

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

In the matter of an application under  
and in terms of Articles 17 and 126 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka.

**S.C. (FR) No. 16/2024**

Sooriyagoda Rathambegoda Pitiyegedara  
Lahiru Madushanka,  
No. 718/7, Yatihena,  
Malwana.

**Petitioner**

**Vs.**

1. Deshabandu Thennakoon,  
Inspector General of Police (Acting),  
Police Headquarters,  
Colombo.
2. Ajith Wijesingha,  
Chief Inspector of Police,  
Officer in Charge,  
Police Station – Biyagama,  
Biyagama.
3. Gamage,  
Sub Inspector of Police,  
Officer in Charge- Crime Branch,  
Police Station – Biyagama,  
Biyagama.
4. Jayawardana  
Police Constable (95623),  
Police Station – Biyagama,  
Biyagama.

5. Jayasingha,  
Police Constable (103658),  
Police Station – Biyagama,  
Biyagama.
6. Rajapaksha,  
Police Station – Biyagama,  
Biyagama.
7. The Honourable Attorney General,  
Department of the Attorney General,  
Colombo 12.

**Respondents**

- Before : Mahinda Samayawardhena, J.  
Dr. Sobhitha Rajakaruna, J.  
Menaka Wijesundera, J.
- Counsel : Boopathi Kahathuduwa with Keheliya Koralage, Sachintha Perera instructed by Neethika Partners for the Petitioner.  
Anil Silva, PC with Anjana Rathnasiri instructed by Nandana Perera for 2<sup>nd</sup> Respondents.  
Pramod Perera with Hiruni De Almeida instructed by Thushari Jayawardena for the 3<sup>rd</sup> -6<sup>th</sup> Respondents.
- Written Submissions : Further written submissions on behalf of the 3<sup>rd</sup> – 6<sup>th</sup> Respondents on 6<sup>th</sup> of February 2026.  
Further written submissions on behalf of the Petitioner on 2<sup>nd</sup> of February 2026.
- Argued on : 13.01.2026

Decided on : 27.02.2026

**MENAKA WIJESUNDERA J.**

The petitioner in the instant matter had sought a declaration from this Court that his rights had been violated under Articles 11, 12(1), 13(1) and 13(5) of the Constitution by the 1<sup>st</sup> to the 6<sup>th</sup> respondents.

The above declaration is sought based on the arrest of the petitioner on 26.03.2023 of the petitioner by the officers of the Sapugaskanda police station which he claims was arbitrary, and that he was falsely implicated for a charge of being in possession of 5 grams of ice.

The petitioner further states that during the Yukthiya operations by the police that a list of suspects to be arrested had been prepared by the Sapugaskanda police and that he had reliably got to know that his name also had been included and as such on 22.12.2023 he had gone to meet the 2<sup>nd</sup> respondent but he had not been in the seat and as such, he had walked out of the police station, while calling a friend on the mobile phone.

At this point, he claims that a group of police officers in civil had approached him which had included the 3<sup>rd</sup> to the 6<sup>th</sup> respondents and they had handcuffed and arrested him. This incident had been witnessed by a friend of his and the friend who had been talking to him also had overheard an unusual sound and the call had ended.

Both these persons had given affidavits to this effect which are marked and produced as P3 and P4.

Thereafter, he alleges that the 3<sup>rd</sup> to the 6<sup>th</sup> respondent had been assaulting him and torturing him and forcing him to admit that he was a narcotics peddler. During this interaction, the petitioner had videotaped the entire scenario using his mobile phone and the said video he claims has been produced as P5 to the petition.

The petitioner also had lodged a complaint in the Human Rights Commission and their acknowledgement had been marked and produced as P12 and P13 to the petition.

Therefore, based on the above facts the petitioner had claimed that his fundamental rights had been violated.

When this matter was supported for leave before this Court on 18.10.2024 this court had granted leave to proceed under Articles 11, 12(1), 13(1), 13(5) of the Constitution against the respondents. Extracts of the aforementioned Articles are mentioned below,

**Article 11** of the Constitution reads as follows:

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

**Article 12 (1)** of the Constitution reads as follows:

*“All persons are equal before the law and are entitled to the equal protection of the law.”*

**Article 13 (1)** reads as follows:

*“No persons shall be arrested except according to procedure established by law. Any persons arrested shall be informed of the reason for his arrest.”*

**Article 13 (5)** reads as follows:

*“Every person shall be presumed innocent until he is proved guilty;  
Provided that the burden of proving particular facts may, by law, be placed on an accused person.”*

The respondent in their objections have vehemently denied the allegations made by the petitioner. The respondents have stated that the 3<sup>rd</sup> respondent is a Sub Inspector of police and he was the Officer-in-charge of the crimes branch of Biyagama police station.

The respondents have admitted that the 4<sup>th</sup> and the 5<sup>th</sup> respondents were police constables and they had been attached to the Sapugaskanda police station and the marine division.

The 6<sup>th</sup> respondents had been an officer of the special branch at the Biyagama police station and not an officer of Special Task Force as stated by the Petitioner.

The 6<sup>th</sup> respondents have stated that he had attended an advice class at 12 pm at the Peliyagoda police station and had returned to the station around 11 am and he had proceeded to Peliyagoda police station.

The 3<sup>rd</sup> and the 6<sup>th</sup> respondents have stated that the petitioner was arrested in front of the main gate of the Biyagama free trade zone on a tip received by an informant. They further submit that upon searching, a substance suspected to be ice had been found in his trouser pocket.

The 2<sup>nd</sup> respondent stated that he had received intelligence reports from the Police Narcotics Bureau revealing that the petitioner was smuggling cannabis sativa and methamphetamine. The said report had been marked as 3R7.

The 3<sup>rd</sup> and the 6<sup>th</sup> respondents further claim that the petitioner had been informed of his arrest. They deny all allegations of torture and assault and challenge the authenticity of the CD marked and produced as P5 to the petition.

The 3<sup>rd</sup> and the 6<sup>th</sup> respondents have stated that his two mobile phones had been taken into custody when he was arrested and as such, they were unable to state as to how he could've videotaped what was happening inside the police station. As such, they had expressed great doubt with regard to the authenticity of P5.

But nevertheless, they had detected a copy of a photograph taken of an image contained in the gallery of in one of the photos of the petitioner depicting the petitioner holding an object which they suspected to be Hashish or cannabis.

There were other photographs of the petitioner holding a firearm and the petitioner stashing drugs is annexed marked as 3R9 & 3R10, pleaded as part and parcel of the objections.

The 3<sup>rd</sup> and 6<sup>th</sup> respondents have further stated that the petitioner was handed over to the Reserve at approximately 6.20 p.m., and was thereafter placed in a cell to which those respondents had no access.

The respondents further alleged that petitioner had altered the photograph marked as P8 for the purpose of defending his case. The respondent also has annexed a statement of a neighbour of the petitioner marked and produced as 3R14, which alleges that the petitioner was engaged in narcotics trafficking. The 2<sup>nd</sup> respondent in his objections, while denying all the allegations, states that he left the Biyagama police station on 22<sup>nd</sup> of December, 2023 around 12.15 am and returned to the station at 6:30 p.m. His entries in the books have been marked as 2R1 and 2R2.

Therefore, the 2<sup>nd</sup> respondent denies of being present at the time petitioner was arrested. He fully denied the allegations of torture against him by the petitioner. He further states that the petitioner was produced before the Magistrates because there were enough materials to do so and that he signed the B report against the petitioner.

Therefore, in view of the materials stated above, although the petitioner has alleged that he was falsely implicated by the respondents, the 2<sup>nd</sup>, the 3<sup>rd</sup> and the 6<sup>th</sup> respondents in their objections along the documents marked as R1-R9

have clearly displayed the fact that the petitioner had been arrested on an information received by the 3<sup>rd</sup> respondent and once he was arrested they had discovered a parcel of ice inside his trouser pocket. Thereafter, he had been duly arrested and produced before the Magistrate. The petitioner has challenged his arrest by producing document P5 and the two affidavits marked and produced as P3 and P4, sworn by his friends. The IB extracts filed by the respondents indicate that, shortly after the petitioner's arrest, his two mobile phones were taken into custody. On that basis, the respondents have questioned the authenticity of P5, which the petitioner claims was recorded using his mobile phone.

In my view, the evidence marked P5 is questionable and cannot be accepted at face value, as it has neither been corroborated by independent evidence nor subjected to forensic analysis to establish its authenticity. The respondents have also produced two photographs, which has been referred to above, retrieved from the gallery of the petitioner's mobile phone. However, this evidence is similarly unreliable, as there is no satisfactory proof of its veracity or authenticity.

Therefore, I do not see any violation of the petitioner's rights under Articles 12(1), 13(1) and 13(5).

The petitioner has alleged that he was brutally assaulted and tortured by respondents but there is no record of any medical evidence with regard to his injuries. At this point, I would like to cite the case of **Channa Pieris and Others v Attorney General and Others (Ratawesi Peramuna Case)** where Amerasinghe, J stated as follows:

*“... having regard to the nature and gravity of the issue, a high degree of certainty is required before the balance of probability might be said to tilt in favour of a Petitioner endeavouring to discharge his burden of proving that he was subjected to torture or to cruel, inhuman or degrading treatment or punishment; and unless the Petitioner has adduced sufficient evidence to satisfy the Court that an act in violation of Article 11 took place, it will not make a declaration that (a violation of) Article 11 of the Constitution did take place.” [emphasis added]*

Having regard to the facts of the present case and the reasoning set out in the above-mentioned decision, I am of the view that the petitioner has failed to establish, on sufficient evidence, that he was subjected to cruel, inhuman, or degrading treatment at the hands of the respondents.

Therefore, regarding the materials stated above I see no merits in the allegations made by the petitioner against the respondents.

Hence, I am compelled to conclude that the respondents have not violated the fundamental rights of the petitioner under Articles 11, 12(1), 13(1) and 13(5). As such, the instant application is dismissed without costs.

**JUDGE OF THE SUPREME COURT**

**Mahinda Samayawardhena, J.**

I agree.

**JUDGE OF THE SUPREME COURT**

**Dr. Sobhitha Rajakaruna, J.**

I agree.

**JUDGE OF THE SUPREME COURT**