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

In the matter of a Rule in terms of Section 42(2) of the Judicature Act No. 2 of 1978 against read with the Supreme Court (Conduct of and Etiquette for Attorneys-at-law) Rules 1988, against Jayathunga Patabendige Susil Priyantha Jayatunga, Attorney-at-Law.

S.C. Rule No.05/2024

The Registrar,
Supreme Court of Sri Lanka,
Supreme Court Complex,
Colombo 12.

Complainant

Vs.

Jayathunga Patabendige Susil Priyantha Jayatunga,
Attorney-at-Law,
No.294A, Kotupathgoda Road,
Kumbuke West,
Gonapola.

Respondent

BEFORE : **A.L. SHIRAN GOONERATNE, J.**
ACHALA WENGAPPULI, J.
K. PRIYANTHA FERNANDO, J.

COUNSEL : J.P.S.P. Jayathunga, Respondent, appears in person,

Chathura Galhena with Devmini Bulegoda for the Bar Association of Sri Lanka.

Nirmalan Wigneshwaran DSG, with Sureka Ahmed, SSC instructed by Rizni Firdouse, SSA for the Hon. Attorney General.

INQUIRED ON : 02nd October, 2025

DECIDED ON : 05th February, 2026

ACHALA WENGAPPULI, J.

On 01.07.2024, a Rule was served on *Jayatunga Patabendige Susil Priyantha Jayatunga,* Attorney-at-Law, (hereinafter referred to as the Respondent) and was read out by the Registrar of this Court with a Sinhala translation. The Respondent pleaded not guilty to the Rule. The inquiry into the Rule against the Respondent commenced and concluded on 02.10.2025. This Court decided to conduct contemporaneous hearing into SC Contempt of Court No. 1/24 and Rule No. 5/24, since the acts attributed to the Respondent in both these instances are almost identical.

During the inquiry into the Rule No. 5/24, the Registrar of the Supreme Court and the Respondent presented their respective evidence under oath. The Respondent was afforded an opportunity to tender his closing submissions, in written form, after perusing the proceedings conducted on that day, but were issued to him at a subsequent point by the Registry. This opportunity was provided to the Respondent, with a view to provide him with sufficient time to effectively address this Court of the defence put up by him as he was produced from remand custody. The opportunity afforded by this Court to the Respondent

was fully utilised by him in submitting several sets of written submissions from time to time to the Registry of this Court.

The circumstances that led to the issuance of the said Rule on the Respondent are set out below *albeit* briefly.

The Respondent filed a petition No. SC/SPL/LA/112/2023 on 20.04.2023 before this Court, by which he sought to impugn the judgment of the Court of Appeal dated 09.03.2023, pronounced in Case No. COC/02/2023.

The petition SC/SPL/LA/112/2023 was to be supported on 30.01.2024 before a division of this Court for the consideration of granting Special Leave to Appeal against the impugned judgment. The Respondent, being the Petitioner in that application, appeared in person. During the process of supporting the said petition, the Respondent sought further time to respond to certain clarifications sought by this Court. The matter was accordingly re-scheduled to be resumed on 20.03.2024 before the same division of this Court.

The Respondent filed an additional petition dated 12.03.2024 in SC/SPL/LA/112/2023, without obtaining leave of this Court, prior to filing of same.

In that petition the Respondent alleged that;

a. the division of this Court, before which the petition of SC/SPL/LA/112/2023 was supported, acted with strong *malice* towards the Respondent,

b. the three Justices who constituted that division of this Court have suppressed the truth and,

c. therefore, are guilty of an offence under Section 289 of the Penal Code.

The Respondent, further alleged that the said three Justices have;

a. misled and deceived Court,

b. acted in Contempt of Court,

c. been partial towards the 1st Respondent,

d. acted in breach of the Rules of Court and

e. accorded special treatment to the 1st Respondent, who is a serving judicial officer.

Relevant particulars of the Rule in Rule No. 5/24, that was served on the Respondent, based on his said conduct, are as follows;

(a) By reason of the aforesaid conduct, you have acted in a manner which is contrary to Rule 50 of the Supreme Court (Conduct of and Etiquette of Attorneys-at-Law) Rules 1988 made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka,

(b) By reason of the aforesaid conduct, you have acted in a manner which is contrary to Rule 51 of the Supreme Court (Conduct of and Etiquette of Attorneys-at-Law) Rules 1988 made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka,

(c) By reason of the aforesaid conduct, you have acted in a manner which is insulting and degrading towards the Honourable Judges of the Supreme Court, Court of Appeal and the 1st Respondent in SC/SPL/LA/112/2023, and therefore acted in a manner which is contrary to Rule 53(i) of

the Supreme Court (Conduct of and Etiquette of Attorneys-at-Law) Rules 1988 made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka,

(d) By reason of the aforesaid conduct, you have acted in a manner which is contrary to Rules 54 and 58 of the Supreme Court (Conduct of and Etiquette of Attorneys-at-Law) Rules 1988 made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka,

(e) By reason of the aforesaid conduct, you have acted in a manner which is contrary to Rule 56 of the Supreme Court (Conduct of and Etiquette of Attorneys-at-Law) Rules 1988 made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka,

(f) By reason of the aforesaid conduct, you have acted in a manner which would reasonably be regarded as disgraceful or dishonourable of Attorneys-at-Law of good repute and competency and you have conducted yourself in a manner which is inexcusable and such as to be regarded as deplorable by your fellows in the profession and have thus committed a breach of Rule 60 of the Supreme Court (Conduct of and Etiquette of Attorneys-at-Law) Rules 1988 made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka, and,

(g) By reason of the aforesaid acts and conduct, you have conducted yourself in a manner unworthy of an Attorney-at-Law and have thus committed a breach of Rule No.61 of the said Rules, and,

(h) By reason of the aforesaid acts and conduct, you have committed, deceit and/or malpractice within the ambit of Section 42(2) of the Judicature Act No.2 of 1978 which renders you unfit to remain as an Attorney-at-Law.

During the inquiry into Rule No. 5/24, the Respondent admitted the several acts attributed to him in the said Rule and offered an explanation to his conduct referred to therein. According to him, whilst acting in the manner described in the Rule, he neither had any understanding that he was acting contrary to law nor to morals, (" ඒ කරන ලද ක්‍රියාව සම්බන්ධයෙන් නීතියට පටහැනි බව හෝ සදාචාරයට පටහැනි බවට මට අවබෝධයක් තිබුනෙ නැහැ") Thus, he attributed his acts to a mental condition that said to have prevailed in his mind during that particular point in time, which he preferred to describe as " ඒ වෙලාවෙ හිටපු මානසිකත්වය".

This he made by placing heavy reliance on an assessment made by the Consultant Forensic Psychiatrist attached to National Institute of Mental Health, Dr. *C.T.K. Fernando,* on his mental condition. Dr. *C.T.K. Fernando,* indicated his findings of an assessment conducted on the Respondent in his report. The Respondent tendered that report to Court as V1.

In his evidence the Respondent has described the status of his mind that was prevalent during the relevant time to the Rule, as one which is "කලහකාරී, පීඩාකාරී, සටන්කාමී මානසිකත්වයක්". These descriptions could be translated into English to read as a mentality, which is "*pugnacious, oppressive and aggressive*".

In support of his defence of insanity, the Respondent also relied two other medical reports that were obtained from two other Consultant Psychiatrists. One of the two Consultant Psychiatrist is attached to *Polonnaruwa* General Hospital

while the other, apparently engaged in private practice in *Colombo*. These reports were tendered to Court marked V2 and V3 respectively.

Thus, it is clear that the Respondent relied on the specific defence of insanity and thereby invoked the applicability of the statutory provisions contained in Section 77 of the Penal Code.

Section 77 of the Penal Code is a statutory provision drafted and inserted into the Penal Code, in the spirit of *Mac Naughten Rules,* but "*with some material modifications*" (vide ***Principles of Criminal Liability in Ceylon****, Professor G.L. Peiris,* at p.133). Section 77 states thus; "*[N]othing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.*"

The position taken up by the Respondent is that he neither had any understanding that he acted contrary to law nor he acted contrary to the morals during the period of time relevant to the Rule due to his unsoundness of mind. However, it must be noted here that he does not rely on the first scenario described in Section 77 as he did not state that he was incapable of knowing the nature of his acts by reason of unsoundness of mind. Instead, he clearly placed reliance on the second scenario described in that Section which states "… *by reason of unsoundness of mind, is incapable of knowing … that he is doing what is either wrong or contrary to law*". Thus, if the Respondent is to be exonerated from imposition of any liability attached to his acts that are referred to in the Rule, he must establish before this Court that he was incapable of knowing what he was doing is either wrong or contrary to law, by reason of his unsoundness of mind. He must establish that on a balance of probability, *vide* judgments of the Court of

Appeal in ***Perera v Republic of Sri Lanka*** (1978-79) 2 Sri L.R. 84 ***Nandasena v Attorney General*** (2007) 1 Sri L.R. 237 and the Court of Criminal Appeal in ***Barnes Nimalaratne v Republic of Sri Lanka*** (1975) 78 NLR 51.

In this regard, the medical reports that were tendered before this Court provide the most relevant and reliable evidence.

The medical report V1 indicates that the Respondent was assessed by *Dr. C.T.K Fernando* on 02.04.2024, in the presence of Dr. *W.W.L.I. Fernando*, and at the Forensic Psychiatry Clinic of the Prison Hospital. During the assessment, it was revealed that the Respondent had no past history of presentation before any psychiatric service. He also had no family history of any mental illnesses.

Dr. *C.T.K Fernando* states in that report that his assessment of the Respondent revealed that he has *"persecutory delusions against his wife mainly, but he also developed persecutory delusions others are plotting against him."* In addition, the Respondent was noted to have "*grandiose delusion that he has superior knowledge about law than any other individual*". Dr. *C.T.K Fernando* accordingly concluded the assessment with a clinical interpretation that the Respondent has a mental disorder identified as "*bipolar affective disorder currently mania with psychosis*".

The Respondent, in his written submissions, invited attention of this Court to the *dicta* of a judgment of the Court of Appeal pronounced in ***Nandasena v Attorney General*** (supra), where *Ranjith Silva* J has held, in relation to the nature of the burden cast on an accused, who relied on the defence of insanity, that (at p. 239) " *[I]t is the burden of the accused to prove that he was incapable of (1) knowing the nature of the act (2) that he is doing what is either wrong or contrary to law".* But the factors by which an accused might sought to discharge his burden must be

clearly established and not merely set out in "*vague or desultory fashion*" and the conclusions must not be based on inadequate material and must not be on hearsay either, (*vide* judgment of ***Barnes Nimalaratne v Republic of Sri Lanka*** (supra) at p. 55).

In order to consider the impact of "*bipolar affective disorder currently mania with psychosis*" on the cognitive ability of the mind of the Respondent, it is necessary to examine the medical report V1, in a more detailed manner. This is because, it is for this Court to satisfy itself that the Respondent is entitled to the relief afforded to a person of unsound mind in terms of Section 77 of the Penal Code.

The Consultant Forensic Psychiatrist, who issued the said report on 02.04.2024, states under the heading "*Mental State Assessment*" that the features that are referred to in his report are "*suggestive of manic episodes*". In relation to the responsibility of his actions, the Consultant is of the view that the Respondent would have been of "*unsound mind at the time of the alleged offence*". Understandably, this is a finding on which the Respondent has now placed very heavy reliance. However, it must be observed that in that report there is no mention of an exact date of any admitted acts that are referred to in the Rule, which indicated the position that it was probable that the Respondent was under that mental condition during that specific time period.

The Rule was served on the Respondent only at a subsequent point of time. Even if one were to act on V1, by giving the fullest weightage to its findings, the mental illness of "*bipolar affective disorder currently mania with psychosis*" that appears to have affected the Respondent at some point in time, would occur only intermittently. The Consultant Forensic Psychiatrist described

such instances as "*manic episodes*". Thus, it is clear that there are intervals of clear comprehension in between these "*manic episodes*" that might last for an unspecified period of time. During the intervals that exists in between such manic episodes, the Respondent could act as a reasonably prudent member of the society. However, this is not the only evidence before Court on this point.

The Respondent also relied on two other medical reports issued by two other Consultant Psychiatrists, whom he consulted on his own volition.

The document marked V2, was issued on 30.04.2024 by Dr. *P.A.I. Wijayanayaka*, Acting Consultant Psychiatrist of Teaching Hospital *Polonnaruwa,* a few days after he was assessed by Dr. *C.T.K. Fernando*. This six-page document, consists of illegible handwritten notes made by the Consultant. However, it is clear that it does not make any reference to a specific diagnosis or the Consultant made a diagnosis of a particular mental illness consequent to the assessment conducted on the Respondent. Nor did the Respondent invite attention of this Court to any such specific reference made to that effect in that report. However, the evidence of the Respondent indicated that, during that consultation, he was verbally informed of by the said Consultant that he need not be treated for any psychiatric illness.

The said alleged clearance of the Respondent of any mental impairment by Dr. *P.A.I. Wijayanayaka*, prompted him to lodge a complaint to the Medical Council against Dr. *C.T.K Fernando,* who issued V1. The Respondent, by a letter dated 06.06.2024 and addressed to that Council, complained that although he was cleared of any mental impairment by Dr. *P.A.I. Wijayanayaka,* when he consulted the latter on 30.04.2024, who issued a finding, quite different to the one made by Dr. *C.T.K Fernando,* indicating that he has "*bipolar affective disorder*

currently mania with psychosis". The Respondent, further alleged that the said report was prepared by the Consultant Forensic Psychiatrist based on false information attributed to him, which he did not provide during the assessment session. Not only the Respondent challenged the validity of the medical report V1, he has instituted a civil action against the said Consultant and the other Psychiatrist, in the District Court Case No. DMR/620/24 on 12.06.2024, claiming damages from them, in a sum of Rs. 100,000,000.00.

In that action, the Respondent referred to his causes of action accrued to him against Drs. *W.W.L.I Fernando* and *C.T.K Fernando* on the basis, which he describes as follows;

> " කීර්තිමත් නීතිඥවරයෙකු වූ පැමිණිලිකරුට මානසික රෝගයක් ඇති බවට චේතනාන්විතව අපහාස කිරීම, කීර්තියට හානි කිරීම, මානසික රෝගියෙකු ලෙසට සාවද්‍ය මතයක් ජනගත කිරීමට ඉඩ සැලස්වීම, පැමිණිලිකරු විසින් පවරා පවත්වාගෙන යන නඩු ඉදිරියට පවත්වාගෙන යාමට අන්‍යාකාරයකින් බාධා පැමිණවීමට ක්‍රියා කිරීම, පැමිණිලිකරුගේ නීතිඥ වෘත්තිය සදාකාලික ව අහිමි කිරීමට උත්සාහ කිරීම, කායිකව සහ මානසිකව නිරෝගී පුද්ගලයකු වූ පැමිණිලිකරු මානසික රෝගියෙකු ලෙස හුවා දැක්වීම යනාදී වැරදි සිදු කිරීම මගින් "

Despite the fact that the Respondent placing heavy reliance on the findings contained in V1 to impress upon this Court that he is a person of unsound mind, he continues to maintain the said action filed against the Consultant Forensic Psychiatrist, by affirming to the said cause of action in his Plaint, and thereby asserting that V1 was issued by the said Consultant to make him, an "*eminent lawyer"* (කීර්තිමත් නීතිඥවරයෙකු වූ පැමිණිලිකරුට) with sound mental health condition, being branded as a person with a serious mental illness. The Respondent did not explain this obviously irreconcilable inconsistency in his evidence presented before this Court, in support of his defence of insanity.

Remaining document to be considered by this Court is the one that was marked V3 and with a title "*Medical Report*".

This is a report issued by Dr. *Jayan Mendis*, a Consultant Psychiatrist, when he was consulted by the Respondent at *Nawaloka* Hospital on 07.06.2024. In the assessment of Dr. *Mendis,* the Respondent only "*appears to be slightly disinhibited*" and found to be a "*mildly overtalkative*" person. However, Dr. *Mendis* was firm in his opinion that "… *no clear manic disturbance or depressive symptoms noted"* on the Respondent. The said assessment of Dr. *Mendis* significantly reduces the probabilities of any manic episode occurring in the mind of the Respondent on 20.03.2024. Dr. *Jayan Mendis*'s assessment of the Respondent clearly indicated that the latter had no significant mental impairment. That finding would therefore excludes the prospect of the Respondent, though appears to be of a "*slightly disinhibited*" nature and a "*mildly overtalkative*" person, having any impairment on the cognitive ability of his mind, that made him incapable of knowing that he is doing what is wrong or contrary to law, due to unsoundness of mind.

The all-important question of fact that must be determined in this instance is whether the Respondent has proved on a balance of probabilities that he was incapable of knowing that what he is doing is either wrong or contrary to law, when he did the acts indicated in the Rule on 20.03.2024, due to his specific claim of having "*bipolar affective disorder currently mania with psychosis"*.

The inconsistencies in these medical reports, indicating different states of his mind, have the effect of significantly reducing the weightage that could be attached to the mental impairment referred to in V1. In view of the contents of the other reports, particularly V3, there is no noticeable mental impairment. The

Respondent, who now wishes to rely solely on V1 in support of his defence, a medical report which he found in the past to be injurious to his good reputation as a legal professional with sound mental health, a report that prompted him to claim damages from its author by institution of civil action, has now become the only item of evidence, in support of his claim of insanity.

This he said before this Court under oath. Similarly, the Respondent affirmed in an affidavit, annexed to the Plaint, in the said action filed against Drs. *W.W.L.I Fernando* and *C.T.K Fernando* that he is perfectly a sane person, who was wrongly diagnosed by the two defendants as a person with a mental condition of "*bipolar affective disorder currently mania with psychosis*". Thus, the Respondent has taken two diametrically opposite positions in these two situations, where he vouched under oath of what he affirms therein is the truth.

Which of these two irreconcilable positions could be accepted by this Court as the truthful statement of the Respondent?

This Court has no expertise to determine medically whether the Respondent is of unsound mind, in terms of Section 77 of the Penal Code, when the admitted acts of Contempt of Court were committed by him. It is for this purpose the Court called for the expert opinion from the Consultant Forensic Psychiatrist. Whilst placing strong reliance on V1, the Respondent similarly relies on V2 and V3, which completely nullifies any indication of him having "*bipolar affective disorder currently mania with psychosis*". This Court is therefore not in a position to make a positive pronouncement either way on this question whether the Respondent actually suffers from an unsoundness of mind or that he is a normal person, who now pretends to be of a person of unsound mind for tactical reasons. The contradictory positions taken up by the Respondent on this vital

issue made it impossible for this Court to determine the relative probabilities of him having a manic episode during the acts done on 20.03.2024 in favour of the Respondent.

In order to get over the two irreconcilable positions that has arisen with regard to his defence, the Respondent sought to explain in his evidence before this Court that he now realises that it was wrong for him to have challenged the validity of V1. The Respondent, in spite of accepting the contents of V1 as one that reflects his state of mind on the date specified in the Rule, nonetheless wants to proceed with the action he already instituted against the Drs. *W.W.L.I Fernando* and *C.T.K Fernando,* indicating that he has no intention of withdrawing that action. Thus, the aforementioned conduct poses a serious credibility issue on the truthfulness of evidence that was presented before this Court by the Respondent, in support of the defence of insanity.

It is already noted that the assessment made by Dr. *C.T.K Fernando* in V1 is clearly at variance with the one made by Dr. *Jayan Mendis* in V3. This difference of opinions expressed by the medial experts, who are eminently qualified in the field of Psychiatry, could have been due to limited accessibility to relevant information. In fact, Dr. *C.T.K Fernando* noted that there was "*unavailability of collateral information from a family member*" during the session conducted by him. All three reports indicate that the assessment of the Respondent was made totally on the information gathered during each of these three consultations. Thus, the opinion of the experts would totally be dependent on the manner the Respondent has presented himself before each of them, and conducted himself during the respective assessment sessions, thus resulting in varying conclusions.

In order to arrive at a finding on the question of fact that whether the Respondent was incapable of knowing what he was doing is either wrong or contrary to law, by reason of his unsoundness of mind, it is important to refer to the circumstances leading up to the point of the issuance of the Rule, along with the other circumstances that tends to indicate his mental state, subsequent to those indicated in the said Rule, even though he admitted those acts.

The Respondent filed application No. CA Writ 635/2021 naming several Respondents (including a Judge of the original Court, cited as the 1st Respondent in that petition), and made several allegations against two sitting Justices of that Court. Thereafter, he filed another application (COC/02/2023) against the said 1st Respondent, alleging Contempt of Court of Appeal, when the latter failed to appear before that Court, at the time the application No. CA Writ 635/2021 was mentioned before that Court. The Court of Appeal, by its order dated 09.03.2023, refused to issue notice on the 1st Respondent judicial officer, in case No. COC/02/2023.

The Respondent thereupon sought Special Leave to Appeal from this Court in SC SPL LA 112/2023, impugning the said order made by the Court of Appeal in COC/02/2023. The Respondent, after filing the petition in case No. SC SPL LA 112/2023, appeared before this Court in person on 30.01.2024 in order to support the said application. When this Court sought a clarification from him, whether there was any direction made by the Court of Appeal directing the 1st Respondent in CA Writ 635/2021 to appear before that Court personally, the Respondent moved for time and to have the matter re-fixed and thereby allowing him to make further submissions on the next date i.e., 20.03.2024.

It is at that stage only the Respondent has filed the subsequent petition along with an affidavit on 12.03.2024, making serious allegations against the panel of three Justices before whom his application No. SC SPL LA 112/2023 was partially supported.

On 20.03.2024, when case No. SC SPL LA 112/2023 was resumed before the same panel of Justices, the Respondent made serious allegations against the panel of Justices hearing his application in open Court. Learned SDSG, who appeared for the Hon. Attorney General, having witnessed the acts of the Respondent, moved this Court to issue show cause on the Respondent, why this Court should not punish him for contempt of the Supreme Court.

The said chronology of events indicates that the circumstances under which the offending conduct was carried out and the manner in which he conducted himself in the well of the Court, in addition to the allegations made in his petition addressed to this Court. The reason for his offending conduct on 20.03.2024, is attempted to persuade the three Judges not to resume the hearing of his application in SC SPL LA 112/2023, and force them to recuse from continuing with the hearing.

The intention of the Respondent, behind his conduct, is clearly reflected from the narrative he provided to Dr. *C.T.K Fernando,* during his assessment on 02.04.2024, after a mere 13 days since 20.03.2024.

The Respondent has disclosed to the Consultant Forensic Psychiatrist that (vide para 29 of V1);

> "නඩුව ගත්තා සුප්රීම් කෝට් එකේ. ත්රී බෙන්ච් පැනල් එකක් තමයි හිටියේ. මම ඒ තුන් දෙනාට විරුද්ධව අපරාධ නඩුවක් දැම්මා කලින් කොළඹ මහේස්ත්රාත් උසාවිය (අංක **01**). ඊට

පස්සේ මගේ නඩුව අහද්දි මම කිව්වා " ඔබ තුමන්ලාට විරුද්ධව මම නඩු දාල තියෙන්නේ ඒක නිසා මගෙ නඩුව කතා කරන්ඩ බැහැ මෙ උසාවියේ කියලා"

This particular admission made to the Consultant Forensic Psychiatrist by the Respondent made it implicitly clear that he was determined to compel the three Justices to desist from resuming the hearing of the application No. SC SPL LA 112/2023 on 20.03.2024, at whatever the cost. He has even taken the extreme step of instituting a private Plaint in the Magistrate's Court of *Colombo* against the three Justices, and thereby expected to force them to recuse from taking part in any further proceedings, which their Lordships would have done in any other ordinary situation, in terms of applicable Judicial Ethics.

The said conduct of the Respondent therefore appears to be of a person, who acted with a clear and a rational mind, especially in developing a strategy to achieve his desired objective by creating a situation that would force the three Justices to recuse themselves from further proceedings of the case and, executing each of the stages of that strategy with meticulous care. If that in fact is the case, then the Respondent has effectively designed a strategy in order to force the three Justices not to proceed with the resumption of proceedings with the unfounded and unsubstantiated allegation of bias.

Moreover, immediately after enlarging the Respondent on bail, he has secured an interview with a private television presenter. During this interview, he was afforded with yet another opportunity of repeating what he alleged in his subsequent petition and to reach out to a larger population of television viewers *via* audio-visual media. This action, in turn, has resulted in re-remanding the Respondent.

In view of this reasoning, it appears to this Court that it is more probable than not, that the Respondent at all times material to the Rule No. 5/24, have acted with a rational mind, which is not clouded by any mental condition that qualified to diminish that ability. Clearly, there was no family history of mental illnesses and prior to the incidents which resulted in presenting the charges, the Respondent had no episodes of any mental incapacity at all.

Even if there was some temporary derangement, as assessed by Dr. *C.T.K Fernando,* the evidence clearly supports a reasonable proposition that he may have experienced such episodes with long time intervals in between them. But, when he acted contemptuously towards this Court on 20.03.2024, and in the absence of any material to satisfy to the contrary, it is more probable that he was acting rationally and was not under any mental derangement, as confirmed by Drs. *P.A.I. Wijayanayaka* and *Jayan Mendis,* Consultant Psychiatrists, who have had the benefit and the opportunity of making personal assessments of the Respondent, who provided them with an unrestricted flow of information.

In this regard, it must be noted that all three Consultants have assessed the mental condition of the Respondent solely by interviewing him and without having the benefit of any clinical reports obtained through investigative testing procedures to assist them.

Furthermore, we derive support for aforementioned view from the reasoning of the judgment of *Dias* J in ***The King v Jayawardene*** (1947) 48 NLR 497. This was a situation where the accused, in support of his plea of insanity, has relied on the evidence that his father, brother and sister had been insane; he himself in his childhood had suffered from epileptic fits, that when the detection of his fraud and his arrest became imminent his mental condition deteriorated to

the extent that he attempted to commit suicide and was subsequently adjudicated to be of a person of unsound mind. But the evidence before Court also proved that during the thirty years the accused had been a public servant, he had displayed no signs of any mental aberration.

His Lordship, having considered the circumstances in support of the defence of insanity by the accused, has held (at p. 503) that;

> "*[T]he modus operandi of the accused, as detailed by the learned Judge at pages 51 and 52 of his judgment, clearly shows that the accused needed considerable skill and mental acumen in order to falsify the books and vouchers received by him during this period in order to deceive, not only his station staff, but also the head office at Colombo. A person who was of unsound mind and did not know the nature of his acts could not have perpetrated this somewhat intricate fraud in the manner in which the accused carried*

Since Rule No. 5/24 was served on the Respondent of his conduct as an Attorney-at-Law and thereby acted in violation of the Rules of the Supreme Court (Conduct of and Etiquette of Attorneys-at-Law) 1988, made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka, it is opportune at this stage to examine whether his offending conduct warrants any determination by this Court in respect of exercising its power conferred under Section 42(2) of the Judicature Act No. 2 of 1978, which states " *[E]very person admitted and enrolled as an Attorney-at-Law who shall be guilty of deceit, malpractice crime or offence may be suspended from practice or removed from office by any three Judges of the Supreme Court sitting together.*"

In the matter of a Rule against an Attorney-at-Law (2008) 1 Sri L.R. 275, it has been held by *S.N. Silva* CJ (at p. 282) that "*… an objection to the participation of a Judge should be only on firm foundation. Any frivolous objection that is taken would only impede the due administration of justice, which may even amount to contempt of Court.*" In this instance, the Respondent has not only objected the Justices for participating in the proceedings on a concocted set of allegations but instituted a private prosecution, alleging criminal conduct attributed to their Lordships, with the sole purpose of securing that the matter would not be taken up for further support.

We are in agreement with the submissions of the learned Deputy Solicitor General, who assisted Court, made to the effect that "*[T]he question of the Respondent continuing to serve as an Attorney-at-Law is simply untenable – not only because of his actions where he abused his privileged position as an Attorney-at-Law- but also because of the danger to any clients that may retain him. His actions would seriously prejudice his client's interests.*"

Dr *A.R.B. Amerasinghe* in his book titled *Professional Ethics and Responsibility of Lawyers,* under the heading "*[T]he Duty of Diligence*" states (Chapter XIII, at p.290); "*[I]t is to be assumed that an attorney is mentally and physically fit to undertake the work. Where his mental or physical condition materially impairs his ability to act for his client in a persevering, industrious, assiduous, attentive and careful manner, whether the disability is natural or self-induced, for example from the use of intoxicants or drugs, an attorney should not undertake a matter*".

In this instance, the Respondent represented himself and did not represent a client, who obtained his professional services and as such the duty of diligence might not carry the weight it ought to carry if it was a private client. But the persistent conduct of the Respondent to have the bench re-arranged to fit into his

own liking, a clear act of attempted bench fixing, and adopting devious methods in order to achieve that manifestly illegal objective, not only deserves the strongest form of condemnation, but demands adequate punitive measures, not only to indicate the strong desire of this Court not to leave room for any such interference with its affairs and that it does not tolerate such conduct on the part of the Respondent lightly, but also of any other person, who might entertain similar intentions.

Dr *A.R.B. Amerasinghe,* in this regard, states (*ibid,* at p. 10); *[T]here is a general, overall, obligation imposed by a prohibition against conducting oneself "in any manner" which would be regarded as 'disgraceful', dishonourable', 'deplorable' or 'inexcusable' or 'unworthy'."* Learned author further added that (*ibid*) that the phrase "*in any manner"* connotes not only professional misconduct to things done in the pursuit of the profession, but "… *to conduct occurring in circumstances unconnected with the practice of law."*

With this wider interpretation in mind, and having considered the conduct now admitted by the Respondent with an explanation he was unable to satisfy this Court with, we are of the considered opinion that the acts referred to in the Rule are clearly qualifies to be termed as *'disgraceful', 'dishonourable', 'deplorable' or 'inexcusable'* conduct on the part of the Respondent and thereby rendering him unworthy to be invested with permission of this Court to practice law. The Respondent was already suspended from practicing law by this Court at the initial stage of these proceedings.

This Court therefore decides to disenroll *Jayatunga Patabendige Susil Priyantha Jayatunga* as an Attorney-at-Law of this Court with effect from today, *i.e.,* 05.02.2026.

Accordingly, we issue an order on the Registrar of this Court, directing her that the name of the Respondent, *Jayatunga Patabendige Susil Priyantha Jayatunga,* be struck off from the Register, that contain names of Attorneys-at-Law, who are permitted to practice law within Sri Lanka.

JUDGE OF THE SUPREME COURT

A.L. SHIRAN GOONERATNE, J.

I agree.

JUDGE OF THE SUPREME COURT

K. PRIYANTHA FERNANDO, J.

I agree.

JUDGE OF THE SUPREME COURT