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

In the matter of a Rule in terms of Article 105(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka. And the provision of the Contempt of Court Act No.08 of 2024.

The Registrar,
Supreme Court of Sri Lanka,
Superior Court Complex,
Colombo 12.

Petitioner

SC/ Contempt No.01/2024

Vs.

Jayathunga Patabandige Susil Priyantha Jayathunga ,
Attorney-at-Law,
No.294/A, Kotupathgoda Road,
Kumbuka West, Gonapola.

Respondent

BEFORE : **A.L. SHIRAN GOONERATNE, J.**

ACHALA WENGAPPULI, J.

K. PRIYANTHA FERNANDO, J.

COUNSEL : J.P.S.P. Jayathunga, Respondent, appears in person,

Chathura Galhena with Devmini Bulegoda for the Bar Association of Sri Lanka.

Nirmalan Wigneshwaran DSG, with Sureka Ahmed, SSC instructed by Rizni Firdouse, SSA for the Hon. Attorney General.

HEARING ON : 02nd October, 2025

DECIDED ON : 05th February, 2026

ACHALA WENGAPPULI, J.

This is a matter, in which the person charged with Contempt of Court, is an Attorney- at-Law, who practiced law since his admission into the Bar in the year 2011.

This Court, after taking cognizance of certain acts committed by the said Attorney-at-Law and, having satisfied itself that those acts attributed to him *prima facie* established a case for contempt of Court, and acting in terms of the provisions contained in the Contempt of Court, Tribunal or Institution Act No. 08 of 2024, directed the Hon. Attorney General to draft a Rule to be issued on the said Attorney-at-Law, being "*the person charged with contempt of Court*" as described such a person in the said Act, who shall be referred to hereinafter as "the Respondent" merely for the purpose of convenience.

The Rule issued against the Respondent was signed by the Registrar of this Court. It contained particulars of several acts of Contempt of Court with which the Respondent said to have committed. A translated version of the said Rule was read out to the Respondent in Sinhala language and the same was served on him on 01.07.2024. This Court, thereupon, proceeded to hold a hearing into the

allegations contained in the said Rule, as the Respondent pleaded "*not guilty*" to the charges set out therein. This Court decided to conduct amalgamate proceedings in SC Contempt of Court No. 1/24 and Rule No. 5/24, since the acts attributed to the Respondent in both these Rules are almost identical.

During the hearing into the Rule, the Registrar of the Supreme Court and the Respondent presented their respective evidence under oath. The Respondent was afforded an opportunity to tender his submissions in written form, after perusing the proceedings conducted on that day, but were issued subsequently by the Registry. This opportunity was provided to the Respondent, as he was produced from remand custody, and with a view to provide him with sufficient time to effectively address this Court of the defence put up by him. The opportunity afforded by this Court to the Respondent was fully utilised by him by submitting several sets of written submissions from time to time to the Registry of this Court.

The circumstances that led to the issuance of the said Rule on the Respondent are set out below *albeit* briefly.

The Respondent filed a petition No. SC/SPL/LA/112/2023 on 20.04.2023 before this Court, by which he sought to impugn the judgment of the Court of Appeal dated 09.03.2023, pronounced in Case No. COC/02/2023. This was following an action filed in the District Court by the Respondent.

The petition SC/SPL/LA/112/2023 was to be supported on 30.01.2024 before a division of this Court for the consideration of granting Special Leave to Appeal against the impugned judgment. The Respondent, being the petitioner in that application, appeared in person. During the process of supporting the said

petition, this Court wanted a certain clarification from the Respondent, who thereupon sought further time to respond to same. The matter was accordingly re-scheduled to be resumed on 20.03.2024 before the same division of this Court.

The Respondent has filed an additional petition dated 12.03.2024, in SC/SPL/LA/112/2023, without obtaining prior leave of Court, in filing of same.

In that petition the Respondent alleged that;

a. the division of this Court, before which the petition of SC/SPL/LA/112/2023 was supported, acted with strong *malice* towards the 0Respondent,

b. the three Justices who constituted that division of this Court have suppressed the truth and,

c. therefore, are guilty of an offence under Section 289 of the Penal Code.

The Respondent, further alleged that the said three Justices have;

a. misled and deceived Court,

b. acted in Contempt of Court,

c. been partial towards the 1st Respondent,

d. acted in breach of the Rules of Court and

e. accorded special treatment to the 1st Respondent, who is a serving judicial officer.

In addition, the Respondent alleged in the said petition that His Lordship the Chief Justice and the Hon. Attorney General too have harboured malice against him and acted with malice. The Respondent repeated these allegations in open Court, when he appeared before Court on 20.03.2024.

The Registrar of this Court, in the matter titled SC Contempt of Court No. 01/24 has read out the said Rule to the Respondent, framed under the Act No. 08 of 2024 to the Respondent, which alleged that the latter, by making aforementioned set of allegations in the said additional petition, followed by his conduct in open Court on 20.03.2024, has acted in a manner evincing an intent to;

a. bring the authority of the Supreme Court into disrespect or disregard,

b. interfere with, or cause grave prejudice to the judicial process in relation to case bearing No. SC/SPL/LA 112/2023,

c. express and/or pronounce that which is false and -

   (i) scandalize or lowers the judicial authority or dignity of the Supreme Court,

   (ii) cause grave prejudice, or unlawfully interfere with due course of the case bearing reference No. SC/SPL/LA 112/2023,

   (iii) interfere with, or obstruct the administration of justice;

d. scandalised the Supreme Court and/or their Lordships or the Supreme Court with intent to-

   (i) interfere with the due administration of justice;

(ii) or cast public suspicion on the administration of justice,

and thereby committed the Contempt of Court, as set out in Sections 3(1)(a), 3(1)(b), 3(2)(c), and 3(2)(e) of the said Act.

During his Examination-in-Chief in the hearing of the Rule, the Respondent admitted the several acts attributed to him in the said Rule and offered an explanation to his said conduct referred to therein. According to him , whilst acting in the manner described in the Rule, he neither had any understanding that he was acting contrary to law nor to morals, (**"ඒ කරන ලද ක්‍රියාව සම්බන්ධයෙන් නීතියට පටහැනි බව හෝ සදාචාරයට පටහැනි බවට මට අවබෝධයක් තිබුනෙ නැහැ"**) Thus, he attributed his acts to a mental condition, said to have prevailed in his mind during that particular point in time, which he preferred to describe as **" ඒ වෙලාවෙ හිටපු මානසිකත්වය"**.

This he made by placing reliance on an assessment made by the Consultant Forensic Psychiatrist attached to National Institute of Mental Health, Dr. *C.T.K. Fernando,* on his mental condition, as described in the medical report V1.

In his evidence the Respondent has described the state of his mind that was prevalent during the relevant time to the Rule, as one which is **"කලහකාරී, පීඩාකාරී, සටන්කාමී මානසිකත්වයක්"**. These descriptions could be translated into English to read as "*pugnacious, oppressive and aggressive*" mentality.

In support of his defence of insanity, the Respondent also relied two other medical reports that were obtained from two other Consultant Psychiatrists. One of the two Consultant Psychiatrist is attached to *Polonnaruwa* General Hospital

while the other, apparently engaged in private practice in *Colombo*. These reports were tendered to Court marked V2 and V3 respectively.

Thus, it is clear that the Respondent relied on the specific defence of insanity and thereby invoked the applicability of the statutory provisions contained in Section 77 of the Penal Code.

Section 77 of the Penal Code is a section drafted and inserted to the Penal Code, in the spirit of *Mac Naughten Rules* but "*with some material modifications*" (vide ***Principles of Criminal Liability in Ceylon****, Professor G.L. Peiris,* at p.133). Section 77 states thus; "*[N]othing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.*"

The position taken up by the Respondent is that he neither had any understanding that he acted contrary to law nor to the morals during the period of time relevant to the Rule due to his unsoundness of mind. However, it must be noted here that he does not rely on the first scenario described in Section 77 as he did not state that he was incapable of knowing the nature of his acts by reason of unsoundness of mind. Instead, he clearly placed reliance on the second scenario described in that Section which states "… *by reason of unsoundness of mind, is incapable of knowing … that he is doing what is either wrong or contrary to law*". Thus, if the Respondent is to be exonerated from imposition of criminal liability attached to his acts that are referred to in the Rule, he must establish before this Court that he was incapable of knowing what he was doing is either wrong or contrary to law, by reason of his unsoundness of mind. He must establish that on a balance of probability, *vide* judgments of the Court of Appeal in ***Perera v Republic of Sri Lanka*** (1978-79) 2 Sri L.R. 84 ***Nandasena v Attorney***

General (2007) 1 Sri L.R. 237 and the Court of Criminal Appeal in ***Barnes Nimalaratne v Republic of Sri Lanka*** (1975) 78 NLR 51.

In this regard, the medical reports that were tendered before this Court provide the most relevant and reliable evidence.

The medical report V1 indicates that the Respondent was assessed on 02.04.2024 by *Dr. C.T.K Fernando*, in the presence of Dr. *W.W.L.I. Fernando*, at the Forensic Psychiatry Clinic of the Prison Hospital. During the assessment, it was revealed that the Respondent had no past history of presentation to any psychiatry services and also had no family history of mental illness.

Dr. *C.T.K Fernando* states in that report that the said assessment of the Respondent revealed that he has "*persecutory delusions against his wife mainly, but he also developed persecutory delusions others are plotting against him.*" In addition, the Respondent was noted to have "*grandiose delusion that he has superior knowledge about law than any other individual*". Dr. *C.T.K Fernando* accordingly concluded the assessment with a clinical interpretation that the Respondent has a mental disorder called "*bipolar affective disorder currently mania with psychosis*".

The Respondent, in his written submissions, invited attention of this Court to the *dicta* of a judgment of the Court of Appeal pronounced in ***Nandasena v Attorney General*** (supra), where *Ranjith Silva* J has held, in relation to the nature of the burden cast on an accused, who relied on the defence of insanity, by stating that (at p. 239) " *[I]t is the burden of the accused to prove that he was incapable of (1) knowing the nature of the act (2) that he is doing what is either wrong or contrary to law*". But the factors by which an accused might sought to discharge his burden must be clearly established and not merely set out in "*vague or desultory*

fashion" and the conclusions must not be based on inadequate material and must not be on hearsay either, (*vide* judgment of ***Barnes Nimalaratne v Republic of Sri Lanka*** (supra) at p. 55).

In order to consider the impact of "*bipolar affective disorder currently mania with psychosis*" on the cognitive ability of the mind of the Respondent, it is necessary to examine the medical report V1, in a more detailed manner. This is because, it is for this Court to satisfy itself that the Respondent is entitled to the relief afforded to a person of unsound mind in terms of Section 77 of the Penal Code.

The Consultant Forensic Psychiatrist, who issued the said report on 02.04.2024, states under the heading "*Mental State Assessment*" that the features that are referred to in his report are "*suggestive of manic episodes*". In relation to the responsibility of his actions, the Consultant is of the view that the Respondent would have been of "*unsound mind at the time of the alleged offence*". Understandably, this is a finding on which the Respondent has now placed very heavy reliance. However, it must be observed that there is no mention of an exact date of the any admitted acts that are referred to in the Rule in that report, which indicated the position that it was probable that the Respondent was under that mental condition during that specific time period.

The Rule was served on the Respondent only at a subsequent point of time. Even if one were to act on V1, by giving the fullest weightage to its findings, the mental illness of "*bipolar affective disorder currently mania with psychosis*" that appears to have affected the Respondent at some point in time, would occur only intermittently. The Consultant Forensic Psychiatrist described such instances as "*manic episodes*". Thus, it is clear that there are intervals of clear

comprehension in between these "*manic episodes*" that might last for an unspecified period of time. During these intervals that exists in between such manic episodes, the Respondent could act as a reasonably prudent member of the society. However, this is not the only evidence before Court on this point.

The Respondent also relied on two other medical reports issued by two other Consultant Psychiatrists, whom he consulted on his own volition.

The document marked V2, was issued on 30.04.2024 by Dr. *P.A.I. Wijayanayaka*, Acting Consultant Psychiatrist of Teaching Hospital *Polonnaruwa,* a few days after he was assessed by Dr. *C.T.K Fernando*. This six-page document, mostly consists of illegible handwritten notes made by the Consultant. However, it is clear that it made no indication to a specific diagnosis made or a finding of a mental illness subsequent to the assessment conducted on the Respondent. Nor did the Respondent invite attention of this Court to any such specific reference made to that effect in that report. However, the evidence of the Respondent indicated that, during that consultation, he was verbally informed of by the said Consultant that he need not be treated for any psychiatric illness.

The said alleged clearance of the Respondent of any mental impairment by Dr. *P.A.I. Wijayanayaka*, prompted him to lodge a complaint to the Medical Council against Dr. *C.T.K Fernando,* who issued V1. The Respondent, by a letter dated 06.06.2024 and addressed to that Council, complained that although he was cleared of any mental impairment by Dr. *P.A.I. Wijayanayaka,* when he consulted the latter on 30.04.2024, who issued a finding quite different to the one made by Dr. *C.T.K Fernando,* which indicates that he has "*bipolar affective disorder currently mania with psychosis*". The Respondent, further alleged that the said report was prepared by the Consultant Forensic Psychiatrist based on false

information attributed to him, which he did not provide during the assessment session. Not only the Respondent challenged the validity of the medical report V1, he has instituted a civil action against the said Consultant and the other Psychiatrist, in the District Court Case No. DMR/620/24 on 12.06.2024, claiming damages from them, in a sum of Rs. 100,000,000.00.

In that action, the Respondent referred to his causes of action accrued to him against Drs. *W.W.L.I Fernando* and *C.T.K Fernando* on the basis, which he describes as follows;

> **" කීර්තිමත් නීතිඥවරයෙකු වූ පැමිණිලිකරුට මානසික රෝගයක් ඇති බවට චේතනාන්විතව අපහාස කිරීම, කීර්තියට හානි කිරීම, මානසික රෝගියෙකු ලෙසට සාවද්‍ය මතයක් ජනගත කිරීමට ඉඩ සැලස්වීම, පැමිණිලිකරු විසින් පවරා පවත්වාගෙන යන නඩු ඉදිරියට පවත්වාගෙන යාමට අන්‍යාකාරයකින් බාධා පැමිණවීමට ක්‍රියා කිරීම, පැමිණිලිකරුගේ නීතිඥ වෘත්තිය සදාකාලික ව අහිමි කිරීමට උත්සාහ කිරීම, කායිකව සහ මානසිකව නිරෝගී පුද්ගලයකු වූ පැමිණිලිකරු මානසික රෝගියෙකු ලෙස හුවා දැක්වීම යනාදී වැරදි සිදු කිරීම මගින් "**

Despite the fact that the Respondent placing heavy reliance on the findings contained in V1 to impress upon this Court that he is a person of unsound mind, he continues to maintain the said action filed against the Consultant Forensic Psychiatrist, by affirming to the said cause of action in his Plaint, and thereby asserting that V1 was issued by the said Consultant to make him, an "*eminent lawyer*" (**කීර්තිමත් නීතිඥවරයෙකු වූ පැමිණිලිකරුට**) with a sound mental health condition, being branded as a person with a serious mental illness. The Respondent did not explain this obviously irreconcilable inconsistency in his evidence presented before this Court, in support of his defence of insanity.

Remaining document to be considered by this Court is the one that was marked V3 and with a title "*Medical Report*".

This is a report issued by Dr. *Jayan Mendis*, a Consultant Psychiatrist, when he was consulted by the Respondent at *Nawaloka* Hospital on 07. 06.2024. In the assessment of Dr. *Mendis,* the Respondent only "*appears to be slightly disinhibited*" and found to be a "*mildly overtalkative*" person. However, Dr. *Mendis* was firm in his opinion that "… *no clear manic disturbance or depressive symptoms noted"* on the Respondent. The said assessment of Dr. *Mendis* significantly reduces the probabilities of any manic episode occurring in the mind of the Respondent on 20.03.2024. Dr. *Jayan Mendis*'s assessment of the Respondent clearly indicated that the latter had no significant mental impairment. That finding would therefore excludes the prospect of the Respondent, though appears to be of a "*slightly disinhibited*" nature and a "*mildly overtalkative*" person, having any impairment on the cognitive ability of his mind, that made him incapable of knowing that he is doing what is wrong or contrary to law, due to unsoundness of mind.

The all-important question of fact that must be determined in this instance is whether the Respondent has proved on a balance of probabilities that he was incapable of knowing that what he is doing is either wrong or contrary to law, when he did the acts indicated in the Rule on 20.03.2024, due to his specific claim of having "*bipolar affective disorder currently mania with psychosis"*.

The inconsistencies in these medical reports, indicating different states of his mind, have the effect of significantly reducing the weightage that could be attached to the mental impairment referred to in V1. In view of the contents of the other reports, particularly V3, there is no noticeable mental impairment. The Respondent, who now wishes to rely solely on V1 in support of his defence, a medical report which he found in the past to be injurious to his good reputation

as a legal professional with sound mental health, a report that prompted him to claim damages from its author by institution of civil action, has now become the only item of evidence, in support of his claim of insanity.

This he said before this Court under oath. Similarly, the Respondent affirmed in an affidavit, annexed to the Plaint, in the said action filed against Drs. *W.W.L.I Fernando* and *C.T.K Fernando* that he is perfectly a sane person, who was wrongly diagnosed by the two defendants as a person with a mental condition of "*bipolar affective disorder currently mania with psychosis*". Thus, the Respondent has taken two diametrically opposite positions in these two situations, where he vouched under oath of what he affirms therein is the truth.

Which of these two irreconcilable positions could be accepted by this Court as the truthful statement of the Respondent?

This Court has no expertise to determine medically whether the Respondent is of unsound mind, in terms of Section 77 of the Penal Code, when the admitted acts of contempt of Court were committed by him. It is for this purpose the Court called for the expert opinion from the Consultant Forensic Psychiatrist. Whilst placing strong reliance on V1, the Respondent similarly relies on V2 and V3, which completely nullifies any indication of him having "*bipolar affective disorder currently mania with psychosis*". This Court is therefore not in a position to make a positive pronouncement either way on this question whether the Respondent actually suffers from an unsoundness of mind or that he is a normal person, who now pretends to be of unsoundness of mind for tactical reasons. The contradictory positions taken up by the Respondent on this vital issue made it impossible for this Court to determine the relative probabilities of him having a manic episode during the acts done on 20.03.2024.

In order to get over the two irreconcilable positions that has arisen with regard to his defence, the Respondent sought to explain in his evidence before this Court that he now realises that it was wrong for him to have challenged the validity of V1. The Respondent, in spite of accepting the contents of V1 as one that reflects his state of mind on the date specified in the Rule, nonetheless wants to proceed with the action he already instituted against the Drs. *W.W.L.I Fernando* and *C.T.K Fernando,* indicating that he has no intention of withdrawing that action. Thus, the aforementioned conduct poses a serious credibility issue on the truthfulness of evidence that was presented before this Court by the Respondent, in support of the defence of insanity.

It is already noted that the assessment made by Dr. *C.T.K Fernando* in V1 is clearly at variance with the one made by Dr. *Jayan Mendis* in V3. This difference of opinions expressed by the medial experts, who are eminently qualified in the field of Psychiatry, could have been due to limited accessibility to relevant information. In fact, Dr. *C.T.K Fernando* noted that there was "*unavailability of collateral information from a family member*" during his session. All three reports indicate that the assessment of the Respondent was made totally on the information gathered during each of these three consultations. Thus, the assessment would totally be dependent on the manner the Respondent presented himself before each of the medical experts, during the respective assessment sessions, thus resulting in varying conclusions.

In order to arrive at a finding on the question of fact that whether the Respondent was incapable of knowing what he was doing is either wrong or contrary to law, by reason of his unsoundness of mind, it is important to refer to the circumstances leading up to the point of the issuance of the Rule, along with

the circumstances that tends to indicate his mental state, subsequent to those indicated in the said Rule, even though he admitted the acts that were attributed to him.

The Respondent filed application No. CA Writ 635/2021 naming several Respondents (including a Judge of the original Court, cited as the 1st Respondent), and made several allegations against two sitting Justices of that Court. Thereafter, he filed another application (COC/02/2023) against the said 1st Respondent, alleging Contempt of Court of Appeal, when the latter failed to appear before that Court, when the application No. CA Writ 635/2021 was mentioned before that Court. The Court of Appeal, by its order dated 09.03.2023, refused to issue notice on the 1st Respondent judicial officer, in case No. COC/02/2023.

The Respondent thereupon sought Special Leave to Appeal from this Court in SC SPL LA 112/2023, impugning the said order made by the Court of Appeal in COC/02/2023. The Respondent, after filing the petition in case No. SC SPL LA 112/2023, appeared before this Court in person on 30.01.2024 in order to support the said application. When this Court sought a clarification from him, whether there was any direction made by the Court of Appeal directing the 1st Respondent in CA Writ 635/2021 to appear before that Court personally, the Respondent moved for time and to have the matter re-fixed and thereby allowing him to make further submissions on the next date i.e., 20.03.2024.

It is at that stage only the Respondent has filed the subsequent petition along with an affidavit dated 12.03.2024 making serious allegations against the panel of three Justices before whom his application No. SC SPL LA 112/2023 was partially supported.

On 20.03.2024, when case No. SC SPL LA 112/2023 was resumed before the same panel of Justices, the Respondent made serious allegations against the panel of Justices hearing his application in open Court. Learned SDSG, who appeared for the Hon. Attorney General, having witnessed the acts of the Respondent, moved this Court to issue show cause on the Respondent, why this Court should not punish him for contempt of the Supreme Court.

The said chronology of events indicates that the circumstances under which the offending conduct was carried out and the manner in which he conducted himself in the well of the Court, in addition to the allegations made in his petition addressed to this Court. The reason for his offending conduct on 20.03.2024, is attempted to persuade the three Judges not to resume the hearing of his application in SC SPL LA 112/2023, and forced them to recuse from continuing with the hearing.

The intention of the Respondent, behind his conduct, is clearly reflected from the narrative he provided to Dr. *C.T.K Fernando,* during his assessment on 02.04.2024, after a mere 13 days since 20.03.2024.

The Respondent has disclosed to the Consultant Forensic Psychiatrist that (vide para 29 of V1);

> **"නඩුව ගත්තා සුප්රීම් කෝට් එකේ. ත්රී බෙන්ච් පැනල් එකක් තමයි හිටියේ. මම ඒ තුන් දෙනාට විරුද්ධව අපරාධ නඩුවක් දැම්මා කලින් කොළඹ මහේස්ත්රාත් උසාවිය (අංක 01). ඊට පස්සේ මගේ නඩුව අහද්දි මම කිව්වා " ඔබ තුමන්ලාට විරුද්ධව මම නඩු දාල තියෙන්නේ ඒක නිසා මගෙ නඩුව කතා කරන්ඩ බැහැ මෙ උසාවියේ කියලා"**

This particular admission made to the Consultant Forensic Psychiatrist made it implicitly clear that the Respondent was determined to compel the three

Justices to desist from resuming the hearing of the application No. SC SPL LA 112/2023 on 20.03.2024, at whatever the cost. He has even taken the extreme step of instituting a private Plaint in the Magistrate's Court of *Colombo* against the three Justices, and thereby expected to force them to recuse from taking part any further in those proceedings, which their Lordships would have done in any other ordinary situation, in terms of applicable Judicial Ethics.

The said conduct of the Respondent therefore appears to be of a person, who acted with a clear and a rational mind, particularly in developing a strategy to achieve his desired objective by creating a situation that would force the three Justices to recuse themselves from further proceedings of the case and, executing each of the stages of that strategy with meticulous care. If that in fact is the case, then the Respondent has effectively designed a strategy in order to force the three Justices not to proceed with the resumption of proceedings with the unfounded and unsubstantiated allegation of bias.

Moreover, immediately after enlarging the Respondent on bail, he has secured an interview with a private television presenter. During this interview, he was afforded with yet another opportunity of repeating what he alleged in his subsequent petition and to reach out to a larger population of television viewers *via* audio-visual media. This action, in turn, has resulted in re-remanding the Respondent.

In view of this reasoning, it appears to this Court that it is more probable than not, that the Respondent at all times material to the Rule presented against him, have acted with a rational mind, which is not clouded by any mental condition that qualified to diminish that ability. Clearly, there was no family

history of mental illnesses and prior to the incidents which resulted in presenting the charges, the Respondent had no episodes of any mental incapacity at all.

Even if there was some temporary derangement, as assessed by Dr. *C.T.K Fernando,* the evidence clearly supports a reasonable proposition that he may have experienced such episodes with long time intervals in between them. But, when he acted contemptuously towards this Court on 20.03.2024, in the absence of any material to satisfy to the contrary, it is more probable that he was acting rationally and was not under any mental derangement, as confirmed by Drs. *P.A.I. Wijayanayaka* and *Jayan Mendis,* Consultant Psychiatrists, who have had the benefit and the opportunity of making a personal assessment of the Respondent with an unrestricted flow of information.

In this regard, it must be noted that all three Consultants have assessed the mental condition of the Respondent solely by interviewing him and without having the benefit of any clinical reports obtained through investigative testing procedures to assist them.

Furthermore, we derive support for aforementioned view from the reasoning of the judgment of *Dias* J in ***The King v Jayawardene*** (1947) 48 NLR 497. This was a situation where the accused, in support of his plea of insanity, has relied on the evidence that his father, brother and sister had been insane; he himself in his childhood had suffered from epileptic fits, that when the detection of his fraud and his arrest became imminent his mental condition deteriorated to the extent that he attempted to commit suicide and was subsequently adjudicated to be of a person of unsound mind. But the evidence before Court also proved that during the thirty years the accused had been a public servant, he had displayed no signs of any mental aberration.

His Lordship, having considered the circumstances in support of the defence of insanity by the accused, has held (at p. 503) that;

> "*[T]he modus operandi of the accused, as detailed by the learned Judge at pages 51 and 52 of his judgment, clearly shows that the accused needed considerable skill and mental acumen in order to falsify the books and vouchers received by him during this period in order to deceive, not only his station staff, but also the head office at Colombo. A person who was of unsound mind and did not know the nature of his acts could not have perpetrated this somewhat intricate fraud in the manner in which the accused carried it out*".

The Respondent is charged under Sections 3(1)(a), 3(1)(b), 3(2)(c), and 3(2)(e) of the Contempt of a Court, Tribunal or Institution Act. Section 3(1)(a) refers to certain acts committed with the intent to bring the authority of a Court and the administration of justice into disrespect or disregard, whereas Section 3(1)(b) refers to acts done with a view to interfere with, or cause grave prejudice to the judicial process in relation to any ongoing litigation. Section 3(2)(c) in turn deals with situations where a person expresses, pronounces or publishes any matter that is false or doing an act that scandalizes or lowers the judicial authority or dignity of Court, that gravely prejudices or unlawfully interferes with due course of any judicial proceeding and interferes with or obstructs the administration of justice.

Perusal of the acts that are attributed to the Respondent in the Rule indicate that those acts, if committed by a person, are indeed qualifies to be taken as acts that ;

a. brings the authority of a Court and administration of justice into disrespect or disregard,

b. interfering with, or causing grave prejudice to the judicial process in relation to an ongoing litigation.

The act of filing the petition containing false allegations against sitting Justices of this Court by the Respondent certainly qualifies to be taken as both;

> an expression, pronouncement or publishing any matter that is false or doing an act that;
>
> i. scandalizes or lowers the judicial authority or dignity of Court,
>
> ii. that gravely prejudices or unlawfully interferes with due course of any judicial proceeding and
>
> iii. interfering with or obstructing the administration of justice.

It is already noted earlier on in this judgment that the Respondent has admitted the acts attributed to him but unsuccessfully pleaded that he was incapable of knowing that he is doing what is either wrong or contrary to law due to unsoundness of mind. There was no attempt made by the Respondent to bring any of his acts under Section 4(1) of the Contempt of a Court, Tribunal or Institution Act, instead opted to act under Section 4(3) by placing reliance on *"any other valid defence for contempt of Court"* by placing total reliance on Section 77 of the Penal Code.

It was for the Respondent to establish the defense he put up against the Rule on a balance of probabilities. The Respondent should have established that he was incapable of knowing what he did at that time is either wrong or contrary to law, when he committed those acts that are referred to in the Rule due to "*bipolar affective disorder currently mania with psychosis*". Having carefully considered the evidence presented before this Court, we are of the considered view that the Respondent failed to discharge the burden of proof imposed on him by law, in taking up the defense of insanity.

Therefore, in view of the reasons set out in the preceding paragraphs of this judgment, we find the Respondent has committed acts that are referred to in the Rule in contempt of the Supreme Court, which were criminalized in terms of Sections 3(1)(a), 3(1)(b), 3(2)(c), and 3(2)(e) of the Contempt of a Court, Tribunal or Institution Act, and he acted with the requisite mental element, as indicated in the said Rule.

This Court, in imposing sentence on the Respondent, already considered the appropriate punishments that could be imposed on persons, who found to have acted in contempt of Court. In its sentencing order, in ***Sumanthiran and two Others v Illukpitiya*** (SC/Contempt/03/2025 – pronounced on 23.09.2025) where *Kodagoda* J, having noted that the Act No. 8 of 2024 does not provide for any restriction on the nature or to the extent of the punishment that may be imposed on a person found have committed Contempt of Court, proceeded to hold that;

> *"[O]n a consideration of a multitude of factors, this Court has formed the assumption that additional reasons which justify why there should not be any restriction placed in Court are that; (a) Article 105(3) which*

> *concurrently confers jurisdiction on the Supreme Court and the Court of Appeal to deal with instances of contempt of court, does not impose any restriction on the punishment that may be imposed on a person who has been found "guilty" of having committed contempt of court, and (b) the very nature of the circumstances that constitutes contempt of court are so varied and its impact and consequences can range from being minor to extremely serious, there can be certain instances of contempt of court which warrants in public interest the imposition of a very high (severe) punishment*."

In relation to the appropriate sentence that should be imposed on a person who is found to have committed contempt of Court, it was further held by *Kodagoda* J, as follows;

> *"[G]iven the plethora of situations and manifestations of contempt of Court that may be committed in a varying range of situations, the scheme of punishment contained in the Penal Code for various offences, including offences relating to the administration of justice, and previous judgments of this Court relating to instances where persons have been convicted of having committed contempt of Court and punished, this Court fixes a hypothetical upper limit of seven (7) years imprisonment of either description, as being the maximum imprisonment that may be imposed on a person convicted of having committed the offence of contempt of court, together with or without an order for the payment of a fine".*

This Court respectfully agrees with the said range of imprisonment that had been identified in relation to acts of contempt of Court, but wish to emphasize that where the act of contempt is committed against the apex Court of

the country, the deterrent component in the sentencing ought to be given extra weightage, in view of the nature of the multifaceted jurisdiction conferred on it by the Constitution of the Republic.

In determining the appropriate sentence to be imposed on the Respondent in this particular instance, we, in mitigation, consider that he has no apparent record of any previous instances of offending. He is a married individual with three children. Due to certain reasons his family life suffered several setbacks. He was deprived of the wealth he has accumulated over the years. He has taken to law only a few years back, after engaged in various business activities

However, we also consider the several aggravating circumstances, which are identified and listed as follows;

1. The instances referred to in the Rule are not at all related to instances of exercising the freedom of expression and fair comment,

2. Only purpose for the committing the acts referred to in the Rule by the Respondent to achieve the specific result which he desperately wanted to achieve,

3. In order to achieve that purpose he chose to scandalise the all the Judges who happened to adjudicate the cases instituted by him, ranging from the original Courts to the apex Court, and they were indiscriminately vilified and humiliated by making serious allegations and instituting criminal prosecutions against them,

4. In doing so, he acted with cunning and carefully strategizing each distinct step in his approach to achieve the result he wanted,

5. He executed each step of that strategy with meticulous care,

6. He had no remorse to express at any time for the adverse impact made on reputation of the institution of the Judiciary or to the Consultant Forensic Psychiatrist and the Psychiatrist, by the institution of actions, as a form of revengeful actions,

7. He still maintains the multiple actions that were already instituted against the members of the Judiciary, despite undertakings given by him quite voluntarily at various times to withdraw them with a view to entice the Hon. Attorney General to initiate a process of plea bargaining seeking to reduce the criminality of his acts, in return for withdrawal of those cases,

8. The prospect of general public accepting these multiple allegations, made by the Respondent, as genuine grievances suffered by an Attorney at Law in performing his duty, due to him being an Attorney-at-Law, would be significantly high when compared with similar allegations made by an ordinary litigant.

In view of these multiple factors aggravating the impact of the acts of contempt of Court, and with due consideration of the circumstances already referred to in this judgment in mitigation, we are of the view that the Respondent should be punished with a deterrent sentence, that commensurate with the acts committed by him. Therefore, we are of the view that a term of imprisonment for a period of three years (03) would serve the ends of justice. Of course, we take

note of the fact that the Respondent is in remand since 01.07.2024. Therefore, we make order that the said sentence of three years of imprisonment to run from that date, *i.e.*, 01.07.2024.

The Registrar of this Court is directed to issue a Warrant of Detention in respect of the person found to have committed Contempt of Court, in line with terms set out by this Court in this judgment.

JUDGE OF THE SUPREME COURT

A.L. SHIRAN GOONERATNE, J.

I agree.

JUDGE OF THE SUPREME COURT

K. PRIYANTHA FERNANDO, J.

I agree.

JUDGE OF THE SUPREME COURT