

**IN THE SUPREME COURT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of an application under Article 126 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

Rajapaksha Pathirage Justin Rajapaksha
N.218/A/2, Hiripitiya, Pannipitiya

Petitioner

SC/FR 689/2012

Vs

1. Prasanna Rathnayake
Inspector of Police,
C/o, The Inspector General of Police
Police Headquarters,
Colombo 1.
Formerly Headquarters Inspector (HQI)
Police Station, Homagama.
2. WPE Fernando
Inspector of Police,
Police Station Homagama,
Homagama.
3. Asanka Nuwan Bandara
Police Constable 77517,
Police Station Homagama,
Homagama.
4. Ranathunga
Police Sergeant 22632,
Police Station Homagama,
Homagama.
5. Gunaratna,
Police Constable 60641,
Police Station Homagama,
Homagama.
6. A.L.M Aseem
Sub Inspector of Police,

Police Station Thalangama,
Thalangama.

And Now of:

204, Thettawaadi Road, Oluvil,
Akkaraipattu.

All c/o The Inspector General of Police
Police Headquarters,
Colombo 1.

7. T Chandrasekara
Inspector of Police,
Officer-in-Charge of the Crimes Investigation Unit,
Police Station Homagama,
Homagama
8. NK Illangakoon
Inspector General of Police
Police Headquarters,
Colombo 1.
9. Head Quarters Inspector
Police Station Homagama,
Homagama.
Homagama.
10. The Attorney General

Respondents

Before : Eva Wanasundera PC, J
B P Aluwihare PC J
Sisira J de Abrew J

Counsel : Nishantha Sirimanna for the Petitioner
Saliya Peiris with Yohan Peiris for the 2nd Respondent
Induni Punchihewa SC for the 8th and 9th Respondents

Argued on : 8.12.2015

Decided on : 28.3.2016

Sisira J De Abrew J.

The petitioner by this petition, inter alia, seeks a declaration to the effect that his fundamental rights guaranteed under Article 11,12,13(1) and 13(2) of the Constitution have been violated by the 1st to 5th and/or 6th and/or 8th Respondents. This court, by its order dated 12.2.2013, granted leave to proceed for alleged violations of Article 11 of the Constitution against 1st to 6th Respondents; for alleged violations of Article 13(1) and 13(2) of the Constitution against the 1st Respondent and for alleged violations of Article 12(1) of the Constitution against the Respondents. The order made by the court states as follows:

“This Court grants leave to proceed for alleged violation of Article 11 of the Constitution against 1st to 6th Respondents. The court also grants leave to proceed for alleged violations of Article 13(1) and 13(2) of the Constitution against the 1st Respondent. The court also grants leave to proceed against the other Respondents under of Article 12(1) of the Constitution.”

It can be contended that this order gives the impression that this court has not granted leave to proceed against the 1st Respondent for alleged violation of Article 12(1) of the Constitution. But such a contention has to be rejected when one considers the facts of this case. In my view the court has granted leave to proceed against the 1st Respondent as well for alleged violation of Article 12(1) of the constitution. The petitioner, in his petition alleges the following facts.

On 25.5.2012 when the petitioner was at his house with his wife, the 1st to 3rd Respondents (police officers attached Police Station Homagama) entered his house; 2nd Respondent dragged the petitioner from the kitchen to the sitting room; the 1st Respondent assaulted him with hand and legs; the 1st Respondent with the

assistance of the 2nd and 3rd Respondents took him near the police jeep which was parked near his house; and pushed him to the police jeep. The 4th Respondent was standing near the police jeep. The 1st to 3rd Respondents did not give any reasons for his arrest. On the way to the Police Station to Homagama, the 1st Respondent asked the petitioner whether he has any children who were going to Matthegoda Vidyadeepa MahaVidyalaya to which question the petitioner replied in the affirmative. Thereupon the 1st Respondent directed the driver of the police jeep to drive the vehicle to the said school. The 1st Respondent at the said school alighted from the police jeep and announced in a very loud voice that the man inside the police jeep was the biggest illicit liquor distiller in the area. The announcement was so loud that it could be heard by the people gathered near the office of the school. At this time a large crowd of people including school children, Principal and teachers of the school had gathered near the office of the school as there was a Dengu eradication campaign being carried out within the school premises. The 1st Respondent has been invited to deliver a special lecture at this campaign to the school children and the parents. The petitioner was kept locked inside the police jeep during the time that the 1st Respondent addressed the Dengu campaign. Thereafter the petitioner was taken to the Police Station Homagama around 10.30 a.m. and was assaulted by the 1st Respondent. Thereafter the petitioner was locked inside the remand cell of the Police Station Homagama. On 27.5.2012, he was produced before the learned Magistrate by the 6th Respondent on a charge that he was in possession of six packets of cannabis, each containing five (5) grams. The petitioner was discharged of all the charges by the learned Magistrate on 8.11.2012. The petitioner became aware of the purported reasons for his arrest and detention at Police Station Homagama only when he was produced before the learned Magistrate.

The allegations levelled by the petitioner have been denied by the 1st Respondent in his statement of objections. He states that he did not arrest the petitioner and the petitioner was arrested only on 26.5.2012 by 3rd, 4th, 5th, and 6th Respondents on an information that he was in possession of cannabis. According to him, even on 26.5.2012 he did not arrest the petitioner. The petitioner's version with regard to his arrest is corroborated by his wife's affidavit. She, in her affidavit, does not identify the 2nd and 3rd Respondents but identifies the 1st Respondent. She later complained to the Inspector General of Police's (IGP) Public and Relief Centre and the OIC of the said Centre by his letter dated 23.1.2013, has informed her that the Police Officer who took steps to remand her husband, has been interdicted.

Hemachandra Balasuriya, the Principal of Matthegoda Vidyadeepa MahaVidyalaya, in a statement made to the Police Station Homagama on 10.11.2012 has stated that on 25.5.2012 the 1st Respondent came to deliver a special lecture in the Dengu eradication campaign organized by the school and when the 1st Respondent came to the school, he announced that he got late as he had to arrest an illicit liquor dealer in the area. Later school children informed him that a father of a child in the school was in the police jeep. Pediris the watcher of the School in his statement made to Police Station Homagama states that on 25.5.2012 the 1st Respondent came to the school in a police jeep to attend a Dengu eradication campaign; that the petitioner without a shirt was in the police jeep; and that he is aware of the fact that the children of the petitioner are students of this school.

The 6th Respondent on 27.5.2012 filed a B report stating that he arrested the petitioner on 26.5.2012 for being in possession of cannabis. The Magistrate's

Court case No. is B 1475/12. He further stated in the B report that the 3rd, 4th, and 5th Respondents participated in the raid in which the petitioner was arrested.

I now advert to the question whether the 1st Respondent arrested the petitioner on 25.5.2012. In deciding this questions the evidence given by the 6th Respondent before the learned Magistrate against the petitioner in case No B 1475/12 is very important. This was the case filed by the 6th Respondent against the petitioner for being in possession of cannabis. It is interesting to examine the evidence given by the 6th Respondent before the learned Magistrate. His evidence is completely against the stand that he took in his B report filed in the Magistrate's Court. The 6th Respondent, in his evidence before the learned Magistrate, surprisingly stated that he did not conduct a raid with the other police officers on 26.5.2012; that he neither arrested the petitioner nor did he find any cannabis in the possession of the petitioner; that on 26.5.2012 the 1st Respondent told him that he had arrested the petitioner on the previous day (25.5.2012); that the petitioner could not be released as he was a famous illicit liquor dealer in the area; that the 1st Respondent directed him to institute criminal proceedings in court against the petitioner for being in possession of cannabis; that he told the 1st Respondent that he could not write a B report in respect of an arrest which he did not do; that the 1st Respondent at this stage threatened him to the effect that he (the 1st Respondent) would take steps to cancel his appointment in the Police Department if he did not carry out the instructions given by the 1st Respondent; that he, in fear of losing his job, acceded to the instructions given by the 1st Respondent; that when he queried from the 1st Respondent as to how the said charge could be proved against the petitioner when no cannabis was found in the possession of the petitioner, the 1st Respondent took seven packets of cannabis which had been hidden in a shelf in his office and directed the 6th Respondent to state in the B report that one of the said

seven packets had been purchased from the petitioner and the balance six packets had been found in the possession of the petitioner; and that on the said instructions of the 1st Respondent, he having prepared the B report, produced the petitioner before the learned Magistrate on 27.5.2012.

It is clear from the said evidence of the 6th Respondent that what the 6th Respondent wrote in the B report is false.

The learned Magistrate after considering his evidence on 8.11.2012 discharged the petitioner of the charge. From the above evidence of the 6th Respondent it has been clearly established that the petitioner was not having cannabis in his possession; that the arrest of the petitioner was on 25.5.2012; the arrest and the detention of the petitioner were without any reasons; that a false charge had been fabricated against the petitioner by the 1st Respondent; and that his arrest and detention illegal.

I will now consider whether the 1st Respondent has violated the fundamental rights of the petitioner guaranteed by Article 11 of the Constitution. Article 11 of the Constitution reads as follows.

“No Person shall be subjected to torture cruel, inhuman or degrading treatment or punishment.”

From the affidavits of the petitioner and his wife, the statements of the Principal of the school and the watcher of the school, and the evidence of the 6th Respondent, it is very clear that the 1st Respondent arrested the petitioner on 25.5.2012 without any reasons; that the petitioner was taken to Mathegoda Vidyadeepa MahaVidyalaya on 25.5.2012; that the petitioner was kept locked inside the police jeep which was parked in the school premises; that the 1st

Respondent announced in the school where the petitioner's own children attend, that the petitioner was an illicit liquor (kassippu) dealer; that the petitioner was locked up in the remand cell of the Police Station on 25.5.2012 without any reasons; that he was in police remand cell from 25.5.2012 to 27.5.2012; and that the 1st Respondent fabricated a false case against the petitioner. When I consider the above facts, I hold the view that the position taken up by the 1st Respondent in his statement of objections is false.

If a person is arrested and kept in the police remand cell (police cell in the police station) without any reasons and later a false case is fabricated against him, his personal liberty is restricted and such a person undergoes physical and mental trauma. In such a situation it can be concluded that he was subjected to torture, cruel, inhuman and degrading treatment and or punishment. At this stage it is relevant to consider certain judicial decisions.

In *Amal Sudath Silva Vs Kodituwakku Inspector of Police and others* [1987] 2 SLR 119 at 126 Athukorale J (with whom Sharvananda CJ and LH de Alwis J agreeing) held as follows.

“Article 11 of our Constitution mandates that no person shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment. It prohibits every person from inflicting torture some, cruel or inhuman treatment on another. It is an absolute fundamental right subject to no restrictions or limitations whatsoever. Every person in this country, be he a criminal or not, is entitled to this right to the fullest content of its guarantee. Constitutional safeguards are generally directed against the State and its organs. The police force being an organ of the State is enjoined by the

Constitution to secure and advance this right and not to deny, abridge or restrict the same in any manner and under any circumstances. Just as much as this right is enjoyed by every member of the police force, so is he prohibited from denying the same to others, irrespective of their standing, their beliefs or antecedents. It is therefore the duty of this court to protect and defend this right jealously to its fullest measure with a view to ensuring that this right which is declared and intended to be fundamental is always kept fundamental and that the executive by its action does not reduce it to a mere illusion.”

The petitioner in his affidavit says that after his arrest, he was kept inside the police jeep and that jeep was taken to the premises of Mattheegoda Vidyadeepa MahaVidyalaya which was the school of his children. The Principal and the watcher of the school, in their affidavits, state that that the 1st Respondent announced that he got late to come to the school as he had to arrest an illicit liquor dealer in the area and that the petitioner was, at this time, inside the police jeep without a shirt. In my view, even assuming the petitioner is a criminal, the police cannot subject him to this kind of treatment. When I consider the above facts, I hold the view that the petitioner had undergone psychological trauma and had been subject to inhuman and degrading treatment.

When a person is arrested without reasons by a police officer acting in the discharge of his official duties or under the colour of his office and later produced him as a suspect before the Magistrate on fabricated charges, such a person undergoes psychological trauma. In such a situation it can be concluded that such a person was subjected to cruel, inhuman and degrading treatment and he (the victim) has not received equal protection of law and that the police officer who

committed the above acts has violated the fundamental rights of the victim guaranteed by article 11 and 12(1) of the Constitution.

The petitioner in this case has suffered a worse situation than the situation discussed above. I would like to reiterate briefly the situation that he faced. When he was arrested he was assaulted by the 1st Respondent. He was taken to the school where his children attend and at the school premises, the 1st Respondent made an announcement whilst the petitioner was inside the police jeep that he got late to come because he had to arrest an illicit liquor dealer in the area. This reference was undoubtedly made to the petitioner because 1st Respondent said that the man inside the jeep was the biggest illicit liquor dealer in the area. During the period that the 1st Respondent delivered the lecture in the school, the petitioner without a shirt was locked inside the police jeep. I have observed, elsewhere, in this judgment that the arrest and detention of the petitioner were without reasons.

Article 11 of the Constitution prohibits any form of torture being caused to the people. In my view the torture in this Article covers both the physical and psychological torture. In this regard I would like to consider certain judicial decisions.

In *Mrs WMK de Silva Vs Chairman Ceylon Fertilizer Corporation* [1989] 2 SLR 393 at 405 this Court held as follows.

“In my view Article 11 of the Constitution prohibits any act by which severe pain or suffering, whether physical or mental is, without lawful sanction in accordance with a procedure established by law, intentionally inflicted on a person (whom shall refer to as 'the victim') by a public official acting in the discharge of his executive or administrative duties or under colour of office,

for such purposes as obtaining from the victim or a third person a confession or information, such information being actually or supposedly required for official purposes, imposing a penalty upon the victim for an offence or breach or a rule he or a third person has committed or is suspected of having committed, or intimidating or coercing the victim or a third person to do or refrain from doing something which the official concerned believes the victim or the third person ought to do or refrain from doing, as the case may be.”

I would like to quote the following passage from the book titled “Fundamental Rights in Sri Lanka” 2nd edition by Dr. Jayampathy Wickramaratne pages 215 to 216.

“The petitioners in *Adhikary Vs Amarasinghe* [2003] 1 SLR 270 were husband and wife. The first petitioner was an Attorney-at-Law while the second petitioner was a teacher. They were travelling in their car with their infant child and close relatives. At a traffic jam, the respondents, all security officers of a Minister, prevented the vehicle from proceeding any further and the first and the second respondents punched the car with their fists. When the first petitioner questioned them as to why they were preventing petitioners from proceeding, the first and second petitioners abused and humiliated the petitioners and their family. The first petitioner was pulled out and slapped. The second petitioner, who came to the rescue of her husband with the child in her arms, was slapped and abused. The first and second respondents shouted, saying that they were security officers of a particular Minister and that they could shoot and kill the petitioners.

Shirani Bandarnayake J, with Edussuriya and Yapa J agreeing, held that “the protection of Article 11 is not restricted to the physical harm caused to a victim, but would certainly extend to a situation where a person who has suffered psychologically due to such action. The learned Judge had no hesitation in holding that the ordeal faced by the petitioners was of an aggravated nature. The anguish faced by the wife was sufficient to prove the required level of severity needed for an act to be violative of Article 11. The psychological trauma faced by the innocent child added to the severity of the actions of the first and second respondents.”

Considering the aforementioned observation made by me and the above legal literature, I hold that the 1st Respondent has violated the fundamental rights of the petitioner guaranteed by Article 11 of the Constitution.

I will now consider whether the 1st Respondent has violated the fundamental rights of the petitioner guaranteed by Article 13(1) of the Constitution which reads as follows: “No person shall be arrested except according to procedure established by law. Any person arrested shall be informed of the reason for his arrest.”

After considering the above facts, I hold that the petitioner has been arrested by the 1st Respondent without any reasons; that he has been arrested not according to the procedure established by law; and that the arrest of the petitioner and the detention of the petitioner at the Police Station Homagama are illegal. For the aforementioned reasons, I hold that the 1st Respondent has violated the fundamental rights of the petitioner guaranteed by Article 13(1) of the Constitution.

I will now consider whether the 1st Respondent has violated the fundamental rights of the petitioner guaranteed by Article 13(2) of the Constitution which reads as follows: “Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the judge of the nearest competent court according to procedure established by law, and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms of the order of such judge made in accordance with procedure established by law.”

The petitioner was arrested on 25.5.2012 and kept in the police cell till 27.5.2012 on false charges. He was thereafter produced before the learned Magistrate on 27.5.2012. The 1st Respondent in his statement of objections takes up the position that he did not arrest the petitioner. The 1st Respondent in his statement of objection however takes up the position that the petitioner’s arrest took place on 26.5.2012 and the petitioner was produced before the magistrate within 24 hours from his arrest. I have earlier held that the position taken up by the 1st Respondent in his affidavit is false. When I consider the facts of this case, I hold that the petitioner was not produced before the learned Magistrate within 24 hours of his arrest. After considering the facts of this case I hold that the 1st respondent has violated the fundamental rights of the petitioner guaranteed by Article 13(2) of the Constitution.

I will now consider whether the 1st Respondent has violated the fundamental rights of the petitioner guaranteed by Article 12(1) of the Constitution which reads as follows: “All persons are equal before the law and are entitled to the equal protection of the law.”

When the 1st Respondent arrested the petitioner without any reasons and fabricated a false charge against him, can it be said that he got equal protection of

law and that the 1st Respondent applied the principle that ‘all persons are equal before the law’ to the petitioner? This question has to be answered and is answered in the negative. It is now proved that the petitioner was arrested and detained in the police station without any reasons and the charge framed against him was a fabricated charge. Thus the principle that ‘all persons are equal before the law and are entitled to the equal protection of law’ has not been applied to the petitioner by the 1st Respondent. For the above reasons, I hold that the 1st Respondent has violated the fundamental rights of the petitioner guaranteed by Article 12(1) of the constitution.

I will now consider whether the 6th Respondent has violated the fundamental rights of the petitioner guaranteed by Article 12(1) of the Constitution. The 6th Respondent himself admitted before the learned Magistrate that on the instructions of the 1st Respondent and in fear of losing his employment, he submitted a false B report to the Magistrate. Thus the principle that ‘all persons are equal before the law and are entitled to the equal protection of law’ has not been applied to the petitioner by the 6th Respondent. For the above reasons, I hold that the 6th Respondent has violated the fundamental rights of the petitioner guaranteed by Article 12(1) of the constitution. However it must be appreciated that the 6th Respondent even at late stage having realized his mistake honestly told the learned Magistrate the circumstances under which he filed the B report and has told the truth before that Magistrate. As a result of his evidence the learned Magistrate discharged the petitioner. The evidence of SI Aseem (the 6th respondent) was to the effect that he never found ganja in the possession of the petitioner but he, on the instructions of the 1st Respondent (the Head Quarters Inspector of the Police Station), introduced ganja to the petitioner and that he produced the petitioner before the Magistrate on a charge of being in possession of

ganja. However SI Aseem (the 6th Respondent), at the initial stage, was successful in getting the petitioner remanded on false facts submitted to the Magistrate in the B report. If SI Aseem, in his evidence before the Magistrate, stuck to his version set out in the B report, his evidence would have been false. The incident that took place in this case is a good example for the trial judges to remember that the police sometimes arrest people without any reasons and later introduce contraband or similar illegal items to the person arrested to justify the arrest. When the story of the police is false, one police officer may sometimes contradict the other police officer. The trial judges must be extremely careful when they are called upon to act only on one police officer's evidence when the police claim that a team of police officers conducted a raid and found contraband in the possession of the suspect because there can always be an introduction as happened in this case. Therefore in cases where the police allege that they found contraband in possession of a suspect or suspects, it is safer not to act only on one police officer's evidence if more than one police officer have participated in the raid because if there is an introduction by the police officers as happened in this case, there may, sometimes, be contradictions among the evidence of police officers. In such situations, adjudication of issues in the case becomes easier to courts. I am mindful of the principles laid down in Section 134 of the Evidence Ordinance when I make the above observation. But however courts should not fall into the trap of convicting an innocent person by strictly following the principles laid down in section 134 of the Evidence Ordinance. The incident that had taken place in the present case is a classic example that courts should, in appropriate cases, relax the principles laid down in section 134 of the Evidence Ordinance. However if a police officer who was not assisted by any other police officer searches a person on suspicions and

finds contraband or any illegal items in the possession of the said person the situation discussed above may be different.

I will consider the said behaviour of the 6th Respondent when I consider granting compensation.

It was the position of the 6th Respondent that he did not arrest and detain the petitioner. It is the duty of the arresting officer to take steps to produce a person arrested before the learned Magistrate without delay. Thus in the present case the 6th Respondent has not violated Article 13(2) of the Constitution. There is no evidence against the 6th Respondent that he violated Article 11 and 13(1) of the Constitution. I therefore hold that the 6th Respondent has not violated Article 11 and 13(1) of the Constitution. As I pointed out earlier, the 6th Respondent has violated the fundamental rights of the petitioner guaranteed under Article 12(1) of the Constitution.

I will now consider the case against the 3rd Respondent. The 1st Respondent has annexed an affidavit of the 3rd Respondent. The 3rd Respondent, in his affidavit, says that the 1st Respondent who was with him went to Matthegoda Vidyadeepa MahaVidyalaya to attend a dengue campaign. The Principal and the watcher of the said school, in their affidavits, take up the position that the 1st Respondent came to the school on 25.5.2012. The watcher, in his affidavit, further says that the petitioner was inside the police jeep in which the 1st Respondent came. The petitioner, in his affidavit, says that the 1st to 3rd Respondent came to his house to arrest him. When I consider these matters especially the affidavit of the 3rd Respondent, it can be safely concluded that the 3rd Respondent too has gone with the 1st Respondent to arrest the petitioner. But the petitioner does not say that the 3rd Respondent assaulted him. The only act committed by the 3rd Respondent was

that he, on 25.5.2012 went with the 1st Respondent to arrest the petitioner. He being a police constable attached to the Police Station Homagama has no authority to refuse to accompany the 1st Respondent, the Officer-in-Charge of the Police Station when the 1st Respondent requests him to carry out an official duty and further he has no authority to decide whether the petitioner should or should not be put to the police jeep once the petitioner was arrested by his superior officer, the 1st Respondent. When I consider all these matters, I am unable to conclude that the 3rd Respondent has violated the fundamental rights of the petitioner guaranteed by the Constitution. I therefore hold that the 3rd Respondent has not violated the fundamental rights of the petitioner. There is no strong evidence against the 4th and 5th Respondents to conclude that they have violated the fundamental rights of the petitioner guaranteed of the Constitution. I therefore hold that the 4th and 5th respondents have not violated the fundamental rights of the petitioner guaranteed by the Constitution.

I will now consider the case against the 2nd Respondent. He takes up the position that he was the Station Duty Officer (SDO) of the Police Station Homagama on 25.5.2012. However learned counsel for the Petitioner relying on the document marked '2Ry' produced by the 2nd Respondent attempted to contend that that from 8.13 a.m. to 10.45 a.m. no entries exist to establish that he was at the police station. Is this evidence enough to conclude that he was away from the police station from 8.13 a.m. to 10.45 a.m.? Although the Petitioner states in his affidavit that the 2nd Respondent dragged him from the kitchen to the sitting room, the 2nd Respondent has established by 2R1, the Duty Register, that he was the SDO of the Police Station on 25.5.2012. When I consider all these matters, it is unsafe to conclude that the 2nd Respondent was involved in arresting the Petitioner. For the above reasons I am unable to conclude that the 2nd Respondent has violated the

fundamental rights of the Petitioner. I therefore hold that the 2nd Respondent has not violated the fundamental rights of the Petitioner.

I now consider the case against 8th Respondent. Learned Counsel for the Petitioner attempted to contend that there was inaction by the 8th Respondent with regard to the steps against the 1st Respondent. He submitted that there were shortcomings in the charge sheet filed against the 1st Respondent and 6th Respondent. I must state here that the 8th Respondent has taken steps to hold an inquiry against the 1st Respondent and the 6th Respondent. The charge sheet has been produced as 9R1. If there are shortcomings in the charge sheet, they can be attended to by the prosecuting officer. It is too early for this Court to comment on said the inquiry. For these reasons I hold that the Petitioner has not established any case against the 8th Respondent.

I have earlier held that the 1st Respondent has violated the fundamental rights of the Petitioner guaranteed by articles 11, 12 (1), 13(1) and 13(2) of the constitution. Considering all the facts of this Case, I direct the 1st Respondent to pay, from his personal funds, Rs.200,000/- to the Petitioner as compensation.

I have earlier held that the 6th Respondent has violated the fundamental rights of the Petitioner guaranteed by Article 12(1) of the constitution. I have observed in this judgment that the 6th Respondent honestly told the truth to the learned Magistrate and that his behaviour would be considered when granting compensation. I direct the 6th Respondent to pay Rs.10,000/= to the Petitioner.

The 1st and the 6th Respondents violated the fundamental rights of the Petitioner when they were functioning as Police Officers in the course of their official duties. I therefore hold that the State should also pay compensation. I order

that the State should pay Rs.25, 000/- to the Petitioner. I direct the IGP to take steps to ensure the payment of this amount to the Petitioner.

I have earlier in this judgment held that the arrest and detention of the Petitioner by the 1st Respondent are wrongful and illegal and that he has violated Article 11,12(1),13(1) and 13(2) of the Constitution. I therefore direct the IGP to conduct investigation under the guidance of the Attorney General against the 1st Respondent and consider instituting criminal proceedings against the 1st Respondent. I direct the Registrar of this Court to forward a copy of this judgment to the IGP and the Attorney General to take appropriate action.

Judge of the Supreme Court.

Eva Wanasundera PC, J

I agree.

Judge of the Supreme Court.

B P Aluwihare PC, J

I agree.

Judge of the Supreme Court.