

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

In the matter of an application in terms of Article 126 and 17 of the Constitution read with Article 11 and 12(1) of the Constitution.

Manoj Shamika,
No. 648, I.D.H. Road,
Nagoda, Kalutara.

Petitioner

SC/FR/Application No 626/2012

Vs.

1. Samantha Thushara – 48055
2. Epa Senewirathna
3. Sanath
All of Traffic Branch
Police Station,
Kalutara South
4. Samantha Wedage,
Head Quarters Inspector,
Police Station,
Kalutara South
5. Inspector General of Police,
Police Head Quarters,
Colombo 01.
6. Hon. Attorney General,
Attorney Generals' Department,
Colombo 12.

Respondents

Before: **Murdu N.B. Fernando, PC. CJ.,**
A.H.M.D. Nawaz, J. and
Arjuna Obeyesekere, J.

Counsel: Prinath Fernando for the Petitioner.

Reshaal Serasinghe instructed by Iranga Perera for the 01st-03rd Respondents.

Lakmali Karunananayake, SDSG for the 05th and 06th Respondents.

Argued on: 18/09/2024

Decided on: 07/07/2025

Murdu N.B. Fernando, PC. CJ.,

Introduction

The Petitioner filed this instant application alleging that his Fundamental Rights enshrined under Articles 11 and 12(1) of the Constitution have been infringed by the Respondents.

This Court granted Leave to Proceed to the Petitioner on 1st July 2013. The 1st to the 3rd Respondents attached to the traffic branch of the Kalutara South, Police Station filed objections to the Petitioner's Application. The 4th Respondent, the Head Quarters Inspector of the said police station did not present himself before this Court and was unrepresented. The State Counsel represented the 5th Respondent Inspector General of Police and the 6th Respondent, the Hon. Attorney General.

The case of the Petitioner as narrated by him

The Petitioner was a ground manager of a school in Colombo. On 21st September, 2012 the Petitioner together with a few friends consumed alcohol at a friend's residence. At around 8.00 p.m., the Petitioner left the said premises with a friend, in Petitioner's brother's motorbike, to a hotel three kilometers away to have dinner. The Petitioner and the friend were not wearing helmets since they were travelling only a short distance.

The Petitioner and the friend proceeded on Kalutara - Matugama Road and at the central junction, the Petitioner wanted to turn towards the left on to the Hitiyangala Road. Then the Petitioner pleads, the 2nd and 3rd Respondents moved towards them to apprehend them and in order to stall such movement the Petitioner swerved the bike towards the right.

The 1st Respondent then gave two hard blows to the Petitioner's face from the helmet he had in hand and the Petitioner fell down unconscious. Thereafter, the Petitioner's friend, had taken him to the Nagoda Hospital in a three wheeler, where he was treated for a number of grievous injuries. *viz.*, occlusal rearrangement, maxilla mobility, severe fractures, laceration on forehead and broken teeth.

The Petitioner's narration is supported by an affidavit filed by his friend, an army soldier. The Petitioner's brother and mother too have tendered affidavits pertaining to his hospitalization of the Petitioner, which lasted for one week till the 28th of September 2012. The photographs taken by the Petitioner's brother at the hospital were also annexed to the petition.

The Petitioner further submits, that although complaints were made to the Police, no action was taken by the 4th Respondent, HQI to prosecute the 1st Respondent, a police officer attached to his Police Station. Thus, the Petitioner filed the instant application and moved that his Fundamental Rights to equal protection of the law and equality before the law guaranteed under Article 12(1) of the Constitution have been violated by the Respondents and specifically the 4th Respondent. The Petitioner has also gone before the Human Rights Commission but its recommendation is not available before Court.

Further, the Petitioner submits, that the actions of the 1st Respondent to assault the Petitioner, caused him grievous injuries and such acts were also a violation of his Fundamental Rights guaranteed under Article 11 of the Constitution, *viz.*, to be free of being subjected to torture or cruel, degrading and inhuman punishment or treatment.

Therefore, the Petitioner states that his Fundamental Rights have been violated by the Respondents and he is entitled to be compensated in a sum of Rupees Three Million and One Million for the violation of Articles 11 and 12(1) of the Constitution respectively.

The Petitioner in his written submission brought to the notice of Court, that the 1st Respondent had passed away. The journal entry dated 08-02-2022 also refers to such fact. But there is no death certificate or any other material to substantiate such fact filed of record either by the Petitioner or by any of the other respondents. The Petitioner nevertheless, contends, that he wishes to proceed with this application as such death will not prevent the Petitioner from seeking an order of compensation from the State for the injuries sustained by him.

We observe that the Petitioner has not sought any specific relief against the 2nd and 3rd Respondents who were also at the scene, for violation of the Petitioner's Fundamental Rights guaranteed under Article 11 of the Constitution. However, a general violation of Articles 11 and 12(1) are sought against all the Respondents and a specific reference is made to the conduct of the 1st Respondent for assault and the 4th Respondent, for non-prosecution of the 1st Respondent.

Version of the 1st to the 3rd Respondents

The 1st to the 3rd Respondents in their Statement of Objections state, that they were on patrol duty on the night of 21st September, 2012. At around 10 pm, a motorbike approached the central junction on Kalutara - Matugama road, at high speed and took a sudden turn towards the Hitiyangala Road. The 2nd Respondent signaled the speeding motorcycle to stop, but it didn't stop and continued at the same speed towards the 1st Respondent, who using his trafficator signalled the motorcycle to stop. These Respondents state, then the motorcycle,

came to contact with the outstretched arm of the 1st Respondent and crashed into a wall that was on the left hand side of the road.

These Respondents relied on the statements of two eye witnesses, the Petitioner and his friend who rode on the pillion, and the report of an inquiry conducted by the police tendered to the 5th Respondent which cleared these Respondents of any wrongdoing, to contend that the injuries sustained by the Petitioner and the friend are consistent with the nature of the impact, especially considering that neither the Petitioner nor the friend were wearing helmets.

Further, these Respondents aver that the 1st Respondent too suffered an injury to his arm and was hospitalized and if the Petitioner's version is accepted, that the injury caused to the 1st Respondent cannot be explained and thus, moved for the dismissal of the Petitioner's Application.

At the hearing Counsel represented only the 2nd and 3rd Respondents. However, no written submissions were filed on behalf of the said Respondents to this application, pre or post Hearing.

As stated earlier, the 1st and 4th Respondents were not represented at the Hearing.

Medical Reports

There are two Medico - Legal Reports (MLR) submitted to this Court by the General Hospital, Kalutara, first of the Petitioner and the second of the 1st Respondent.

The MLR of the 1st Respondent does not refer to any external injuries caused to him, although the short history given by the 1st Respondent to the Hospital indicate that a speeding motorcycle knocked him on his right hand.

The MLR of the Petitioner, indicate five external injuries referred to in detail earlier. The opinion of the Medical Officer is that three out of the said injuries, (bearing no. 2,3 and 5) were grievous injuries whereas the other two (bearing no.1 and 4) were non grievous injuries. The Medical Officer further states, that injuries are compatible with the history given by the Petitioner that he was assaulted by a police officer with a helmet.

Furthermore, a DNA analysis was done on the Petitioner's blood and on a brown substance on a wall. The DNA analysis report tendered to the Magistrate Court, Kalutara by 'Genetech' indicate, that the DNA in the brownish stain obtained from the wall which the 1st to 3rd Respondents state in their Statement of Objections to this Court as the point of impact, did not match the DNA profile of the Petitioner.

Magistrate Court findings

The Magistrate Court Brief filed of record indicates, that the Petitioner was charged in the Magistrate Court, Kalutara for eight offences. Namely, drunken driving, failure to avoid an accident, reckless driving, driving without a license, driving without a safety helmet,

carrying a pillion ride without a helmet, disobeying police signals and causing minor injuries to the 1st Respondent.

Having heard the evidence, the learned Magistrate acquitted the Petitioner from five of the said offences, *i.e.*, drunken driving, failure to avoid an accident, reckless driving, disobeying police signals and causing minor injuries to the 1st Respondent.

The reasoning of the learned Magistrate was that in view of non-availability of evidence to prove the charges, *i.e.*, report of a breathalyzer test, and a sketch or plan to establish that the Petitioner collided with a wall and sustained the injuries due to the said accident, and also in view of the MLR pertaining to the 1st Respondent not indicating any injuries caused to the 1st Respondent, it was not feasible to conclude that such a collision as alleged by the police took place.

The learned Magistrate also, disbelieved the principal witness for the police, the purported 'eye witness', as not being a credible witness, in view of many contradictions highlighted in the Order. It was specifically found that the witness has some loyalty towards the police, as it was revealed that he too on the relevant date, was riding a motorcycle without a license, had no insurance cover for the motorcycle and had committed other minor offences falling under the Motor Traffic Act, but the police have not charged or prosecuted the said eye witness for any of the said offences.

It's observed the Petitioner pleaded guilty for the three remaining offences *viz.*, driving without a license, driving without a safety helmet and carrying a pillion rider without a helmet and the Petitioner was fined a sum of Rs.7500.00 by the learned Magistrate for such offences, being a sum Rs.2500.00 each for the said three offences.

Legal Consequences

Having referred to the factual matrix of the matter in issue, let me now consider the credibility of the two versions of the Petitioner and the Respondents and the legal consequences arising of such facts.

Violation of Article 11

Article 11 of the Constitution reads as follows;

"No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"

This Court in a number of cases has consistently recognized that this constitutional prohibition is an absolute bar which protects all persons.

Ref: Velmurugu v. The Attorney General and another [1981] 1 SLR 406 and Amal Sudath Silva v. Kodituwakku [1987] 2 SLR 119.

Thus, when an allegation of violation of Article 11 is made before this Court, the Court must ensure all steps are taken to safeguard such rights.

In order to fulfill such obligation, this Court should primarily decide, upon evidence placed before Court, whether the version of the Petitioner is correct or whether the version relied upon by the Respondents is correct on a balance of probability.

Ref: Gunawardena v. Perera and others [1983] 1 SLR 305 and Channa Pieris and others v. Attorney General and others [1994] 1 SLR 1

Thus, in determining a Fundamental Rights violation, the Court must be absolutely satisfied that there has been an infringement and the Petitioner must adduce evidence to such fact.

In the instant matter, the only argument taken up by the State on behalf of the 5th and 6th Respondents to dismiss this application is, as to why the Petitioner, if he was assaulted as narrated in the petition, did not sue the 1st Respondent on a private plaint? In my view, the aforesaid submission of the State, does not assist this Court to ascertain the credibility of the two versions before Court.

Thus, let me look at the credibility of the version of the Petitioner and the Respondents. It's observed the police filed charges against the Petitioner for drunken driving, reckless driving among other offences. Although the Petitioner in his petition to this Court admitted he had taken a few drinks and MLR indicated that he smelt of liquor, no breathalyzer test was done by the police or in the hospital to establish whether the Petitioner was drunk or not.

Thus, on one hand we have the findings of the Magistrate Court, which acquitted the Petitioner from the charges of drunken driving and reckless driving [which finding the police deemed not necessary to appeal] and on the other hand the MLR of the Petitioner which substantiate the injuries sustained by him, *i.e.*, three grievous injuries and two non-grievous injuries caused by a blunt weapon, which the MLR identifies as injuries compatible with the history given by the Petitioner and the DNA analysis report which indicate the brown stains on the wall said to be the point of impact of the Petitioner with the wall, as alleged by the Respondents, is not the blood of the Petitioner. These evidences in my view, casts serious doubts upon the version narrated by the 1st to 3rd Respondents. I am also mindful, that the MLR of the 1st Respondent does not indicate any external injuries had been caused to the 1st Respondent. This evidence further negates the version of the 1st to 3rd Respondents to this Court.

Hence, based on the evidence led before this Court, I am unable to agree with the narration of the 1st to 3rd Respondents as it lacks credibility.

Does it mean, that the Court should accept the evidence led by the Petitioner?

Petitioner's narration is corroborated by the affidavit evidence tendered by his friend the pillion rider, to this Court. The affidavits of the Petitioner's mother and brother tendered to this Court and the photographs taken of the Petitioner in hospital tendered and produced with the petition further substantiate the injuries sustained by the Petitioner. None of these

evidences have been challenged by the 1st to 3rd Respondents, except to say that the Petitioner was drunk and collided with a wall and sustained the said injuries.

Thus, on a balance of probability I tend to believe the Petitioner's version that he was assaulted by the 1st Respondent with the helmet, on his neck and head, *i.e.*, two hard blows which appear to be the 'grievous injuries caused by a blunt weapon', as reflected in the MLR.

As stated earlier in this judgement, the Petitioner limits the **Article 11** violation to the 1st Respondent only. No relief has been sought by the Petitioner either against the 2nd and 3rd Respondents who are also police officers, presently serving the Police Force. The 1st Respondent is said to be deceased but there is no substantial evidence to such fact before this Court. The State representing the IGP too, has failed to inform this Court about the 1st Respondent's status especially since he is/was an officer attached to the police force.

The 1st Respondent, though he filed proxy and a joint statement of objection, was not represented before Court by the Counsel who appeared for the 2nd and 3rd Respondents at the Hearing. No submissions have been made by any of the other Respondents or the State in respect of the status or present whereabouts of the 1st Respondent.

In such circumstances can a declaration be made against a party who is not before Court and/or who is said to be deceased, in the event this Court finds that the Petitioner's Fundamental Rights have been violated. Can an award of compensation be made against such a person who is said to be deceased?

In **Amal Sudath Silva Case** referred to above, Atukorale, J., emphasized that even a hardcore criminal is entitled to the right to freedom from torture to the fullest content of its guarantee, in order to have any meaning or value in our democratic set up.

In **Suppaiah Sivakumar v. Jayaratne and others SC/FR/56/2012 – S.C.M. 26-07-2018**, Aluwihare, J., observed as follows;

"The prohibition in Article 11 of the Constitution against degrading treatment is absolute and the guarantees therein must be protected irrespective of the victim's conduct. Even if the Respondents had their grounds for suspecting the Petitioner being involved in the riot, the Respondents could have resorted to the procedure established by law to dispel their suspicion without physically and verbally assaulting the Petitioner."

Similarly, in **Kankanan Arachchige Hemasiri v. Kamal Amarasinghe SC FR 12/2010 S.C.M. 08-05-2024**, this Court held, not only in situations of torture or degrading treatment, but in situations where the police causes an affront to a person's dignity, that too amounts to a violation of human dignity guaranteed under Article 11 of the Constitution.

In the aforesaid **Hemasiri case**, the assault by a respondent by a punch on the mouth of a petitioner with a clenched fist which caused loosening of teeth and swelling, was considered as an aggravated form of degrading treatment. This Court in the said case held:

“The police force is an organ of the State. It is designed to protect and defend the Fundamental Rights of all persons of this country and the 1st and 2nd Respondents being members of such police force are duty bound to safeguard such right and not subject any person to torture or cruel, inhuman or degrading treatment.”

In the instant case, the Petitioner’s narration that he was assaulted with a helmet, the medical evidence and affidavit evidence referred to earlier, amply demonstrate on a balance of probability that the Petitioner was subjected to inhuman and degrading treatment which amounts to violation of the Petitioner’s Fundamental Rights guaranteed under Article 11 of the Constitution.

Our law in no uncertain manner, lays down the provisions that are applicable for speeding and driving a vehicle under the influence of liquor. Such acts are serious and grave crimes that cause significant harm to individuals and to the society at large and should not at all be considered leniently. In such circumstances, the offender should be punished accordingly and with severity as it deserves. This Court will look at the said acts of drunk driving with disdain. Such acts cannot and should not be condoned by any court of law at any time.

In the instant case after analyzing the evidence led, the learned Magistrate acquitted the Petitioner of such wrongdoing for reasons stated earlier and the police did not go up in appeal against such decision. This Court has also considered the evidence led before the Magistrate Court and the Order of the learned Magistrate which cannot be found fault, with in view of the evidence presented before court by the police. Basically, the police failed to substantiate the charges filed before court.

Conversely, even assuming that the Petitioner was driving recklessly, assaulting such an offender with a helmet, at dead of night under the colour of office, by a police officer cannot be condoned by this Court. A disciplined police force should resort to the provisions of the law and uphold the dignity of an offender, even if he is a hardcore criminal or his conduct is unwarranted. The police cannot take the law into their hands to punish an offender. Such conduct in my view amounts to degrading treatment of a human being.

Thus, I hold that the Petitioner’s Fundamental Rights guaranteed in terms of Article 11 of the Constitution have been infringed by the 1st Respondent.

Earlier in this judgement, I have referred to the status of the 1st Respondent. The documents before Court do not establish a date of death or whether the 1st Respondent is alive or deceased. In any event, at the time of the *litis contestatio* or close of pleadings, objections had been filed by the 1st Respondent.

In the said circumstances, I have no hesitation in holding that the Petitioner’s Fundamental Right to be free from torture or cruel, degrading treatment and or punishment has been violated by the 1st Respondent.

If I may digress at this juncture, I wish to refer to **Sriyani Silva v. Iddamalgoda [2003] 1 SLR 14** where the Petitioner, a widow alleged *inter-alia* that her husband's death was due to torture in police custardy.

The Respondents raised a preliminary objection that the Petitioner had no *locus standi*. In a majority judgement Shirani Bandaranayake, J., (as she then was) interpreting Chapter III of the Constitution held, that when an infringement of a person's right, takes place in the given circumstances, anyone having a legitimate interest could prosecute that right in terms of a proceeding instituted under Article 126(2) of the Constitution.

In **Sriyani Silva v. Iddamalgoda Case II [2003] 2 SLR 63**, Mark Fernando, J., expanded the scope of right to sue in respect of a deceased's right and went onto state that Article 11 read with Article 13(4) recognizes a right not to be deprived of life and by necessary implication, a right to life.

In the instant case, the position of the 1st Respondent can be distinguished explicitly as he is a Respondent and not a Petitioner. However, I only wish to state that the position we are confronted is unique and had not been considered by this Court earlier.

Nevertheless, for reasons stated earlier I do not wish to venture upon an academic analysis of above, but would re-iterate that I proceed upon the basis that there is no evidence to justify that the 1st Respondent is deceased.

Article 12 (1)

The Petitioner also alleges violation of his Fundamental Rights guaranteed under Article 12(1) of the Constitution by the Respondents and specifically by the 4th Respondent, the HQI of the Kalutara South, Police Station. The record bears out that though notices were served on the said Respondent on many an occasion, he was not present before Court, nor was he represented. State too, did not undertake his defence.

The Petitioner's grievance against such officer, is that he failed to prosecute and take action against the 1st Respondent.

In the written submissions filed by the learned Deputy Solicitor General (DSG) on behalf of the Inspector General of Police (IGP) the 5th Respondent, it was revealed that a preliminary inquiry was conducted relating to this incident under the direct supervision of the DIG, Western Province on the direction of the IGP, but there were no adverse findings made against the police officers and therefore no disciplinary action was taken against any of the Respondents.

At the Hearing the learned DSG, appearing for the IGP and the Hon. Attorney General submitted, that by holding an inquiry, the 5th Respondent has discharged his duties, promptly and effectively.

The learned DSG relied on the observations made in **Wasana Niroshini Wickrama v. Nalaka SC/FR/ 349/2014 – S.C.M. 16-10-2023** to substantiate its stand, 'that the IGP cannot

be found responsible for the alleged violation as he has promptly acted and held an inquiry' pertaining to the Petitioner's complaint. In my view the facts in the aforesaid **Wasana Niroshini case** can be distinguished from the instant action, as **Wasana Niroshini's case**, is a case in which the Petitioner and her mother failed to appear before the Magistrate Court. The police officers entered the residence of the Petitioner to execute the warrant and she refused to go with the police which ended up with the Petitioner being arrested together with her two children. This Court, in the said case, for reasons more fully stated in the judgement, dismissed the application of the Petitioner. In my view the observations made in the aforesaid case must be looked at in its perspective and cannot be blindly applied for each and every police assault case.

In the instant case, even if a preliminary inquiry was held as stated on behalf of the IGP, the manner and mode of such inquiry and as to who gave evidence at the inquiry has not been divulged to Court. Did the Petitioner or his friend give evidence? Was it only the police officers who gave evidence? Or was it the purported eye witness who was disbelieved by the learned Magistrate on the basis the said witness was partial towards the police and not a credible witness? Did the 4th Respondent testify?

The Petitioner's specific grievance is that the 4th Respondent (HQI) failed to prosecute the 1st Respondent.

As stated earlier in the judgement the 4th Respondent was absent and unrepresented before this Court. No objections were filed on his behalf. The learned DSG who appeared for the IGP too did not assist Court by indicating the status of the 4th Respondent and as to whether he is still in service in the Sri Lanka Police or not. What was the reason for such Respondent to be absent and not to appear before Court, for the last twelve years, and tender his response to the allegations made by the Petitioner?

In any event, the final recommendation of the inquiry conducted by the Police, appears to be not to take disciplinary action against the police officers. Is it only against the 1st Respondent or the 4th Respondent or against all four Respondents? The report filed of record is silent about such fact and does not shed any light on such matter. It's a bare report and this Court is not satisfied with the manner in which such report has been tendered to the IGP to clear the Respondents before Court.

The injuries sustained by the Petitioner are grievous in nature. In the MLR, the Medical Officer's observation is, it is compatible with the narration of the Petitioner that he was given two hard blows with a helmet by the 1st Respondent. In such circumstances, shouldn't charges be filed against the 1st Respondent?

These are some of the questions for which no answers or responses were forth coming from the Respondents.

Article 12(1) of the Constitution reads thus;

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

I do not intend to traverse though the development of the law pertaining to Article 12(1) of the Constitution, at this stage.

Suffice it to state, that this Court in **Karunathilaka and another v. Jayalath de Silva and others [2003] 1 SLR 35** observed as follows:

“The basic principle governing the concept of equality is to remove unfairness and arbitrariness. It profoundly forbids action which deny equality and thereby become discriminatory. The hallmark of the concept of equality is to ensure that fairness is meted out. Article 12(1) of the Constitution, which governs the principles of equality, approves actions which have a reasonable basis for the decisions and this Court has not been hesitant to accept those as purely valid decisions.

Similarly, in the case of **Wickramasinghe v. Ceylon Petroleum Corporation and others [2001] 2 SLR 409** having discussed the positive connotation ‘reasonableness’ as opposed to the negative connotation ‘arbitrariness’, this Court observed, that if the action of the Respondents are reasonable, then such a decision would not amount to being arbitrary.

In the instant application, the attitude and the manner of the 4th Respondent (HQI) not presenting before this Court to answer the allegations levelled against him, the submissions made on behalf of the State to justify holding an inquiry to free and discharge only the IGP from any liability that might arise from these proceedings, and moreover being silent about the actions of a sub-ordinate officer of the police force, whose inaction was the cause of action upon which, a violation of Article 12(1) was alleged before this Court, in my view amounts to the true sense of unfairness and arbitrariness.

Thus, I hold that the Right to Equal Protection of Law guaranteed under Article 12(1) of the Constitution has been violated by the actions of the 1st, 4th and 5th Respondents.

At this juncture, I wish to quote a lucid statement pertaining to the police force, in the unreported judgment in **Nandapala v. Sergeant Sunil SC/FR/224/2006 S.C.M. 27-04-2009** by Shiranee Tilakawardena, J.

She, repeating Plato’s timeless quotation ‘*Quis custodiet ipsos custodies?*’ or “who will guard the guardians” observed:

“There are both direct and indirect consequences to the police, to Society and ultimately, to the Rule of Law, that result from systematic failures within the Police Service, [...] We see violence like that which was apparent in the present case

perpetrated with total impunity by certain police officers against civilians, to secure bribes, to extract public punishment for private disputes or often, for seemingly no reason at all other than to taunt and harass the public with ‘a show’ of their unchecked police powers, such power ultimately blinding them to their own corruption. Powers that were vested in them as upholders of the Rule of Law are sadly used instead to subdue and pervert it ..” (emphasis added)

As adumbrated in this judgement, I have already held that the Petitioner’s Fundamental Rights guaranteed in terms of Article 11 of the Constitution have been infringed by the 1st Respondent and the Fundamental Rights guaranteed in terms of Article 12(1) of the Constitution have been infringed by the 1st, 4th and 5th Respondents.

Thus, I allow the Application of the Petitioner and determine and hold that the Petitioner has established that his Fundamental Rights guaranteed under Article 11 and 12(1) of the Constitution have been violated by the Respondents referred to above.

I am of the view, in the circumstances of this case, it is just and equitable to make Order in term of Article 126(4), of the Constitution, directing the State to pay the Petitioner Rs 30,000 as compensation and Rs 25,000 as costs of this application. I also direct the 1st Respondent to pay from his personal funds Rs 100,000 as compensation to the Petitioner forthwith.

The Application is allowed.

Chief Justice

A.H.M.D. Nawaz, J.

I agree

Judge of the Supreme Court

Arjuna Obeyesekere, J.

I agree

Judge of the Supreme Court