

**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. 56/2023

Dinesh Priyadarshana Dodangoda
“Danushka”, Thanahenawatta,
Midigama,
Ahangama.

Petitioner

Vs.

1. Saman Jayasinghe
Excise Commissioner General
Excise Department
No. 353, Kotte Road,
Rajagiriya.
2. R. A. N. J. Ranaweera,
Excise Inspector
Excise and Narcotic Unit
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.
3. G. D. Pushpakumara,
Excise Corporal No. 725,
Excise and Narcotic Unit,
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.

4. W. M. D. Indika,
Excise Corporal No. 826,
Excise and Narcotic Unit,
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.
5. M. D. Gamage,
Excise Corporal No. 971,
Excise and Narcotic Unit,
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.
6. A. P. Iresh Kavinda,
Excise Guard No.1118,
Excise and Narcotic Unit,
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.
7. J. A. G. M. Madushanka,
Excise Guard No. 1082,
Excise and Narcotic Unit,
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.
8. D. M. I. Disanayake
Excise Guard No. 1079,
Excise and Narcotic Unit,
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.
9. P.T.C. Ekanayake
Excise Guard No. 1029,
Excise and Narcotic Unit,
Excise Department

No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.

10. Dananjaya
Officer,
Excise and Narcotic Unit,
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.

11. Sugath
Excise Department
No. 838/2/1, Thalagaha Junction,
Gothatuwa, Angoda.

12. J. I. S. Perera alias Rajagiriye Sujee
Higgahawatta Road,
Gothatuwa.

13. C. D. Wickramarathne,
Inspector General of Police,
Police Head Quarters,
Colombo 01.

14. Hon. Tiran Alles
Minister of Public Security,
Ministry of Public Security,
14th floor, Suhurupaya
Battaramulla.

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

Respondents

Before : Janak De Silva, J.
Menaka Wijesundera, J.
Sampath B. Abayakoon, J.

Counsel : Hafeel Farisz with Shannon Tillekerathne instructed by Niluka Dissanayake for the Petitioner.
Lakmali Karunanayake, ASG for the Respondents.

Written

Submissions : Latest written submissions on behalf of the 1st – 9th and 13th-15th Respondents on 22nd December, 2025.
Latest written submissions on behalf of the Petitioner on 15th December, 2025.

Argued on : 17.11.2025

Decided on : 11.03.2026

MENAKA WIJESUNDERA J.

The Petitioner by the name of Dinesh Priyadarshana Dodangoda (hereinafter referred to as the Petitioner) runs a restaurant with his father and brother by the name of Cheeky Monkey at Midigama.

The Petitioner had claimed that his above business is one of the best hospitality providers on the Southern belt of Sri Lanka and its business registration has been marked and produced along with the petition.

The Petitioner has claimed that his fundamental rights had been violated under Articles 11, 12(1), 13(1) and 13(2) of the Constitution, over an alleged incident which he claims took place on 2nd January 2023 to 4th January 2023.

The petitioner had claimed that on 02nd January 2023 around 11 p.m., he had heard a commotion outside his restaurant and on the CCTV, he had seen some persons assaulting his employees and thereafter he had found them storming in to his restaurant claiming to be from the police.

He claims that he had been assaulted with batons and a broom and thereafter he had been blindfolded with a bed sheet and subsequently his hand had been tied to the back. The petitioner had been shouting in pain and in dismay.

The said persons had been questioning him regarding the bottles of Whiskey in his possession while being assaulted and he had continued to hear the screams of his employees while his guests had been watching the entire scenario in dismay.

The Petitioner has further claimed that cash worth of Rs. 350,000, the Petitioner's gold chain and his bracelet, the Digital video recorder and the CCTV equipment had been taken by the party who came inside.

Thereafter, he had been taken to Colombo, along with two of his employees and the Petitioner had been taken to an upper floor of a building which he suspected to be a police station.

The Petitioner had been tied to a chair and blindfolded with the threat of being indicted in the High Court. In the early hours of the next day, his covering over the eyes had been removed and he had identified a person by the name of Suji who he had claimed to be the 12th respondent (12R).

On the morning of the 3rd of January, he claims that he was visited by the 11th respondent whom he had known by the name of Sugath.

Thereafter, around 1.00 p.m., he had been taken to a ground floor and had been given a meal and he had seen the name tag "Excise Department".

Thereafter, in the morning of the 4th of January, he along with his other employee who had been arrested had been produced before the Matara Magistrate.

The Petitioner had been produced before the Magistrate for offences under sections 17, 18 and 46 of the Excise Ordinance and the petitioner had pleaded guilty and he had been fined and had been released.

When the Petitioner went home, he had been informed by his father and brother that the 12th Respondent and the 10th Respondent (10R) had got in touch with them and had demanded Rs. 17.5 million in order to refrain from filing a case against the Petitioner for being in possession of narcotics. He further said that the 10th Respondent (10R) too had got involved in these negotiations.

The Petitioner and his brother had raised the money by pawning and borrowing from friends and the said receipts he claims have been attached to the Petition marked from P6 to P8.

The Petitioner further claims that Rs. 5 million had been handed over by his brother together with his fiancé and his employee to the 12th Respondent (12R).

The Affidavits of the Petitioner's brother and his employee are marked as P9a and b.

The Petitioner also has claimed that on the 16th of January 2023, the telephone calls his brother had with the 10th Respondent had been recorded and it was played in court by the Counsel for the Petitioner but there was no scientific evidence produced to prove the authenticity of the same.

The Petitioner, thereafter, has gone to the Weligama Divisional Hospital and had got himself examined. The said Medico Legal Report had been called by this court on the application by the Petitioner and it had been signed and produced by District Medical Officer of the Divisional Hospital of Weligama.

The Petitioner had given a case history of "being assaulted by a gang of people on 02.01.2023 around 10.30 p.m., at "Cheeky Monkey" hotel at Weligama. He was handcuffed to back of the body over buttocks, made to kneel down, put a sack to head and battered with batons and a plastic broom. Then they had put him into a vehicle and transported to a place identified as "මත්දේරවිය නාශක අංශය." Then he had been produced before Matara Magistrate on 06.01.2024, and had been admitted to Weligama Hospital.

The Doctor who examined the Petitioner had observed 11 tram-line contusions which he had said were probably caused by long, straight, heavy, blunt instrument which had been caused recently and is in keeping with the history given by the patient. On the overleaf of the said report, the doctor had sent a photograph of 09 injuries of the 11 he had observed on the shoulder to the lower back of the Petitioner.

At the time when this matter had been supported for leave, this court had not been in possession of the above mentioned Medico Legal Reports. This court has granted leave under Article 12(1) of the Constitution and had thereafter called for the Medico Legal Reports.

The Petitioner has also claimed that his father had also applied for an excise license to sell liquor and beer at his restaurant and the said licenses had been granted on 11.01.2023 for the period between 01.01.2023 to 30.01.2023.

The Petitioner has claimed that he had complained against the 1st to the 13th Respondents to the Commission to Investigate Allegations of Bribery and Corruption, the National Police Commission, the Ombudsman of Sri Lanka and the Secretary to the President and also to the Human Rights Commission.

The 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 13th, 14th and 15th Respondents have filed objections and the 2nd to the 9th Respondents had filed individual affidavits.

According to the 2nd respondent, himself along with the 3rd, 4th, 5th, 6th, 7th and 9th Respondents along with Excise Guard No. 1079, Chathuranga had gone to the above mentioned restaurant on 03.01.2023 at 12.15 a.m. The 2nd Respondent has claimed that he along with the other mentioned Respondents had questioned the Petitioner regarding the liquor bottles he had and as he failed to produce a license, he had been arrested but deny of any assault or torture or any extortion of money or any other personal items of the Petitioner.

The 2nd Respondent had further stated that the Petitioner was provided with food, water, washroom facilities and was never handcuffed, assaulted, tortured or threatened by him or any other officer above mentioned.

The 2nd Respondent further claims that the Petitioner was produced before the Magistrate on 04.01.2023 and he had pleaded guilty to the offenses and had been released.

The 2nd Respondent has attached the pocket notebook notes he had maintained on the 2nd of January, 2023.

According to the above notes, the 2nd Respondent had received the information regarding the Petitioner's hotel at 2:40 in the afternoon on the 2nd of January 2023. At 3.00 in the afternoon, he and his team had left the Excise Department from Colombo. At 8.00 in the evening, they had been near the Petitioner's hotel till 12 midnight, they had kept a surveillance of the Petitioner's hotel.

At 1.15 a.m., he had been taken into custody but the overleaf of the said note by the same officer had stated that again at 12.20 am, the Petitioner had been arrested.

Therefore, I observe that the document "2R1" marked by the 2nd Respondent chronologically is not in order but nevertheless it has divulged to this court that the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th and 9th Respondents had gone to the hotel of the Petitioner and had been participating in the raid. But of course, they deny of any assault or torture of the Petitioner and have in fact stated that the Petitioner was taken into custody for the offenses he pleaded.

The 3rd Respondent also had filed an Affidavit corroborating the same along with the 4th, 5th, 6th, 7th, 8th, 9th Respondents.

The above-mentioned Respondents along with the 13th, 14th and 15th Respondents in their written submissions, have taken up the preliminary objection of this application being in violation of Article 126(2).

However, I observe that this Petition has been filed on 7th February 2023. The Petitioner has alleged that the incident occurred between the period of 2nd January 2023 and 4th January 2023. The Petitioner had been released on the 4th of January 2023. I also that the Petitioner has taken steps and he has averred in paragraph 13 of the Petition that he has taken steps to complain to the Human Rights Commission on the 1st of January 2023 and the Human Rights Commission had acknowledged his complaint on the 27th of January, 2023 and has been marked and produced to the Petition as P15(c), therefore, he is well within the timeline stipulated under Article 126(2) of the Constitution. Therefore, I see no merit in the objection with regards to this Petition being out of time.

Therefore, in view of the material stated above, I observe that the Petitioner who was running a lawful business by the name of Cheeky Monkey at Midigama, Ahangama, had been arrested and tortured according to his Petition and he substantiates this position by the medico legal report which I have analyzed above, dated 06.01.2023, by the District Medical Officer of Weligama. This Report reveals a history given by the Petition which substantiates his position taken up in the Petition and of 11 tram-line contusions, which the doctor had said is in keeping with the history given by the patient. The Petitioner has also substantiated his position by the Affidavits filed by his brother and other documentation.

The Learned Additional Solicitor General had no answer to give with regards to the Medico Legal Report of the Petitioner dated 06.01.2023 submitted by the District Medical Officer of Weligama. She merely submitted that if the Petitioner's position taken up in the short history in the Medico legal report was correct, he could have said so when he was produced before the Magistrate on the 4th of January 2023. This I see as being devoid of any merit, because a person who alleges that he was tortured and assaulted by the Respondents would he ever dare to divulge his predicament when he was in their custody?

In my opinion, the Petitioner demonstrated due diligence by promptly seeking medical attention following his release on the **4th of January**, and by causing himself to be admitted to the **Government Hospital, Weligama**, where he underwent medical examination on the **6th of January**. The learned counsel for the Respondents also alleges that if he was so injured, he could have gone immediately after his arrest. However, according to the Affidavit filed by the

petitioner's deceased brother and the contents in his Petition, he had many other events to face which had taken place in his absence narrated by his brother, father and fiancé, which are later substantiated by Affidavits and the complaints lodged by the petitioner in the Human Rights Commission, the CIABOC and the Police Commission.

Therefore, in view of the aforesaid material the respondents from the 2nd to the 9th have merely denied the alleged torture, assault and other allegations of bribery and corruption. The Learned Additional Solicitor General reiterated the position of the Respondents and submitted that the position of the 2nd to the 9th Respondents have been substantiated by 2R1 and 3R1 which I observe not to be in the correct chronological order. The Learned Additional Solicitor General submitted that the 8th Respondent, who the petitioner claims to be the Excise Guard by the number 1079, had not even participated in the raid conducted on the Petitioner's hotel. However, I observe that the documents marked as "2R1" and "3R1" clearly show that an Excise Guard by the number 1079 had been part of the raid, but the affidavit filed by the 8th respondent has indicated his service number as being 1076. Therefore, I am unable to conclude that the 8th respondent, as per his affidavit, was present during the raid.

With regard to the 10th to the 12th respondents, I find that they have not been identified as being present during the alleged raid of the petitioners' restaurant. Accordingly, no violation has been established against the 10th to the 12th respondents. Although the petitioners' family members have produced pawning receipts for jewelry and bank deposit receipts evidencing the deposit of the said monies, there is no evidence to establish that those monies were received by the 10th to the 12th respondents.

Considering the materials stated above, it is quite obvious that the Petitioner had been treated differently before the law by the Respondents. Therefore, there is a clear violation of Article 12(1) of the Constitution.

The next issue that engages the attention of this court is the nature and scope of the relief that may be granted to the Petitioner in respect of the medical observations relating to his injuries, as recorded in the **Medico-Legal Report dated 06.01.2023**. There is nothing to disregard the contents of the Medico Legal Report put forward by the Respondents. But the question is whether this court can take cognizance of the contents in the Medico Legal Report along with the details revealed in the Petition by the Petitioner regarding his assault when leave has not been granted by this court under Article 11 of the Constitution.

The law pertaining to Article 12(1) of the Constitution where leave has been granted is that,

“All people are equal before the law are entitled to the equal protection of the law”.

Equal protection before the law means that all persons who are similarly situated must be treated alike by the law. This applies both to the rights granted and the obligations imposed by law. Consequently, the law or state action must not discriminate between individuals when their circumstances in relation to the subject matter are the same.

Aluwihare, PC, J. in his judgement in **H. M. M. Sampath Kumara and others vs. Officer-in-Charge, Police Station, Katunayake**, cited with approval the case of **Sanghadasa Silva vs. Anuruddha Ratwatte** and stated as follows;

“...it is now well settled law that powers vested in the state, public officers and public authorities are not absolute and unfettered but are held in trust for the people to be used for the public benefit and not for improper purposes.”

Justice Aluwihare has further stated that, *“Even though Police officers are charged with the duty of maintaining law and order, they cannot exercise the power granted for that purpose in a manner that negates the equality provision.”*

Therefore, in the instant matter, I find that the petitioner who was running a profit earning business has been taken in to custody and thereafter tortured, which is supported by medical evidence and then robbed and finally released when he pleaded guilty to the offences he was charged with by the respondents.

I see no reason to disregard the material forwarded by the petitioner because the material submitted by the respondents do not challenge the truthfulness of the material of the petitioner. As the petitioner was unable to identify the officers present during the raid the 2nd, 3rd, 4th, 5th, 6th, 7th and the 9th Respondents will be collectively held liable for violation of the petitioners' rights as an assumption can be drawn from the medical legal reports, the officers' affidavits and concurrent reports of their presence during the raid of the petitioner's restaurant. Since the 8th respondent has denied his presence in the raid and it seems to be corroborated with the report marked 2R1 and 3R1, he will not be held liable. The 10th to 12th respondents also has not been identified by the petitioner, hence, they cannot be held liable for any violation.

As such, while allowing the instant application, I declare that the 2nd, 3rd, 4th, 5th, 6th, 7th and the 9th respondents have infringed the fundamental rights of the petitioner guaranteed under Article 12(1) of the Constitution.

I direct the 2nd, 3rd, 4th, 5th, 6th, 7th and the 9th respondents to pay Rs. 75,000/= each to the petitioner from their personal funds before the expiration of three (03) months from the date of the pronouncement of this judgment.

JUDGE OF THE SUPREME COURT

Janak De Silva, J.

I agree.

JUDGE OF THE SUPREME COURT

Sampath B. Abayakoon, J.

I agree.

JUDGE OF THE SUPREME COURT