

Register Number:

Date:

**ST. JOSEPH’S COLLEGE (AUTONOMOUS), BANGALORE – 27**

**II BA JOURNALISM**

**END SEMESTER EXAM: DECEMBER 2022**

**JOURNALISM AND WRITING: JNE 322**

**Time- 2 HOURS Max Marks- 60**

**Instructions:**

1. **This paper has FOUR SECTIONS and THREE printed pages.**
2. **This paper is for the III Semester EJ/JP students.**
3. **You are allowed to use a dictionary.**

**I. The following is a piece from The News Minute, published in July 2022. Read the piece and answer the questions that follow.**

The probe against Alt News’s co-founder Mohammed Zubair in a[case over a 2018 tweet](https://www.thenewsminute.com/article/delhi-court-denies-bail-zubair-sends-him-14-day-judicial-custody-165493) has widened, and now the Uttar Pradesh police are also probing him in connection with his 2022 tweet calling controversial Hindu extremists “[hatemongers](https://www.thenewsminute.com/article/alt-news-co-founder-zubair-booked-calling-controversial-hindu-leaders-hatemongers-164600)”. Zubair is currently in judicial custody and his[electronic devices were seized](https://www.thenewsminute.com/article/mohammed-zubair-brought-bengaluru-laptop-recovery-2018-tweet-case-165424) from his Bengaluru home by the police. Legal experts have expressed concern over attempts to implicate Zubair in multiple cases and questioned Zubair’s primary arrest for a 2018 tweet where he posted a movie scene from a 1983 Bollywood movie. TNM takes a look at the rights of accused persons in India and the powers police have to gain access to electronic devices of citizens.

Summons in one case, arrest in another

Zubair was summoned by the Delhi police in connection with a 2020 POCSO case — in which he had protection — and he appeared before the police on June 27, but he was arrested in connection with a different case altogether. Ordinarily, the police are required to send a notice to an accused person to inform them that they have been booked in a particular case and that they have been summoned. The POCSO case was registered over his tweet calling out an abusive user and confronting him. Section 41a of the Code of Criminal Procedure states that a notice must be sent to the accused person asking them to appear before the police, and if the person does comply with the notice, “he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.”

Supreme Court lawyer and politician Kapil Sibal told PTI that it is “unthinkable” that a person has been arrested for a tweet made four years ago, without any communal outcomes. "More than that, now having realised that the arrest cannot possibly be sustained, the investigating agency is looking for other matters which have nothing to do with the original arrest. What we are witnessing is a mala fide arrest and a subsequent fishing inquiry," Sibal told PTI.

“What the investigating agencies now do is to arrest a person, then start investigating as to what he might have violated. For that they seek access to other records and then come back to court to allege the commission of other offences in an attempt to deny bail to the accused,” he said.

Now, there was no notice sent to Zubair in connection with the 2018 tweet case. Vikram Hegde, an advocate on record at the Supreme Court, says that this is not a routine phenomenon, but it is also not unheard of. The accused in the 2020 Delhi riots case were similarly summoned in a different case and then arrested in another case.

"There are two ways of seeing it,” Hegde tells TNM. “Protection from arrest in one case cannot apply to another, and just because the police are investigating one case, does not mean that they cannot investigate another. In the sum total of the circumstances, one has to see what the motive was."

Electronic devices and privacy

Now, can accused persons — especially journalists — in India cite the right to privacy and the Puttaswamy judgment to contest access to their devices? Unfortunately, the answer is no. Though the Supreme Court had held that insisting a person to unlock his mobile phone — which contains his personal information — is violative of the individual’s right to privacy, courts in the past have granted the police access to devices.

Police access to mobile phones and electronic devices in India has come under scrutiny in India, particularly after instances of leaks and even alleged plants by the police. In 2020,  [WhatsApp chats of celebrities](https://www.thenewsminute.com/article/how-ncb-retrieved-whatsapp-chats-allegedly-between-deepika-padukone-and-her-manager-133783) accused in the drugs case were selectively leaked to the media. Independent researchers abroad have found evidence that [documents were planted](https://www.thenewsminute.com/article/bhima-koregaon-forensic-report-says-key-evidence-against-jailed-activist-was-planted-143161) on the electronic devices of those accused in the Bhima Koregaon case.

However, without explicit laws protecting people’s private data — the proposed law on data protection is still a draft and is under scrutiny — it is left to the court’s discretion whether the police can access the accused person’s devices.

Now, two recent High Court verdicts have cemented the police’s powers to gain access to people’s devices. One was the Karnataka High Court judgement in March 2021, in connection with the Sandalwoods drugs case. [Viren Khanna](https://www.thenewsminute.com/article/viren-khanna-who-organises-high-profile-parties-bengaluru-arrested-drug-case-132352), a celebrity party planner in Bengaluru had been arrested and the police had secured an order from the trial court asking him to unlock his phone and grant the police access, citing his non-cooperation, and even got permission to conduct a polygraph. Viren had cited his right to privacy and the right against self-incrimination to contest the trial court order. However, the court held that compelling a person to give his password, pin or biometrics like fingerprints to open the phone, is akin to “fingerprinting,” “taking sample of the clothes, biological samples, chemical samples, etc” and that the “same cannot amount to forced testimony on part of the accused.”

The second verdict that empowered the police is the Kerala High Court’s verdict in the Dileep case — where the court said that Dileep cannot cite privacy and deny the police access to his mobile phones. The [court agreed with the prosecution](https://www.thenewsminute.com/article/why-can-t-you-submit-phones-kerala-hc-asks-dileep-conspiracy-kill-cops-case-160355) that prima facie, the "argument of self-incriminating material" does not stand.

With these precedents, people booked in India often cannot contest police access to their phones. They will face action for obstruction of justice.

“Under the criminal proceedings, there will be adverse consequences if accused persons refuse to hand over their devices. They will have to seek protection from the court. Moreover, the right against self-incrimination won't apply to the recovery of devices,” Vikram Hegde told TNM.

The offence of destruction of evidence can happen only if there was an intention to prevent the evidence from being produced before a court or public servant or after he was asked to produce it in court. In this case, unless the police are alleging that he formatted it after getting summons or after having reason to believe it will be summoned as evidence, there is no offence.

**I.A. Answer the following questions in about 3-5 lines each: (4x5=20 marks)**

1. Why is it ‘unthinkable’ for Zubair to have been arrested over a tweet made 4 years ago?

2. Do you think there should be a separate law in place for journalists to protect their right to privacy? Why?

3. Zubair’s social media was under scrutiny. Was he arrested in his capacity as a journalist or a citizen of the country? Explain why.

4. If a cop stops you and demands to examine your phone, what can you do to prevent it from happening?

**I.B Answer the following question in about 100-150 words: (10 marks)**

5. Write a definition for the term ‘hate speech’. Does the term cover all forms of hatred in India today?

**II. Below is an excerpt from a piece titled ‘How Deep Can You Go With Longform Journalism?’ Read the passage and answer the questions that follow.**

Questions of ethics are at the heart of much journalism. In the old days people debated whether journalism was objective; whatever was not deemed objective was slanted, and when I started writing, slanted meant bad. These days, though, perhaps in recognition that all media have a bias of some sort and that true objectivity is elusive or impossible, people speak more productively of whether a piece of writing is fair. Conversations about fairness tend to address the question of interest: whose interest does this article/ book/film serve? Is it balanced or one- sided? Empathetic or narcissistic? A candid exploration or a doctrinaire assertion? When it comes to immersive writing, or really any long-form project where the author didn’t simply interview people but spent time in their world over an extended period, a special set of ethical questions can arise upon publication. People will ask themselves, as they read, did this writer treat the subject(s) fairly?

Readers often appreciate, in other words, that a writer has some power over her subject. The writer gets to decide what to include, what to leave out—how to cast the story. Simply put, the writer gets to tell the story in her own words.

Where it gets tricky is that, even in the most deferential case—a writer trying to “channel” or champion the subject—the writer’s take is likely to vary in certain ways from the subject’s. The writer has worked hard to create a fair portrait, and probably done a better job of making the story accessible to the public than the subject could—that’s why she’s a writer, after all. But then the subject reads it and is unhappy.

**II.A Answer the following questions in about 100-150 words each: (2x10=20)**

5. In all the longform pieces you have read in class, have you come across a writer who has treated their subject unfairly? Explain using examples.

6. Pick specific locations in pieces you have read where you see this immersiveness working.

**III. Write short notes on the following (2x5=10)**

7. Mallikarjun Kharge

8. Kherson