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

*In the matter of an Application under and in
terms of the Constitution of the Democratic
Socialist Republic of Sri Lanka and
especially Article 105(3) thereof*

Dr. Sunil F. A. Coorey,
Attorney-at-Law,
No.51, Kalaeliya Road,
Jaala.

Petitioner

**SC (Contempt) Application
No.2/2012**

- VS -

Rajpal Abeynayake,
Attorney-at-Law,
The Editor "Daily News",
The Associated Newspapers of Ceylon
Limited,
"Lake House", Colombo 01.

Respondent

On this 20th day of December 2012

**TO: THE HONOURABLE CHIEF JUSTICE AND OTHER HONOURABLE
JUDGES OF THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

The ***Amended Petition*** of the Petitioner above named appearing by his Attorney-at-Law, Lilanthi De Silva states as follows;

1. The Petitioner states that:

- (a)** The Petitioner is a citizen of Sri Lanka and an Attorney-at-Law by profession, with over 40 years in legal practice;

(b) The Petitioner has authored a number of books, papers and articles on the subject of Administrative Law. He has also been awarded the Doctorate of Philosophy by the University of Colombo in the year 2006 for the 2nd Edition of the book 'Principles of Administrative Law in Sri Lanka';

(c) The Petitioner makes this Application towards ensuring the protection of the reputation and independence of the Judiciary, given that the impugned articles attempt to interfere with the course of Justice and the due administration of Justice, inasmuch as the reputation of the Judiciary is ridiculed in the public eye.

The reputation and independence of the Judiciary are essential elements in ensuring the Rule of Law, which the Petitioner seeks to protect through this Application.

2. The Petitioner has always valued and cherished the freedom of speech and expression, and believes that legitimate criticism of judgments is part of a functional democracy. However, the Petitioner is also aware that all citizens of the Democratic Socialist Republic must regard the Supreme Court in a sacred and dignified manner and that no person should unduly attempt to tarnish the high esteem in which the Supreme Court is held by all citizens.
3. The Petitioner is concerned with the continued contemptuous articles that are being published in the "**Daily News**", a newspaper claiming to be '**Sri Lanka's National News Paper**' with the calculated motive and intention of attacking the incumbent Chief Justice and bringing the office of the Chief Justice of the Supreme Court of Sri Lanka and the entire system of justice into disrepute, scandalizing the (Supreme) Court, and diminishing the public confidence and the high regard and the esteem in which the office of the Chief Justice and the Supreme Court is held by the members of the Public in Sri Lanka.
4. The articles / publications morefully referred to hereinafter also demonstrate and reflect the malicious intention of the Respondent.

5. In the given circumstances, the Petitioner makes this Application, seeking the intervention of Your Lordships' Court to deal with the Respondent in the manner provided for in **Article 105(3)** of the Constitution of the Republic of Sri Lanka, for the contemptuous publications more fully described hereinafter.

6. The Respondent is an Attorney-at-Law and is presently employed as the Editor In Chief of the 'Daily News' newspaper which is published by the Associate Newspapers of Ceylon Limited (commonly known as 'Lake House'). The shares of this company are held by the Public Trustee after being acquired by the government from private ownership.

7. The Petitioner states that the Respondent has perpetrated and been concerned in the offence of Contempt of Court punishable under and by virtue of **Article 105(3)** of the Constitution.

8. Furthermore, the Respondent is responsible for all articles written by him and others published in the said newspaper (by virtue of his office as the Editor in Chief of the said newspaper).

9. The Petitioner states that it is inimical to the justice system of the country to permit persons who do not have due respect for the sanctity of the institution of the judiciary to remain officers of Court, in as much as such persons are unfit to have reposed in them, the right to discharge the duties and functions of an Attorney-at-Law of the Supreme Court of Sri Lanka.

10. The Petitioner further states that the said Respondent, being enrolled as an Attorney-at-Law of the Supreme Court of Sri Lanka, by publishing the impugned articles, has grossly misconducted himself in a manner not befitting an Attorney-at-Law, and accordingly the Petitioner brings to the attention of Your Lordships' Court, that this is a fit and proper instance for the institution of appropriate disciplinary action against the Respondent and to determine thereby, whether the Respondent should be struck off the Roll of the Attorneys-at-Law of the Supreme Court of Sri Lanka.

11. The Petitioner states that in the Daily News newspaper dated 3rd December 2012, the Respondent has alleged that the incumbent Chief Justice had committed a Coup with the heading in the Daily News - **“CJ CONVENES DISTRICT JUDGES IN ‘HULFTSDORP COUP’”**.

The said Article in the Daily News of 3rd December 2012 is annexed marked as **P1** and pleaded part and parcel hereof.

12. Furthermore, by the said article it is further alleged as follows:

*“Our reliable sources say **the intention of the Chief Justice - at the behest of a coterie of international and local conspirators – is to undermine the supremacy of parliament** and also its clear decision to ignore notices by Court, by getting Magistrates and District Judges to sign statements to the effect that she should not resign from her current post”*

13. At page 13 (continued page of the said article) of the said article, it is further alleged that:

“Our sources said they believe the move is in furtherance of the Hulfsdorp coup by local and international conspirators hell-bent on undermining the Legislature and people’s sovereignty. Fear for their careers have compelled these Judges and magistrates to bring their plight to the attention of the media.”

14. By the aforementioned article and headline the office of the Chief Justice is desecrated, ridiculed and brought into disrepute in the public eye inasmuch as it is suggested that the incumbent Chief Justice is engaged in a Conspiracy against the existing government.
15. Therefore, an erroneous and negative opinion of the office of the Chief Justice is conveyed and communicated to the general public.
16. Thereby the office of the Chief Justice of the Supreme Court of Sri Lanka and the entire system of justice is brought into disrepute, and the Respondent is guilty of scandalizing the (Supreme) Court, and diminishing the public confidence and the high regard and the esteem in which the office of the Chief Justice and the Supreme Court is held by the members of the Public in Sri Lanka. Thus, public trust and confidence in the Integrity and Independence of the Supreme Court and the entire Judicial System is caused to be diminished and the entire system of justice is brought into disrepute.
17. The Respondent is thus guilty of the offence of Contempt of (the Supreme) Court.
18. Furthermore, in the same newspaper dated 03.12.2012 in an article in the front page with the photograph of the incumbent Chief Justice, marked as **P1**, it is alleged (without substantiation) that:

“Meeting inappropriate and ill timed - members of the legal fraternity”

“Members of the legal fraternity yesterday claimed that if the news of a hastily arranged meeting of the District Judges convened by the Chief Justice today was true, it was both inappropriate and ill-timed.

They said that a sudden meeting of this nature on a working day could cripple court proceedings island wide and put the public into difficulty”.

19. The Petitioner states that the said Respondent has misrepresented the true facts by his editorial containing the heading **“Meeting and Arm Twisting”** on the same date and published a scathing attack on the incumbent Chief Justice as follows:

“Any reasonable observer of events would not hesitate to conclude that what comes under the rubric of ‘threats to the judiciary’ when it comes from the party convening the said meeting, could only be issues that face the CJ in the current impeachment process now before Parliament.”

“That the smooth functioning of courts and the day-to-day courtroom cases of litigants have to be held in abeyance for a day, because the courtrooms get shut down when the ‘Boss calls a meeting in Colombo’, is almost too shocking to contemplate.

Unless the conveners of the meeting have a really good reason that they could put before the District Judges today, it would be extremely difficult to avoid the reasonable conclusion reached by people that the meeting was convened to eke out unfair advantage, therefore the action bordering on abuse of office if not constituting outright abuse of office, indisputably.

If the meeting is to stave off an inevitable resignation and execute a last minute rescue act of the embattled CJ by getting the District Judges to plead on the basis of ‘independence of the judiciary,’ that will be laughable. It is fervently hoped for the sake of everybody concerned that this is not the objective of the exercise, because if the District Judges are summoned to Colombo by their Head, and then told to say that she should stay in office, as otherwise the ‘judiciary is being threatened’, that would certainly be an example of undue influence for the history books.

The District Judges are captive in the present context; they are being summoned by their superiors and would for professional reasons be hard-put to go against any Resolution or any other document put before them for their assent.

On the other hand, if perchance it transpired that today’s meeting was to discuss ‘regular business’, that too casts a similarly damning integrity shadow over the conduct of the Chief Justice.

There can be nothing in the order of 'ordinary business' that can be presided over by the Chief Justice of this country, in the current circumstances, in which she is facing impeachment charges in the Legislature --- which to the reasonable eye appear to be of a rather serious nature. An ordinary civil servant under the circumstances would have faced suspension or an enforced leave of absence, and it is **only the constitutional stipulations that stop the CJ from facing similar discomfiture.**

Those who ostensibly having the interests of the Chief Justice at heart, are not doing themselves any favors by embarking on this attritional war with the Legislature and Executive, when the position of the Legislature on all of this has been made abundantly clear by now. Such precipitous action on the part of the Judicial branch, to say it with the least ado, is bound to fail for its short-sightedness.”

The said Editorial in the Daily News of 3rd December 2012 is marked as **P2** and pleaded part and parcel hereof.

20. The Respondent has contemptuously stated and/or suggested and/or insinuated that:

- (a) The incumbent Chief Justice's action in allegedly summoning a meeting of judges was **bordering on abuse of office if not constituting outright abuse of office, indisputably**
- (b) The incumbent Chief Justice has no jurisdiction to act and that **There can be nothing in the order of 'ordinary business' that can be presided over by the Chief Justice of this country, in the current circumstances, in which she is facing impeachment charges**

21. While the Petitioner has always valued and cherished the freedom of speech and expression, and believes that legitimate criticism of judgments is part of a functional democracy, the Petitioner states that the impugned statements are a clear attack on the office of the Chief Justice and the judiciary itself (and taken together amount to Contempt of the Supreme Court) inasmuch as:

- (a) They wrongfully allege or suggest that the incumbent Chief Justice is part of a conspiracy (together with international and local conspirators) against the government and/or legislature and/or to undermine the sovereignty of the people,
- (b) They allege that the summoning of a meeting of judges amounted to an abuse of office by the Chief Justice,
- (c) They suggest that the incumbent Chief Justice was forcing/coercing or that District Judges would be forced/coerced to sign motions/resolutions at the behest of the incumbent chief justice,
- (d) Most seriously they allege, although the Constitution does not so stipulate, that **There can be nothing in the order of 'ordinary business' that can be presided over by the Chief Justice of this country, in the current circumstances, in which she is facing impeachment charges.** Thus in effect suggesting and/or insinuating that everything presently being done by the incumbent Chief Justice, is without jurisdiction.

22. The Respondent has by the said editorial brought the office of the Chief Justice of the Supreme Court of Sri Lanka and the entire system of justice into disrepute, and the Respondent is guilty of scandalizing the (Supreme) Court, and diminishing the public confidence and the high regard and the esteem in which the office of the Chief Justice and the Supreme Court is held by the members of Public in Sri Lanka, and the public trust and confidence in the Integrity and Independence of the Supreme Court and the entire Judicial System is caused to be diminished and the entire system of justice is brought into disrepute.

23. The Respondent is thus and otherwise guilty of the offence of Contempt of (the Supreme) Court.

24. The Respondent Contemnor has further insulted the judiciary, Supreme Court and the incumbent Chief Justice by the publication of the lead story on the front page of the Daily News newspaper of 04.12.2012.

The said news item / lead story of 04.12.2012 reads:

“Sophisticated Wealth Concealment By CJ”

FINANCE AND BANKING ASSESSORS SEE FRAUDULENT, CORRUPT PATTERN:

With the Parliamentary Select Committee hearings on the impeachment of the Chief Justice due today, independent observers have expressed shock and dismay over the manner in which some of her financial dealings have been manipulated, with a view to hiding her true financial worth from assessors.

Financial regulators for example would have been put off by the fact that on repeated occasions over several years (see details on page 5) there was zero balance in her accounts on significant dates such as March 1 or December 1.

However, as soon as the dates passed, these accounts were replenished with their regular millions.

Observers say that this was a clever device to evade wealth and tax assessors, and was certainly tantamount to fraudulent concealment of monies to evade full declaration of finances, as is the expectation in her position as Chief Justice.

For example, during the year 2007/2008, Dr Bandaranayake maintained an account in an active manner with the National Development Bank with four debits to the value of Rs 5,524,875.25 and eight credits to the value of Rs 5,524,875.25 being transacted through the account. By February 8, 2008, Rs 674,323.52 was lying to the credit of the account. On that date, the entire amount is withdrawn, thus reducing the balance to zero.

The manner in which such accounts have been operated is significant in that it is deliberate, and consistent. Such deliberate and consistent manipulation points to

a sophisticated plan of deliberate concealment of net wealth, our banking and finance sources say.

The said article/lead story/news item appearing in the Daily News of 04.12.2012 is annexed marked as **P3** and pleaded part and parcel hereof.

25. By the said statement/news item the Respondent has, albeit without credible substantiation, alleged criminality on the part of the incumbent Chief Justice and that the incumbent Chief Justice has misused millions of money and fraudulently manipulated her net wealth.

26. The Respondent has by the said news item/article brought the office of the Chief Justice of the Supreme Court of Sri Lanka and the entire system of justice into disrepute, and the Respondent is guilty of scandalizing the (Supreme) Court, and diminishing the public confidence and the high regard and the esteem in which the office of the Chief Justice and the Supreme Court is held by the members of the Public in Sri Lanka, and the public trust and confidence in the Integrity and Independence of the Supreme Court and the entire Judicial System is caused to be diminished and the entire system of justice is brought into disrepute.

27. Thus and otherwise the said statement/publication of the Respondent is an act of gross contempt of (the Supreme) Court or at minimum demonstrates the malice and contemptuous intention with which he has acted in making the contemptuous statements contained in **P1** and **P2**.

28. The Petitioner states that the Respondent has manipulated and misrepresented facts by his editorial of 4th December 2012, which is as follows:

WHAT – NO EVIL?

Today's expose on the front page and the op-ed to the right of you indicate the financial jiggery-pokery that the Chief Justice of this country was responsible for,

in the handling of her private accounts. The sums involved were to the tune of millions.

The methods involved were, to say the very least, innovative to the point of being the stuff of a regular detective thriller. Here she has millions. There they vanish. This, all, from the supreme judicial office of the country.

It is a very bad record, all things considered. There have been reams written since the recent impeachment proceedings began against the head of the country's Supreme Court. But alarmingly, none of the rights activists and the Transparency International corruption czars have said anything about the propriety or otherwise of the Chief Justice's financial dealings.

As they say - - the silence is so deafening. If they would have thought that they do not see anything objectionable in the Chief Justice's money matters, they would certainly have said so. But they did not.

They cannot afford to be so flagrantly out of line. No sane person could suggest that the CJ like Caesar's wife, is above suspicion. That would be so utterly ludicrous, for even those contortionists at Transparency International who have historically had such a rather transparent set of double standards.

But what is shocking is the fundamental moral decline in the country, to the extent that there are people who think the so called independence of the judiciary is so important that they wager the integrity of the judiciary can be all but forgotten!

Taken at a more fundamental, even, it is hard to imagine that the paragons of virtue and good governance and integrity find it so is difficult to acknowledge that it is impossible, to ignore real lapses in integrity - - real financial wrongdoing and malpractice – by simplifying the equation and saying that it is all on behalf of a good cause, which is the independence of the judiciary.

This is a bit similar to, say, a contention that pedophilia is somehow passable as long as it is practiced for the more noble purpose of the prevention of murder.

By any yardstick the so called judicial independence issues involved here are minuscule, even on the unlikely assumption that they exist at all? Really, is the

independence of the judiciary threatened by the movers of the impeachment motion?

Are there any personal cases that the Supreme Court has authority over that involve the 117 signatories to the impeachment motion? Or are there any abuse of power issues involving these 117 parliamentarians personally?

The answer is in the emphatic negative. This means that there is no real ulterior or personally dictated motive that the Legislature harbours, to impeach the Chief Justice.

If there is no finger pointing at the movers of the impeachment motion, there is no crime, and there is no smoking gun either. Whereas, as far as the integrity issues involving the CJ are concerned, the 'crime' and the smoking gun are very real.

The accounts that have been emptied and replenished and the dates involved point to a real intent to conceal and therefore mislead. If concealing millions is the 'crime' the smoking gun is that these millions were carefully manipulated, so as to evade the regulators -- with a trail of banking records leaving incontrovertible evidence.

But yet, the civil society corruption watchers, whistle blowers and lily white moralists etc., are largely silent. Is it because they feel that there is certain types of corruption carried out by certain types of people that is excusable?

*The only things these generally shrill activists seem to be saying is that there is corruption in society, and therefore the CJ's is not something special. This is no malpractice however that has been invented for general mischief by some scurrilous website. **This is obvious, glaring, and on the record misdoing from the Chief Justice of the country.***

What's worse than her behaviour, is the hypocrisy of the civil society elite who turn the other way because they obviously want to see no evil.

The said Editorial of the Daily News of 4th December 2012 is annexed marked **P4** and pleaded part and parcel hereof.

29. The Respondent has thus alleged, albeit without substantiation, that the incumbent Chief Justice has misused millions of rupees and fraudulently manipulated her net wealth.

30. The Respondent has by the said editorial brought the office of the Chief Justice of the Supreme Court of Sri Lanka and the entire system of justice into disrepute, and the Respondent is guilty of scandalizing the (Supreme) Court, and diminishing the public confidence and the high regard and the esteem in which the office of the Chief Justice and the Supreme Court is held by the members of the Public in Sri Lanka, and the public trust and confidence in the Integrity and Independence of the Supreme Court and the entire Judicial System is diminished and the entire system of justice is brought into disrepute.

31. Thus and otherwise the said statement/publication of the Respondent is an act of gross contempt of court or at minimum demonstrates the malice and contemptuous intention with which he has acted in making the contemptuous statements contained in **P1** and **P2**.

32. The Respondent has also published an article titled **“OPEN AND SHUT CASE OF ACCOUNT FIXING/CORRUPTION”** by an author made out only as “S.P.C.” on page 5 of the said newspaper which states *inter alia*:

*“The operation also suggests that Dr. Bandaranayake has deliberately and consistently acted in at least five consecutive instances to avoid disclosure of the sums that were in her account and that the scheme has been meticulously implemented in a highly sophisticated manner. A further suspicion that may arise is as to whether **Dr. Bandaranayake was using her privileged position, first as a Supreme Court Judge and thereafter as the Chief Justice, to indulge in this activity, knowing fully well that her actions are very unlikely to be investigated by any other regulatory agency. Being the Chief Justice of the country, does not give such person immunity from the laws of the land. The law***

must apply in a just and fair manner to all persons, however high and mighty they may be.”

“Accordingly, it is now time for the law enforcement authorities to commence a probe regarding the true nature of this Dr. Shirani Bandaranayake’s highly suspicious financial dealings. If that is to be done in an impartial manner, she cannot remain as the Chief Justice of the country.”

Justice must apply to the Chief Justice as well.

- a. the operation of several bank accounts by a person, which suggests that multi-accounts are used to defuse the magnitude and frequency of transactions in order to confuse regulators.*
- b. the opening and closing of bank accounts within short periods of time, which suggests that the accounts are used for a particular transaction and then closed before suspicion is aroused in the minds of the authorities.*
- c. the manipulation of accounts to have low balances or zero balances on certain significant dates, e.g. 31st December or 31st March, (which are the dates that are generally used by regulators or surveillance agencies to monitor accounts on a regular basis), in order to reduce suspicion or evade detection by regulators.....*

It is obvious that, the methodology adopted in the operation of the above account is a well thought out and sophisticated operation. It is not an operation of an account that would be expected from any ordinary person, let alone the country’s chief judge of the Supreme Court. The magnitude of the figures and the careful avoidance of significant dates is consistent with an intention to conceal the operation of the account, and avoid detection.”

The said article appearing in the Daily News of 4th December 2012 is annexed marked as **P5** and pleaded part and parcel hereof.

33. The Respondent has by the said article brought the office of the Chief Justice of the Supreme Court of Sri Lanka and the entire system of justice into disrepute, and the Respondent is guilty of scandalizing the (Supreme) Court, and diminishing the public confidence and the high regard and the esteem in which the office of the Chief Justice and the Supreme Court is held by the members of the Public in Sri Lanka, and the public trust and confidence in the Integrity and Independence of the Supreme Court and the entire Judicial System is diminished and the entire system of justice is brought into disrepute.

34. Thus and otherwise the said publication authorized and published by the Respondent is an act of gross contempt of court or at minimum demonstrates the malice and contemptuous intention with which he has acted in making the contemptuous statements contained in **P1** and **P2**.

35. The Petitioner further states that another report was published by the Respondent on the front page of the Daily News Paper of 12th December 2012 with the heading '**CJ MUTE ON VANISHED FILE**' on the front page of the Daily News. The said paper has further headlines in white letters on red background giving wide and emphatic publicity and attention as follows:

***Said Registrar 'could do nothing' about it**

***Case was used as a means of amassing wealth**

36. The said news report is as follows:

'Chief Justice Dr Shirani Bandaranayaka refrained from taking action against the disappearance of a special investigative report on the Golden Key Credit fiasco, which was prepared by the Special Investigations Unit of the Central Bank, five office bearers of Golden Credit All Depositors' Association revealed yesterday at a press conference at the Sri Lanka Foundation Institute.

The report had been kept in the Supreme Court Registrar's safe on the advice of former Chief Justice Sarath N Silva, who said that it contained important evidence, said GCC All Depositors' Association President Dushanthi Hapugoda.

Hapugoda said, this was a report they submitted to the Supreme Court as evidence against the Board of Directors of Golden Key Credit on March 17, 2009.

'The report said that Golden Key was collecting funds from the public going out of its way against all legal bounds,' she said.

"When we requested for a copy of the report in writing, the file was missing from the Supreme Court Registrar's safe,"

Hapugoda said, " In February, 2012 when during proceedings of the Golden Key Credit case when we raised the matter before Chief Justice Dr Shirani Bandaranayake , she admitted that she heard about the loss of that report.

"Chief Justice Dr Bandaranayaka said, " Matath Eka Aarnchi" (I have been made aware").

Hapugoda said , they requested Chief Justice Dr Bandaranayaka to summon the Supreme Court Registrar about it, upon which she replied that the Registrar cannot do anything about it, and asked what were they going to do about it.

As pointed out by Golden Credit Card Depositors, this is just one twist in their case.

Golden Key Credit depositor Prasanna Hennayaka said at the press conference, the Golden Key Credit case has been heard under several Chief Justices from former Justice Sarath N Silva to present Chief Justice Dr Shirani Bandaranayaka for three and a half years.

"When the case was heard by Supreme Court Judge Shirani Thilekewardena, she took steps to arrange a repayment plan for them with directions to Kothalawala and his Board of Directors to pay a sum of Rs 200 000 to each depositor on a quarterly basis during her time," he said.

"From 2011 October 13, the case was heard under Chief Justice Dr Shirani Bandaranayake. The depositors did not receive any payment due to them during

this time. Also, there had been no inquiry against those who got bail, including Kothalawala and his Board of Directors, “ he said.

“On November 6, 2012, when the impeachment motion was brought against Chief Justice Dr. Shirani Bandaranayaka, we submitted a letter to Speaker Chamal Rajapaksa apprising him of all injustices we suffered when the case was being heard under Chief Justice Dr Bandaranayaka. .” “In December 2011, because our case took a dramatic twist and the case was on the brink of being thrown out by Chief Justice Bandaranayake, we made an appeal to Speaker Chamal Rajapaksa to address our issue through Parliament”.

We submitted a letter titled “Sequence of events inex-parte No 195/2009 the Golden Key case ”, which was prepared by our lawyers to the Speaker explaining how Golden Key depositors’ case took a surprising twist under the present Chief Justice.

The depositors said that it occurred to them that the case was being led to their disadvantage methodically against all norms of justice under the present Chief Justice. “The case was being used as a sources of amassing wealth,” said Hapugoda.

It was for the benefit of the country, that impeachment against Chief Justice had manifested. Some of our depositors committed suicide because they were compelled to think that they would not get any money they had invested with the Golden Key company, she said.

This is a fraud involving Rs 26 billion with thousands of victims.

The said article appearing (on the front page) on the Daily News of 12th December 2012 is annexed marked as **P6** pleaded part and parcel hereof.

37. The Petitioner thus respectfully states that:

(a) by authoring and/or publishing the articles aforesaid, the Respondent has manifestly acted with the calculated motive and intention of attacking the incumbent Chief Justice and bringing the office of the Chief Justice of the Supreme Court of Sri Lanka and the entire system of justice into disrepute, and the Respondent is guilty of scandalizing the (Supreme) Court and

diminishing the public confidence and the high regard and the esteem in which the office of the Chief Justice and the Supreme Court is held by the members of the Public in Sri Lanka.

- (b) the Respondent has thus and otherwise acted in a manner which unwarrantedly diminishes the reputation and independence of the Judiciary, and has attempted to interfere with the course of Justice and the due administration of justice, inasmuch as the reputation of the Judiciary is ridiculed in the public eye.
- (c) the Respondent has thus and otherwise attacked and endangered the reputation and independence of the Judiciary which are essential elements in ensuring the Rule of Law, which the Petitioner seeks to protect through this Application; and
- (d) the Respondent is guilty of contempt of (the Supreme) Court.

38. The Petitioner further respectfully states that he is aware that:

- (a) the 'hearings'/'inquiry' by the purported Parliamentary Select Committee appointed to look into the allegations against the incumbent Chief Justice (commonly known as the impeachment inquiry) was not 'concluded' until the late hours of 7th December 2012;
- (b) the constitutionality and/or legality of the aforesaid purported Parliamentary Select Committee and/or the purported Standing Order under which same operates, is presently impugned in legal proceedings filed in the Supreme Court and the Court of Appeal.

39. The Petitioner respectfully states that he is of the view that the purported Standing Order 78A of the Constitution under which the Parliamentary Select Committee is purported to have been appointed is *ultra vires* the Constitution, and accordingly a nullity and of no force, avail or effect under and in terms of the Constitution.

40.As such, without prejudice to the position of the Petitioner as to the unconstitutionality and impropriety of the purported Parliamentary Select Committee, the Petitioner states that statements made by the Respondent suggesting and/or insinuating the purported 'guilt' of the incumbent Chief Justice in relation to such 'allegations' are comments that:

- (a)** Constitute and/or amount to an attempt to interfere with and/or influence the course of justice and the due administration of justice;
- (b)** Constitute contempt of court and/or are tantamount to contempt of court; and
- (c)** Demonstrate the malice and contemptuous intention with which the Respondent has acted.

41.The Respondent Attorney-at-Law, Contemnor has thus committed several offences of Contempt of (the Supreme) Court punishable under **Article 105(3)** of the Constitution by authoring and / or publishing the statements and / or publications referred to above.

42.The Petitioner therefore seeks that summons be issued in the first instance on the Respondent Attorney-at-Law, Contemnor and that he be directed to plead and show cause as to why Your Lordships' Court should not take steps to deal with him for the offences of contempt of (the Supreme) Court as provided for by **Article 105(3)** of the Constitution.

43. The Petitioner further respectfully states that:

(a) The Respondent, by his conduct in relation to the said publications, has given rise to an instance in which it is meet for Your Lordships' Court to initiate disciplinary action against the Respondent, in as much as being enrolled to the office of an Attorney-at-Law of the Supreme Court of Sri Lanka, the Respondent has grossly misconducted himself in a manner not befitting the holder of the office of an Attorney-at-Law; and

(b) In the circumstances, it behoves Your Lordships' Court to duly determine appropriate measures on account of the said misconduct, , including whether the Respondent ought to be removed from the office and struck off the Roll of Attorneys-at-Law of the Supreme Court of Sri Lanka.

44. The Petitioner makes this application with a view to protecting the reputation and sanctity of Your Lordships' Court, in the wake of repeated wrongful assaults on same by the Respondent. In the circumstances, the Petitioner respectfully reserves the right to furnish to Your Lordships' Court and to file any further material which constitute further and/or other acts of contempt and/or misconduct on the part of the Respondent.

45. The Petitioner further states with respect, that unless Your Lordships' Court grants the reliefs sought through this application, the reputation and sanctity of the Supreme Court and the entire judiciary would be unduly imperiled.

46. The Petitioner has not previous to this application, invoked the jurisdiction of Your Lordships' Court under **Article 105 (3)** of the Constitution in respect of this matter.

WHEREFORE, the Petitioner respectfully prays that Your Lordships' Court be pleased to:

- (a) In the first instance issue a Rule on the Respondent directing the Respondent to Show Cause as to why he should not be punished for Contempt of the Supreme Court by virtue of the articles/publications/statements marked **P1 – P6**;
- (b) Issue Summons on the Respondent;
- (c) Charge the Respondent for the offence of Contempt of the Supreme Court (by virtue of the articles/publications/statements marked **P1 – P6**;) under **Article 105(3)** of the Constitution of the Democratic Socialist Republic of Sri Lanka;
- (d) Punish/Sentence the Respondent for the offence of contempt of the Supreme Court (by virtue of the articles/publications/statements marked **P1 – P6**;) under **Article 105(3)** of the Constitution of the Democratic Socialist Republic of Sri Lanka;
- (e) Issue an appropriate interim order restraining the Respondent and/or preventing him from publishing further contemptuous statements/articles scandalizing the Supreme Court and the incumbent Chief Justice until the hearing and final determination of this Application;
- (f) Issue a Ruling on the Respondent directing him to show cause as to why he should not be struck off the role of Attorneys-at-Law of the Supreme Court;
- (g) Make an appropriate order on the Respondent Attorney-at-Law in keeping with the rules of Professional Ethics;
- (h) Grant Costs; and
- (i) Grant such further and other relief(s) as to Your Lordships' Court shall seem meet.

Attorney-at-Law for the Petitioner