

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

In the matter of an application in
respect of the violation of
Fundamental Rights in terms of
Article 17 and 126 of the Constitution
of the Democratic Socialist Republic of
Sri Lanka.

SC/FR Application No. 140/2022

Wahumpura Hakuruge Lilani
Dayaratne
No. 170/B, Gurulana,
Bope, Paddukka.

Petitioner

Vs.

1. Batawala Kapuge Ajith
Amarasena Nishshanka,
Officer-in-Charge,
Police Station,
Paddukka
2. Ranawaka Arachchige
Chandrasiri Perera,
PC 14541
Police Station,
Paddukka

3. Ratagiya Ralalage Nayanana
Sanjeewa Wimalasiri,
PC 17728
Police Station,
Paddukka
4. Inspector General of Police
Police Headquarters,
Colombo 01.
5. Hon. Attorney General,
Attorney General's
Department,
Colombo 12.

Respondents

Before: **Justice A. L. Shiran Gooneratne**
 Justice Janak De Silva
 Justice Menaka Wijesundera

Counsel: Pulasthi Hewamanna with Linuri Munasinghe instructed by
 Niluka Dissanayake for the **Petitioner**.

R. S. Weerawickrama with Kithmini Ruwanpura instructed by
Priyanthi Ganegoda for the **1st Respondent**.

Sumedha Mahawanniarachchi with Nishan Balasooriya instructed by Amila Vithana for the **2nd Respondent**.

Asthika Devendra with Abheetha Nandakumara instructed by Manjula Balasooriya for the **3rd Respondent**.

Shanaka Wijesinghe, PC, ASG for the **4th and 5th Respondents**.

Argued on: 13/05/2026

Decided on: 24/07/2026

A. L. Shiran Gooneratne J.

BACKGROUND FACTS

By Petition dated 06/04/2022, the Petitioner, a 35-year-old mother of three minor children, is seeking redress for her arbitrary arrest, detention, and acts of torture and degrading treatment allegedly perpetrated by the 1st to 3rd Respondents attached to the Padukka Police Station and two other Respondents.

On 20/06/2021, at approximately 11.00 a.m., the Petitioner's husband, Percy Indika Perera, had discovered nude photographs of a man sent to their eldest daughter on a mobile phone. Upon inquiry, it was revealed that the said man had initiated an affair with their eldest daughter through social media. When confronted, the man allegedly responded in a degrading manner and threatened to harm the said daughter.

Later that evening, at around 6.30 p.m., the Petitioner, together with her husband and two of their daughters, visited the Padukka Police Station to lodge a

complaint. Their attempt was unsuccessful, as officers allegedly claimed that no one was available at the Women and Children's Unit. The family then proceeded to the Mirihana Division Women and Children's Bureau, where, at around 7.30 p.m., a complaint was duly recorded. Statements were recorded from the Petitioner, her husband, and their eldest daughter, though the Petitioner states that, she has not been informed of the progress of that investigation.

At approximately 10.30 p.m., the Petitioner, her husband, and their daughters returned to the Padukka Police Station to notify officers of that Police Station of the complaint lodged at Mirihana, due to the 3rd Respondent's insistence that a complaint be lodged at Padukka Police Station as well.

The Petitioner claims that, immediately thereafter, the Petitioner's husband was arbitrarily placed in a police cell without any explanation. The Petitioner and her daughters were ordered to sit outside the lock-up cell, and their mobile phones were seized. The Petitioner was informed that her husband was locked up for his own safety and did not give any valid reason for his detention. Despite repeated pleas, none of them were permitted to leave.

The Alleged Sexual Assault Perpetrated on the Petitioner at the Padukka Police Station

The Petitioner states that, at around 1.45 a.m. on 21/06/2021, the Petitioner sought to use the toilet. The 2nd Respondent had escorted her outside the building to a toilet adjoining a bath area. Upon her exit, the lights were switched off, and the 2nd Respondent had forcibly grabbed her, and made the following statement; “මට අවශ්‍යතාවයක් තියෙනවා, ඒක කරලා දුන්නොත් මහත්තයයි පොඩ් දෙන්නයි එක්ක ගෙදර යන්න දෙනවා”, instigating an attempt of sexual assault and harassment, as alleged by her.

The Petitioner states that the 2nd Respondent made coercive demands and attempted to silence her when she cried for help. Other officers arrived but, instead of intervening, they assaulted her with a hose-like object and kicked her. She was struck on the spine and lost consciousness. The Petitioner states that she later awoke in severe pain, seated near the lock-up cell with her attire covered in mud and dirt. Fearing further assault, she refrained from complaining until the Officer-in-Charge arrived.

At approximately 6.30 a.m. on 21/06/2021, the 1st Respondent, Officer-in-Charge of Padukka Police Station, entered the premises, screaming at the Petitioner in degrading language, accusing her of failing to protect her daughter. The Petitioner's husband, who was by that time outside the cell, was once again placed in the lock-up cell despite pleas for release. It is alleged, that the Petitioner, intimidated by the conduct of the 1st Respondent, refrained from reporting the assault. The 1st Respondent informed the Petitioner that her husband would be produced before Court for behaving in an unruly manner within the Police Station. In desperation, the Petitioner contacted a family friend, one Ranjith Perera, who arrived around 9.00 a.m. and, after discussions with the Police Officers, informed the family that the Petitioner's husband and the daughters would be released on Police Bail. Accordingly, Bail was granted, and the family was permitted to leave.

Aggrieved by the arbitrary arrest, detention, and the alleged acts of torture and degrading treatment suffered at the hands of the 1st to 3rd Respondents, the Petitioner, together with her husband, had proceeded to the Women and Children's Bureau in Colombo on 22/06/2021, and upon an examination of her injuries, they were directed that a complaint be lodged at Police Headquarters. Later that day, at around 1.30 p.m., the Petitioner and her husband made a complaint at Police Headquarters, Colombo. A statement was recorded, though

the Petitioner was not permitted to read it before signing. Thereafter, she and her husband were repeatedly summoned to provide statements to the Office of the Senior Superintendent of Police, Homagama. The Petitioner states that she has not been apprised of the progress of the investigation.

On 23/06/2021, pursuant to directions issued by Police Headquarters, the Petitioner underwent a medical examination at the District General Hospital, Avissawella, and remained admitted until her discharge on 26/06/2021. The Diagnosis Card records the presence of multiple contusions over her body and swelling of the left ankle. She was examined by a Judicial Medical Officer and a Consultant Psychiatrist and was prescribed medication.

The Petitioner further states that the Diagnosis Card inaccurately records the instrument of assault as a 'wooden pole'. According to her, she was assaulted with a flexible hose-like object, and the reference to a wooden pole is therefore erroneous.

On 29/06/2021, the Petitioner and her husband lodged a complaint with the Human Rights Commission of Sri Lanka. By letter dated 29/11/2021, she was summoned to an inquiry scheduled for 21/12/2021. On that day, the Respondent Police Officers implicated in the incident were absent, and the inquiry was postponed, with assurances that the Petitioner would be notified of a new date. The Petitioner states that she has not been informed of further progress.

The Petitioner further contends that shortly after lodging her complaint at the Police Headquarters, several officers in civilian attire, identifying themselves as being from Police Headquarters, visited her workplace and spoke with her employer. Although unaware of the contents of the conversation, she was asked to resign from employment that same day. Left without alternatives, she was compelled to resign, thereby losing her livelihood.

Alleged Violation of the Petitioner's Fundamental Rights

The Petitioner contends that the cumulative actions and omissions of the Respondents amount to violations of her Fundamental Rights guaranteed under the Constitution. On 31/05/2022, this Court granted Leave to Proceed in terms of Articles 11, 12(1), 13(1), and 13(2) of the Constitution against the 1st to 4th Respondents.

Article 11 of the Constitution guarantees, in absolute terms, the right to be free from torture and from cruel, inhuman, or degrading treatment or punishment. The protection afforded by Article 11 is non-derogable and admits no exception. Accordingly, allegations of physical assault, coercion or degrading treatment within the precincts of a Police Station, if established, would constitute a direct infringement of that constitutional guarantee.

Article 12(1) guarantees to every person the equal protection of the law. In that context, the Petitioner complains that the Padukka Police initially declined to record her complaint on the basis that the officers attached to the Women and Children's Unit were unavailable. She further alleges that she was thereafter subjected to assault, intimidation, and degrading treatment whilst within the Police Station. If established, such conduct would raise serious questions as to the discharge of the State's obligation to afford equal protection of the law, particularly in the context of complaints involving gender-based violence. The Petitioner also asserted that the subsequent visits by Police Officers to her workplace resulted in the termination of her employment, thereby engaging the protection afforded by Article 14(1)(g) of the Constitution. However, Leave to Proceed was not granted in respect of the alleged violation under Article 14(1)(g).

In relation to Articles 13(1) and 13(2) of the Constitution, the Petitioner alleges that she and her children were detained within the Police Station without being

informed of the reasons for such detention and without lawful authority. The Respondents, on the other hand, contend that the Petitioner and her children remained at the Police Station solely for their own safety, having regard to the late hour at which the events occurred. The Petitioner alleges that the confinement of her husband in a police cell, together with the restrictions imposed upon her and her children within the Police Station, amounted to an arbitrary deprivation of liberty in violation of Article 13 of the Constitution.

Submissions of the 1st Respondent

The 1st Respondent's position is that he was not present at the time of the alleged incident; however, he was informed that the Petitioner had made a complaint.

The 1st Respondent stated that, upon his arrival at the Police Station, he was informed that the Petitioner's husband had arrived at approximately 11.00 p.m. in a state of heavy intoxication and had behaved in a violent and disorderly manner. It was further stated that, to ensure his safety, the Police Officers detained him.

The 1st Respondent had been informed that on the night of 20/06/2021, the Petitioner's husband damaged the water tap affixed inside the police cell, thereby causing flooding across the station floor. It was further stated that the Petitioner's wife scattered pieces of cotton within the premises, which had earlier been used to cover the 'Eczema Rash' on their daughter's skin. The officers on duty observed that the Petitioner and her daughter had deliberately engaged in this conduct with the malicious intent of exposing the officers to the said communicable condition.

The 1st Respondent further submitted that neither the Petitioner nor her family members made any such complaint about torture or sexual assault of any nature inflicted upon the Petitioner by the Officers of the Padukka Police.

It is further submitted that the Petitioner's husband has previously been identified as a suspect in a murder investigation, though, on the said date, he was not remanded in connection with that matter. It is submitted that this background is relevant to assessing his conduct and credibility in these proceedings.

It is also averred that, according to records available to the Police, there are several complaints of domestic violence lodged against the Petitioner's husband. The Respondents contend that the injuries presently claimed by the Petitioner are attributable to acts of violence committed by her husband, and not to any conduct of the Police Officers on duty.

The Version of the 2nd Respondent

The 2nd Respondent states that there was no refusal to accept the complaint of the Petitioner and states that the Petitioner and her family left the Padukka Police Station while the officers were trying to contact the Women and Children's Bureau of the station, who were not on duty at the time.

The 2nd Respondent, while admitting that the Petitioner's husband returned to the Padukka Police Station at approximately 10.30 p.m. on 20/06/2021 and demanded that an investigation be conducted into the threats allegedly made by the individual who had sent nude photographs to his daughter, states that his statement was duly recorded. The 2nd Respondent further states that the Petitioner's husband was thereafter directed to inform the Police promptly, should any further incident occur. However, he had insisted that the Police should be held responsible if anything happened during the night.

The 2nd Respondent states that the husband was heavily intoxicated and acting in a manner that endangered not only himself but also his family members. Accordingly, the 1st Respondent directed the 2nd Respondent, as Duty Officer for the night, to detain the complainant and his family within the Police Station for their safety.

It is further stated that as the Petitioner's husband was acting uncontrollably, he was placed in the cell, while the Petitioner and her children were provided with seats close to the cell. In support of this position, the 2nd Respondent relies upon video footage of the Petitioner and her husband's conduct on the night in question, annexed as 2R3.

The 2nd Respondent also contended that a conspiracy between the Petitioner and her husband to institute this action against the Respondents was revealed during the inquiry conducted by the Special Investigations Unit.

The 2nd Respondent denies that the Petitioner's phones were seized. He states that the devices were checked in relation to the complaint made, and one phone was returned as it was not relevant to the crime investigation, while the device material to the complaint was retained as a production. The 2nd Respondent also denies any involvement of the Police in the Petitioner's resignation from her employment, upon the findings of an investigation conducted subsequent to the said allegation contained in the Petition.

In the circumstances, the 1st, 2nd, and 3rd Respondents deny the infringement of the Fundamental Rights of the Petitioner and state that the present application is devoid of merit. It is further asserted that the application is motivated by vengeance, as evidenced by the conduct of the Petitioner and her husband on the night of 20/06/2021, and constitutes an attempt to derive an undue advantage from their unruly behaviour within the precincts of the Police Station.

ANALYSIS OF MEDICAL EVIDENCE

I have carefully examined the Medico-Legal Report (MLR) dated 18/01/2022 marked P8, by the Judicial Medical Officer, Base Hospital, Avissawella, which also refers to the Medico-Legal Examination Form No. 26/2021 dated 22/06/2021.

The Medico-Legal Report records that the Petitioner suffered multiple contusions, including tramline contusions to the arms, legs, hip, and buttocks. Notably, no injuries were observed on the head, face, neck, chest, forearms, hands, spine, or genital areas. Investigations revealed that no fractures, dislocations, or muscle damage were endured by the Petitioner.

The following observations were recorded by the Judicial Medical Officer;

- 1. The examinee had abrasions and contusions of the body caused by elongated blunt objects and blunt forces.*
- 2. The injuries can be categorized as non-grievous under Section 311 of the Penal Code of Sri Lanka.*
- 3. The duration of injuries were not inconstant with the said duration.*
- 4. Injuries were suggestive of an assault.*
- 5. But due to the distribution of injuries and non-grievous nature of them, the injuries caused by a friendly hand cannot be excluded.*
- 6. The examinee had some psychiatric effects suggestive of recent traumatic life event.*
- 7. She will benefit from being evaluated at the psychiatric clinic as scheduled.*

The aforementioned medical observations consist of a degree of uncertainty as to the precise cause and context of the injuries. While the Petitioner asserts that the injuries were inflicted by Police Officers during her detention, the Respondents contend that they were the result of documented domestic violence at the hands

of her husband. The medical evidence, by acknowledging the possibility of injuries caused by a “*friendly hand*”, and observing that “*the examinee had some psychiatric effects suggestive of recent traumatic life event*”, does not conclusively establish police assault as the sole explanation. This ambiguity lends weight to the Respondents’ contention that the injuries may have pre-dated the alleged incident at the Police Station.

The Respondents have further pleaded that the Petitioner's husband was previously identified as a suspect in a murder investigation. Also, several complaints of domestic violence have been lodged against him. In this context, the medical findings, particularly the distribution of contusions on areas such as the buttocks and thighs, and the absence of injuries to the head or face, may not be inconsistent with patterns of domestic violence. The psychiatric observations of trauma may equally be attributable to ongoing familial abuse rather than a single episode of police misconduct.

Accordingly, I find that the medical evidence, while suggestive of assault, does not conclusively corroborate the Petitioner’s version of events. Instead, it creates reasonable suspicion that the injuries may have been sustained prior to the alleged incident, and possibly within the domestic sphere. This contradiction between the Petitioner’s account and the Respondents’ narrative underscores the need for careful scrutiny of credibility, motive, and the broader circumstances in which the Petition was filed.

FACTUAL ANALYSIS

The Petitioner alleges that she was subjected to arbitrary arrest, unlawful detention, torture, and cruel, inhuman, and degrading treatment at the hands of

officers attached to the Padukka Police Station. The 1st to 3rd Respondents categorically deny these allegations. The Respondents' position is that the Petitioner's husband was heavily intoxicated and behaved in a manner that posed a risk to his own safety and that of his family and the Police Officers on duty at the station.

In addition to the medical findings, this Court had the opportunity to view the video recording, marked 2R3, filed with the 2nd Respondent's Statement of Objections, which the Petitioner did not object to. The footage clearly depicts the Petitioner's husband engaging in boisterous behavior, using abusive and filthy language, and exposing his bare gluteal region to the Police Officers, in the presence of his minor children. This evidence corroborates the Respondents' position that the husband was intoxicated and acting in a manner that posed a risk to himself and his family. In these circumstances, the decision to detain him in the police cell, with the Petitioner and her children nearby, appears to have been a reasonable measure taken by the officers to ensure the safety of all concerned.

The Respondents further contend that, without any intervention on their part, the Petitioner, her husband, and the two daughters voluntarily returned to the Padukka Police Station at approximately 10.30 p.m. for the purpose of recording their statements and, having considered the time the Petitioner arrived at the Police Station, were permitted to remain there solely for their own safety. It is also alleged that the present application was instituted pursuant to a conspiracy between the Petitioner and her husband and that the injuries relied upon by the Petitioner were the result of domestic violence perpetrated by her husband, rather than any misconduct on the part of the Police Officers.

The Respondents have sought to challenge the credibility of the Petitioner's account by reference to her husband's alleged criminal antecedents and the history of domestic disputes between the parties. While such matters may be relevant in assessing the evidence, they cannot diminish the constitutional obligations imposed upon the State. The guarantees contained in Articles 11, 12 and 13 of the Constitution are owed equally to every person, irrespective of their personal background or past conducts. Allegations of torture, unlawful detention or degrading treatment must therefore be examined with the utmost care and in accordance with the constitutional standards governing executive and administrative action.

In resolving the competing versions placed before this Court, it must be borne in mind that, where executive action is alleged to have infringed the rights to personal liberty and human dignity, the burden rests upon the State to demonstrate that any restriction or interference was lawful, necessary, and constitutionally justifiable. It is against those principles that the evidence in the present case must now be examined.

According to the Petitioner's account, at approximately 1.45 a.m. on 21/06/2021, several unidentified officers arrived at the location of the alleged incident. Rather than intervening to prevent any abuse, they are said to have assaulted her with a hose-like object and inflicted kicks. The Petitioner claims that she was struck on the spine, lost consciousness, and later woke up in severe pain, seated once again near the lock-up cell where she had previously been placed, with her attire covered in mud and dirt.

However, notwithstanding the Petitioner's allegation that she had sustained severe pain as a result of the assault, she sought medical treatment at the District General Hospital, Avissawella, only on 23/06/2021, and that too pursuant to the

intervention of Police Headquarters, when she and her husband proceeded to lodge a complaint.

As noted earlier, the events narrated by the Petitioner to the Judicial Medical Officer were not entirely consistent, particularly with regard to the instrument allegedly used in the assault. She further maintained that she lost consciousness shortly after the alleged incident. The Petitioner asserts that she was kicked by other officers and became unconscious immediately after the assault to her spine with a hose-like object. A strike on the spine by a hose-like object and losing consciousness assume considerable significance in the assessment of her evidence. Although the Medico-Legal Report records that the injuries observed were not inconsistent with the history and the period stated, neither the medical opinions nor the recommendations contained therein make any reference to the injuries caused by a strike on the spine with a hose-like object or as a result of the kicks or the related injuries that would have left the Petitioner unconscious.

Ordinarily, for a person to lose consciousness as described by the Petitioner, one would expect trauma to critical areas such as the head, neck or spine. However, the Medico-Legal Report records no injuries to the head, face, neck, or spinal region. The absence of such injuries raises a reasonable doubt as to whether the Petitioner in fact lost consciousness in the manner alleged. This inconsistency between the narrative given by the Petitioner and the medical findings introduces suspicion as to the veracity of the claim, and lends support to the Respondents' contention that the injuries may have originated elsewhere, including within the domestic sphere, rather than being inflicted by Police Officers on the night in question.

This Court further notes that the Petitioner has averred that upon regaining consciousness, she found herself seated on the chair near the cell where she had

previously been placed, that she was in severe pain with radiating discomfort from her thighs, and that she was overwhelmed with shock by the assault, unable to recall the precise time of regaining consciousness.

If indeed the Petitioner believed that she had been subjected to sexual harassment or assault during the period of unconsciousness, the reasonable and immediate course of action for any person in such circumstances would have been to seek urgent medical assistance and undergo examination without delay. Yet, the record demonstrates that the Petitioner did not present herself for medical examination until 23/06/2021, and that too only upon being directed by officers of the Police Headquarters, nearly two days after the alleged incident. This delay in seeking medical corroboration casts doubt upon the credibility of the allegation of unconsciousness and sexual assault. It lends weight to the Respondents' contention that the injuries may not have been caused in the manner alleged by the Petitioner.

It is also noteworthy that, according to the brief history provided by the Petitioner to the Consultant Judicial Medical Officer, as recorded in the Medico-Legal Report, she stated that upon regaining consciousness her blouse, skirt and under-skirt had not been removed; “මට සිහිය එනකොට [...] ඇඳන් හිටිය බිලවුස් එකයි ස්කර්ට් එකයි අන්ඩ් ස්කර්ට් එකයි [...] ගලවලා තිබුණේ නෑ.”. However, the video evidence marked 2R3 clearly depicts the Petitioner wearing a blouse and a pair of pants at the relevant time.

This inconsistency between her own account and the contemporaneous video record casts serious doubt on the credibility of her allegation of assault and sexual harassment near the washroom. The contradiction suggests that the narrative of assault may have been fabricated, thereby reinforcing the reasonable suspicion that the injuries complained of were not inflicted by Police Officers but were in

fact pre-existing injuries attributable to domestic violence, as contended by the Respondents.

Inevitably, all the above give rise to the question whether, the Petitioner had in fact become unconscious. Moreover, there could have been additional or corresponding injuries associated with her body having been carried or moved from one place to another.

It is also undisputed that the Petitioner has a history of being a victim of domestic abuse involving her husband. In assessing the competing versions advanced by the parties, the evidence of their daughter, who appears to have been a potentially material witness, could have provided valuable insight. However, she declined to make a statement and had left the family residence. Viewed cumulatively, these circumstances introduce an element of uncertainty which warrants caution in accepting the Petitioner's version of events without reservation.

CONCLUSION

Whilst this Court does not underestimate the seriousness of allegations of torture, unlawful detention and degrading treatment, such allegations must be established by cogent and reliable evidence. In the present case, there are material inconsistencies in the Petitioner's version of events which undermine its reliability.

Further, there is an absence of material evidence linking the injuries complained of to the alleged acts of the Respondents, as well as a lack of medical or other factual findings in the Medico-Legal Report to substantiate the allegations of torture or cruel, inhuman or degrading treatment.

Article 126 of the Constitution requires proof of executive or administrative action resulting in the infringement of a Fundamental Right. Taking into consideration the doubt arising from evidentiary uncertainty on material facts placed before this Court, I am unable to hold that such infringement has been established.

Therefore, having carefully considered the totality of the evidence placed before this Court, I hold that the Petitioner has not discharged the burden of establishing, on a balance of probabilities, that the Respondents acted in violation of the Petitioner's Fundamental Rights guaranteed under Articles 11, 12(1), 13(1), or 13(2) of the Constitution.

Accordingly, the Petition is dismissed. I make no order for costs.

Judge of the Supreme Court

Janak De Silva, J.

I agree

Judge of the Supreme Court

Menaka Wijesundera, J.

I agree

Judge of the Supreme Court