College Hospital, Thiruvananthapuram.
C10(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C11	-	Copy of Case Record in respect of Nizamudeen produced from Medical College Hospital, Thiruvananthapuram.
C11(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-Copy of Case Record in respect of Shefeek produced from Medical College Hospital,

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Thiruvananthapuram.

C12(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C13 - Medical College Hospital, Thiruvananthapuram.

C 13(a) - Copy of Accident Register-cum-wound Certificate in Copy of Accident Register-cum-wound Certificate in respect of -do-

C14 - Copy of Case Record in respect of Faizal produced from Medical College Hospital, Thiruvananthapuram.

C14(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C15 - Copy of Case Record in respect of Badusha produced from Medical College Hospital, Thiruvananthapuram.

Cl 5(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C16 - Copy of Case Record in respect of Yoouniz produced from Medical College Hospital, Thiruvananthapuram.

C16(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C 17 - Copy of Case Record in respect of Arshad produced from Medical College Hospital, Thiruvananthapuram.

C 17(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-Copy of Case Record in respect of Iqubal (AIW)produccd from Medical College Hospital, Thiruvananthapuram.

C18 - Copy of Accident Register-cum-wound Certificate in respect of -do-

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C18(a)	-	Copy of Case Record in respect of Sammil produced from Medical College Hospital, Thiruvananthapuram.
C 19(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C20	-	Copy of Case Record in respect of Nazeer produced from Medical College Hospital, Thiruvananthapuram.
C20(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C21	-	Copy of Case Record in respect of Shafeek produced from Medical College Hospital, Thiruvananthapuram.
C21(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C22	-	Copy of Case Record in respect of Hyder Ali (A1W4) produced from Medical College Hospital, Thiruvananthapuram.
C 22(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C23	-	Copy of Case Record in respect of Salim produced from Medical College Hospital, Thiruvananthapuram.
C23(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C24	-	Copy of Case Record in respect of Saleem produced from Medical College Hospital, Thiruvananthapuram.
C24(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C25	-	Copy of Case Record in respect of Salman Khan

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produced from Medical College Hospital, Thiruvananthapuram.

C25(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C26 - Copy of Case Record in respect of Ali (A1W7) produced from Medical College Hospital, Thiruvananthapuram.

C26(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-Copy of Case Record in respect of Salam(AlW5)produced from Medical College Hospital, Thiruvananthapuram.

C27(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-Copy of Case Record in respect of Noushad(AlW6) produced from Medical College Hospital, Thiruvananthapuram.

C28(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C29 - Copy of Case Record in respect of Aslam produced from Medical College Hospital, Thiruvananthapuram.

C29(a) - Copy of Accident Register-cum-wound Certificate in respect of-do-

C30 - Copy of Case Record in respect of Maheen Kannu produced from Medical College Hospital, Tvpm.

C30(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C31 - Copy of Case Record in respect of Maheen produced from Medical College Hospital, Thiruvananthapuram.

C31(a) - Copy of Accident Register-cum-wound Certificate

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in respect of -do-

C32 - Copy of Case Record in respect of Joy produced from Medical College Hospital, Thiruvananthapuram.

C32(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-Copy of Case Record in respect of Peeru Muhammed produced from Medical College Hospital, Thiruvananthapuram.

C33(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C34 - Copy of Accident Register-cum-wound Certificate in respect ofFiroz

C35 - Copy of Accident Register-cum-wound Certificate in respect of Sabeer

C36 - Copy of Accident Register-cum-wound Certificate in respect of Abdul Razak

C37 - Copy of Accident Register-cum-wound Certificate in respect of Sureshkumar, ACP.

C38 - Copy of Accident Register-cum-wound Certificate in respect of K.J. Johnson, S.I.

C39 - Copy of Accident Register-cum-wound Certificate in respect of Sharafudeen, AC.

C40 - Copy of Accident Register-cum-wound Certificate in respect of Lai.M.S., SAP Camp, Thiruvananthapuram.

C41 - Copy of Accident Register-cum-wound Certificate in respect of Sudheeshkumar, do. do.

C42 - Copy of Accident Register-cum-wound Certificate in respect of Saju.R do. do.

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C43 - Copy of Accident Register-cum-wound Certificate in respect ofBinoj, do. do.

C44 - Copy of Accident Register-cum-wound Certificate in respect of Viswakumar, do. do.

C45 - Copy of Accident Register-cum-wound Certificate in respect of Gowthaman, do. do.

C46 - Copy of Accident Register-cum-wound Certificate in respect of Aswani.J.S., do. do.

C47 - Copy of Accident Register-cum-wound Certificate in respect of Aneesh.P.K., do. do.

C48 - Copy of Accident Register-cum-wound Certificate in respect of Dijesh.M.C, SAP Camp,Thiruvananthapuram.

C49 - Copy of Accident Register-cum-wound Certificate in respect ofPraveen.S, do. do.

C50 - Copy of Accident Register-cum-wound Certificate in respect of Suresh Gopi, do. do.

C51 - Copy of Accident Register-cum-wound Certificate in respect of Suresh, FD 1378.

C52 - Copy of Accident Register-cum-wound Certificate in respect of Dinesh kumar, FD 1644.

C53 - Copy of Accident Register-cum-wound Certificate in respect of Santhosh kumar, FM 4482.

C54 - Copy of Accident Register-cum-wound Certificate in respect of Gireeshan, FD 1351.

C55 - Copy of Accident Register-cum-wound Certificate in respect of Pradeepkumar, FD 1380.

C56 - Copy of Case Record in respect of Khabeer produced from SR Hospital, Thiruvananthapuram.

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C56(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C57 - Copy of Case Record in respect of Ali produced from SR Hospital, Thiruvananthapuram.

C57(a) - Copy of Accident Register-cum-wound Certificate inrespect of -do-

C58 - Copy of Case Record in respect of Ameer Hamsa produced from SR Hospital, Thiruvananthapuram.

C58(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C59 - Copy of Case Record in respect of Haja produced from SR Hospital, Thiruvananthapuram.

C59(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C60 - Copy of Case Record in respect of Hameed produced from SR Hospital, Thiruvananthapuram.

C60(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C61 - Copy of Case Record in respect of Moidheen produced from SR Hospital, Thiruvananthapuram.

C61(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

C62 - Copy of Case Record in respect of Nasumudheen produced from SR Hospital, Thiruvananthapuram.

C62(a) - Copy of Accident Register-cum-wound Certificate in respect of -do-

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C63	-	Copy of Case Record in respect of Shajahan produced from SR Hospital, Thiruvananthapuram.
C63(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C64	-	Copy of Case Record in respect of Sulfiker produced from SR Hospital, Thiruvananthapuram.
C64(a)	-	Copy of Accident Register-cum-wound Certificate in respect of -do-
C65	-	Copy of Accident Register-cum-wound Certificate in respect of Iqubal.
C66	-	Copy of Accident Register-cum-wound Certificate in respect of Almas.
C67	-	Copy of Accident Register-cum-wound Certificate in respect of Razoolkhan.
C68	-	Copy of Accident Register-cum-wound Certificate in respect of Jabbar.
C69	-	Copy of Accident Register-cum-wound Certificate in respect of Nazeer.
C70	-	Copy of Accident Register-cum-wound Certificate in respect of Abdul Vahid.
C71	-	Copy of Accident Register-cum-wound Certificate in respect of Sadique.
C70	-	Copy of Accident Register-cum-wound Certificate in respect of Abushahman.
C73	-	Copy of Accident Register-cum-wound Certificate in respect of Shajahan.
C74	-	Copy of Circular No. 18/2009 dated 27.4.2009 of Home Department, Govt. of Kerala.

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C75 & C76- Rough plan and manuscript report dated 18.5.2009. prepared by Sri. James Philipose, former Director, F.S.L. Thiruvananthapuram.

C77 & C78- Carbon copy of reports dated 17.5.2009 and 18.5.2009. in Crime No. 239/09 & 241/09 Valiyathura Police Station prepared by Smt. Sumi Mithra, Scientific Assistant, F.S.L., Thiruvananthapuram.

C79 - The Hindu daily dated 17.5.2009.

C80 - Do. dated 18.5.2009.

C80(a) - Do. dated 19.5.2009.

C81 - Photo copy of print out regarding Cheriyathura incidents in the HINDU daily dated 17.5.2009.

C82 - Photo copy of print out regarding Cheriyathura incidents in the HINDU daily dated 18.5.2009.

C83 - Photo copy of print out regarding Cheriyathura incidents in the HINDU daily dated 18.5.2009.

C84 - Photo copy of print out regarding Cheriyathura incidents in the HINDU daily dated 19.5.2009.

C84(a) Photo copy of print out regarding Cheriyathura incidents in the HINDU daily dated 19.5.2009.

C85 - Attested photo copy Accident cum wound certificate of Khani Haji dated 19.5.2009 issued from General Hospital, Thiruvananthapuram.

C86 - Attested photo copy of case diary of Khani Haji dated 19.5.2009 issued from General Hospital, Thiruvananthapuram.

C87 - Attested photo copy Accident cum wound certificate of Khani Haji dated 17.5.2009 issued from Govt. Opthalmic Hospital, Thiruvananthapuram.

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C88 - Attested photo copy case diary of Khani Haji dated 17.5.2009 issued from General Hospital, Thiruvananthapuram.

C89 - Photo copy of Accident cum wound certificate of Khani Haji dated 18.5.2009 issued from Medical College Hospital, Thiruvananthapuram.

C90 - Attested photo copy of Case records of Khani Haji dated 19.5.2009 issued from M.C. Hospital, Thiruvananthapuram.

4-1-12.

K. RAMAKRISHNAN,

Commission of Inquiry.
(District & Sessions Judge).



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Government Central Press, Thiruvananthapuram, 2013



GOVERNMENT OF KERALA

Action Taken Memorandum on the findings of

Sri K. Ramakrishnan

Commission of Inquiry

Home (SSA) Department, Government Secretariat
Thiruvananthapuram.

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106523
21/10/16

തിരുവനന്തപുരം ജില്ലയിലെ ചെറിയതുറയിൽ 17.05.2009 - ന് നടന്ന പോലീസ് വെടിവെയ്പ് സംബന്ധിച്ച് ശ്രീ കെ. രാമകൃഷ്ണൻ അന്വേഷണ കമ്മീഷൻ റിപ്പോർട്ട് ബഹു.കേരള നിയമ സഭയിൽ സമർപ്പിക്കുന്നതിൽ കാലതാമസം നേരിട്ടുള്ളതിനുള്ള വിശദീകരണം.

ചെറിയതുറയിൽ 17.05.2009 - ന് നടന്ന പോലീസ് വെടിവെയ്പ് സംബന്ധിച്ച് ശ്രീ കെ. രാമകൃഷ്ണൻ അന്വേഷണ കമ്മീഷൻ റിപ്പോർട്ട് 04.01.2012-ൽ സർക്കാരിന് സമർപ്പിക്കുകയുണ്ടായി. 1952-ലെ കമ്മീഷൻസ് ഓഫ് എൻക്വയറി ആക്ടിലെ വകുപ്പ് 3(4) പ്രകാരം അന്വേഷണ കമ്മീഷൻ റിപ്പോർട്ട് സമർപ്പിക്കപ്പെട്ട് 6 മാസത്തിനുള്ളിൽ കമ്മീഷൻ റിപ്പോർട്ടും അതിന്മേൽ സർക്കാർ സ്വീകരിച്ച നടപടികൾ സംബന്ധിച്ച ആക്ഷൻ ടേക്കൺ മെമ്മോറാണ്ടവും നിയമ സഭയ്ക്ക് സമർപ്പിക്കേണ്ടതുണ്ട്.

ശ്രീ കെ. രാമകൃഷ്ണൻ കമ്മീഷൻ സമർപ്പിച്ച റിപ്പോർട്ടിലെ നിഗമനങ്ങൾ, മുൻ കരുതലുകൾ, നിർദ്ദേശങ്ങൾ, ശുപാർശകൾ എന്നിവ സംബന്ധിച്ച് 31.10.2012 തീയതി സർക്കാർ (ആർ.റ്റി) നം. 3217/2012/ആഭ്യന്തരം നമ്പർ ഉത്തരവ് പുറപ്പെടുവിക്കുകയുണ്ടായി. ഉത്തരവിന്മേൽ സ്വീകരിച്ച നടപടി സംബന്ധിച്ച് ധനകാര്യ വകുപ്പ്, റവന്യൂ വകുപ്പ്, മത്സ്യ ബന്ധന ഉറമുഖ വകുപ്പ്, തദ്ദേശ സ്വയം ഭരണ വകുപ്പ്, പൊതു വിദ്യാഭ്യാസ വകുപ്പ്, സംസ്ഥാന പോലീസ് മേധാവി, ജില്ലാ കളക്ടർ, തിരുവനന്തപുരം, എന്നീ വകുപ്പുകൾ നടപടി റിപ്പോർട്ട് യഥാസമയം ലഭ്യമാക്കുവാൻ കാലതാമസം വന്നതിനാൽ ബഹു. കേരള നിയമ സഭ മുൻപാകെ റിപ്പോർട്ട് സമർപ്പിക്കുവാൻ കാലതാമസം ഉണ്ടായി. യഥാസമയം ഓർമ്മക്കുറിപ്പും, അർദ്ധ ഔദ്യോഗിക ഓർമ്മക്കുറിപ്പും നിരന്തരം നല്കി, നടപടി ത്വരിതപ്പെടുത്തുവാൻ എല്ലാ ശ്രമങ്ങളും ആഭ്യന്തര വകുപ്പ് സ്വീകരിക്കുകയുണ്ടായി. ഇത് മനഃപൂർവ്വമുള്ള വീഴ്ചയല്ല എന്നും തികച്ചും ഭരണപരമായ കാരണത്താലാണ് കാലതാമസം ഉണ്ടായത് എന്നും ബഹു. നിയമ സഭയെ അറിയിക്കുന്നു. ഇപ്രകാരം കാലതാമസം ഉണ്ടാകാതിരിക്കാൻ ഭാവിയിൽ കൂടുതൽ ശ്രദ്ധ ചെലുത്തുന്നതാണ്.

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തിരുവനന്തപുരം ജില്ലയിലെ ചെറിയതുറയിൽ 17-05-2009 ന് നടന്ന പോലീസ് വെടിവെയ്പ് സംബന്ധിച്ച് ശ്രീ കെ. രാമകൃഷ്ണൻ അന്വേഷണ കമ്മീഷൻ സമർപ്പിച്ച റിപ്പോർട്ടിലെ ശുപാർശകളിന്മേൽ സ്വീകരിച്ച നടപടി

തിരുവനന്തപുരം ജില്ലയിലെ ചെറിയതുറയിൽ 17-05-2009 ന നടന്ന പോലീസ് വെടിവെയ്പ് സംബന്ധിച്ച് ശ്രീ കെ. രാമകൃഷ്ണൻ അന്വേഷണ കമ്മീഷൻ സമർപ്പിച്ച റിപ്പോർട്ടിലെ നിഗമനങ്ങൾ, മുൻകരുതലുകൾ, നിർദ്ദേശങ്ങൾ, ശുപാർശകൾ എന്നിവ സർക്കാർ പരിശോധിക്കുകയും റിപ്പോർട്ടിലെ പല നിഗമനങ്ങളോടും സർക്കാരിന് പൂർണ്ണമായും യോജിപ്പില്ല എന്ന തീരുമാനിക്കുകയും എന്നാൽ ഭാവിയിൽ ഇത്തരം സംഭവങ്ങൾ ആവർത്തിക്കാതിരിക്കുന്നതിന സ്വീകരിക്കേണ്ട മുൻകരുതലുകളും നിർദ്ദേശങ്ങളും പൊതുവിൽ അംഗീകരിക്കുവാൻ തീരുമാനിക്കുകയും ചെയ്തു. മരിച്ചവരുടെ കുടുംബങ്ങൾക്കും ഇരു വിഭാഗങ്ങളിലുംപെട്ട പരുക്കേറ്റവർക്കും സാമ്പത്തിക സഹായം അനുവദിക്കുവാനും സർക്കാർ തീരുമാനിക്കുകയും 31.10.2012-തീയതിയിലെ സർക്കാർ ഉത്തരവ് (ആർ.റ്റി) നം 3217/2012/ആഭ്യന്തരം നമ്പർ ഉത്തരവ് പുറപ്പെടുവിക്കുകയും ചെയ്തു. കമ്മീഷന്റെ ശുപാർശകളിൽ താഴെപ്പറയുന്നവ സർക്കാർ അംഗീകരിച്ചു നടപ്പിലാക്കുവാൻ തീരുമാനിച്ചുകയുണ്ടായി.

ക്രമ നം	ശുപാർശ	സ്വീകരിച്ച നടപടി
1	കർക്കശമായ നിലപാടുകൾ എടുക്കുന്നത് പോലീസ് ഉദ്യോഗസ്ഥർക്ക് സുരക്ഷിതമായിരിക്കില്ല എന്നും അവരെ സർക്കാർ സംരക്ഷിക്കാറില്ല എന്നും ഒരു പൊതു വികാരം ജനങ്ങൾക്കും ഉദ്യോഗസ്ഥർക്കും ഇടയിൽ നിലനിൽക്കുന്നു. ഈ ധാരണ മാറ്റി പോലീസ് ഉദ്യോഗസ്ഥരിൽ ആത്മവിശ്വാസം വളർത്തുന്ന നടപടികൾ സ്വീകരിക്കണം.	ക്രമസമാധാന പ്രശ്നങ്ങൾ ഉണ്ടാകുന്ന സാഹചര്യങ്ങളിൽ കർക്കശവും, നിഷ്പക്ഷവുമായ നിലപാടുകൾ എടുക്കുന്ന പോലീസ് ഉദ്യോഗസ്ഥരെ സർക്കാർ സംരക്ഷിക്കാറില്ല എന്ന് പോലീസ് ഉദ്യോഗസ്ഥരുടെ ഇടയിൽ നിലനിൽക്കുന്ന പൊതുവികാരം മാറ്റി അവരുടെ ആത്മവിശ്വാസം വളർത്തുന്ന നടപടികൾ സ്വീകരിച്ചിട്ടുള്ളതും ഇത്തരം വിഷയങ്ങളിൽ ശരിയായ അന്വേഷണം നടത്താതെ ഉദ്യോഗസ്ഥരുടെ പേരിൽ നടപടികൾ സ്വീകരിക്കാൻ പാടില്ല എന്നും എന്നാൽ കുറ്റക്കാരായ പോലീസ് ഉദ്യോഗസ്ഥർക്കെതിരെ കർശന നടപടികൾ സ്വീകരിക്കുന്നതുമാണ്.

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2	ശാശ്വതമായ നിയമ സമാധാനം പ്രദേശത്ത് നിലനിൽക്കാനായി ശക്തമായ ക്രമസമാധാന നടപടികൾ സ്വീകരി ക്കണം. ആയതിന്റെ ഭാഗമായി, (എ) ബീമാപള്ളി ചെറിയതുറ ഭാഗത്ത് ഒരു പോലീസ് സ്റ്റേഷൻ സ്ഥാപിക്കുക. (ബി) സംശയാസ്പദമായ മേഖലകളിൽ വെബ് ക്യാമറകൾ സ്ഥാപിക്കുക. (സി) സ്ഥിരം സമാധാന കമ്മിറ്റികൾ രൂപീകരിക്കുക.	(എ) ബീമാപള്ളി ചെറിയതുറ ഭാഗത്ത് ഒരു പോലീസ് സ്റ്റേഷൻ സ്ഥാപിക്കുന്നതിനു വേണ്ട പ്രാരംഭ നടപടികൾ പോലീസ് ഹെഡ്ക്വാർട്ടേഴ്സ് ഫയൽ നം. എസ് 1/37944/2013 ആയി സ്വീകരിച്ചു വരുന്നു. (ബി) സംസ്ഥാന പോലീസ് മേധാവിയുടെ റ്റി3/ 40355/2009 നമ്പർ കത്തു പ്രകാരം സംശയാസ്പദമായ മേഖല കളിൽ വെബ് ക്യാമറകൾ സ്ഥാപിക്കുവാൻ നിർദ്ദേശം നൽകിയിട്ടുണ്ട്. (സി) ചെറിയതുറ പ്രദേശത്ത് ശാശ്വതമായ നിയമ സമാധാനം നിലനിൽക്കുന്നതിനായി സ്ഥിരം സമാധാന കമ്മിറ്റികൾ രൂപീകരിക്കുന്നതിന് ബന്ധപ്പെട്ട സബ് ഡിവിഷണൽ ഓഫീസർമാർക്ക് നിർദ്ദേശം നൽകിയിട്ടുണ്ട്.
3	വ്യക്തികൾ തമ്മിലുള്ള പ്രശ്നങ്ങൾ സാമുദായിക സംഘർഷമായി മാറാതിരിക്കാൻ രാഷ്ട്രീയ സാമുദായിക നേതാക്കൾ ശ്രദ്ധിക്കണം.	ചെറിയതുറ പ്രദേശങ്ങളിലെ വ്യക്തികൾ തമ്മിലുള്ള പ്രശ്നങ്ങൾ സാമുദായിക സംഘർഷമായി മാറാതിരിക്കാൻ അതീവ ജാഗ്രത പുലർത്തുവാനും കർശന നടപടികൾ സ്വീകരിക്കുവാനും ബന്ധപ്പെട്ട പോലീസ് ഉദ്യോഗസ്ഥർക്ക് നിർദ്ദേശം നൽകിയിട്ടുണ്ട്. സ്വീകരിക്കുന്ന നടപടികൾ വിലയിരുത്തി വരുന്നു.
4	നിയമവിരുദ്ധമായ പ്രവർത്തനങ്ങളുടെ അടിസ്ഥാന കാരണമായ സാമ്പത്തികവും വിദ്യാഭ്യാസപരവുമായ പിന്നോക്കാവസ്ഥ പരിഹരിക്കുവാനുള്ള നടപടികൾ ഉണ്ടാകണം.	**<u>മത്സ്യത്തൊഴിലാളികളുടെ മക്കൾക്കുള്ള വിദ്യാഭ്യാസാനുകൂല്യം</u>** രജിസ്റ്റേർഡ് മത്സ്യത്തൊഴിലാളികളുടെ മക്കൾക്ക് നഴ്സറി സ്കൂൾ മുതൽ പ്രൊഫഷണൽ കോഴ്സുകൾ ഉൾപ്പെടെയുള്ള വിവിധ കോഴ്സുകൾക്ക് പഠിക്കുന്നതിനായി വിദ്യാഭ്യാസാനുകൂല്യം നല്കി വരുന്നു. പട്ടികജാതി/ പട്ടികവർഗ്ഗ വികസന വകുപ്പിൽ നിന്ന് പട്ടികജാതി/ പട്ടികവർഗ്ഗ വിദ്യാർത്ഥികൾക്ക് നല്കി വരുന്ന എല്ലാ വിദ്യാഭ്യാസാനുകൂല്യങ്ങളും അതേ നിരക്കിൽ ഫിഷറീസ് വകുപ്പിൽ നിന്ന് മത്സ്യത്തൊഴിലാളികളുടെ മക്കൾക്കും നല്കി വരുന്നു. **<u>ഭവന നിർമ്മാണ പദ്ധതി</u>** ദേശീയ മത്സ്യത്തൊഴിലാളി ഭവന നിർമ്മാണ പദ്ധതി പ്രകാരം, സ്വന്തമായി ഭൂമിയുള്ള ഭവനരഹിതരായ

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മത്സ്യത്തൊഴിലാളികൾക്ക് വീട് നിർമ്മിക്കുന്നതിന് 2 ലക്ഷം രൂപ ധനസഹായം നല്കി വരുന്നു.

സാനിട്ടേഷൻ

മത്സ്യത്തൊഴിലാളികൾക്ക് വ്യക്തിഗത ശൗചാലയങ്ങൾ നിർമ്മിക്കുന്നതിന് 17,500/- രൂപ ധനസഹായം നല്കുന്ന പദ്ധതി ഫിഷറീസ് വകുപ്പ് നടപ്പിലാക്കി വരുന്നു.

കുടിവെള്ള പദ്ധതി

കേരള സംസ്ഥാന തീരദേശ വികസന കോർപ്പറേഷൻ വഴി തിരഞ്ഞെടുക്കപ്പെട്ട മത്സ്യഗ്രാമങ്ങളിൽ ശുദ്ധജല വിതരണത്തിനായുള്ള പദ്ധതി നടപ്പിലാക്കി വരുന്നു.

തണൽ പദ്ധതി

മത്സ്യത്തൊഴിലാളികൾക്കും അനുബന്ധത്തൊഴിലാളികൾക്കും 2012/13 വർഷത്തിൽ തൊഴിൽ വകുപ്പുമായി ചേർന്ന് Income Support Scheme വഴി 1350/- രൂപ ധനസഹായം നല്കുന്ന പദ്ധതി നടപ്പിലാക്കുന്നു. മത്സ്യത്തൊഴിലാളി ക്ഷേമനിധി ബോർഡ് മുഖാന്തിരമാണ് ടി പദ്ധതി നടപ്പിലാക്കുന്നത്.

മേൽ പദ്ധതികൾ കൂടാതെ കേരള മത്സ്യത്തൊഴിലാളി ക്ഷേമനിധി ബോർഡ്, മത്സ്യഫെഡ് എന്നീ ഏജൻസികൾ മുഖാന്തിരം ചുവടെപ്പറയുന്ന ക്ഷേമ പദ്ധതികൾ നടപ്പിലാക്കി വരുന്നു.

മത്സ്യത്തൊഴിലാളിക്ഷേമനിധി ബോർഡ്

1. മത്സ്യബന്ധനത്തിനിടയിൽ അപകടത്തിൽപ്പെടുന്ന മത്സ്യത്തൊഴിലാളികളുടെ കുടുബത്തിന് ഇൻഷ്വറൻസ് പരിരക്ഷ.
2. മാരകരോഗ ചികിത്സയ്ക്കുള്ള ധനസഹായം.
3. പെൺമക്കളുടെ വിവാഹത്തിന് ധനസഹായം.
4. കുടുംബ സംവിധാന പദ്ധതി.
5. പ്രസവ ശുശ്രൂഷയ്ക്കുള്ള ധനസഹായം.

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		6. വാർദ്ധക്യകാല പെൻഷൻ. 7. വിധവാ പെൻഷൻ. 8. അപകടത്തെ തുടർന്നുള്ള ചികിത്സയ്ക്ക് ധനസഹായം. **<u>മത്സ്യഫെഡ്</u>** 1. മത്സ്യത്തൊഴിലാളി അപകട ഇൻഷ്വറൻസ് പദ്ധതി. 2. കേന്ദ്രാവിഷ്കൃത നാടൻ മത്സ്യബന്ധന യാനങ്ങളുടെ യന്ത്രവത്ക്കരണ പദ്ധതി. 3. മത്സ്യബന്ധന വലകൾക്ക് സബ്സിഡി. 4. ബാങ്ക് വായ്പ സബ്സിഡി. 5. NMDFC/NBCFDC വായ്പകൾ. 6. മത്സ്യബന്ധന ഉപകരണങ്ങൾക്ക് നഷ്ടപരിഹാരം. ചെറിയതുറ പോലീസ് വെടിവെയ്പ് സംബന്ധിച്ച അന്വേഷണ കമ്മീഷൻ റിപ്പോർട്ടിലെ നിർദ്ദേശങ്ങൾ നടപ്പിലാക്കുന്നതിന്റെ ഭാഗമായി ചെറിയതുറ ഭാഗത്തിന്റെ പിന്നോക്കാവസ്ഥയെ കൃത്യമായി വിശകലനം ചെയ്തുകൊണ്ട് അടിസ്ഥാന വിദ്യാഭ്യാസ പ്രവർത്തനങ്ങൾ എന്തൊക്കെ വേണമെന്ന് തീരുമാനിക്കാൻ തിരുവനന്തപുരം ഡയറ്റിനെ ചുമതലപ്പെടുത്തിയിട്ടുണ്ട്. ശുപാർശ നടപ്പാക്കുന്നതിനും വിവരം സർക്കാരിനെ അറിയിക്കുന്നതിനുമായി തിരുവനന്തപുരം കോർപ്പറേഷൻ സെക്രട്ടറിക്ക് നിർദ്ദേശം നല്കിയിട്ടുണ്ട്.
5	മത്സ്യബന്ധനം ഇല്ലാത്ത മാസങ്ങളിൽ പുനരധിവാസ നടപടികൾ ഉണ്ടാകണം.	**<u>സമ്പാദ്യ സമാശ്വാസ പദ്ധതി</u>** മത്സ്യത്തൊഴിലാളികൾക്ക് പഞ്ഞ മാസങ്ങളിൽ സാമ്പത്തിക സഹായം നല്കുന്നതിനായി സമ്പാദ്യാശ്വാസ പദ്ധതി നടപ്പിലാക്കി വരുന്നു. ടി പദ്ധതി പ്രകാരംആഗസ്റ്റ് മുതൽ മാർച്ച് വരെയുള്ള 8 മാസങ്ങളിലായി പ്രതി മാസം 75/- രൂപ നിരക്കിൽ 600/- രൂപ മത്സ്യത്തൊഴിലാളികളിൽ നിന്ന് ശേഖരിച്ച് സർക്കാർ വിഹിതമായ 1200/- രൂപ കൂടി ചേർത്ത് 1800/- രൂപ 3 ഗഡുക്കളായി പഞ്ഞമാസങ്ങളിൽ വിതരണം ചെയ്തു വരുന്നു.

		സൗജന്യ റേഷൻ ട്രോളിംഗ് നിരോധനം മൂലം തൊഴിൽരഹിതരാകുന്ന യന്ത്രവത്കൃത മത്സ്യബന്ധന യാനങ്ങളിലെ മത്സ്യത്തൊഴിലാളികൾക്ക് ടി കാലയളവിൽ സൗജന്യറേഷൻ നല്കുന്ന പദ്ധതി നടപ്പിലാക്കുന്നു.
6	ശരിയായ അന്വേഷണം നടത്താതെ ഉദ്യോഗസ്ഥർക്കെതിരെ നടപടി എടുക്കുന്നത് പോലീസിന്റെ ആത്മവീര്യം കെടുത്താൻ ഇടയാക്കും. എന്നാൽ കുറ്റക്കാരായികണ്ടെത്തുന്ന ഉദ്യോഗസ്ഥർക്കെതിരെ കർശന നടപടി ഉറപ്പാക്കുകയും വേണം.	ശരിയായ അന്വേഷണം നടത്താതെ ഉദ്യോഗസ്ഥരുടെ പേരിൽ നടപടികൾ സ്വീകരിക്കാൻ പാടില്ല എന്നും എന്നാൽ കുറ്റക്കാരായ പോലീസ് ഉദ്യോഗസ്ഥർ ക്കെതിരെ കർശന നടപടികൾ സ്വീകരിക്കുന്നതാണെന്നും ജില്ലാ പോലീസ് മേധാവി, തിരുവനന്തപുരം സിറ്റി അറിയിച്ചിട്ടുണ്ട്.
7	ജില്ലാ ഭരണകൂടവും പോലീസും തമ്മിലുള്ള ഏകോപനം ശക്തിപ്പെടുത്തണം.	ചെറിയതുറ പ്രദേശങ്ങളിലെ നിയമ വിരുദ്ധ പ്രവർത്തനങ്ങളുടെ അടിസ്ഥാന കാരണങ്ങൾ ഉൾക്കൊണ്ടുകൊണ്ട് തന്നെ അത്തരം പ്രവർത്തനങ്ങൾ പരമാവധി ഉന്മൂലനം ചെയ്യുന്നതിന് വേണ്ട നടപടികൾ സ്വീകരിക്കുന്നതിനും, മേലുദ്യോഗസ്ഥരുടെ ശ്രദ്ധയിൽ കൊണ്ടുവരുന്നതിനും വേണ്ട നിർദ്ദേശങ്ങൾ നൽകിയിട്ടുള്ളതും ജില്ലാ ഭരണകൂടവും, പോലീസ് വകുപ്പും തമ്മിലുള്ള ഏകോപനം ഈ വിഷയങ്ങളിൽ ഉണ്ടാകുന്നുണ്ടെന്ന് ഉറപ്പ് വരുത്തുന്നതിനും വേണ്ട നടപടികളും സ്വീകരിച്ചിട്ടുണ്ട്.



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