

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

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

Pathmasiri Dissanayakalage
Priyalal Chaminda Sirisena,
238/10, School Lane,
Kanduboda, Delgoda.

S.C. (F.R.) Application No. 06/2018

PETITIONER

Vs.

1. Madushanka Dias,
Officer in Charge of Miscellaneous
Complaints Unit,
Police Station, Negombo.
2. Wootler Udayakumara,
Headquarters Inspector,
Negombo Police Station,
Negombo.
3. The Inspector General of Police,
Police Headquarters,
Colombo 01.

4. Hon. Attorney General
Attorney General's Department,
Hulftsdorp, Colombo 12.

RESPONDENTS

BEFORE : **P. Padman Surasena, C.J.,**
Kumudini Wickremasinghe, J.
Janak De Silva, J.

COUNSEL : Lakshan Dias for Petitioner
Rajiv Goonetillake, SDSG, for 1st to 4th Respondent

WRITTEN SUBMISSIONS : 30.11.2021 by Petitioner
02.06.2020 by Respondent

ARGUED ON : 28.02.2023

DECIDED ON : 31.03.2026

Janak De Silva, J.

The Petitioner holds a Bachelor of Laws (LL.B.) degree from the University of Colombo and is an Attorney-at-Law. He had been in practice for about 11 years when the incident forming the subject matter of this application occurred.

He alleges that the 1st and 2nd Respondents prevented him from performing his professional obligations when he sought to represent the interest of Ms. H.P.D. Princes Angelina Sanduni (Client) at an inquiry held at the Negombo Police Station.

Leave to proceed has been granted under Article 14(1)(g) of the Constitution.

Version of the Petitioner

In November, 2017 the Client had been referred to the Petitioner by Rev. Father Sarath Iddamalgoda and Rev. Sister Noel Christine seeking his assistance. The Client had been a victim of domestic violence.

The Client met the Petitioner accompanied by her Grand Mother, Mrs. Mary Margret Fernando (Grand Mother) and another person. During the consultation, the Client revealed that she has been going through continuous harassment at the hands of her abusive husband Kalamullage Dileepa Deshan Fernando (Husband), and that she had left her matrimonial house and was living in hiding at the time.

The Client had once escaped from the Husband and moved to the residence of her Grand Mother. However, the Husband had taken her back forcibly after threatening her and her family members.

The Husband had lodged a complaint at the Police Station claiming that the Client had left home and that the Grand Mother was keeping her against her will. The Grand Mother had already provided a statement to the Police on this complaint. However, the 1st Respondent had directed that she produces the Client.

The Client informed the Petitioner that her Husband was a member of a business family in Negombo area and that she was sceptical about the impartiality of the officers of the Negombo Police Station at an inquiry on the said complaint.

The Petitioner realised that the Client was worried about her safety as the Husband could easily trace her whereabouts once she appears at the inquiry. The Client sought his legal assistance to file an action on domestic violence against the Husband to obtain a protection order from the Magistrates Court of Negombo and to file for a divorce.

Accordingly, the Petitioner filed Case No. L 55617 in the Magistrates Court of Negombo and obtained a protection order on 05.12.2017 under Section 5(1)(a) of the Prevention of Domestic Violence Act No. 34 of 2005 (Act) against the Husband. The proceedings of that day indicate that the learned Magistrate had issued an interim protection order preventing the Husband from threatening the Client, preventing him from entering the temporary residence of the Client and preventing the Husband from using any compulsion by telephone.

Since he had obtained the protection order and the Police inquiry was on 07.12.2017, the Petitioner instructed his Client and Grand Mother to go to the Police without fear. However, as the Client and Grand Mother were still worried about the impartiality of the Police Officers, they sought the assistance of the Petitioner at the Police inquiry.

Accordingly, he accompanied both of them to the Negombo Police Station at 9 a.m. on 07.12.2017. The Husband along with his mother were also present. The parties were summoned to the room of the 1st Respondent, who was the Officer-in-Charge of the Miscellaneous Complaints Unit.

At the beginning of the inquiry, the Petitioner informed the 1st Respondent that the Client has left her Husband due to various harassments and that the Client is not being held by anyone by force and that the Client would give a statement clarifying her position. The Client also informed the 1st Respondent that she had left her Husband due to harassments, and that she left home on her free will. The Petitioner further informed the 1st Respondent that the Magistrates Court of Negombo has already issued an order against the Husband and the Client was seeking a divorce.

At that stage, the 1st Respondent asked the Petitioner and Grand Mother to leave the room. Thereafter the 1st Respondent had pressurised the Client to reconcile with the Husband and stated in colloquial language that she will become a redundant coin if she fails to do so.

After sometime, the 1st Respondent summoned the Petitioner and Grand Mother back to his room. The Husband had asked the Client to return the smart phone which was used by her claiming that it was purchased by him. The Petitioner informed that in view of the on-going action in the Magistrates Court, the mobile phone of the Client contained important evidence of the threats made by the Husband and that such evidence would be lost if the mobile phone was returned to the Husband. Nevertheless, the 1st Respondent ordered the Client to return the mobile phone to the Husband before 12 noon the same day and was ordered to make a statement.

During the inquiry, the mother of the Husband blamed the Petitioner and Client using foul language and the 1st Respondent merely allowed her to continue the verbal abuse.

The 1st Respondent asked for a visiting card of the Petitioner and the Grand Mother gave the visiting card of the Petitioner which was with her.

The Grand Mother went to her residence to bring the mobile phone while the Client was making a statement.

While the Petitioner and Client were waiting at the Police Station until the return of the Grand Mother, the 2nd Respondent, the Headquarters Inspector, came to them and inquired about the issue. After the Grand Mother returned to the Police Station with the mobile phone, the 2nd Respondent summoned the parties to his room for an inquiry again.

The 1st Respondent approached the 2nd Respondent and made certain statements in favour of the Husband in a bias manner. At that stage, the 2nd Respondent asked the Petitioner and Grand Mother to leave the room. Thereafter the door of the room was closed and only the 1st and 2nd Respondents and the Client and Husband were in the room.

The 2nd Respondent then induced the Client to return to her husband's home and advised the Husband saying "එහෙනම් අද මේකිව ගෙනිහිල්ලා රැට කිරි එකක් බීලා දරුවක් හදපන්".

The 2nd Respondent compelled the Client to hold hands with her Husband and hug him.

After sometime, the Client and Husband were sent out of the room and the Petitioner and Grand Mother were summoned to the room again. Then the 2nd Respondent started to blame and curse the Petitioner and the legal professionals as a whole saying "මේ වගේ කුරුළු කුඩු කැඩිලා යන්නේ දෙමව්පියෝ නිසා, ඒ වගේම නීතිඥයෝ නිසා. මේ නීතිඥයන්ට දිවියධම්මවේදනීය කර්මය පළ දෙන්නට ඕනෑ".

The Petitioner and his Client and her Grand Mother left the Police Station after handing over the mobile phone to the husband.

The 1st Petitioner has given the contact details of the Petitioner to a relative of the Husband. As a result around 12.35 p.m. that day, the Petitioner received a call from mobile number 0777 388828. The caller claimed to be with the 1st Respondent at that moment and stated that the issue should be settled out of Court. The Petitioner was informed that the caller was an uncle of the Husband.

Around 1.44 p.m. on the same day, the Petitioner received a call from the Grand Mother stating that a group of persons including the Husband had raided the house where the Client was staying. The Petitioner immediately called mobile number 0777 388828 and found that the uncle of the of the Husband was also in the group that had gone to the house of the Client.

This group threatened to kill the Client, Grand Mother and the Petitioner.

The Petitioner has made a written complaint to the National Police Commission about the incident.

The Petitioner claims that the 1st and 2nd Respondents have by their acts or omissions infringed the rights of the Petitioner to engage in a lawful profession as guaranteed by Article 14(1)(g) of the Constitution.

Version of the 1st Respondent

On or about 30.11.2017, a complaint was made by the Husband, Kalamullage Dileepa Deshan Fernando. In response to this complaint, the 1st Respondent summoned the relevant parties to be present on 07.12.2017.

The Petitioner represented the Client at the inquiry and made submissions. After he made submissions, the 1st Respondent requested only the couple who were having a marital dispute to remain in the room to ascertain their views without the influence of the Husband's mother, Grand Mother and the Petitioner.

The 1st Respondent merely asked the couple as to why they cannot live together. When the Client indicated that she was unwilling to live with the Husband, he called the others back to the room. This fact was recorded in the settlement entry made at 9.40 a.m. that day.

The Husband asked the Client for his phone. The 1st Respondent inquired from the Client if she was willing to return the phone, to which she agreed. The Grand Mother returned home to bring the phone. The phone was thereafter handed over to the Husband after the SIM was removed by the Client in the presence of the 1st Respondent.

After the 1st Respondent entered the settlement entry, he received a message to send the parties to the office of the 2nd Respondent. At this stage the inquiry was concluded and the settlement entry had been made. The 2nd Respondent wanted to speak to the parties. The 1st Respondent also attended the office of the 2nd Respondent and explained what took place at the inquiry. He denies that he made statements in favour of any party or in a biased manner.

The 1st Respondent is aware of the complaint made by the Petitioner to the National Police Commission. He was summoned and has given his response to the said complaint.

Version of the 2nd Respondent

A lady unknown to the 2nd Respondent came to his office and informed that her 23 years old son, who had been married for four years, was having a marital dispute and requested him to intervene in the marital dispute. As the 1st Respondent had already met the parties, the 2nd Respondent asked the 1st Respondent to bring all the parties before him to discuss the matter.

The Husband informed the 2nd Respondent that he wished to speak to him with the Client on this personal matter. In the circumstances, the 2nd Respondent requested all others to leave the room. The wife consented to this arrangement and remained in the room and as such the discussion that followed was a consensual discussion. All persons cooperated with this arrangement. The 2nd Respondent did so to respect their privacy on a family matter.

The 2nd Respondent advised the parties that they were a young couple and that they should try to resolve their marital disputes amicably.

The 2nd Respondent denies asking the parties to hold hands or embrace each other as suggested by the Petitioner and Client.

After discussing with the young couple, the 2nd Respondent invited the others to return to the room. The 2nd Respondent informed all the parties that he had advised the young couple to amicably resolve their disputes. He had further informed them that there was no more he could do using his good office and any further dispute would have to be resolved in Court.

The 2nd Respondent did not conduct a second inquiry. A formal inquiry had been held by the 1st Respondent and had been concluded by the time the parties came to meet him.

The Petitioner accompanied the Client to the Police Station and assisted her to make a statement and in the circumstances the Petitioner was not prevented from performing his duty to his client.

Analysis

In ***Perera v. Jayawickrema*** [(1985) 1 Sri LR 285 at 323], it was held that while Article 14(1)(g) recognises a general right in every citizen to do work of a particular kind and of his choice, it does not confer the right to hold a particular job or to occupy a particular post of one's choice.

Article 14(1)(g) confers a fundamental right on an Attorney-at-Law to represent the interest of his client in a forum where he is entitled to do so.

The Police (Appearance of Attorneys-at-Law at Police Stations) Rules, 2012 (Rules) have been made by the Inspector-General of Police under Section 55 of the Police Ordinance and published in Gazette Extraordinary No. 1758/36 dated 18.05.2012.

Rule 3(1) states that any Attorney-at-Law who enters a Police Station for the purpose of representing and watching the interests of a person who is the client of such Attorney-at-Law, shall be treated cordially and courteously and given a fair and patient hearing by the Police Officers attached to such Police Station.

This is a clear acknowledgement that an Attorney-at-Law is entitled to represent his client at any Police Station. Accordingly, the Petitioner should have been treated cordially and courteously and given a fair and patient hearing by both the 1st and 2nd Respondents.

This Rule is an amplification of the fundamental right guaranteed to an Attorney-at-law by Article 14(1)(g) of the Constitution. I may add in passing that the Rules came to be formulated consequent to the terms of settlement entered in ***D.W.C. Mohotti v. Upul Seneviratne, OIC, Bambalapitiya and Others*** [S.C.F.R. 527/2008, S.C.M. 27.04.2009].

The SVASTI of the Constitution of the Democratic Socialist Republic of Sri Lanka assures to the People *inter alia* Justice as the intangible heritage that guarantees the dignity and well-being of succeeding generations of the People of Sri Lanka. Many democratic structures and institutions form essential components of the quest for Justice. The legal profession forms an indispensable part of this system of administration of justice.

Similarly, the law enforcement officers also form an essential component of this system. These two branches must work together in ensuring that justice is meted out. This requires extending courtesy to each other in the exercise of their respective functions.

The Rules reflect this obligation on the part of the Police officers towards an Attorney-at-Law. Similarly, all Attorney-at-Laws must extend courtesy to Police Officers in the discharge of their duties.

This case is not about an omission on the part of the Petitioner. On the contrary the Petitioner complains that both the 1st and 2nd Respondents failed to follow the Rules.

Let me begin the examination of the alleged infringement by referring to the complaint made by the Husband to the Police. It reads as follows:

මීගමුව පොලිස් ස්ථානයේ සී.අයි.බී. (ii) තොරතුරු සටහන් පොතෙන් උපුටා ගන්නා ලද පිටපතකි.

දිනය: 2017.11.30. පිටුව:03 ඡේදය: 368 වේලාව: 11.30

බිරිඳ නිවසින් යාමක්

අංක 131/ඩී, ගල්කටුව පාර, දලුපත, මීගමුව ලිපිනයේ පදිංචි දේශාන් යන අය බිරිඳ නිවසින් යාමක් සම්බන්ධව පැමිණිල්ලක් කිරීමට අවශ්‍ය බව දන්වා සිටියා. පො.සැ. 58537 දයානන්ද වන මා ඔහුගේ ප්‍රකාශය පහත සටහන් කරමි. සම්පූර්ණ නම නලචුල්ලගේ දිලීප දේශාන් ප්‍රනාන්දු වයස අවු. 23 යි ආගම රෝමානු කතෝලික විවාහකයී පදිංචිය අංක 131 ගල්කටුව පාර දලුපත මීගමුව 0772998070 මම ඉහත ලිපිනයේ පදිංචිව සිටිනවා. මා විවාහ වී සිටින්නේ අංක 513/51/ඒ මහිමගොඩල්ල වත්ත මීගමුව ලිපිනයේ පදිංචි ප්‍රින්සස් අංජලිකා ප්‍රනාන්දු යන අයයි. අප දෙදෙනා විවාහ වෙලා දැනට අවු. 04 ක් වෙනවා. අප දෙදෙනාට දරුවන් නෑ. අපේ පවුල් ජීවිතයට බිරිඳගේ අම්මා වන මාජී යන අය අත දානවා. මෙසේ අත දමලා අපේ පවුල් ජීවිතයට නොයෙකුත් ප්‍රශ්න දමනවා. මේ මාජී අම්මා නිතරම අපේ ගෙදරට දුරකථනයෙන් කතා කරනවා. මෙසේ සිටින විට

2017.10.28. වන දින මගේ බිරිඳයි අතරේ ප්‍රශ්නයක් ඇතිවුණ නිසා මෙම අම්මා පැමිණ මගේ බිරිඳ එක් කරගෙන ගියා. දැනට බිරිඳ අම්මා ළඟ ඉන්නවා. මම පොලිසියෙන් ඉල්ලා සිටින්නේ මෙම අයගෙන්වා විභාග කර මට මගේ බිරිඳ ගෙන්වා දෙන ලෙසටයි. මට කීමට ඇත්තේ එපමණයි. කියවා තේරුම් කර දුන්නා. නිවැරදි බවට පිළිගෙන (XXXXX) (දිලීප දේශාන් ප්‍රනාන්දුගේ අත්සන) අත්සන් කරා. ඉහත දේශාන් යන අයගේ ප්‍රකාශය පො.සැ. 58537 දයානන්ද වන මා අවංක ලෙසත් නිවැරදි ලෙසත් සත්‍ය ලෙසත් වාර්ථා ගත කළ බවට මෙයින් ප්‍රකාශ කරසිටිමි (XXXXX) (පො.සැ. 58537 දයානන්ද නිලධාරියාගේ අත්සන)

ඉහත පිටපත පො.කො. 88645 හිත් වන මා විසින් නිවැරදිව පිටපත් කළ බවට මෙයින් ප්‍රකාශ කරමි.

This complaint is referable to Section 109(1) of the Code of Criminal Procedure Act No. 15 of 1979 (Code). Further steps that the Police may take on this complaint is conditional upon the satisfaction of the requirements in Section 109(5) Code. There must be reason to suspect the commission of a cognizable offence or to apprehend a breach of the peace.

The complaint made by the Husband does not disclose a cognizable offence. Neither does it establish any breach of peace. Clearly the matter was a marital dispute of a civil nature.

In these circumstances, the decision taken by the 1st Respondent to proceed further is questionable and lends credence to the fear entertained by the Client and Grand Mother that the Police was biased towards the Husband and his family.

Moreover, the Grand Mother had previously made a statement consequent to the complaint made by the Husband to the Negombo Police. The 1st and 2nd Respondents have failed to tender a copy of this statement along with their objections although they tendered the complaint made by the Husband. This failure must be considered as an attempt to withhold evidence which is adverse to the case of the 1st and 2nd Respondents. The Grand Mother has averred in her affidavit that despite the statement she made, the 1st Respondent insisted that she brings the Client to the Police Station.

These circumstances, lends further credence to the allegation made that the 1st Respondent was acting partially towards the Husband.

The 1st Respondent admits that he asked the Petitioner to go out of his room leaving the Client and her husband in his room. This was not a course of action open to the 1st Respondent. I have no hesitation in accepting that the Petitioner informed the 1st Respondent of the interim protection order given in M. C. Negombo Case No. L 55617. This has been corroborated by both the Client and her Grand Mother. The 1st Respondent does not make any allegation that the Client and the Grand Mother entertained any animosity towards him. Upon the 1st Respondent being notified of this order, he should have not proceeded with the inquiry. Instead, the 1st Respondent proceeded to deprive the Petitioner of representing his Client by sending him out of the room and keeping the Husband and the Client together despite the interim protection order. Thereby, the 1st Respondent infringed the fundamental rights of the Petitioner guaranteed by Article 14(1)(g) of the Constitution.

The situation was aggravated by the conduct of the 2nd Respondent who also admits having sent the Petitioner out of his room while keeping the Client and the Husband in his room. I have no hesitation in rejecting his claim that this was consensual. It is inconceivable that the Client did so on her free will having just two days prior obtained an interim protection order from the Magistrates Court preventing the Husband from threatening her, preventing him from the entering her temporary residence and preventing the Husband from using any compulsion by telephone. The Petitioner has categorically stated that he informed the 2nd Respondent of the interim protection order. This is corroborated by both the Client and the Grand Mother. The 2nd Respondent does not make any allegation that the Client and the Grand Mother entertained any animosity towards him. In these circumstances, the 2nd Respondent could not have sent out the Petitioner and kept the Husband and the Client in the room.

Moreover, the Client was clearly apprehensive of the impartiality of the Police and had requested the Petitioner to accompany her to the Police and represent her at the inquiry.

I conclude that the 2nd Respondent kept the Client in her room without the Petitioner against her free will. Thereby, the 2nd Respondent infringed the fundamental rights of the Petitioner guaranteed by Article 14(1)(g) of the Constitution.

I am convinced that the 2nd Respondent did utter the words "එහෙනම් අද මේකිව ගෙනිහිල්ලා රැට කිරි එකක් බීලා දරුවක් හදපන්" and "මේ වගේ කුරුළු කුඹු කැඩීලා යන්නේ දෙමව්පියෝ නිසා, ඒ වගේම නීතිඥයෝ නිසා. මේ නීතිඥයන්ට දිටියධම්ම වේදනීය කර්මය පළ දෙන්නට ඕනෑ". This is corroborated by both the Client and her Grand Mother against whom the 2nd Respondent makes no allegation of animosity towards him.

These statements by the 2nd Respondent shows an abject lack of appreciation of the emotions of a victim of domestic violence. Moreover, it is a totally misguided perception of the role of an Attorney-at-Law. As much as the learned DSG did his best for the 1st and 2nd Respondents in this case, the Petitioner, and all Attorneys-at-Law for that matter, are bound by the professional ethics set out in the Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) Rules 1988 and must *inter alia* exercise his skill with due diligence to the best of his ability and care in the best interests of his client.

Rule 3(2) prohibits any Police Officer using physical force on the person of such Attorney-at-Law or resort to the use of abusive language or any other form of intimidatory conduct. The 2nd Respondent breached this rule by the utterance of the above statement aimed at the Petitioner and Attorneys-at-Law as a whole.

In summary, I declare that the 1st and 2nd Respondents infringed the fundamental rights guaranteed to the Petitioner by Article 14(1)(g) of the Constitution.

I order the 1st Respondent to pay the Petitioner a sum of Rs. 30,000/= as compensation from his personal funds. I further direct the 2nd Respondent to pay the Petitioner a sum of Rs. 60,000/= as compensation from his personal funds. Additionally, both the 1st and 2nd Respondents will pay the Petitioner Rs. 10,000/= each as costs of this application.

Application allowed.

JUDGE OF THE SUPREME COURT

P. Padman Surasena, C.J.

The Petitioner is an Attorney-at-Law. The 1st Respondent is the Officer in Charge of Miscellaneous Complaints Unit of Police Station Negombo. The 2nd Respondent is the Headquarters Inspector (HQI) of Police Station of Negombo. Petitioner has stated that on 07-12-2017 around 9.00 a.m. he accompanied his client, who claimed to be a victim of domestic violence, named H.P.D. Princes Angelina Sanduni along with her grandmother Mary Margret Fernando and one other person to the Negombo Police Station.

According to the Petitioner, the 1st Respondent (the Officer in Charge of the Miscellaneous Complaints Unit) had a discussion with the Petitioner who looked after the interests of his client (H.P.D. Princes Angelina Sanduni) and her (Sanduni's) grandmother in an inquiry conducted by the 1st Respondent into a complaint made against the grandmother by the husband of the client (Sanduni).

Although many things have been stated by the Petitioner in the Petition, the allegation the Petitioner has made against the 1st and 2nd Respondents is limited to the allegation that the 1st and 2nd Respondents have violated the fundamental right of the Petitioner to engage in his lawful profession as guaranteed by Article 14(1)(g) of the Constitution. I observe that it is in respect of the said alleged violation that this Court by its Order dated 04-06-2018 has granted Leave to Proceed.

I observe that neither the client of the Petitioner nor her grandmother are Petitioners in this fundamental rights Petition. However, despite the fact that they have not come before this Court, the Petitioner through his Petition appears to have attempted to vindicate the rights of his client and the client's grandmother in the instant Fundamental Rights Application. In my view, this is not possible.

This Court has been consistent in holding that only a person whose Fundamental Rights have been violated, can file a Petition in terms of Article 126(2) of the Constitution. The only exception to this rule is set out in Article 126(2) in the following terms:

“Where any person alleges that any such fundamental right or language right relating to such person has been infringed or is about to be infringed by executive or administrative action, he may himself or by an Attorney-at-Law on his behalf, within one month thereof, in accordance with such rules of court as may be in force, apply to the Supreme Court by way of petition in writing addressed to such Court praying for relief or redress in respect of such infringement. Such application may be proceeded with only with leave to proceed first had and obtained from the Supreme Court, which leave may be granted or refused, as the case may be, by not less than two judges.”

This Court in the case of Mohamed Ibrahim Mohamed Ishran Ahamed and Others vs. Senior Superintendent of Police and Others,¹ has observed as follows:

“31. In Somawathie v. Weerasinghe [(1990) 2 Sri LR 121], it was the wife of the aggrieved party who petitioned the Supreme Court (quite similar to these three Applications). Under such circumstances, Justice Dr. A.R.B. Amerasinghe, observed that, "Article 126(2) confers a recognized position only upon the person whose fundamental rights are alleged to have been violated and upon an attorney-at-law acting on behalf of such a person. No other person has a right to apply to the Supreme Court for relief or redress in respect of the alleged infringement of fundamental rights". This view aligns with the plain and literal interpretation I have earlier adopted to interpret Article 126(2) of the Constitution and Rule 44(2) of the Supreme Court Rules. Moving further, Justice Dr. Amerasinghe in this Judgment has also considered the aspect of adopting an expansive interpretative approach to

¹ SC FR Application Nos: 46, 47 & 48/2020 decided on 09-02-2026

Article 126(2) beyond its literal sense and has stated that "...in the Article before us, the words are in themselves precise and unambiguous and there is no absurdity, repugnance or inconsistency with the rest of the Constitution, the words themselves do best declare that intention. No more can be necessary than to expound those words in their plain, natural, ordinary, grammatical and literal sense". I find myself in agreement with this view, as a written law (and certainly an Article in the Constitution) should be given an expansive interpretation only in instances where the law stands ambiguous, absurd, repugnant, or inconsistent with the provisions of the Constitution. In my view, the written law contained in Article 126(2) when read in its plain literal sense, provides a clear and coherent rule on permitted standing, to make a Fundamental Rights Application to the Supreme Court. That is the availability of standing only to the aggrieved person himself or an Attorney-at-Law acting on his behalf."

The instant case is not a case the Petitioner has filed acting on behalf of his clients. Nor has the Court granted Leave to Proceed for alleged violation of Fundamental Rights of his clients. Therefore I have to disregard all the allegations the Petitioner has made in his Petition against the Respondent with regard to the alleged violations of Fundamental Rights of the Petitioner's client and the client's grandmother. Therefore it is not necessary for me to evaluate the veracity of those allegations as this Court will not be able to adjudicate on the rights of those two other persons referred to in by the Petitioner in this case. On the other hand, as mentioned above, this Court has granted Leave to Proceed only to the Petitioner in respect of the alleged infringement of his fundamental right guaranteed under Article 14(1)(g) of the Constitution. I.e., the Petitioner's entitlement to engage in his profession.

The Police Rules 2012 published in the Gazette bearing No. 1758/36 dated 18-05-2012 has laid down certain guidelines to be followed by police officers with regard to appearances of Attorneys-at-Law at police stations. **Clause 3(1) and 3(2)** of the aforesaid Rules is as follows:

"3. (1) Every Attorney-at-Law, who enters the precincts of a police station established under the Police Ordinance (Chapter 53) situated in any part of Sri Lanka, in his capacity of an Attorney-at-Law for the purpose of representing and watching the interests of a person who is the client of such Attorney-at-Law, shall be treated cordially and courteously and given a fair and patient hearing by the police officers attached to such Police Station, whatever their rank.

(2) Every police officer attached to a Police Station shall not at any time during which he is dealing with an Attorney-at-Law present in such police station for the purpose of representing and watching the interests of a person who is his client, use physical force on the person of such Attorney-at-Law or resort to the use of abusive language or any other form of intimidatory conduct."

Although the Petitioner has placed reliance on an Order made by a Magistrate under Section 5(1)(a) of the Domestic Violence Act No. 34 of 2005 it is to be noted that the learned Magistrate had made this Order on the husband of the Petitioner's client. The said Order is reproduced below:

"2017.12.05 දින ඉහත නම් සඳහන් පීඩාවට පත් තැනැත්තිය වෙනුවෙන් ඉදිරිපත් කළ කරුණු සලකා බැලීමෙන් පසුව ඉහත නම් සඳහන් වගඋත්තරකරු විසින් මෙම නඩුවට අදාළ පීඩාවට පත් තැනැත්තියට දැනට පදිංචි ස්ථානයේ දී කරනු ලබන සියලු තාඩන පීඩන බලපෑම් සහ තර්ජන වලින් සහ නොමනා හැසිරීම් වලින් වලකින ලෙසට 2005 අංක 34 දරණ ගෘහස්ථ ප්‍රචන්ඩ ක්‍රියා වැළැක්වීම පනතේ 5 (1) (අ) වගන්තිය ප්‍රකාර අතුරු ආරක්ෂණ ආඥාවක් නිකුත් කරමි."

While the Petitioner has not maintained a specific allegation against the 1st Respondent, the only thing the Petitioner has told against the 1st Respondent is the fact that the 1st Respondent was continuously trying to compel his client to return to the home of the husband against her will. The Petitioner states that the 1st Respondent had done this after he informed him about the Order issued by the learned Magistrate of Negombo against his client's husband and that that client was seeking a divorce.

However, in my view, the mere fact that the 1st Respondent did not accede to the request of the Attorney-at-Law cannot be an infringement of the fundamental rights of the Attorney-at-Law guaranteed under Article 14(1)(g) of the Constitution to engage in a lawful practice of his profession.

The only allegation the Petitioner has made against the 2nd Respondent is the fact of 2nd Respondent making the following statement:

“මේ වගේ කුරුළු කුඩු කැඩීලා යන්නේ දෙමව්පියෝ නිසා, ඒ වගේම නීතිඥයෝ නිසා. මේ නීතිඥයන්ට දිට්ඨධම්ම වේදනීය කර්මය පළ දෙන්නට ඕනෑ”

The Petitioner has taken up the position that the 2nd Respondent by making the above statement has prevented him from representing his client at the inquiry in the police station. The fact of mere making of the above statement is the reason as to why the Petitioner states that he could not discharge his professional duties towards his client at the said inquiry.²

In as much as the Petitioner is assertive of his fundamental rights, one needs to understand that the 2nd Respondent would also be free to express his views according to his thinking. Even if I accept that the 2nd Respondent has made that statement (the 2nd Respondent has denied in his Affidavit) having regard to the nature of the above statement, I am unable to conclude that the Petitioner's fundamental rights to engage in

² Paragraphs 44 and 45 of the Petition dated 05-01-2017.

his profession inside the police station under Article 14(1)(g) of the Constitution has been violated by the 2nd Respondent by the mere making of such statement.

It is to be noted that the Petitioner does not make any other allegation against the 2nd Respondent. Indeed, according to the Petitioner himself, the 2nd Respondent had permitted his presence. The fact of a police officer requiring to interrogate a person in the absence of an Attorney-at-Law in my view cannot be taken as an infringement of the fundamental right of such Attorney-at-Law to engage in his lawful practice.

I must state here that when serious crimes are committed, investigating police officers are required to interrogate the persons who are suspected or having committed or are involved in such serious crimes. Such police officers are also required to expeditiously conduct inquiries and investigations and conclude such investigations within the shortest possible time. They are called upon to collect evidence and apprehend the offenders. Investigations such as those cannot be conducted unless such police officer is given a free hand to interrogate such persons.

The Rules published in the Gazette No. 1758/36 dated 18-05-2012 does not give an Attorney-at-Law, an entitlement to be present right through when the investigators interrogate persons. In my view, one should always weigh the consequences of such serious crimes, their investigations, against the rights of persons under arrest, and strike a smooth balance between them.

For the above reasons, I am unable to accept the position of the Petitioner that the Respondents have infringed his Fundamental Rights to engage in his profession in this instance. I dismiss the Petition without cost.

CHIEF JUSTICE

Kumudini Wickremasinghe, J.

I have had the benefit of reading the draft judgment of Hon. Justice Janak De Silva and the opinion expressed by His Lordship, the Chief Justice.

I am in agreement with the opinion expressed by Justice De Silva.

JUDGE OF THE SUPREME COURT