

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

In the matter of an application under
and in terms of the Article 17 of the
constitution.

1. Duganna Walawwe Ravindra
Bandara,
No.748, Mirisgoniyawa, Dambulla.
2. Gnanendra Shani Abeysekara,
No. L/1/1, Elvitigala Flats,
Colombo 08.

Supreme Court Case No.

PETITIONERS

SC (FR) Application No. 241/2024

Vs.

1. Heshan Perera,
Sub Inspector of Police, Homicide
Branch, Criminal Investigation
Department, No.534, New Secretariat
Building, Colombo 01.
2. D. K. Induka Silva,
Chief Inspector of Police, Officer In
Charge- Homicide Branch, Criminal
Investigation Department, No.534,
New Secretariat Building, Colombo
01.
3. Nuwan Dhanthanarayana,
Assistant Superintendent of Police,
Supervising Officer of Homicide

Branch, Criminal Investigation
Department, No.534, New Secretariat
Building, Colombo 01.

4. Sampath Senaratne,
Chief Inspector of Police, Officer in
Charge of the Criminal Investigation
Department, No.534, New Secretariat
Building, Colombo 01.
5. Mangala Dehideniya,
Senior Superintendent of Police,
Director, Criminal Investigation
Department, No.534, New Secretariat
Building, Colombo 01.
6. Rohan Premaratne,
Deputy Inspector General of Police,
Criminal Investigation Department,
No.534, New Secretariat Building,
Colombo 01.
7. Deshabandu Thennakoon,
Inspector General of Police, Sri Lanka
Police Headquarters, Colombo 12.
8. Lekamge Palitha Roshan
Siriwardena,
No.335, 3B, Devala Road, Katuwana,
Homagama.
9. Senaka Kumarasinghe,

No. 133/16, Gothami Patumaga,
Rajagiriya.

10. Viani Gunathilake,
Secretary Ministry of Public
Security,
Ministry of Public Security,
18th Floor, 'Suhurupaya',
Battaramulla.

11. Hon. Tiran Alles,
MP, Minister of Public Security, 18th
Floor, 'Suhurupaya', Battaramulla.

12. General Kamal Guneratne,
Secretary to the Ministry of Defense,
Ministry of Defense, Defense
Headquarters Complex, Sri
Jayawardenepura Kotte.

13. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENT

BEFORE : P. PADMAN SURASENA, C.J.

ACHALA WENGAPPULI, J.

K. M. G. H. KULATUNGA, J.

COUNSEL: Upul Kumarapperuma, PC., with Shalini Weeraratne, K. H.
Dilrukshi, instructed by Manjula Balasooriya for the Petitioners.

Sudharshana de Silva, PC., ASG, with Malik Azeez, SC, Senal Senevirathne, SC, instructed by Nimalika Wickremasinghe, for the Hon. Attorney General.

Shivan Coorey with Bojaya Kasun, instructed by Hashani Gamage for the 8th Respondent.

Shakya Kumarasinghe with Nuwan De Alwis instructed by Dayani Panditharatne for the 9th Respondent.

WRITTEN SUBMISSIONS ON : 19.05.2026, 25.05.2026, and 04.06.2026

ARGUED ON : 28.04.2026

DECIDED ON : 15.09.2026

JUDGMENT

K. M. G. H. KULATUNGA, J.

1. This application is preferred by two petitioners who, at the time of filing this application, were retired senior Police Officers. The 1st petitioner was a Senior Deputy Inspector General of Police and the 2nd petitioner was a Senior Superintendent of Police, who held the posts of Deputy Inspector General (DIG) and Director of the Criminal Investigations Department (CID), respectively. Their grievance is that, on a politically motivated complaint made by the 8th respondent to the Police Headquarters, the CID commenced an investigation, and there is an imminent threat of they being arrested and detained.
2. The petitioners aver that, in the run-up to the Presidential Election of 2024, they organised and held certain propaganda meetings in support of one of the opposition political parties. The 8th respondent, at or about that time, lodged a complaint alleging that the petitioners, as DIG and Director of the CID, are responsible for the failure to duly investigate and take action to prevent the Easter Sunday Attack.

3. The 7th respondent, the then Inspector General of Police (IGP), has referred the said complaint to the CID, which has been registered under reference no. C/298/24 CM. It is common ground that such an investigation did in fact commence and was being proceeded with. The petitioners allege that the primary object of this complaint and the investigation was to cause the arrest of the petitioners and discredit them for political reasons. As such, this application, alleging the imminent infringement of the petitioners' fundamental rights guaranteed under Articles 12(1), 12(2), 13(1) and 13(2) of the Constitution, was preferred on 15.08.2024. On 28.01.2026, leave to proceed was granted in respect of Articles 12(1), 12(2), 13(1) and 13(2) of the Constitution against all the Respondents.
4. The petitioners, *inter alia*, seek the following relief:
 - i. *declare that one or more or all of the respondents have infringed or are in imminent infringement or infringement of the petitioners' fundamental rights as guaranteed by Articles 12(1), 12(2), 13(1) and 13(2) of the Constitution;*
 - ii. *make an order to discharge the petitioners from the purported investigation conducted against them forthwith;*
 - iii. *grant the petitioners Rs. 100 million as compensation or such amount that this Court deems fit; and*
 - iv. *make such other and further orders that are just and equitable in terms of Article 126(4) of the Constitution.*
5. Direct notices were issued prior to formally supporting this matter, and the State Attorney filed proxy on behalf of 1st, 2nd, 3rd, 5th, 10th and the 12th respondents. Then, the Hon. Attorney General was named and included as the 13th respondent. Thereafter, the Additional Solicitor General who appeared on 20.09.2024 entered his appearance on behalf of the said respondents.
6. The 8th and 9th respondents were represented by private counsel and all the respondents were directed to file their respective objections. The 8th and 9th respondents did file their objections, but not the others. The matter was then mentioned on several dates and taken up for argument

on 27.03.2026 and 28.04.2026. Parties were permitted to file their post-argument written submissions. Written submissions on behalf of the 13th respondent, the Hon. Attorney General, was filed on 19.05.2026; the 8th respondent's on 25.05.2026; and those of the petitioners were filed on 04.06.2026.

7. Between the issuing of notices and the argument, this matter was mentioned as aforementioned. When it was so mentioned, the learned Additional Solicitor General appearing for the Hon. Attorney General initially marked his appearance for the 1st - 6th, 10th, and 13th respondents. At some point of time, the learned Additional Solicitor General and Mr. Shivan Cooray appearing for the 8th respondent did inform that there may be a necessity to amend the caption.
8. The petitioners tendered an amended caption on 02.02.2026, and then on 19.03.2026, the objections of the 8th respondent were filed. When this was taken up for argument on 27.03.2026, the learned Additional Solicitor General informed Court that the Attorney General had, by letter dated 23.03.2026, advised the CID to '*discontinue proceedings*' pending in the Magistrates' Court under case no. B 34097/2024. The learned President's Counsel appearing for the petitioners did have a copy of the said letter but informed Court that it was not clear as to what it exactly was. The said letter reads thus:

Letter marked 'X-1'

"CR1/331/2024
C298/24 CM

2026.03.26

අධ්‍යක්ෂ,
අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුව,
කොළඹ 01.

2019.04.19 දින පාස්කු ප්‍රහාරයට සම්බන්ධව ලැබී ඇති තොරතුරු නිසි පරිදි විමර්ශනය නොකිරීමෙන් පාස්කු ප්‍රහාරය සිදුවීම යන කරුණට අදාළ සිදු කරනු ලබන විමර්ශනය - කොටුව ම/ල B 34097/24

උක්ත ශීර්ෂ යටතේ ඔබ විසින් 2024.11.25 සහ 2025.10.27 දාතමව එවන ලද උධාන සලකා බලන ලදී.

එකී උධානයන්ට අනුව සහ පො.ප. පොල්වත්ත මහතා සමග පවත්වන ලද සාකච්ඡාවන්ට අනුව මේ වන තෙක් පැමිණිලි පාර්ශවය විසින් ඉදිරිපත් කරන ලද ලේඛනයන්හි මුල් පිටපත් අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුව තුළ සුරක්ෂිතව ගොනු කර ඇත්ද යන්න සම්බන්ධයෙන් කරුණු ඉදිරිපත් වී නොමැත.

කෙසේ වෙතත්, පාස්කු දින ප්‍රහාරය සම්බන්ධයෙන් ලද තොරතුරු නිසි පරිදි විමර්ශනය නොකිරීමට අදාලව පොලිස් දෙපාර්තමේන්තුව තුළ යම් නිලධාරියකු හෝ නිලධාරීන් යම් ආකාරයකින් වගකිව යුතුද නැද්ද යන්න සම්බන්ධයෙන් පාස්කු ඉරුදින ස්වයංගතක ප්‍රහාරය සම්බන්ධයෙන් පවත්වන ලද කොමිසන් සභා පරීක්ෂණයේ වාර්තාව ආශ්‍රයෙන් වැඩිදුර පරීක්ෂණ පවත්වා සම්පූර්ණ උධාන ගොනුවක් ඉදිරිපත් කරන ලෙසට මේ වන විටත් **CR1/86/2021** යටතේ උපදෙස් ලබා දී ඇති බැවින් එකී උපදෙස් අනුව මෙම පැමිණිල්ලට අදාල කරුණුද විමර්ශනය කර විමර්ශන උධාන එකී ගොනු අංකය යටතේ ඉදිරිපත් කරන ලෙසට මින් උපදෙස් දෙමි.

ඉහත විෂය කරුණ සම්බන්ධයෙන් වැඩිමනත් වාර්තා මෙම ගොනුව වෙත යොමු කිරීම අවශ්‍ය නොවන අතර සියලු විමර්ශන අවසන් වූ පසු පෙර සඳහන් කරන ලද උපදෙස් ප්‍රකාරව කටයුතු කරන ලෙසට මින් උපදෙස් දෙමු.

ඒ අනුව, මෙම ගොනුව වසා දැමීමට පියවර ගන්නා බව මින් දන්වා සිටිමු.

අත්/කළේ:,
ජනාධිපති නීතිඥ,
අතිරේක සොලිසිටර් ජනරාල්,
නීතිපති වෙනුවට.

.....,
රජයේ අධිනීතිඥ.”

(The signatory to the aforesaid is not the Additional Solicitor General who appeared in court.)

9. At this juncture, the learned Additional Solicitor General agreed and undertook to bring the said proceedings pending before the Fort Magistrates' Court to an end. The learned Additional Solicitor General undertook to send out a letter of advice to that effect and to tender copies of all relevant letters by way of a motion. In view of the said undertaking, further argument was postponed for 28.04.2026.
10. In the interim, copies of three letters of advice marked “X”, “X1”, and “X2”, along with the motion dated 02.04.2026, were tendered. The letter marked “X2”, dated 30.03.2026, reads thus:

Letter marked 'X-2'

"CR1/331/2024

C298/24 CM

2026.03.30

අධ්‍යක්ෂ,
අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුව,
කොළඹ 01.

2019.04.19 දින පාස්කු ප්‍රහාරයට සම්බන්ධව ලැබී ඇති තොරතුරු නිසිපරිදි විමර්ශනය නොකිරීමෙන් පාස්කු ප්‍රහාරය සිදුවීම යන කරුණට අදාළ සිදු කරනු ලබන විමර්ශනය - කොටුව ම/උ **B 34097/24**

උක්ත ශීර්ෂ යටතේ ඔබ වෙත 2026.03.26 දිනැතිව ඔබ වෙත මා විසින් ඒවන ලද ලිපිය හා බැඳේ.

2026.03.26 දිනැති ලිපිය මගින් මව්සින් ඔබ වෙත දැනුම් දී ඇති කරුණු සහ මෙම විමර්ශනයට අදාළව තවදුරටත් මෙම දෙපාර්තමේන්තු අංකය යටතේ උපදෙස් ලබාදීමක් සිදුනොවන බව කොටුව මහේස්ත්‍රාත් අධිකරණය වෙත දැනුම් දීමට පියවර ගන්න.

තවද, 2026.03.26 දිනැතිව මා විසින් ඒවන ලද ලිපියෙහි සඳහන් **CR1/86/2021** ගොනුව යටතේ ලබා දී ඇති උපදෙස් සම්බන්ධයෙන් ද අධිකරණය දැනුවත් කොට යම් ඉදිරි පියවරක් ඇත්නම් එක් පියවර **CR1/86/2021** ලිපියෙහි ලබා දී ඇති උපදෙස් අනුව ගන්නා බවට ද දැනුම් දීමට පියවර ගන්න.

අත්/කළේ:,
ජනාධිපති නීතිඥ,
අතිරේක සොලිසිටර් ජනරාල්,
නීතිපති වෙනුවට.

.....,
රජයේ අධිනීතිඥ.”

(The signatory to the aforesaid is not the Additional Solicitor General who appeared in court.)

As it was apparent that these letters did not accord with the undertaking given and the intimation made by the learned Additional Solicitor General, the argument resumed and was concluded on that day.

11. The intimation previously made by the learned Additional Solicitor General to this Court is that the investigation into the complaint made by the 8th respondent is registered under CID reference no. C/298/2024/CM and the corresponding Attorney General's file no. is

CR/1/331/2024, and facts in this regard had been reported to the Fort Magistrates' Court and is pending under no. B 34097/24. The learned Additional Solicitor General intimated to this Court and undertook that the said matter pending in the Magistrates' Court under no. B/34097/24 would be brought to an end. When he says so, he means just that. It is a holding out and an undertaking given to this Court that such proceedings will be brought to an end. The sum total of letters "X1" and "X2" should be consistent with the undertaking so given by the learned Additional Solicitor General, or the undertaking given by the learned Additional Solicitor General should be consistent with letters of advice. Let's consider if it is so.

12. The Hon. Attorney General, by letter dated 26.03.2026 under CR/1/331/2024, specifically advised the CID to investigate and ascertain if any CID officer has been derelict or negligent or failed to duly investigate into the information received in respect of the Easter Sunday Attack and to forward such investigation notes to the Hon. Attorney General under his reference no. CR/1/86/2021. Then the Hon. Attorney General also, rather unusually, by the last sentence of the said letter, informs that, the said file under the reference no. CR/1/331/2024 will be henceforth *closed*. The sum total and the end result is that a subtle attempt had been made to keep the investigation into the 8th respondent's complaint alive under AG's file no. CR/1/86/2024. This is not in line with and in keeping with the content and spirit of the holding out and the intimation made to this Court by the learned Additional Solicitor General.

13. What is relevant in the context of this application is that the learned Additional Solicitor General did intimate, in various forms, that the matter pending in Court on the investigation into the complaint made by the 8th respondent would be closed. Thereby, it was held out to this Court that there was no merit in the said complaint to proceed further. Whilst so intimating to Court and holding out, another officer or officers

of the Attorney General's Department have artfully advised so as to make way and enable the continuation of the investigation into the complaint made by the 8th respondent pending under case no. B 34097/24. Having been so advised by letter "X2" dated 30.03.2026 (AG's reference no. CR/1/331/24), the CID was advised that the Attorney General would not provide further advice under the said reference number and to inform the Magistrate accordingly.

14. The Hon. Attorney General then requires the CID to act as advised by the letter dated 26.03.2026. This letter, in conjunction with the holding out, does make out that the Hon. Attorney General, upon considering the matter of the complaint made by the 8th respondent, has advised the CID to inform the Magistrate to terminate the proceedings in the Magistrates' Court under B 34097/24. Acting on this advice, the CID has taken steps to inform the Fort Magistrate accordingly. A copy of the said proceedings was tendered to this Court along with the motion dated 18.05.2026.

15. According to the journal entry dated 09.04.2026, the learned Magistrate has journalised that the Magistrate was appraised of the Hon. Attorney General's letter of advice and then informed that the investigation has not revealed any offence being committed by any person. The said Journal Entry reads as follows:

“මෙම නඩුවේ නියෝගය 2025.12.10 දින ලබා දී ඇත.

චු/චා හා නි/උ ලිපිය සලකා බලයි.

පො.ප. වික්‍රමාරච්චි තම විමර්ශනයේදී ද කිසිදු අයෙකු අපරාධයක් කර ඇති බවට කරුණු අනාවරණය වී නොමැති බව කියයි.

නි/උ අනුව ක්‍රියා කරන්න. මෙම ගොනුවේ කටයුතු අවසන් කරමි.”

16. It is apparent that the Magistrate had been appraised and had been informed that further proceedings under case no. B 34097/24 is not required any further. SI Wickramarachchi has also informed that the investigations have not revealed an offence being committed by any person. By this process, the proceedings of the Magistrate's Court case

no. B 34097/24 has been brought to an end; however, a subtle attempt has been made to keep the investigation in respect of the 8th respondent's complaint alive. This is not consistent and in accordance with the holding out and the undertaking given to this Court by the learned Additional Solicitor General.

17. It is with a profound sense of sadness that I am compelled to observe that an officer of the Attorney General has failed to keep to the holding out and undertaking made to this Court or deliberately made an intimation which was not intended to be honoured. Officers of the State or Attorneys-at-Law are expected to be forthright and to act with great candour when they appear before any Court. Holding out or giving undertakings is extremely serious; undertakings play a pivotal role in the legal process and are mechanisms to ensure order, compliance, and respect for the law. If one was found to intentionally disregard and act in violation of such a holding out or undertaking, it could amount to conduct that may well be contempt. This Court would put to rest this episode with no further consequence; however, it is well to remember that Attorneys-at-Law should conduct themselves professionally and ethically.

The petitioners' position.

18. If I am to narrate the basic facts, the petitioners claim to have been instrumental in a campaign organised by the 'Retired Police Collective' in support of the National People's Power (NPP) in the run-up to the Presidential Election of 2024. To this end, on 09.06.2024, they have organised a public meeting at the National Youth Services Council premises at Maharagama.
19. Then the 8th and 9th respondents, themselves being retired Senior Police Officers, have organised a counter-campaign and held a press briefing on 13.06.2024 where the petitioners and the 'Retired Police Collective' were criticised, and a certain statements were made by the 8th

respondent which the petitioners claim to be politically motivated. The relevant statement appears in paragraph 8 of the petition, which reads as follows:

“....සහරාන්ගේ කණ්ඩායම 2018 ඔක්තෝම්බර් මාසයේ පමණ දිනක වචනනිව් පොලිස් මුරපොලක රාජකාරී සිටි නිලධාරීන් දෙදෙනෙක් සාතනය කරලා. ඉතා කෲර ලෙස සාතනය කරලා ඔවුනගේ අවි ආයුධ පැහැරගත්තා. මේ විමර්ශනය පොලිස්පතිතුමා විසින් භාරදුන්නේ ඔය මාලිමවේ පොලිස් සාමුහිකයේ නායකත්වය දරණ නිලධාරීන්ට මොවුන් ඔය විමර්ශනය කරේ කොහෝමද ඒය කියන අති දක්ෂ අති සුපිරි නිලධාරීන් මේ විමර්ශනය කරේ මේක කෙලින්ම එල්.ටී. ටී. ඊ සැකකරුවන් විසින් කරන ලද්දක් කියලා හිටපු එල්.ටී. ටී. ඊ සාමාජිකයන් දෙදෙනෙක් අත්අඩංගුවට අරන් මේ වරද ඒගොල්ලන්ගේ පිට පවරලා රඳවනාබිම් නියෝග අරගෙන මේක සහරාන් හොයගැනීමේ විමර්ශන කටයුත්ත ඒහෙන්පිටින්ම වහලා දැමීමා.....”

“ඉලගට මම තව කාරණයක් ඉදිරිපත්කල යුතුයි ජ්‍යෙෂ්ඨ නියෝජ්‍ය පොලිස්පති වරයා සම්බන්ධයෙන් මේ පාස්කු කොමිසන් වාර්ථාවේ වැඩිපුරම පොලිස් නිලධාරීන් ගණනකට ගණනාවකට අපරාධ චෝදනා ගොනු කරන්න කියලා නිර්දේශ කරලා තියෙන්නේ මෙම ප්‍රභාරය ගැන රාජ්‍ය බුද්ධි සේවාවේ අධ්‍යක්ෂක නිලතන ජයවර්ධන මහතා විසින් 2019 අප්‍රේල් 09 වෙනිදා ප්‍රභාරයට සති දෙකකට පෙර විදේශ බුද්ධි සේවාවකින් එවපු බුද්ධි තොරතුරක් ලබා දුන්නා පොලිස්පතිතුමාට මේක තමයි සිනියර් ඩී.අයි.ඒ වරු හතර දෙනෙකුට යොමු කරලා මේ බුද්ධි තොරතුරේ තමයි පැහැදිලිව තිබ්බේ පල්ලි වලට පහර දෙනවා මෙක ආවේ අප්‍රේල් 09 වෙනිදා...”

“මේ 09 වෙනිදා ආපු බුද්ධි තොරතුර පොලිස්පතිතුමාට යවන වෙලේම මෙක යැව්වා රාජ්‍ය බුද්ධි අධ්‍යක්ෂක විසින් ඔය ජ්‍යෙෂ්ඨ නියෝජ්‍ය පොලිස්පති අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුවට යැව්වේ 2019.04.09 වෙනිදා. මේ ප්‍රභාරය වුනේ 21 වෙනිදා. මෙම නිලධාරියාට යවපු මේ ලියුම අප්‍රේල් මාසේ 22 වෙනිදා වෙනකම් ප්‍රභාරයට පහුවදා තමයි ඒතුමා නියෝජ්‍ය පොලිස්පතිතුමාට යොමු කලේ දැන් මෙක ගැන ක්‍රියා කරන්න කියලා. දැන් මේක ගැන ක්‍රියා කරන්න කියලා අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුවේ නියෝජ්‍ය පොලිස්පතිට යොමුකරන විට ඊට ඉස්සේල්ලා දවසේ ප්‍රභාරය සිදු කරලා ඉවරයි.මේක තමයි ප්‍රධානම තොරතුර.ඉතින් ඔබට තෙරුම් ගන්න පුළුවන් මොනතරම් පැහැර හැරීමක්ද මේ කරලා තියෙන්නේ කියලා. අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුවක ජ්‍යෙෂ්ඨ නියෝජ්‍ය පොලිස්පති වරයෙකු විසින් මේ ලෙස පොලිස්පතිතුමා විසින් එවන ලද බුද්ධි තොරතුර ප්‍රභාරය සිදුවෙනකම් ඔහුගේ ලාච්චුවේ දමාගෙන සිටියා කිව්වාම මොන බරපතල පැහැර හැරීමක්ද මෙය වැලැක්වීමට කටයුතු නොකිරීම සම්බන්ධයෙන් වගකිවයුතු නැද්ද මෙම නිලධාරීන්.”

20. The petitioners alleged that the 8th and 9th respondents were not well-disposed towards them due to previous ill will and displeasure in view of investigations and disciplinary inquiries conducted by the petitioners against the 8th and 9th respondents whilst they were serving in the Police. In support, a great deal of material and facts have been narrated.

21. On 24.06.2024, a written complaint [“P-6(a)”] has been made to the Inspector General of Police (IGP) by the 8th respondent against the

petitioners. The then IGP had referred this to the CID, and it was registered under Reference No. C298/24 CM. The petitioners allege *mala fides* and political motives against the 8th and 9th respondents in making the said complaint to the IGP and also against the 1st to 7th respondents for supporting and conniving by commencing an investigation for political reasons.

The 8th and 9th respondents' position.

22. The 8th respondent admits making the complaint to the IGP and also holding the public media briefing, and it is claimed that such steps were taken in the public interest. He claims that lodging such a complaint is lawful and that he was exercising his rights as a private citizen. As such, petitioners claim that their actions, if at all, are personal in nature and do not attract or come within the meaning of *executive or administrative action*. The 8th respondent does not deny making the alleged utterances and making the complaint but claims that he did so in the public interest. In support of his complaint, he relies on certain extracts from the Easter Bomb Presidential Commission Report and the purported Jayaki De Alwis Committee Report, which is said to have been found online on 21.10.2024. The complaint against the petitioners as made by the 8th respondent is one of negligence in the performance of the petitioners' respective Police duties. He specifically refers to the recommendation at page 14, as regards both the petitioners and the observations, findings, and recommendations at pages 40 and 41 in respect of the 1st petitioner, of the said Jayaki De Alwis report.

23. Then, the 8th respondent claims to have received a copy of a document by an undisclosed source, which he claims to have found in the letter box of his residence. This appears to be a photocopy of the intelligence report conveyed to the DIG of the CID [a copy is annexed to the document marked "P-6(a)"]. The 8th respondent specifically denies acting with political motivation or purpose in making this complaint. He also, by

way of a defence, takes up the position that much of the information he referred to in his complaint was in the public domain.

Consideration.

24. Whatever may be the merits of the complaint, the most crucial factors in the context of the current application are the timing and the circumstances under which the alleged complaint was lodged. The complaint was made on 24.06.2024 (*vide* “V-8”/“P-6(a)”). This is before the release of the Jayaki De Alwis Report dated 14.09.2024. The said Report was not in existence as at the date of making the complaint. Therefore, tendering and relying on the said Report is more of an afterthought as a response to the petitioners’ allegation of *mala fides*.

25. Then, this complaint pertains to the 2019 Easter Sunday Attack. The 8th respondent claims to have been actuated by considerations of public interest almost 5 years after the incident and the alleged negligence and the failure to duly investigate by the petitioners. This complaint is also in respect of the failure to take action upon receiving the intelligence report on or about 09.04.2019.

26. The relevance and significance of the timing of this complaint is that it was in the run-up to an election where the two petitioners have been involved in the campaign in support of an opposition political party. This was also immediately after the petitioners held a public meeting and openly declared their support for such political party. Objectively viewed, the 8th and 9th respondents’ sudden stimulation of the concerns of public interest at this juncture is quite strange and is too much of a coincidence. This, by itself, strongly savours of a political motivate or agenda on the part of the 8th respondent in so lodging the complaint. Then, as averred by the petitioners and submitted by the learned President’s Counsel appearing for the petitioners, the sentiments expressed and the stand taken previously by the then Minister of Public Security, the 11th respondent, had been similar to that which was

expressed by the 8th and 9th respondents. Then, by another strange coincidence, copies of certain documents happened to be found in the residential letter box of the 8th respondent, which he uses along with other material to lodge the complaint.

27. On an objective consideration of the totality of the material, it is plain and apparent that the 8th and 9th respondents have in fact been pursuing a political agenda. If I may elaborate, the petitioners have been campaigning to attract and convince mainly the retired Police Officers to support one of the opposition political parties in the campaign. The target group being retired Police Officers, it appears that the 8th and 9th respondents themselves, being senior retired Police Officers, have stepped in with a counter-campaign to neutralise the political advantage that may have been made by the petitioners. The timing, circumstances, and context put it beyond doubt that the actual motive, purpose, and object of the 8th respondent in making the complaint were to support another political group, other than that which the petitioners were supporting. Therefore, the assertion that the complaint was made in the public interest is not realistic and cannot be so.

28. In this backdrop, the 8th respondent's complaint is immediately acted upon and the 7th Respondent, the then IGP, immediately takes cognizance and promptly acts upon the said complaint. It is then expeditiously transmitted to the CID. Then, 1st to the 6th respondents of the CID almost instantaneously commence an investigation, make out a detailed report, virtually reproducing the entirety of the complaint made by the 8th respondent and report it to the Fort Magistrate on 09.10.2024 under B/34097/24. A copy of the said report is produced by the 8th respondent marked "V-9".

29. As analysed above, it is apparent from the timing, nature, and contents that the said complaint was clearly made in order to counter the political campaign which the petitioners embarked upon. Thus, it is apparent that the 8th respondent has embarked upon this course of action with a

political motive, and to discredit the petitioners personally as well as politically. To that end, allegations were being made to demonstrate that the petitioners, as Police Officers were negligent in the performance of their duties as senior Police Officers attached to the CID. This was in respect of the investigations into the activities of Muslim extremists and the Easter Sunday attack. The 8th and 9th respondents appear to have come forward in this manner, as they themselves are retired senior Police Officers, and their target group is primarily being retired Police Officers.

30. No doubt, the petitioners themselves were engaged in a political campaign. As private citizens, they have a right and are free to do so. Similarly, the 8th and 9th respondents, being retired Police Officers, as of right, are entitled to engage in political campaigning for any party or group of their choice. The Respondents too, in the course of such activity, are free and entitled to counter an opposing campaign, which may even include the making of allegations of a personal nature.

31. However, what is relevant in the context of this application is the involvement of the Police and the connivance with the 8th and 9th respondents and especially the respondent CID officers. There is material placed before this Court that the Police acted with extreme speed and unusual interest in entertaining the complaint made by the 8th respondent and reporting facts to the Magistrate. It is this conduct at that particular point of time, when considered along with the circumstances, that leads to the strong inference that the then IGP, along with the 1st to the 6th respondents holding positions in the CID at that time, were conspiring with the 8th respondent to pursue or advance the political interests of the 8th and 9th respondents against a party in the opposition.

32. This conspiratorial involvement of the executive is relevant and is a matter of primary concern in determining this application. Time and

again, this Court has observed that when the power of the government is held by a particular political party, such a party tends to maliciously utilise such Police powers to advance their political objects and aspirations. Correspondingly, there are also Police Officers who are ready and willing to abuse their powers in order to assist and reciprocate such party in power to achieve their political objects and to counter or neutralise political opponents. As hereinabove observed, I find that the circumstances, timing, and the course of conduct are sufficient to satisfy, on a balance of probabilities, that 2nd and 7th respondents used and in fact abused their power as Police Officers, in order to maliciously and unlawfully counter and neutralise the political campaign of the petitioners, thereby, correspondingly, advancing the political campaign and interests/aspirations of the political masters in power, so to say.

33. The Constitution is supreme and is premised on the rule of law. In that context, public authorities, including the executive, are circumscribed in the exercise of their powers and required to act in good faith, reasonably and in the public interest. The abuse of executive power for partisan political ends strikes at the very foundation of constitutional government that is premised on the rule of law. Public power is conferred to be exercised solely in furtherance of lawful public purposes and never as an instrument for advancing the electoral or political interests and expectations of those who temporarily hold political power. Once executive authority is diverted towards collateral political objectives, the decision-maker ceases to act *bona fide* and according to law and instead acts according to political expediency.

34. The above principles and propositions have long been recognised in public law, as is evident from the following expositions. His Lordship G. P. S. De Silva, C.J., in ***Premachandra v. Major Montague Jayawickrema and Another*** (Provincial Governors' Case) (1994) 2 Sri L.R. 90, held that,

“When considering whether the exercise of a statutory power or discretion, especially one conferred by our Constitution, is subject to review by the judiciary, certain fundamental principles can never be overlooked. The first is that our Constitution and system of government are founded on the Rule of Law; and to prevent the erosion of that foundation is the primary function of an independent Judiciary.”

In ***Padfield v. Minister of Agriculture, Fisheries and Food*** (1968) UKHL 1, the House of Lords held that statutory powers are never absolute but must always be exercised “*to promote the policy and objects of the Act*”. The said administrative law principle is also relevant in the realm of constitutional law and assumes even greater significance where executive power is employed to secure political advantage. In ***Porter v. Magill*** (2001) UKHL 67, arising from the well-known “Homes for Votes” affair, the House of Lords emphatically held that although elected representatives inevitably possess political views, public powers cannot be exercised to procure electoral or partisan advantage. Their Lordships observed that:

*“Powers conferred on a local authority may be exercised for the public purpose for which the powers were conferred and not otherwise. A very clear statement of this principle is to be found in Wade and Forsyth, Administrative Law (8th ed, 2000) at pp 356-357. The corresponding passage in an earlier edition of that work was expressly approved by Lord Bridge of Harwich in ***R v. Tower Hamlets London Borough Council Ex p. Chetnik Developments Ltd*** [1988] AC 858 at 872:*

“Statutory power conferred for public purposes is conferred as it were upon trust, not absolutely - that is to say, it can validly be used only in the right and proper way which Parliament when conferring it is presumed to have intended...”

35. This proposition is and should be of general constitutional application. It reflects the notion that public office is held in trust for the public and not as an instrument of political competition. Shiranee Tilakawardane, J., in ***Sugathapala Mendis and Another v. Chandrika Kumaratunga and Others (Waters Edge Case)*** [2008] 2 Sri LR 339, also expanded on the above as follows:

*“The principle that those charged with upholding the Constitution - be it a police officer of the lowest rank or the President - are to do so in a way that does not ‘violate the Doctrine of Public Trust’ by state action/inaction is a basic tenet of the Constitution which upholds the legitimacy of Government and the Sovereignty of the People. The ‘Public Trust Doctrine’ is based on the concept that the powers held by organs of government are, in fact, powers that originate with the People, and are entrusted to the Legislature, the Executive and the Judiciary only as a means of exercising governance and with the sole objective that such powers will be exercised in good faith for the benefit of the People of Sri Lanka. **Public power is not for personal gain or favour, but always to be used to optimize the benefit of the People. To do otherwise would be to betray the trust reposed by the People within whom, in terms of the Constitution, the Sovereignty reposes.** Power exercised contrary to the Public Trust Doctrine would be an abuse of such power and in contravention of the Rule of Law. This Court has long recognized and applied the Public Trust Doctrine, establishing that the exercise of such powers is subject to judicial review (Vide **De Silva v. Atukorale** 1993 1 Sri LR 283, 296-297; **Jayawardene v. Wijayatilake** 2001 1 Sri LR 132, 149, 159). The Public Trust Doctrine application is only enhanced by the Directive Principles of State Policy.”* (emphasis added)

36. The Supreme Court of India has likewise repeatedly held that arbitrariness, *mala fides*, and political considerations are fundamentally inconsistent with constitutional governance. In **E. P. Royappa v. State of Tamil Nadu** (1974) 4 SCC 3, Bhagwati, J. held that “Equality is antithetic to arbitrariness”, and further held as follows:

“In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Art. 14...”

This understanding has become one of the cornerstones of Article 14 jurisprudence in India, which resonates closely with Article 12(1) of our Constitution. Similarly, in **State of Punjab v. Gurdial Singh** (1980) 2 SCC 471, the Supreme Court of India opined that where statutory power is exercised for an alien or collateral purpose, even devoid of personal ill will, it would be malice in law:

“‘Legal malice’ or ‘malice in law’ means something done without lawful excuse. It is an act done wrongfully and wilfully without

reasonable or probable cause and not necessarily an act prompted by personal ill-will.”

37. Similarly, the jurisprudence of the European Court of Human Rights proceeds upon the same constitutional premise. Article 18 of the European Convention of Human Rights prohibits the restriction of Convention rights for purposes other than those prescribed by law. In **Lutsenko v. Ukraine** (Application No. 6492/11, decided on 03.07.2012) and later in **Merabishvili v. Georgia** (Application No. 72508/13, decided on 28.11.2017) (judgment of the Grand Chamber), the Court recognised that criminal investigations and detention become incompatible with the Convention where they are pursued not for legitimate law enforcement objectives but to achieve ulterior political purposes. The Court thereby reaffirmed that the criminal process cannot be converted into a political weapon against perceived opponents of those exercising executive authority.

38. The rule of law demands that executive power remain politically neutral in its operation. Law enforcement authorities exist to enforce the law impartially, not to advance the fortunes of a political administration nor to weaken those perceived to oppose it. Such conduct is fundamentally incompatible with Article 12(1), the rule of law, and the constitutional obligation resting upon every public authority to exercise power fairly, reasonably, in good faith, and exclusively for the public purpose for which that power was so entrusted.

39. It is apparent that the 8th respondent has acted *mala fide* in lodging the complaint with a political motive. He seems to have acted with personal ill will, and it is malice in fact. The 7th respondent, Deshabandu Thennakoon, the then Inspector General of Police, upon the receipt of the written complaint dated 24.06.2024, has immediately acted with great haste and forwarded it to the Director of the CID to commence investigations. The CID has received this by 29.06.2024. This is evident by the said letter marked V-8 and the endorsements thereon. The 2nd

respondent has, *vide* V-9, reported facts to the Magistrate. According to which, on 06.07.2024, a statement of the 8th respondent had been recorded. Having so recorded the complaint, further statements have been recorded from four other Police Officers, including Senior DIG Nilantha Jayawardana, and taken charge of certain IBs and documents of the CID. Having so done, facts have been reported on 29.08.2024 to the Magistrate's Court. This report was then followed by another report dated 10.09.2024; that too, by the 2nd respondent, CI Induka Silva. According to which report, further statements have been recorded from retired IP Pathmasiri and in the said report, it is also stated therein as to how the petitioners failed to perform their duties. In addition thereto, the fact that the present fundamental rights application had been filed is also mentioned therein. In paragraph 8 it is reported that the 2nd respondent had met an Additional Solicitor General and has requested for assistance to appear for the respondents in the said Fundamental rights application. It is also stated therein that if any suspects were to be arrested in respect of this investigation, it would be done upon the advice of the Hon. Attorney General.

40. That being so, the said report continued to, in great detail, narrate certain publications on a YouTube channel named MediaLK. This contains a large volume of material against the petitioners. According to the above reports filed, it is clear that the 2nd respondent has been actively involved and instrumental in filing information in the Magistrate's Court and even after filing this fundamental rights application, the 2nd respondent has continued to give publicity to certain YouTube videos to malign the petitioner. This conduct of including all this material in the report in great detail, clearly demonstrated the malicious motives of the 2nd respondent to publicly discredit or malign the petitioners. On the other hand, this once again establishes that the 2nd respondent was acting in connivance with the 8th respondent to advance their political objectives. I observe so, purely on the inclusion of facts in extreme detail, of YouTube videos and other material which,

in the normal course, is not necessary to be included in material tendered to court. It is clear and apparent that the 2nd respondent has been pursuing a different agenda for an ulterior purpose and motive, in the guise of conducting an investigation on a complaint. As for the 1st, 3rd, 4th, 5th, and 6th respondents, though they were holding various positions in the CID, I do not find any direct material to establish any form of mala fide participation in the conduct of this investigation or filing of reports.

41. In the circumstances highlighted hereinabove, there is sufficient evidence, on a balance of probabilities, to satisfy this Court that the 2nd and 7th respondents have clearly acted maliciously to assist the 8th respondent and to advance his political objectives, which appear to be in support of the political masters in power at that time. Thus, the conduct of the 2nd and 7th respondents in so acting is clearly *mala fide* and an abuse of their lawful authority in order to advance and please their political masters' interests, so to say. In the least, there is malice in law, even though one may not be able to establish personal ill will.

42. On the face of it, it may appear to be a complaint that a person may be entitled to make and that requires investigation. However, in the circumstances and in the context of the factual situation that prevailed at the relevant time, it is abundantly clear that the complaint itself had been made with an ulterior object or purpose to achieve a political end and an advantage for the political party in power at that point of time.

43. The manner and the unusual expediency with which the 2nd and 7th respondents acted, especially considering the contents of the report and the unnecessary and irrelevant details included therein, it is obvious and apparent the object was not to investigate a crime or offence but to achieve an ulterior political purpose and to gain political advantage for such political masters or, in the least, to weaken those who are in opposition and opposed to such political masters. There is in the least malice in law. Such conduct is antithetical to the rule of law and

inevitably results in unequal treatment contrary to and in violation of Article 12(1) of the Constitution. In these circumstances, it is a clear violation of the equal protection of the law guaranteed by Article 12(1) by the 2nd and 7th respondents.

44. However, as I do not find direct or cogent material to directly implicate the 1st, 3rd, 4th, 5th, 6th, 10th, 11th and the 12th respondents, I find that the petitioner has failed to establish any violation as alleged against the said respondents.

45. In this backdrop the apprehension of the petitioners of an imminent danger of this process leading to the arrest and detention of the petitioners in the run-up to the election is quite real and well-founded. However, the petitioners' prompt institution of this application on 15.08.2024 did impede the said process. To that extent, I find that there was an imminent danger of the petitioners being arrested and detained for political reasons, and thus the imminent infringement of the rights of the petitioners, guaranteed by Article 13(1) of the Constitution, by the 2nd and 7th respondents is made out.

46. In the above circumstances, the 2nd and 7th respondents have clearly acted in violation of the fundamental rights of the petitioners guaranteed by Articles 12(1) and 13(1). However, the material does not suffice to establish any violation of the petitioners' rights guaranteed under Article 13(2).

47. As to the liability of the 8th and 9th respondents, the starting point is that they are private individuals. They clearly appear to have been engaging in some form of a political campaign. As all citizens do, the 8th and 9th respondents are, as of a right entitled and are free to engage in any political campaign for the advancement of the interests of any political party of their choice. Further, the 8th and 9th respondents participating in a counter-campaign and holding press briefings against the petitioners, as they did, also cannot be found fault with. However, it

is the 8th respondent's lodging of the complaint and conniving with the executive for political purposes that become relevant in the circumstances of the present application.

48. The 8th respondent lodging the complaint in the context and circumstances considered in conjunction with the corresponding reciprocal conduct by the 2nd and 7th respondents makes it apparent and puts it beyond doubt that the 8th respondent was not merely lodging a complaint but seeking the support of the executive for a political end. The 8th respondent thus engaged the 2nd and 7th respondents and embarked upon a concerted and pre-planned political campaign to advance the interests of the political party that was holding governmental power at that point of time, or in the least, to the detriment of an opposing political party.

49. There is certainly a great degree of connivance that is apparent from the facts and circumstances of the complaint and the ensuing investigation. By the fact of him lodging the complaint, the 8th respondent's connivance and instigation is established. This Court has developed a jurisprudence where private individuals who act in connivance with the executive may be held liable for violation of fundamental rights.

50. I have the privilege of citing the judgement in ***Shaul Hameed and Another v. Ranasinghe*** (1990) 1 SLR 104, where Justice K. M. M. B. Kulatunga, at page 118, opined as follows:

"This Court has the power to make an appropriate order even against a respondent who has no executive status where such respondent is proved to be guilty of impropriety or connivance with the executive in the wrongful acts violative of fundamental rights or even otherwise, where in the interest of justice it becomes necessary to deprive a respondent of the advantages to be derived from executive acts violative of fundamental rights e.g. an order for the payment of damages or for the restoration of property to the petitioner...The power of this Court to grant relief is thus very wide. Such power has been expressly conferred to make the remedy under Article 126 (2) meaningful."

51. Then, Justice Mark Fernando in **Mohamed Faiz v. Attorney General** (1995) 1 Sri L.R. 37, at page 382, held as follows:

“Article 126, speaks of an infringement by executive or administrative action; it does not impose a further requirement that such action must be by an executive officer. It follows that the act of a private individual would render him liable, if in the circumstances that act is “executive or administrative”. The act of a private individual would be executive if such act is done with the authority of the executive: such authority, transforms an otherwise purely private act into executive or administrative action; such authority may be express, or implied from prior or concurrent acts manifesting approval, instigation, connivance, acquiescence, participation, and the like (including inaction in circumstances where there is a duty to act); and from subsequent acts which manifest ratification or adoption. While I use concepts and terminology of the law relating to agency, and vicarious liability in delict, in my view responsibility under Article 126 would extend to all situations in which the nexus between the individual and the executive makes it equitable to attribute such responsibility. The executive, and the executive officers from whom such authority flows would all be responsible for the infringement. Conversely, when an infringement by an executive officer, by executive or administrative action, is directly and effectively the consequence of the act of a private individual (whether by reason of instigation, connivance, participation or otherwise) such individual is also responsible for the executive or administrative action and the infringement caused thereby. In any event this Court would have power under Article 126(4) to make orders and directions against such an individual in order to afford relief to the victim.”

52. In **Ganeshan Samson Roy v. M. M. Janaka Marasinghe** (SC/FR Application No. 405/2018, decided on 20.09.2023), the petitioner, an employee of George Steuart (Pvt.) Limited, complained that his fundamental rights were violated by the respondents of whom the 1st to 5th were police officers. The 6th respondent was a private party, and the petitioner alleged that the 6th respondent lodged a false complaint against him with the Criminal Investigation Department, which the petitioner claimed led to his arrest. Justice Aluwihare, P.C., J., whilst holding that the petitioners’ fundamental rights were violated by the respondents, at pages 21 – 22, opined thus:

“As we have concluded that the arrest of the petitioner was arbitrary and unreasonable and that the arrest was a direct

consequence of the instigation on the part of the 6th Respondent by making a complaint which was false, the 6th Respondent cannot avoid liability. In the process of protecting the Fundamental Rights of the citizenry, the Court cannot condone private parties instigating the executive to use its powers to achieve their ulterior motives unreasonably and/or in an arbitrary manner. Permitting such conduct would lead to a breakdown of the rule of law and erode public confidence, as such, infractions should be frowned upon by this Court.”

Then at page 27, it was held that;

“I am also of the view that the 6th Respondent, being a private party, should also be ordered to pay compensation. The 6th Respondent’s actions had led to considerable disruption of the petitioner’s life; his plans to embark on a holiday came to an abrupt halt and had to suffer incarceration in remand custody followed by an indictment on a charge of cheating. All these events, no doubt, would have impacted adversely on his life and possibly would have tarnished his reputation as well. This Court would be failing in its bounden duty if we were to ignore the grievance caused to the petitioner or condone the conduct of the 6th Respondent.”

*“I must also add that although His Lordship Justice Amarasinghe opined in **Saman v. Leeladasa** [supra] that deterrence should not be considered as a relevant element in the assessment of compensation, those opinions were limited to State liability, as the depths of the State coffers is vast, and the burden of large awards will inevitably pass to the taxpayer. But in my opinion deterrence is a relevant element when the Fundamental Rights violation is a result of instigation by a private party. Private parties should be deterred from instigating the executive to use its powers to achieve their ulterior motives unreasonably and/or in an arbitrary manner.”*

53. Dr. Jayampathy Wickramaratne, in his treatise ‘Fundamental Rights in Sri Lanka’ (3rd Ed.), under ‘Right to Constitutional Remedies - Horizontal Application of Fundamental Rights’ at page 1091, states that,

“Even under the 1978 Constitution, the concept of state or government is wider than the expression of ‘executive or administrative action.’”

*“Both Indian and Sri Lankan Supreme Courts have held non-state actors liable for violations but only when their actions had some relationship to state act... In **Mohamed Faiz v. Attorney General** the Sri Lankan apex Court considered the acts of private*

individuals to be executive as they were done with the authority of the executive.”

54. Applying the said dicta, I find and hold that the 8th respondent is also liable for the aforesaid violations of Articles 12(1) and 13(1) of the Constitution, as the 8th respondent instigated the 2nd and 7th respondents to use their executive power to achieve an ulterior political motive and also acted in connivance to that end. However as far as the 9th respondent is concerned, he had, no doubt, participated in the counter-campaign and may have acted together with the 8th respondent to the extent of holding a press briefing and politically attacking the petitioners. As observed above, a person has a right to engage in such political campaigns of their choosing. However, there is insufficient evidence or material to establish that the 9th respondent was acting or conniving with the 2nd and 7th respondents. There may be some suspicion, but that to my mind, is not sufficient to hold him liable for the violations committed by the other respondents.

55. Having considered the above, this Court is satisfied that the petitioners have established, on a balance of probabilities, that the complaint made by the 8th respondent was *mala fide* and was for political purposes; accordingly, the investigation initiated pursuant to the said complaint was not a *bona fide* exercise of lawful Police powers but one actuated by collateral political considerations. Thus, for the reasons set out hereinabove, I hold that the 2nd and 7th respondents abused the powers vested in them by law by entertaining and pursuing the complaint of the 8th respondent in circumstances that demonstrate *mala fides*, political motivation and an improper purpose.

56. Accordingly, I find that the 2nd respondent Chief Inspector, D. K. Induka De Silva, the 7th respondent Deshabandu Thennakoon, the then Inspector General of Police, and the 8th respondent Lekamge Palitha Roshan Siriwardena, have infringed the petitioners’ fundamental rights guaranteed by Articles 12(1) and 13(1) of the Constitution.

57. In view of the facts and circumstances and the nature of the violation of the petitioners' fundamental rights, this Court makes the following orders:

- a. the 2nd respondent is directed to pay a sum of Rs. 10,000/- to each of the petitioners separately;
- b. the 8th respondent is directed to pay a sum of Rs. 50,000/- as compensation to each of the petitioners separately (a total sum of Rs. 100,000/-); and
- c. it is also ordered that no further investigation be done in respect of the complaint made by the 8th respondent on 24.06.2024, as this Court has found the said complaint to be *mala fide* and malicious, made for political reasons, and also in view of the undertaking given and the intimation made to this court by the 13th respondent, the Attorney General. The 13th respondent is directed to advise the IGP accordingly, and transmit a copy of this judgment.

58. Accordingly, the application is allowed to the aforesaid extent; however, no order is made as to costs.

JUDGE OF THE SUPREME COURT

P. PADMAN SURASENA, C.J.

I agree.

CHIEF JUSTICE

ACHALA WENGAPPULI, J.

I agree.

JUDGE OF THE SUPREME COURT