

**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. 372/2020

Nanayakkara Godakande Achala
Shanika Senevirathna
No.215, Kanaththa Road, Palanwaththa,
Pannipitiya.

Petitioner

Vs.

1. Nishantha Zoysa
Former Director of the
Criminal Investigation Department,
C/o Director,
Criminal Investigation Department,
Colombo 01.
 - 1A. Kavindha Piyasena,
Former Director of the Criminal
Investigation Department,
C/o Director,
Criminal Investigation Department,
Colombo 01.
 - 1B. M.W. Imesha Muthumali
Senior Superintendent of Police,
Directress,
Criminal Investigation Department,

Colombo 01.

2. W.D.P. Senarathna,
Former Officer-in-Charge of the
Keselwattha Police Station,
C/o Officer-in-Charge,
Police Station Keselwattha.

2A. Ranjith Bamunusingha,
Former Officer-in-Charge of the
Keselwattha Police Station,
C/o Officer-in-Charge,
Police Station Keselwattha.

2B. Sujith Priyantha,
Chief Inspector of Police,
Officer-in-Charge,
Police Station, Keselwaththa.
3. R. L. Sanath Ranjith,
Former Officer-in-Charge of the
Piliyandala Police Station,
C/o Officer-in-Charge,
Police Station, Piliyandala.

3A. Dinesh Atharangama,
Chief Inspector of Police,
Officer-in-Charge,
Police Station, Keselwaththa.
4. C. D. Wickramarathne,
Former Inspector-General of Police,
C/o Inspector-General of Police (Acting),
Department of Police, Colombo 01.

4A. Priyantha Weerasuriya,
Inspector-General of Police (Acting),
Department of Police, Colombo 01.

5. Suhada Gamlath PC,
Chairman,
National Authority for the Protection of
Victims of Crimes and Witnesses,
No. 428 / 11 A, Denzil Kobbekaduwa
Mawatha, Baththaramulla.

6. Sanjaya Irasingha,
Former Director of the Victims of Crime
and Witnesses Assistance Division,
C/o Director,
Victims of Crime and Witnesses
Assistance Division,
No. 145, Main Street, Baththaramulla.

6A. W. V. Ginige,
Former Director of the Victims of Crime
and Witnesses Assistance Division,
C/o Director,
Victims of Crime and Witnesses
Assistance Division,
No. 145, Main Street, Baththaramulla.

6B. L. Rohana Gamage,
Senior Superintendent of Police,
Director,
Victims of Crime and Witnesses
Assistance Division,
No.145, Main Street, Baththaramulla.

7. Kamal Gunaratne,
Former Secretary to the Ministry of
Defence,
C/o Secretary,
Ministry of Defence,
Defence Headquarters Complex,
Jayewardenepura, Kotte.

7A. Sampath Thuyacontha
Secretary,
Ministry of Defence,
Defence Headquarters Complex,
Jayewardenepura, Kotte.

8. Honourable Attorney General,
Department of the Attorney General,
Colombo 12.

Respondents

Before : Janak De Silva, J.
Dr. Sobhitha Rajakaruna, J.
Menaka Wijesundera, J.

Counsel : Shyamal A. Collure with Prabhath S. Amarasinghe
instructed by R. H. Senaka Perera for the Petitioner.
Ms. V. Hettige, PC, ASG instructed by Ms. Rizni Firdous,
SSA, for the Respondents.

Written
Submissions : Written submissions on behalf of the Respondents
on 9th January, 2025.
Latest written submissions on behalf of the Petitioner
on 20th February, 2026.

Argued on : 13.11.2025

Decided on : 11.03.2026

MENAKA WIJESUNDERA J.

The petitioner in the instant matter is an Attorney at Law who had been enrolled in the Supreme Court on 12.12.2007. The petitioner has sought a declaration from this court that her fundamental rights under Articles 12(1), 12(2) and 14(1)(g) had been violated. When this matter has been supported for leave on 07.07.2023, this court granted leave under Articles 12(1) and 14(1)(g) of the constitution.

Articles 12(1) and 14(1)(g) of the constitution states as follows:

12(1): *“All persons are equal before the law and are entitled to the equal protection of the law.”*

14(1)(g): *“Every citizen is entitled to the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise.”*

The petitioner has stated that she has been engaged in active legal practice and has appeared for an aggrieved party in a case of disappearance while in custody of the Sri Lankan navy.

Initially, a B-report had been filed in the Magistrate Court of Colombo, case No. B732/2009, thereafter, a Trial at Bar bearing No. TAB 1448/2020, has been appointed to hear this incident. She states that due to her appearance in this case that she has been threatened by telephone on 15.09.2017 and that she lodged a complaint at the Keselwatta police station (C No. 381/159)

She further alleges that on 25.04.2019, a Facebook account holder by the name of Kavisha S. Galewela has created a post, accusing the petitioner and another person by the name of Kasun Pussewela of being involved in the terrorist attack which took place on Easter Sunday in 2019.

Therefore, she states that she has been subjected to continued defamatory and racist remarks, especially in the comments made responding to the original post. She has lodged a complaint in the Criminal Investigation Department (CID), against this Facebook post, on 30.04.2019. She further states that she had informed the Bar Association of her predicament as well.

The CID had informed her that in the aforesaid matter investigations have been concluded and that the file had been sent to the Attorney General for his consideration.

She further reveals an incident which took place on 26.06.2019, where she states that on the Digana road, Pannipitiya, a person on a motorcycle threatened and intimidated her and her father, who were walking on the road.

She has also said that she lodged a complaint in the Office of the Missing Persons and the response to the said complaint has been marked and produced as P14 to this petition. According to the petitioner, the said letter has informed the 5th and 6th Respondents to provide security, which she claims has not been done up to the filing of this petition.

Thereafter, she complained about an online attack in March 2020. The said printed copies of the posts and comments are marked and produced along with the petition as P18(A) and P18(C). She has brought this matter to the notice of the Office of Missing Persons and the Bar association as well.

Therefore, she complains that she has been continually harassed and that the 3rd and 4th respondents did not take any action on her complaint.

The petitioner has marked a letter as P25, where the 1st respondent has written to her on 20.07.2020, that her complaint made regarding the incident on 30th April 2019 has been referred to the CID.

She has also stated that she lodged a complaint to the Human Rights Commission on 15.07.2020 bearing complaint No. HRC/1658/20 marked as P30, regarding her alleged harassment and inaction by the respondents.

Therefore, she has sought a declaration that her fundamental rights have been violated by the 1st, 2nd, 3rd, 4th and 6th respondents because she has appeared on cases of disappearance.

The 1st, 2nd, 3rd and 5th respondents have filed their objections and have vehemently denied the allegations made against them.

The 2nd respondent (2a) has taken action regarding the complaint made on the alleged telephone call received in September of 2017, and facts had been reported on 22.09.2017 and the relevant B report and other further reports had been marked and attached to the objections.

Investigation had been conducted with regard to the said complaint, phone details had been obtained and statements also had been recorded from relevant parties. The relevant file had been sent for advice to the Attorney General, therefore, the 2nd Respondent (2a) has pleaded that he has taken all the necessary and relevant steps.

The 1st respondent (1a) had pleaded with regard to the complaint made on 27.03.2020 of a Facebook post in which the CID had completed the investigation but the identity of the culprit had not been revealed. Therefore, the matter could not be acted upon.

The 3rd respondent had stated that the complaint made to the Piliyandala police dated 27.05.2020, was regarding a boundary issue with the neighbor of the petitioner. The neighbor had also lodged a complaint against the petitioner. Nevertheless, the matter had been concluded.

The 5th respondent has stated with regard to the complaint made to the Office of Missing Persons, the threat to the security of the petitioner had been considered by all the parties which had included discussions with the National Authority for the Protection of Victims of crimes and Witnesses and the relevant police officers, it has been decided that there was no threat revealed to the safety of the petitioner.

Accordingly, the 1st (1a), 2nd (2a), 3rd and 5th Respondents have averred that they acted with due diligence, promptness, in accordance with the applicable procedures, and that they caused the relevant investigations to be duly and properly conducted, in respect of the complaints made by the Petitioner.

Having carefully considered the pleadings, affidavits, documents placed before Court, this Court is mindful of the serious nature of the allegations raised by the Petitioner. Any intimidation, harassment, or interference with the lawful exercise of the legal profession would, if established, requires the protection of Articles 12(1) and 14(1)(g) of the Constitution.

However, a declaration of a violation of fundamental rights requires the Petitioner to establish, on a balance of probability, that executive or administrative action was arbitrary, unreasonable, or amounted to a failure to act in circumstances where there existed a clear legal duty to do so. The material before Court reveals that, upon each complaint made by the Petitioner, the relevant authorities initiated investigations, recorded statements, obtained technical material where necessary, and in appropriate instances referred the matters to the Attorney General for advice.

With regard to the online posts complained of, this Court notes that investigations were duly initiated and pursued by the relevant authorities; however, the failure to identify the perpetrators, despite the exercise of reasonable diligence and bona fide efforts, cannot, in and of itself, be regarded as constituting culpable inaction, neglect on the part of the Respondents.

In respect of the allegation pertaining to the failure to provide security to the Petitioner, this Court observes that the material placed before it demonstrates that the concerns raised by the Petitioner were duly addressed and considered by the Office on Missing Persons, in consultation with the relevant authorities, including law enforcement agencies and the National Authority for the Protection of Victims of Crime and Witnesses.

While this Court is mindful of the distress and anxiety experienced by the Petitioner due to the repeated allegations, threats, and hostile online content, fundamental rights jurisdiction is not intended to sit in appeal over the sufficiency or outcome of police investigations, so long as it is demonstrated that the authorities have acted with due diligence and within the framework of the law. On the totality of the material placed before this Court, this Court is unable to find that the conduct of the Respondents amounts to unequal treatment under Article 12(1) or an unjustified restriction of the Petitioner's freedom to engage in her lawful profession under Article 14(1)(g).

Accordingly, I find that the Petitioner has failed to establish that her fundamental rights under Articles 12(1) and 14(1)(g) of the Constitution have been violated by the Respondents.

As such, the application is dismissed.

JUDGE OF THE SUPREME COURT

Janak De Silva, J.

I agree.

JUDGE OF THE SUPREME COURT

Dr. Sobhitha Rajakaruna, J.

I agree.

JUDGE OF THE SUPREME COURT