

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

In the matter of an application under
and in terms of Article 126 read with
Article 17 of the Constitution of the
Democratic Socialist Republic of Sri
Lanka

Ukwaththa Ralalage Milinda
Chandana Kumara,
No. 191/A Chetnol Road,
Epitapeththa, Thumbagoda,
Balangoda

PETITIONER

SC FRA 271/2019

Vs.

1. Agurubaddalage Premasiri
Police Sergeant 30038,
Police Station, Balangoda.
2. Polwaththa Ralalage Gamini
Sarath Premachandra,
Police Sergeant 23844,
Police Station, Balangoda.
3. M.M. Ariyasena,
Police Constable 32186,
Police Station, Balangoda.

4. Ellegedara Widanalage Anil
Wimalasena,
Police Constable 23496,
Police Station, Balangoda.
5. R.A. Priyankara Perera,
Police Constable 66446,
Police Station, Balangoda.
6. Madduma Hewage Mahinda,
Police Constable 25422,
Police Station, Balangoda.
7. S. Balakrishnan,
Police Constable 54274,
Police Station, Balangoda.
8. Rotawewa Ralalagegedara
Kularathna Bandara,
Sub Inspector of Police,
Police Station, Balangoda.
9. Nimal Indrasiri Senanayaka,
Sub Inspector of Police,
Police Station, Balangoda.
10. Dumudu Senanayaka,
Assistant Superintendent of
Police,

(Balangoda District)
Police Station, Balangoda.

11. K.K.P. Kalubowila
(Inspector of Police),
Officer-in-Charge,
Opanayaka Police Station,
Opanayaka
12. Udena Bandara Thennakoon,
(Chief Inspector of Police)
Officer-in-Charge,
Balangoda Police Station,
Balangoda.
13. Padmasiri Manasingha,
Deputy Inspector General of
Police,
(Rathnapura Range),
Rathnapura.
14. Pujitha Jayasundara,
Inspector General of Police,
Police Headquarters,
Colombo 01.
15. C.D. Wickramarathna,
Inspector General of Police
(Acting)

Police Headquarters,
Colombo.

15A. T.M.W.D. Thennakoon,
Inspector General of Police,
Police Headquarters,
Colombo.

16. B.M.C Dasanayaka,
Medical Superintendent,
Base Hospital, Diyathalawa.

17. M.C.M. Maranthota,
Medical Superintendent,
Base Hospital, Balangoda

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

RESPONDENTS

Before: **Justice A. L. Shiran Gooneratne**
 Justice Mahinda Samayawardhena
 Justice Menaka Wijesundera

Counsel: Asthika Devendra with Praveen Premathilaka instructed by
 Niluka Dissanayake for the **Petitioner**.

Pathum Bandara with U Wijesuriya instructed by Poornima Abeysinghe for the **1st Respondent**.

Chandana Wijesooriya with U Wijesuriya, Wathsala Dulanjani instructed by Sewwandi Liyanage for **2nd to 9th Respondents**.

Dr. Sunil F A Coorey with Pathum Nawarathna Bandara instructed by Isuri Jayasekara for the **10th Respondent**.

Riyaz Bary, DS instructed by Ira Kalansuriya for the **13th to 18th Respondent**.

Argued on: 03/07/2026

Decided on: 17/09/2026

A. L. Shiran Gooneratne, J.

BACKGROUND FACTS

When this matter was taken up for Argument, the learned Counsel for the 2nd to 9th Respondents raised a Preliminary Objection, which was set out in their Statement of Objections dated 02/01/2023, that the instant application is *ex facie* time-barred.

It is also strongly noted that the Respondents (the 2nd, 4th, 5th, 8th, and the 9th Respondent Police Officers) allege that the Petitioner maintained a close relationship with the 12th Respondent, the Officer in Charge of the Balangoda Police, which emboldened him to act unlawfully. They cite records of frequent telephone conversations between the Petitioner and the 12th Respondent, including at the time

of the incident, and note that the cab driven by the Petitioner had previously belonged to the 12th Respondent's wife. They argue that the Petitioner deliberately excluded any liability of the 12th Respondent from these proceedings to shield his career.

Accordingly, before considering the Preliminary Objection, I shall first examine in detail the facts alleged by the Petitioner concerning the incident.

Version of the Petitioner

By Petition dated 28/06/2019, the Petitioner states that on the evening of 16/03/2019, he, together with six friends, attended a social gathering at the Merit Hotel, Balangoda. Upon their departure at approximately 7:15 p.m., they traveled in three vehicles, namely a cab bearing No. 52-4221, a car bearing No. 302-1337, and a motor bicycle, heading towards Badulla. It is alleged that near the People's Bank, Balangoda, an intoxicated man suddenly crossed the road, forcing a three-wheeler traveling ahead to brake abruptly. As a result, the Petitioner's cab collided with the left corner of the three-wheeler.

Following this incident, a confrontation ensued between the Petitioner and the 1st Respondent, who was known to the Petitioner. Both the Petitioner and one Udesh sustained injuries and, at approximately 8:15 p.m., sought medical attention at the Out-Patients Department (OPD) of the Balangoda Base Hospital. The Petitioner states that while awaiting admission, the 1st Respondent and his son also arrived at the OPD, leading to an altercation with Udesh that the hospital staff quelled.

The Petitioner and Udesh were thereafter admitted to Ward No. 08 under duly issued Patient Admission Forms, with the Petitioner's form bearing No. 8888/1894. The Medical Officer recorded that the Petitioner had sustained a laceration to the right side of his neck, had difficulty turning his neck, and was diagnosed with headaches and vertigo.

It is further alleged that at approximately 9:15 p.m., the 2nd, 4th, 5th, 8th, and 9th Respondents (Police Officers), attired in uniform, entered Ward No. 08 and began assaulting the Petitioner while he was awaiting treatment. The Petitioner states that the 2nd Respondent struck the Petitioner's nose with a pistol, causing profuse bleeding, while the 8th Respondent kicked him, and thereafter blows were inflicted upon his abdomen. The Petitioner fell to the ground, passed urine involuntarily, and was further assaulted by the 4th Respondent with his foot while the Petitioner was on the floor. It is alleged that the incident was witnessed by the hospital staff and patients, including a pregnant Doctor on duty, though none directly intervened due to fear, but apparently shouted at the Police Officers, asking them to stop assaulting the Petitioner.

The Petitioner avers that he was forcibly dragged from the ward by the Respondents and taken to a Police jeep stationed outside. The Petitioner states that he also learned that the Respondents had tried to forcibly drag the aforementioned Udesb away, but due to the intervention of the hospital staff, the Respondents were unable to do so. The Petitioner asserts that no reasons were communicated to him, nor was he informed that he was under arrest. The Petitioner states that his cab was also seized, with the 2nd Respondent allegedly taking the vehicle to the Balangoda Police Station.

The hospital records indicate that the Petitioner was marked "missing" on the Patient Admission Form (P-3) for Ward No. 08 at 9:40 p.m., a fact reported to the Hospital Police.

It is acknowledged that Udesb has provided an Affidavit regarding the said events, which has been filed of record as P-5. It is also averred that the entire incident was video-recorded by the hospital staff, and the footage was later provided to the Petitioner in a Compact Disk marked as P-5(1).

Thereafter, the Petitioner was taken to the Crime Branch of the Balangoda Police Station at approximately 10:30 p.m., where he was allegedly handcuffed to a window and further assaulted by the 2nd Respondent while still bleeding from his nose. The

Petitioner alleges that the 3rd Respondent, the 10th Respondent (Assistant Superintendent of Police), and Senior Police Officers were present at the time.

The Petitioner further states that while he remained handcuffed by his right hand to a window in the Crime Branch of the Balangoda Police Station, the 2nd, 3rd, 4th, 5th, 8th, 9th, and 10th Respondents withdrew into an adjoining room. In the meantime, the Petitioner, still bleeding from his nose, attempted to stem the flow by lifting his T-shirt with his free hand. At this juncture, the 3rd Respondent approached him. When the Petitioner requested water, the 3rd Respondent retorted, “නොට වතුරවත් දෙනින් නොදෙන්න,” before pulling the Petitioner’s T-shirt and striking him on the head.

It is alleged that the 4th and 5th Respondents thereafter confronted the Petitioner, demanding the location of the house belonging to the aforementioned Udesh. The 4th Respondent is said to have kicked the Petitioner and compelled him to blow into what appeared to be a breathalyser, while the 5th Respondent verbally threatened and abused him. Subsequently, the 10th Respondent directed the 7th Respondent to keep watch over the Petitioner, who remained confined until approximately 12:30 a.m. on 17/03/2019. At that time, the 7th Respondent removed the handcuffs on the orders of the 10th Respondent, who then struck the Petitioner on the head and issued further threats.

The Petitioner states that he was thereafter compelled by the 3rd and 7th Respondents, accompanied by the 2nd, 3rd, 4th, 5th, 7th, 8th, and 9th Respondents, to enter a Police jeep and was transported back to Ward No. 08 of the Balangoda Base Hospital. At approximately 1:00 a.m., he was re-admitted under a fresh Patient Admission Form bearing No. 8902/1908 (marked as P-6).

The Petitioner alleges that this act makes it clear that the Petitioner was forcibly taken from the hospital ward solely for the purpose of torturing the Petitioner. The Petitioner avers that the 10th Respondent separately spoke with the Doctor on duty before the Petitioner’s re-admission, though the contents of that discussion remain unknown. The said ‘second’ Patient Admission Form recorded that the Petitioner was

admitted under the custody of the 7th Respondent, with the Balangoda Police Station noted as his guardian.

According to the medical observations recorded in the second Patient Admission Form, the Petitioner was suffering from a head injury, vomiting, nasal bleeding, and loss of consciousness. The Petitioner informed the examining Doctor that he had been assaulted in the groin and lower abdomen, which were tender and painful. The Petitioner also states that the Doctor noted that the Petitioner had previously gone missing from the hospital without being discharged, and that he had stated he was assaulted by known Police Officers on 16/03/2019 (record marked as P-6(c)).

The Petitioner further avers that by letter No. BH/B/CC dated 18/03/2019 (marked as P-6(d)), the 16th Respondent, the Medical Superintendent of the Balangoda Base Hospital, informed the hospital's Surgeon, as well as the 10th and 12th Respondents, of the Petitioner's abduction and assault, requesting necessary action. On 17/03/2019, at approximately 11:30 a.m., the 8th Respondent purported to record a statement from the Petitioner, but the Petitioner was not permitted to read or verify its contents before signing.

Due to the severity of his injuries, the Petitioner was recommended for transfer to the Ratnapura Teaching Hospital, where he was admitted to Ward No. 6 under Admission No. 28798 (marked as P-7). On 19/03/2019, the Judicial Medical Officer of the Ratnapura Teaching Hospital examined the Petitioner, who disclosed that his injuries were sustained as a result of torture inflicted by Police Officers.

The Petitioner states that on or about 17/03/2019, the Officer-in-Charge of the Balangoda Police Station reported facts to the Learned Magistrate of Balangoda in Case No. B/198/2019 (Case Record marked as P-8), alleging offenses under Sections 140, 332, 333, 183, 344, 314, 315, and 316 of the Penal Code, together with Section 44(1) of the Firearms Ordinance.

The B-report (marked as **P-8(a)**) alleged, inter alia; facts in respect of; “අයුතු ජනරාශියක සාමාජිකත්ව සිටිමින් අයුතු අවහිරය සිදුකර රාජකාරී නිමකර යමින් සිටි පොලිස් නිලධාරියෙකුට පහර දී

තුමාලේ සිදුකර විමර්ශන නිලධාරීන්ට ගිනි අවියක් පෙන්වා බියගන්වා තර්ජනය තර්ජනය කිරීම සම්බන්ධයෙන් කරුණු වාර්තා කරමින් අත්අඩංගුවට ගන්නා ලද සැකකරු ගරු අධිකරණයට ඉදිරිපත් කිරීම.” (That, the Petitioner, being a member of an unlawful assembly, had obstructed Police Officers in the discharge of their duties, assaulted a Police Officer, and threatened investigating officers by brandishing a firearm. The report further recorded that the Petitioner was taken into custody and produced before Court on these allegations.);

The 1st Respondent lodged a complaint, alleging that the Petitioner and a group of associates assaulted him near the People’s Bank, Balangoda, while he was traveling home in a three-wheeler, and that he sustained injuries during the altercation. When Police Officers arrived at the scene to investigate, the Petitioner intimidated them by displaying a pistol. The Petitioner attempted to assault the complainant again at the Balangoda Hospital. The cab belonging to the Petitioner and the pistol allegedly used in the incident were taken into custody and produced before the learned Magistrate of Balangoda, marked as P.R./295/19 and P.R./294/19, respectively.

The Petitioner avers that the 10th and 11th Respondents fabricated charges against him by alleging possession of a pistol, an allegation he vehemently denies. The Petitioner maintains that the claim of intimidating Police Officers with a firearm was maliciously contrived to deter him from complaining about the torture inflicted upon him.

It is stated that the Magistrate’s Court of Balangoda thereafter directed the Police to report the facts to the Magistrate’s Court of Ratnapura and to take necessary action against the suspects. On 19/03/2019, while receiving treatment at the Teaching Hospital, Ratnapura, the learned Additional Magistrate recorded the Petitioner’s statement and subsequently ordered his remand. Later that day, at around 5:00 p.m., the Petitioner was discharged from the hospital and transferred to the Prison Hospital, Kuruwita.

The Petitioner further avers that on 21/03/2019, the 10th Respondent informed the learned Magistrate of Balangoda that he had been appointed by the Deputy Inspector General, Rathnapura Range, to conduct investigations. On 28/03/2019, the 10th and 11th Respondents filed a further report in Case No. B/198/2019, naming the Petitioner as the sole suspect and seeking the discharge of his friends, who had previously been cited as suspects. The learned Magistrate directed the 10th Respondent to conduct an inquiry, though the Petitioner remains unaware of any steps taken in that regard.

It is further stated that on the same date, the 11th Respondent reported facts in a new case, No. B/215/2019 (Case Record marked as P-9), naming the Petitioner and four others as suspects. The Petitioner avers that the allegations in this case were substantially identical to those in Case No. B/198/2019, except for the reference to the firearm. On 09/04/2019, the Respondents sought and obtained an order to send the alleged pistol to the Government Analyst's Department. The 10th Respondent also alleged that the Petitioner had obtained bribes and ransom from people, threatened people with the support of the Officer-In-Charge of Balangoda police [O.I.C] (12th Respondent), and committed child abuse. The Petitioner asserts that these claims were baseless and malicious.

On 23/04/2019, the 10th Respondent informed the Court of a plot to assassinate the Petitioner upon his release on bail and sought to further remand the Petitioner. On 09/05/2019, the 11th Respondent informed the Court that the Petitioner would be charged under Sections 22(1) and 13(3) of the Firearms Ordinance for possessing a pistol. The Petitioner was ultimately released on bail on 14/05/2019, after nearly two months in remand custody. The Petitioner contends that the Respondents deliberately prolonged his incarceration by fabricating allegations, abusing their authority, and preventing his enlargement on bail.

The Petitioner further states that in Case No. B/215/2019, the Petitioner and four of his friends were named as suspects, and facts were reported on multiple occasions. On 04/04/2019, the Police informed the Court that CCTV footage from the OPD and Ward No. 08 of Balangoda Hospital had been deleted and could not be produced.

Except for the Petitioner, the others were granted bail on 04/04/2019, while the Petitioner was granted bail only on 07/05/2019, though he remained in custody until 14/05/2019 due to the parallel proceedings in Case No. B/198/2019.

The Petitioner avers that the Police, in their version of events, falsely claims that he was arrested while fleeing the hospital after assaulting the 1st Respondent and his son at the Base Hospital, Balangoda. The Petitioner notes that Affidavits filed by the 8th and 9th Respondents repeated this fabricated account, alleging that he threatened them with a pistol as he was about to be arrested. The Petitioner contends that these reports were maliciously contrived to harass him and prevent his release on bail.

The Petitioner attributes the ill-treatment he suffered to his prior complaints about malpractices by officers of the Balangoda Police Station, including the OIC Balangoda (12th Respondent), such as a complaint filed on 10/12/2018 against the 2nd Respondent and others. The Petitioner asserts that the 10th and 11th Respondents abused their power by fabricating the allegation of firearm possession to further victimize him.

The Petitioner also states that on 16/03/2019, at approximately 8:30 p.m., the 2nd Respondent and other Police Officers visited his residence, broke the locks on the doors, and threatened his wife, who was alone with their infant child, saying they would find and kill the Petitioner. The Petitioner's wife lodged a complaint the following day but was allegedly threatened by the 10th Respondent and denied a receipt for her complaint. An Affidavit of the Petitioner's wife, in this regard, has been filed and marked as P-10.

The Petitioner further avers that while he remained in custody, his wife lodged a complaint via fax to the Human Rights Commission on 16/04/2019, but he does not possess any proof that the complaint was made; and that the Petitioner himself lodged a complaint on 07/06/2019 regarding torture and abuse of power by the Respondents. He states that these complaints remain pending inquiry before the Commission.

Alleged Infringement of Fundamental Rights of the Petitioner

The Petitioner contends that the cumulative actions and omissions of the 1st to 10th Respondents, particularly the forcible removal of the Petitioner from hospital custody and the subsequent torture, constitute an infringement, an imminent infringement, and a continuing violation of his Fundamental Rights guaranteed under Articles 11, 13(1), and 13(4) of the Constitution.

The Petitioner further avers that the 8th, 9th, 10th, and 11th Respondents, by fabricating false allegations of firearm possession and intimidation, abused their authority to maliciously victimize him. Such conduct, the Petitioner asserts, infringes his rights under Article 12(1) of the Constitution.

The Petitioner states that he believes that the 12th Respondent, the Officer-in-Charge of Balangoda Police Station, attempted, within his limited capacity, to safeguard the Petitioner's rights. Apart from signing the initial B-Report in Case No. B/198/2019, his involvement was minimal. The Petitioner further believes that the 12th Respondent was subsequently removed from the investigation. The Petitioner therefore submits that vicarious liability for the violations rests with one or more of the 8th, 10th, 11th, 14th, and 15th Respondents, whose actions constitute infringements of his rights under Articles 11, 12(1), 13(1), and 13(4) of the Constitution.

The Petitioner asserts that the aforesaid actions and omissions by the Respondents and the State constitute executive and administrative action within the meaning of Article 126 of the Constitution.

This Court granted Leave to Proceed on the alleged infringement of The Fundamental Rights guaranteed by Articles 11, 12(1), 13(1), and 13(4) of the Constitution.

Version of the 2nd to 9th Respondents

The 2nd to 9th Respondents, in their Statement of Objections, present a contrary account of events. They allege that on 16/03/2019, at approximately 7:40 p.m., the 1st

Respondent, while traveling home in a three-wheeler after duty, was struck from behind by the Petitioner's cab, which was being driven under the influence of alcohol. They further allege that the Petitioner forcibly seized the three-wheeler key, pushed the driver aside, and, together with six accomplices, assaulted the 1st Respondent. Fearing for his safety, the 1st Respondent sought refuge in the upstairs premises of a nearby business establishment known as Balangoda Hotel, where its owner, Chathura Jayanaka Samarasinghe, intervened to protect him.

The Respondents further aver that Police Officers on traffic duty attempted to prevent the assault but were themselves abused by the Petitioner. The incident, they state, was captured on CCTV cameras (footage marked as 2R6) at the said premises and handed over to the Police. The 1st Respondent thereafter lodged a complaint (marked as 2R1a) at the Balangoda Police Station, bleeding from his lips and in pain in his shoulders, and was subsequently admitted to Base Hospital, Balangoda. Affidavits and statements from the three-wheeler driver (marked as 2R2), the hotel owner (marked as 2R3 and 2R1b), and other witnesses (marked as 2R4, 2R1c, 2R5, 2R1d, and 2R1e) have been submitted to this Court in support of this version.

It is further alleged that when the 1st Respondent, accompanied by his son, Ishara Sanjaya, proceeded to Ward No. 08 of the Balangoda Base Hospital, he was again assaulted by the Petitioner and his accomplices on the hospital premises. The admission chit in the 1st Respondent's possession was torn, and his son was also severely assaulted by the aforementioned Udesh. Both father and son managed to escape further assault and were admitted to Ward No. 08, where they were subjected to verbal abuse by the Petitioner. Supporting Affidavits from the son of the 1st Respondent (marked as 2R7 and 2R1g) and a statement from a Petitioner's acquaintance (marked as 2R1e) are attached.

The Respondents state that the Petitioner, after being admitted to the hospital at 8:50 p.m., lay in wait until the 1st Respondent arrived and then assaulted him. They further allege that the Petitioner went missing from Ward No. 08 at 9:40 p.m., consistent with a history of absconding during hospital admissions.

The Respondents assert that, upon the direction of the Officer-in-Charge of Balangoda Police (12th Respondent), a team of Officers proceeded to arrest the Petitioner. They state that as the Police entered the hospital compound, the Petitioner attempted to flee in his cab and, upon being obstructed, brandished a firearm at the 9th Respondent. The Petitioner was warned to drop the weapon and, in the ensuing struggle, was subdued, handcuffed, and arrested. The Respondents maintain that any injuries sustained by the Petitioner were the result of necessary force used during his resistance to arrest and that a Police Officer was also injured in the process.

The 2nd to 9th Respondents further state that the weapon recovered from the Petitioner at the time of arrest was a locally manufactured firearm. They contend that while another suspect, Udesh, remained hospitalized and was shouting inside Ward No. 08, the Petitioner had already gone missing from the ward and was arrested within the hospital compound after an altercation with Police Officers. In support, they submit statements from hospital security personnel (marked as 2R11) and Affidavits of eyewitnesses (marked as 2R12 and 2R13) who observed the arrest, together with inquiry notes (marked as 2R1i) and Police Records (marked as 2R1k).

The Respondents rely on a letter issued by the Medical Superintendent of Balangoda Hospital, which the Petitioner himself annexed and which records that the Petitioner went missing from Ward No. 08 at 9.40 p.m., had an altercation with Police outside the ward, and re-admitted himself at 1:00 a.m. on 17/03/2019, stating that he had been assaulted. The Respondents argue that the letter confirms an altercation outside the ward rather than an abduction or assault within it, and that the Petitioner has misrepresented its contents.

It is further stated that after his arrest at approximately 10:05 p.m., the Petitioner was taken to the Police Station, subjected to a breathalyzer test, and that his cab, firearm, and belongings were placed in Police custody. He was subsequently readmitted to the hospital at 1:00 a.m. The Respondents emphasize that the

Petitioner's admission card shows he was admitted to the ward at 9:36 p.m., contradicting his claim of an assault inside the ward at 9:15 p.m.

The Respondents also allege that the Petitioner maintained a close relationship with the 12th Respondent, which emboldened the 12th Respondent to act unlawfully. They cite records of frequent telephone conversations between the Petitioner and the 12th Respondent (marked as 2R14), including at the time of the incident, and note that the cab driven by the Petitioner had previously belonged to the 12th Respondent's wife. They argue that the Petitioner deliberately excluded any liability of the 12th Respondent from these proceedings to shield his career.

The Respondents further assert that the Petitioner has a history of criminal conduct, including robbery, grievous hurt, and assault, as evidenced by Police Records and Medico-Legal Reports. They cite complaints lodged against him, including one by his father in December 2018, which was later withdrawn with the intervention of the 12th Respondent, and another involving the assault of a municipal garbage truck driver in October 2018. They also note that the Petitioner has previously admitted himself to the hospital and absconded before examination.

Finally, the Respondents dispute the severity of the injuries the Petitioner claims. They rely on the Judicial Medical Officer's (JMO) Report dated 18/03/2019 (marked 2R25), which documents only minor abrasions and contusions to the nose, face, forearm, knee, and toe. They submit that these injuries were sustained during the Petitioner's resistance to arrest while armed with a firearm and that necessary force was used to subdue him.

LEGAL ANALYSIS

Addressing the Preliminary Objection of Time-Bar

The 2nd to 9th Respondents have raised a Preliminary Objection in their Statement of Objections dated 02/01/2023, asserting that the instant application is, on its face,

time-barred. It is submitted that Article 126(2) of the Constitution mandates that an application alleging infringement of Fundamental Rights must be instituted within one month (30 days) of the alleged violation. The incidents complained of by the Petitioner occurred on 16/03/2019. However, the present application was filed on 28/06/2019, well beyond the prescribed period, thereby rendering it procedurally untenable.

The Respondents contend that the Petitioner has failed to demonstrate any valid exception to the constitutional limitation. Although the Petitioner asserts that his wife lodged a complaint with the Human Rights Commission on 16/04/2019, no documentary evidence has been provided to substantiate this claim. The Affidavit marked as P-10, filed by the Petitioner's wife, does not confirm that such a complaint was made. In the absence of credible evidence, the assertion remains uncorroborated and cannot extend or suspend the constitutional time limit.

It is further submitted that the Petitioner lodged a complaint with the Human Rights Commission only on 07/06/2019, nearly 80 days after the alleged violation. By then, the statutory period had long lapsed. Accordingly, the Respondents submit that the Petition is incurably defective, barred by limitation, and ought to be dismissed *in limine*.

Section 13(1) of the Human Rights Commission of Sri Lanka Act No. 21 of 1996 reads thus;

13. (1) *“Where a complaint is made by an aggrieved party in terms of section 14, to the Commission, within one month of the alleged infringement or imminent infringement of a fundamental right by executive or administrative action, the period within which the inquiry into such complaint is pending before the Commission, shall not be taken into account in computing the period of one month within which an application may be made to the Supreme Court by such person in terms of Article 126 (2) of the Constitution.”*

The Petitioner was represented by a Counsel when produced before the learned Magistrate on 17/03/2019, and throughout his period of remand he had access to legal advice and proper representation. The Petitioner was therefore fully aware of the requirement to invoke this Court's jurisdiction within one month and had ample opportunity to do so. The Petitioner's failure to take timely and meaningful action cannot now be excused.

It should be emphasized that the constitutional time bar is a strict jurisdictional threshold, not a mere procedural irregularity. The Petitioner's reliance on unverified claims in a complaint to the Human Rights Commission, and his eventual complaint lodged well outside the prescribed period, do not cure the defect.

Comparative Assessment of Versions

Upon careful comparison of the Petitioner's narrative with those of the 2nd to 9th Respondents, significant inconsistencies emerge, casting serious doubt on the reliability of the Petitioner's version. The Petitioner alleges abduction from Ward No. 08 and torture on hospital premises. However, hospital records, including the Bed Head Ticket and the Medical Superintendent's letter, confirm that the Petitioner went missing from Ward No. 08 at 9:40 p.m., had an altercation with Police outside the ward, and was readmitted at 1:00 a.m., stating that he had been assaulted. No nursing officer or hospital staff has reported an abduction or assault inside the ward. This documentary evidence directly contradicts the Petitioner's claim of forcible removal from the ward.

The Respondents' version is further corroborated by multiple independent Affidavits and statements, including those of the three-wheeler driver, the hotel owner, eyewitnesses at the hospital, and even one of the Petitioner's own accomplices. CCTV footage from the Balangoda Hotel premises was also handed over to the Police, documenting the initial confrontation. In contrast, the Petitioner's account relies

heavily on his own assertions, unsupported by contemporaneous documentation or credible witness testimony.

The allegation of possession of a firearm, which the Petitioner vehemently denies, is substantiated by the recovery of a locally manufactured weapon at the time of arrest, witnessed by several officers and civilians. The Petitioner's claim that this was fabricated is undermined by the fact that the weapon was produced before the Court and subjected to forensic examination. The Judicial Medical Officer's Report of 18/03/2019 also weakens the Petitioner's narrative of torture, recording only minor abrasions and contusions consistent with resistance to arrest, rather than the severe injuries alleged.

The Respondents have further demonstrated that the Petitioner maintained close ties with the then Officer-in-Charge of Balangoda Police Station (12th Respondent), including frequent telephone communications at the time of the incident. The cab driven by the Petitioner had previously belonged to the 12th Respondent's wife and was later transferred to a relative of the Petitioner. This relationship, coupled with the Petitioner's history of criminal complaints, including assault on his father, grievous hurt, and robbery, undermines his credibility and suggests a pattern of disruptive misconduct.

Absence of Merit in the Petitioner's Case

In light of these contradictions, the Court finds that the Petitioner's account is not supported by objective evidence. His claim of abduction from hospital custody is contradicted by hospital records; his denial of possession of a firearm is refuted by the recovery and production of the weapon; his allegations of torture are inconsistent with the JMO's findings of minor injuries; and his credibility is further undermined by his prior record of violent conduct and close association with the 12th Respondent.

By contrast, the Respondents' account is supported by contemporaneous complaints, Affidavits, Medical Records, CCTV footage, and Police documentation. The

multiplicity of independent sources lends weight to their version and creates reasonable doubt about the veracity of the Petitioner's allegations.

In light of the totality of circumstances, this Court finds that the Petitioner's case lacks merit.

CONCLUSION

The Petitioner has failed to satisfy the mandatory threshold prescribed by Article 126(2) of the Constitution and has not brought himself within the statutory exception contemplated by Section 13(1) of the Human Rights Commission of Sri Lanka Act. The application is clearly time-barred. Accordingly, the Preliminary Objection on the time bar is upheld, and the application is dismissed *in limine*.

Having fully analyzed the factual content, this Court is compelled to conclude that the Petitioner has failed to establish a credible case of infringement of Fundamental Rights. The Petitioner's narrative is riddled with inconsistencies, lacks reliable evidence, and is contradicted by official records and independent testimony. The application, therefore, lacks merit and is dismissed on the factual content as well.

We observe with grave concern the allegations made against the 12th Respondent, the Officer-in-Charge of the Balangoda Police, by fellow Police Officers who were entrusted with investigating the Petitioner's conduct on the date of the incident. It is particularly noteworthy that the 12th Respondent had been removed from further involvement in the investigation of the said incident.

The allegations contained in the Affidavits of the 2nd to 9th Respondents were relied upon by Court, and we find they are sufficiently serious to warrant a full investigation to ascertain the facts and determine the allegations made against the 12th Respondent.

In the circumstances, we direct the Inspector General of Police (15th Respondent) to appoint a Deputy Inspector General of Police to conduct a formal inquiry into the allegations made against the 12th Respondent and to submit a report of the inquiry to the Hon. Attorney General (18th Respondent) for such further action as may be deemed necessary.

The Registrar is directed to forward a copy of the judgment forthwith to the Hon. Attorney General, the Inspector General of Police and to the National Police Commission, for any further necessary steps to be taken in this regard.

For all the reasons set out above, the Petition is dismissed.

Judge of the Supreme Court

Mahinda Samayawardhena, J.

I agree

Judge of the Supreme Court

Menaka Wijesundera, J.

I agree

Judge of the Supreme Court