

No. U4-156991 /2017/PHQ
Police Headquarters, Vazhuthacaud,
Thiruvananthapuram-69501
Dated 16 -10- 2017.

CIRCULAR NO. 27/2017

Sub:- Illegal re-transmission by cable operators of on-going India Vs. Australia Cricket Series, 2017 on DD Channel telecasted by Prasar Bharati – legal provisions and the judgment of the Hon'ble Supreme Court and orders of Hon'ble High Court to be complied with - instruction - reg.

- Ref:-1.Judgment dated 22-08-2017 of the Hon'ble Supreme Court in the case Union of India Vs. Board of Control for Cricket in India & Others [Civil Appeal Nos.10732-10733 of 2017]
2. Interim Orders dated 27-09-2017 and 10-10-2017 of the Hon'ble High Court of Kerala in WP(C) No.31123/2017.
3. COB Message dated 07-10-2017.

Hon'ble Supreme Court vide judgment 1st cited had laid down that under section 3 of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 (Central Act 11 of 2007) (hereinafter called the Sports Act), the live feed received by Prasar Bharati from content rights owners or holders is only for the purpose of re-transmission of the said signals on its own terrestrial and DTH networks and not to Cable Operators so as to enable the Cable TV operators to reach such consumers who have already subscribed to a cable network.

Star India Pvt. Ltd. is the official broadcaster of the various Board of Control for Cricket in India (BCCI) events for the period April, 2012 – March, 2018. In view of the judgment of the apex Court 1st cited, no cable operator or Multiple System Operator (MSO) or private DTH operator may retransmit the DD channel or any other Prasar Bharati Channel carrying the live broadcasting signals of sporting events of national importance shared under section 3 of the Sports Act by Star India Limited with Prasar Bharati.

The broadcast of the (i) India Vs. Australia Cricket Series, 2017 and (ii) India Vs. New Zealand Cricket Series, 2017 are exclusively licensed to Star India Pvt. Ltd. It is brought to the notice of the undersigned that in many instances the match as retransmitted by Prasr Bharati continued to be telecast/made available by many private cable and satellite operators (Cable/DTH/IPTV/HITS) in Kerala in contravention of the judgment and the directions issued by Prasr Bharati in this regard. This activity of the cable operators of knowingly retransmitting the DD Channels carrying the shared live broadcasting signals of the India Vs. Australia Cricket Series, 2017 and/or the India Vs. New Zealand Cricket Series, 2017 is violative of the provisions u/s 37 and 39A r/w section 63 of the Copyright Act, 1957 and a cognizable offence.

Star India Pvt. Ltd., aggrieved by such infringement of copyrights has approached the Hon'ble High Court of Kerala by filing writ petition 2nd cited. The Hon'ble court vide order dated 27-09-2017 has issued directions to register complaints revealing an offence under section 63 of the Copyright Act in the matter. Directions were accordingly issued vide reference 3rd cited. Already five crimes have been registered all over the State in pursuance of the court order dated 27-09-2017.

The Hon'ble High Court vide latest order dated 10-10-2017 in the said writ petition has further clarified the following points are to be complied with by all the investigating officers while registering cases on section 63 of the Copyright Act, 1957:

1. **The offence u/s 63 of the Copyright Act, 1957 is a cognizable offence** and this is already laid down in the case *Abdul Sathar V. Nodal Officer, Anti-Piracy Cell and Another* [AIR 2007 Kerala 212]. Hence the provisions of section 154 Cr.P.C. will apply for such offence.

2. In *Lalita Kumari V. Government of Andhra Pradesh* [2013 (4) KLT 632] it was held that a **preliminary enquiry has to be conducted in**

commercial offences and such preliminary enquiry should be made time bound and in any case, it should not exceed seven days (subsequently revised to 15 days). This direction of the Constitution Bench of the Supreme Court has to be meticulously observed by the investigating officers.

Hence all District Police Chiefs are hereby directed to instruct and educate the police officers subordinate to them as mentioned below:

1. to conduct a time bound Preliminary Enquiry upon receiving complaints on the subject noted above which are commercial in nature and such preliminary enquiry should not exceed 15 days.

2. to register complaints revealing an offence under section 63 of the Copyright Act only on the basis of such Preliminary Enquiry findings.

3. that section 64 of the Copyright Act recognizes the power of police to seize infringing copies.

4. that the offence u/s 63 of the Copyright Act, 1957 is a cognizable offence and the provisions of section 154 Cr.P.C. will apply for such offence.

The above instructions must be clearly understood by officers of the rank of SHOs and above.

16/10
LOKNATH BEHERA, IPS,
Director General of Police &
State Police Chief.

To

1. Inspector General of Police, Thiruvananthapuram Range.
2. All District Police Chiefs (Respondents 3-16 in WP(C) No.31123/2017- for information and necessary action.

