

**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.

Horalagamage Janaka Pradeep  
Kumara  
No. 206/B/1,  
Lindagawahena, Kottapola.  
*(Presently at Colombo remand prison  
under prison bearing No.10352)*

**S.C. (FR) No. 50/2024**

**Petitioner**

**Vs.**

1. Chandrapala (Sub Inspector of  
Police)  
Officer-in-Charge, Crime Branch,  
Police Station, Homagama.
2. Chathuranga  
Police Constable (77887)  
Investigation Officer, Police Station,  
Homagama.
3. Praveen  
Police Constable (103526)  
Investigation Officer, Police Station,  
Homagama.
4. P.R.Maanawadu (Inspector of Police)  
Head Quarters Inspector/Officer-In-  
Charge,  
Police Station, Homagama.

5. Assistant Superintendent of Police  
Nugegoda Police Division,  
Nugegoda.
6. Senior Superintendent of Police  
Nugegoda Police Division,  
Nugegoda.
7. Senior Deputy Inspector General of  
Police  
Western Province, Old Kottawa  
Road, Nugegoda.
8. Inspector General of Police  
Police Head Quarters, Colombo 01.
9. Medical Superintendent  
Base Hospital, Homagama.
10. Hon. Attorney General  
Attorney General's Department,  
Colombo 12.

### **Respondents**

Before : Mahinda Samayawardhena, J.  
Menaka Wijesundera, J.  
Sampath B. Abayakoon, J.

Counsel : Ramalingam Ranjan with Miss. Y. W. Danushka Thilini  
instructed by Selvaraja Dushyanthan for the Petitioner.  
Saliya Pieris, PC with Anjana Rathnasiri and Ms. Dinithi  
Jayasinghe instructed by Ms. Thilini Dahara Wijesinghe  
for the 1<sup>st</sup> – 4<sup>th</sup> Respondents.  
Sajith Bandara, SC for the 5<sup>th</sup> – 10<sup>th</sup> Respondents.

Written

Submissions : Latest written submissions on behalf of the Petitioner  
on the 3<sup>rd</sup> of July, 2026.

Latest written submissions on behalf of the 1<sup>st</sup> -4<sup>th</sup>  
Respondents on the 3<sup>rd</sup> of August, 2026.

Argued on : 06.07.2026

Decided on : 30.09.2026

**MENAKA WIJESUNDERA J.**

The Petitioner in the instant matter has sought a declaration that his fundamental rights have been violated under Articles 11, 12(1), 13(1), and 13(2), and this Court has also granted leave under the same Articles, except Article 11.

The Petitioner, who had been working as a Mason on a construction site in Homagama, had been suffering from high fever since 12.12.2023 and couldn't attend to the work. On 13.12.2023, he had entered the Homagama hospital, where he had been treated for the dengue virus as an in-house patient. His contractor, M. Nishantha Madugalla, also had been admitted at the same hospital in the same ward, No. 05, for the dengue virus.

While in hospital on 14.12.2023, he had been interrogated by the Homagama Police about his alleged connection with an underworld group. The police, according to him, had taken both the mobile phones of the said contractor and the Petitioner, and had tried to discharge him but the hospital (Ward Doctor) had refused to do so and the police had kept a surveillance on the Petitioner. The Petitioner claims that this is supported by the document marked and produced as *P9*.

He further alleges that when he was discharged on 16.12.2023, the police had straightaway taken him to the police post, where they alleged to have detained him in the police remand cell.

This fact had been substantiated by the affidavits marked and produced as *P7* and *P8* tendered by Sumith Chandra Kumara and Sajith Kumara respectively.

When the family members of the Petitioner had visited him on 16.12.2023 of the same month, they had not been allowed to speak to him.

He had been produced before the Magistrate's Court of Homagama on 18.12.2023 under B Report bearing No. 69827/23 for being in possession of heroin. The Magistrate had remanded him and he alleges that he had been in remand custody until the High Court granted him bail on 11.06.2024.

The Petitioner claims that he had been in remand custody for a period of five months on the basis of fictitious and fabricated material. Once he had been enlarged on bail he had complained to the Human Rights Commission on 21.12.2023 and to the National Police Commission on 22.12.2023.

Hence, he claims that he has been arbitrarily arrested and questioned on fictitious material.

The Petitioner has mainly alleged that his Fundamental Rights under Articles 11, 12(1), 13(1) and 13(2) have been violated by the 1<sup>st</sup> to the 4<sup>th</sup> Respondents.

The 1<sup>st</sup> to the 4<sup>th</sup> Respondents have filed their objections and written submissions and have vehemently denied the allegations.

According to their written submissions and the submissions made in Court, they claim that the Petitioner had been kept under surveillance from 14.12.2023 to 15.12.2023.

Thereafter, on 17.12.23, he had been arrested at Uduwana Junction and, upon a body search done, they had recovered 5.375g of heroin, which had been sealed and kept in safe custody under Property Receipt No. 3647/23.

Thereafter, he had been produced before the Magistrate on 18.12.2023 under the same B Report number mentioned by the Petitioner. However, they firmly deny that, he was in hospital and that he had been handcuffed and detained by the police. This position was submitted to Court during the oral submissions. Therefore, the 1<sup>st</sup> to the 4<sup>th</sup> Respondent have stated that there was no arbitrary detention, false imprisonment or fabrication of evidence.

The document marked and produced as *R4* is the Government Analyst Report which reveals that the alleged parcel taken into custody from the Petitioner had contained 23mg (0.023g) of heroin, which report is attached and produced with the objections of the Respondents.

The Respondents state that the surveillance conducted on the Petitioner had given them enough information to arrest the Petitioner, which had led to the recovery of the narcotics.

The Petitioner submitted in his oral and written submissions that he had been detained in the remand cell during the period from 16.12.2023 to 18.12.2023, which the Respondents have vehemently denied and have submitted that the chain of events leading to the detention is borne out by the relevant detention register for the specific period, marked and produced by the Respondents as R3.

They further claimed that the Petitioner had been produced before the Magistrate on 18.12.2023, within 24 hours of his arrest.

Leave in the instant matter has been granted on 27.08.2024 under Articles 12(1), 13(1) and 13(2).

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

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

In the case of **Wijerathna v Sri Lanka Ports Authority [2020] SC (FR) 256/2017** - SC Minutes 11.12.2020, Justice Kodagoda PC explains the concept of equality as provided within Article 12(1) as follows:

*“The concept of ‘equality’ was originally aimed at preventing discrimination based on or due to such immutable and acquired characteristics, which do not on their own make human being unequal. It is now well accepted that, the ‘right to equality’ covers a much wider area, aimed at preventing other ‘injustices’ too, that are recognized by law. Equality is now a right as opposed to a mere privilege or an entitlement.”*

**Article 13(1)** of the Constitution reads as follows:

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

**Article 13(2)** of the Constitution reads as follows:

*“Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the judge of the nearest competent court according to procedure established by law, and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms*

*of the order of such judge made in accordance with procedure established by law.”*

In ***Dissanayaka v Superintendent Mahara Prison and others [1991] 2 Sri L.R. 247***, Kulatunga, J. stated the following to highlight the importance of examining the material to decide the validity of the arrest.

*“Nevertheless, it is for the Court to determine the validity of the arrest objectively. The Court will not surrender its judgement to the executive for if it did so, the fundamental right to freedom from arbitrary arrest secured by Article 13(1) of the Constitution will be defeated. The executive must place sufficient material before the Court to enable the Court to make a decision, such as the notes of investigation, including the statements of witnesses, observations etc. without relying on bare statements in affidavits”.*

Further in ***Channa Pieris and Others v Attorney General and Others (The Ratawesi Peramuna Case) [1994] 1 SLR 1*** the Court held that,

*“However the officer making an arrest cannot act on a suspicion founded on mere conjecture or vague surmise. His information must give rise to a reasonable suspicion that the suspect was concerned in the commission of an offence for which he could have arrested a person without a warrant. The suspicion must not be of an uncertain and vague nature but of a positive and definite character providing reasonable ground for suspecting that the person arrested was concerned in the commission of an offence.”*

The allegation of the Petitioner is that, when he was in hospital receiving treatment for the dengue virus, he had been wrongfully questioned and arrested by the Homagama Police for having connections with the underworld culprits. When he had been discharged on 16.12.2023, he had been taken straight to the police station, arrested and produced before the Magistrate for having narcotics in his possession. The main allegation is against the 1st to 4th Respondents and the contents of their submissions have been summarized above.

According to document marked and produced as R2, the notes of the 1<sup>st</sup> Respondent indicate that the Petitioner had been arrested on 17.12.2023 at Uduwana Junction when the police officers had been on patrol following information received regarding of an arrest successfully conducted. When the Petitioner had been arrested, they had recovered a parcel which they had suspected to be narcotics and which was later confirmed by R4 as heroin.

Documents marked and produced as *R3* and *R5* are in corroboration of the submissions of the Respondents. According to the B Report filed, marked and produced as *P4*, the Petitioner had been arrested on 17.12.2023 and produced before the Magistrate on 18.12.2023.

The document marked and produced as *P2*, which is an affidavit submitted by the head mason of the Petitioner, had corroborated the position of the Petitioner.

According to the document marked and produced as *P3* by the Petitioner, he had been in hospital from 13.12.2023 to 16.12.2023.

In view of the material stated above, the 1<sup>st</sup> to 4<sup>th</sup> Respondents had kept the Petitioner under surveillance from 14.12.2023 to 16.12.2023. On 17.12.2023, he had been arrested, according to the arrest notes of the 1<sup>st</sup> Respondent, after the officers had been returning from another investigation at Uduwana Junction. Upon a body search, they had recovered narcotics, which happened to be heroin, according to the Government Analyst.

The Petitioner, on the other hand, has alleged that he was questioned and kept handcuffed while in hospital and thereafter was produced before the magistrate on 18.12.2023. This is supported by the affidavit submitted by the father and his head mason (Constructor), who was also receiving treatment at the same hospital.

This apparently is not corroborated by independent evidence which could have been obtained from the hospital sources. Therefore, the Petitioner's version, as opposed to the Respondents' version, is not substantiated by independent evidence, whereas the Respondents' version is substantiated by police reports and arrest notes which say otherwise.

The Petitioner has complained to the Human Rights Commission upon obtaining bail from the High Court, which makes the time bar under the Constitution irrelevant to this matter. However, the outcome of the said application is not known.

Hence, in view of the materials stated above, I find that the Petitioner's allegations are not based on independent evidence but on one-sided and biased material.

Therefore, I see no infringement of any fundamental rights of the Petitioner as per the provisions of the Constitution. As such, the instant application is dismissed without costs.

**JUDGE OF THE SUPREME COURT**

**Sampath B. Abayakoon, J.**

I had the privilege of considering the judgment of my Sister Hon. Justice Menaka Wijesundera. With all due respect to the determination of Hon. Justice Wijesundera where it has been determined that the petitioner has failed to establish any infringement of his fundamental rights guaranteed under the Constitution, I am not in a position to agree with the said determination.

This is a matter where this Court granted leave to proceed in respect of the alleged infringement of fundamental rights of the petitioner guaranteed in terms of Article 12(1), 13(1) and 13(2) of the Constitution.

As summarized by Hon. Justice Wijesundera, the petitioner's position has been that he was initially detained by the police on 14-12-2023 while undergoing treatment for Dengue fever at the Base Hospital of Homagama, and was kept handcuffed to the hospital bed under continuous watch of several police officers. He alleged that there was an attempt by the police to take him into custody on 15-12-2023 while receiving treatment. It has been his position that it was prevented only by the intervention of the doctors who treated him due to his ill health.

He contends that immediately upon his discharge from the hospital on 16-12-2023, he was taken into custody and was taken to Homagama police station where he was kept under police custody until 18-12-2023. According to the

petitioner's version of events, while under police custody at the hospital, he came to know of the reason for such detention since the police continuously questioned him about an alleged connection he had with underworld activities. It is his position that even at the police station, he was questioned about such activities, but only came to realize that he was being produced in relation to a charge of possessing Heroin when he was produced before the learned Magistrate of Homagama on 18-12-2023.

The 1<sup>st</sup> to 4<sup>th</sup> respondents in their objections had maintained the position that the petitioner was arrested only on 17-12-2023 after he was searched on suspicion by a police team including the 1<sup>st</sup> to 3<sup>rd</sup> respondents, where he was found in possession of 5.375 grams of Heroin. They have produced the relevant police entries to substantiate their position that the arrest was made legally in accordance with the law.

The petitioner's version of events as to his hospitalization, subsequent detention in the hospital ward, the attempt by the police to take him to custody and subsequent arrest of him by the police on 16-12-2023 has been substantiated by the affidavits tendered to Court by S.M.Nishantha Madugalla marked P-2 along with the petition, and also by his father and a relative who visited him at the hospital.

The earlier-mentioned Madugalla is the person who has utilized the services of the petitioner as a mason at a construction site where he has obtained a subcontract, and a person who contracted fever at the same time as the petitioner. He has been under treatment in the same hospital ward as the petitioner during the time relevant to this incident. The plain reading of his affidavit suggests that this is an affidavit not filed purely for the purposes of this petition, but filed in order to support an application filed by him seeking anticipatory bail under the Bail Act. He has filed this anticipatory bail application on the basis that while questioning the petitioner at the hospital, the police officers made allegations against him as well, and after he was discharged from

the hospital on 18-12-2023, the police came to his house and questioned him, which resulted in him fearing his arrest. The affidavit tendered by Nishantha Madugalla clearly outlines the sequence of events as stated by the petitioner in his petition before this Court.

The document marked R-1 filed along with the objections of the 1<sup>st</sup> to 4<sup>th</sup> respondents clearly establishes the fact that the petitioner was under treatment at the Homagama Base Hospital during the time relevant to this incident, and the fact that several police officers had been deployed for surveillance duty by the Headquarters Inspector (HQI) of Homagama Police Station (4<sup>th</sup> respondent) on the basis of an information that the petitioner is a person connected to underworld activities and drug dealing and also due to the reason of threats against him.

The document marked R-1 makes it clear that the said surveillance had been stopped on the day the petitioner was discharged from the hospital. This goes on to establish that although the 4<sup>th</sup> respondent in paragraph 10 of the objections filed by him along with the other respondents has taken up the position that it was routine to deploy police officers for surveillance purposes, the police officers were deployed at the hospital based on an information received about underworld activities to suggest that the surveillance was not specifically aimed at the petitioner, the document marked R-1 speaks otherwise.

It is pertinent to note that the letter marked R-1 has only been issued to the Director of the Police Legal Division on a directive made by the Hon. Attorney General in relation to this fundamental rights application. The directions given by this Court show that it is because of the directions, the Hon. Attorney General has informed the Director of the Police Legal Division to provide this information.

The document marked as P-5 by the petitioner is a certified copy of the Magistrate's Court of Homagama Case No. 69798/23, which contains 52 pages. The HQI of Homagama Police Station (the 4<sup>th</sup> respondent) has filed the initial B-report in this case on 15-12-2023 reporting facts relating to the arrest of four

persons while having in their possession Heroin and a locally manufactured hand grenade. He has sought and obtained a seven-day detention order for the purposes of further investigation.

According to the facts reported in the said B-report, while the police were in the process of interrogating the arrested four suspects, one of the suspects, namely Ravindu Dhananjaya Perera, has received a call to his mobile phone from a person called Janaka. When questioned regarding the said call, it was revealed that there existed a plan to obtain a sum of Rs. 8 million from a house of a female, and in order to implement the said plan, a group of persons is coming from the Balapitiya area in a van to a place near the Munchee factory. It has also been revealed to the investigators that the said Janaka informed the arrested suspects that the persons who are coming from the Balapitiya area will be coming in a small white van and to go immediately to the place mentioned. This clearly appears to be the reason why the police have traced the petitioner through the telephone call and have come to know that he was receiving treatment at the hospital.

If the facts reported to the Court under Case No. B/69798/2023 in order to justify obtaining detention orders with regard to the four suspects arrested under said investigation are correct, the petitioner should be regarded as the main suspect, since according to the version of the police, it is he who informed one of the suspects of the plan to obtain a ransom and who thereafter gave directions to the arrested suspects as to what they should do.

Therefore, as clearly established by the document marked R-1, once the petitioner was released from hospital, there was no reason for the police to not take him into police custody and record his statement in relation to his alleged connections to underworld activities as reported to Court in P-5 and to proceed therefrom with their further investigations. The police could have very well obtained a detention order for the petitioner as well if it became necessary for them to conduct further investigations.

The 1<sup>st</sup> to 4<sup>th</sup> respondents have claimed that the petitioner was arrested only on 17-12-2023 and have denied what he said as to his detention at the hospital and his arrest on 16-12-2023. The document marked P-9, which is the same document marked and produced as X by the 10<sup>th</sup> respondent, the Hon. Attorney General, is a document obtained from the custody of the 9<sup>th</sup> respondent, namely the Medical Superintendent of Base Hospital Homagama, relating to the medical history of the admission of the petitioner to the said hospital. It clearly establishes the fact that the petitioner was under treatment from the night of 13-12-2023 until 16-12-2023.

At page 25 of the treatment sheet attached to the said document, the Senior House Officer who treated the petitioner has noted under his notes relating to 15-12-2023 at 11.45 a.m. that the police have informed him that the patient, who is the petitioner, needs to be taken to the prison by the police, however, it has not been allowed due to his condition. He has also recommended that the patient should be transferred to the Prison Hospital and they agreed to keep the patient in the ward for another day, which may be the very reason why the petitioner has been discharged from the hospital on the 16<sup>th</sup> despite his health condition. The said medical history perfectly corroborates the version of events as stated by the petitioner.

The 1<sup>st</sup> to 4<sup>th</sup> respondents have relied on the notes prepared by the 1<sup>st</sup> respondent relating to a detection made by him where the petitioner has been allegedly arrested. According to the out-entry made by the 1<sup>st</sup> respondent on 17-12-2023, he has left the police station along with several police officers, which included the 2<sup>nd</sup> and 3<sup>rd</sup> respondents, on drug offence prevention duties (document marked 4R-1). The detection notes prepared by the 1<sup>st</sup> respondent marked and produced as 4R-2, which has been entered on the same day at 17:45 hours, speak about the arrest of the petitioner at 16.30 hours of the same day while having in his possession 5.375 grams of Heroin.

The notes clearly suggest that while they were returning to the station, after having arrested two other persons, they searched the petitioner at a place called Uduwana Handiya due to his suspicious behaviour, and Heroin was discovered in his possession. In his investigation notes marked as 4R-3 as well, he has described the arrest of the petitioner in a similar manner and has also stated that when the petitioner saw the police team, he attempted to flee the area, and therefore, he was arrested and searched.

In my view, the two contradictory sets of documents clearly establish that the arrest of the petitioner and producing him on 18-12-2023 under B-report No.69827/2023 (document marked P-4) on the basis that he was arrested having in his possession 5375 milligrams of Heroin was a total fabrication.

It is abundantly clear to me that after having him under surveillance and detention at the Homagama Base Hospital, he has been taken into police custody on the 16-12-2023, and without producing him within the stipulated time limit before a Magistrate or without taking any steps to obtain permission from the relevant Magistrate's Court to detain him further as provided by law, he has been kept under illegal detention by the officers of the Homagama Police Station where the 4<sup>th</sup> respondent was the HQI and the Officer-in-Charge of the said station with his full knowledge and approval.

There was no basis for the 4<sup>th</sup> respondent, who filed the initial B-report (P-5) to not conduct further investigations in relation to the petitioner, who should be the main suspect of that case if the facts revealed were correct. The 4<sup>th</sup> respondent or any of the relevant respondents for that matter has failed to disclose to this Court the present status of Case No. B/69798/20-23 (P-5) of the Magistrate's Court of Homagama, or whether they subsequently named the petitioner as a suspect at least. No statement recorded from the petitioner in relation to that investigation has been produced.

It has not been revealed to this Court the steps taken by the police on the information that several persons would be coming in order to commit a serious crime as stated in the initial B-report, which is a relevant factor.

There is no doubt in my mind that after having arrested the petitioner on 16-12-2023, he has been produced on 18-12-2023 on an alleged charge of possession of a quantity over 5 grams of Heroin purely to keep him in remand custody over an extensive period of time with malicious intentions. This also creates a great doubt in my mind about the facts reported in the B-report marked P-5 as to the details of the petitioner's conversations he may have had with one of the suspects in the said case, since it appears that no steps have been taken in that regard.

The police could have very well produced the petitioner under the same B-report marked as P-5 by way of a further report as it has clearly established that the initial arrest of him on the 16-12-2023 has been based on the alleged connection of him to the matters mentioned in the B-report marked as P-5.

It is my considered view that the only assumption that can be reached is that they have not done that because there was no evidence to connect him to the activities mentioned in the said B-report.

I find that this may be the very reason why the police have concocted a story against the petitioner to show that his arrest was not a pre-planned one, but only made upon searching the petitioner on suspicion on the 17-12-2023. The notes prepared by the 1<sup>st</sup> respondent clearly suggest no connection whatsoever of the petitioner to the facts mentioned in the earlier B-report marked P-5.

It appears to me that the alleged offence of possession of Heroin has been introduced against the petitioner because there would have been no basis for the police to arrest him for an offence where the petitioner would not get bail under normal circumstances. There was no basis for them to claim that he had in his possession Heroin like the other four suspects arrested earlier or offensive weapons, if they reported the facts and the circumstances of the petitioner's

arrest in a true manner to Court by way of a further report to the earlier mentioned B-Report.

The 4<sup>th</sup> respondent, who was the Officer-in-Charge of the Homagama Police Station and the person who submitted the B-report marked P-5 to Court, had known from the very outset every detail of the investigation relating to P-5. It is under his direction the police officers had been deployed on surveillance duties on the petitioner at the Homagama Base Hospital. There is no reason for him to be unaware of the arrest of the petitioner on the 16<sup>th</sup> as the facts reveal.

I find that the 1<sup>st</sup> and 4<sup>th</sup> respondents had collusively reported wrong and false facts to Court to cover up the arrest and detention of the petitioner under police custody not according to the procedure established by law and depriving his personal liberty by their failure to produce the petitioner before a competent Court in accordance with the law. I find that they have attempted to cover up their wrongful actions by creating a false narrative against the petitioner and thereby concocting a false charge to ensure the remanding of the petitioner over a longer period of time.

In their objections, the 1<sup>st</sup> to 4<sup>th</sup> respondents have pointed out that the petitioner was a person with a criminal record in what appears to be an attempt to justify the actions of the police. It has been stated that he was charged with offences including an assault, gambling, and two instances of criminal trespass. The petitioner at the hearing of the application did not deny the fact that such arrests happened in his hometown area.

In my view, his previous record does not provide a basis for the Homagama police to act in this manner as it clearly appears that his previous record of arrests was not available to Homagama police when the petitioner was arrested and detained in the manner considered in this judgment. This is especially so since according to the version of the respondents, the petitioner has been arrested for an offence of possessing Heroin only on the 17<sup>th</sup> and produced before the learned Magistrate of Homagama on the following day.

As a result of his arrest and remand, the petitioner has had to spend in remand custody for nearly 6 months. Although he has been arrested and produced on the basis that he had in his possession an excess of 5 grams of a substance suspected to be Heroin to ensure that he would not get bail from the Magistrate's Court, the Government Analyst Report marked R-4 shows that the pure quantity of Heroin found after analysis was only 0.023 grams.

In the case of **Muthuwahennadi Roshan Koitex and Another Vs. Sub Inspector Sanjeewa Seneviratne Police Station, Hikkaduwa & Others SC/FR 158/2008 decided on 17-02-2016;**

**Per Sisira De Abrew, J.,**

*"In my view, if a police officer in order to justify his wrongful arrest of a person files a false case in court, he violates Fundamental Rights of that person guaranteed by Article 12(1) of the Constitution. Primary duty of the police is to maintain law and order. In doing so police officers must work as true public servants. In this country, police officers must impress the principle that they serve and protect the people."*

In the case of **Namasivayam Vs. Gunawardena (1989) 1 SLR 394**, it was held;

*"The liberty of an individual is a matter of great constitutional importance. This liberty should not be interfered with, whatever the status of that individual be, arbitrarily or without legal justification."*

For the reasons as mentioned above, I hold that the 1<sup>st</sup> to 4<sup>th</sup> respondents acting collusively had violated the fundamental rights guaranteed by the right to equality in terms of Article 12(1) and had also violated Article 13(1) and 13(2) of the Constitution by arresting and detaining the petitioner illegally.

Although I find that the 1<sup>st</sup> to 4<sup>th</sup> respondents have violated the fundamental rights of the petitioner as guaranteed in terms of Article 12(1) and 13(1) and (2)

of the Constitution by their deliberate actions, I am of the view that the 2<sup>nd</sup> and 3<sup>rd</sup> respondents, who are lower ranked police officers, who were under the command of the 1<sup>st</sup> and the 4<sup>th</sup> respondents have acted only on the orders of their superiors in assisting the said respondents. Therefore, I am of the view that their liability would not extend up to that of the 1<sup>st</sup> and 4<sup>th</sup> respondents.

It is my view that the 1<sup>st</sup> respondent, being the officer who orchestrated the false narrative as to the arrest of the petitioner and produced him as a suspect in a case of possessing Heroin, and the 4<sup>th</sup> respondent, who facilitated such a false narrative knowingly, being the Officer-in-Charge of Homagama Police Station and the officer who filed the initial B-report in the other case, should bear the direct responsibility for their actions.

Accordingly, I order that the 1<sup>st</sup> and 4<sup>th</sup> respondents shall pay a sum of Rs. 500,000/- each out of their own funds to the petitioner as compensation within a period of 3 months from this judgment for the suffering the petitioner underwent.

At this juncture, I would like to emphasize that actions of this nature would greatly tarnish the reputation and goodwill of the public towards the officers of the Police Department, which is a serious matter of concern.

I am well aware of the yeoman service provided by the police officers from the highest ranked officer to the lowest ranked towards the enforcement of law and in order to keep us safe at all times. I am also aware of the trying circumstances under which they provide their services to the public and the sacrifices they make, even sacrificing their own lives in the line of their duty. It is my view that the higher officials of the Department of Police and all other relevant stakeholders have a duty to make sure that these kinds of infringement of fundamental rights of the people do not take place in the guise of crime prevention.

With that in mind, I direct the Registrar of the Court to forward a copy of this judgment to the Inspector General of Police, The Chairman of the National Police

Commission, and the Hon. Attorney General for corrective measures and any actions necessary so that such situations are prevented or at least minimized in the future.

**Judge of the Supreme Court**

**Mahinda Samayawardhena, J.**

I agree with the findings and conclusion of Hon. Justice Sampath B. Abayakoon.

**Judge of the Supreme Court**