

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

In the matter of an application for Contempt of Court under and  
in terms of Article 105(3) of the Constitution of the Democratic  
Socialist Republic of Sri Lanka.

Ranawaka Sunil Perera  
43/11 Walawwatta Road,  
Gangodawila,  
Nugegoda.

**Petitioner**

SC Rule No.1/2018

Vs-

Sadda Vidda Rajapakse Palanga Pathira  
Ambakumarage Ranjan Leo Sylvester  
Alphonsu  
Alias  
Ranjan Ramanayaka  
No.A5,  
Member of Parliament's Housing Scheme,  
Madiwela,  
Sri Jayawardenapura,  
Kotte.

**Respondent**

Before: Sisira J. de Abrew, J  
Vijith K. Malalgoda PC, J&  
P. Padman Surasena , J

Counsel: Rasika Dissanayake with Sadun Senadhipathi for the Petitioner on the instructions of Sanath Wijewardena  
M.A. Sumanthiran with Viran Corea and J.C. Thambiah  
for the Respondent on the instructions of D. Vithanapathirana.  
Sarath Jayamanne PC ASG with Suharshi Herath SSC for the  
Attorney-General

Argued on : 10.12.2018, 28.1.2019, 30.1.2019, 30.7.2019, 6.8.2019, 28.8.2019  
10.9.2019, 6.7.2020, 16.7.2020, 24.8.2020, 25.8.2020

Written submission

tendered on : 9.8.2016 by the Defendant-Petitioner-Appellant  
6.8.2017 by the Plaintiff-Respondent-Respondent

Decided on: 12.1.2021

## JUDGMENT OF THE COURT

The following Rule was read to the Respondent by the Registrar of this court on 8.8.2018 and he pleaded not guilty.

### **“CHARGE SHEET**

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

In the matter of a Rule in terms of Article 105(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka against Sadda Vidda Rajapakse Palanga Pathira Ambakumarage Ranjan Leo Sylvester Alphonsu alias Ranjan Ramanayake.

**SC.Rule No. 01/2018**

**SC(Contempt of Court ) Case No. 04/2017**

Ranawaka Sunil Perera,  
43/11, Walawwatta Road,  
Gangodawila,  
Nugegoda.

**Complainant**

-Vs-

Sadda Vidda Rajapakse Palanga Pathira  
Ambakumarage Ranjan Leo Sylvester Alphonsu  
Alias  
Ranjan Ramanayake,  
No. A-5, Members of Parliament's Housing Scheme,  
Madiwela, Sri Jayawardenapura,  
Kotte.

**Respondent**

**TO: THE RESPONDENT ABOVE NAMED**

**WHEREAS** at all times material to this mater, you were a Member of Parliament of the Democratic Socialist Republic of Sri Lanka, holding the portfolio of Deputy Minister of Social Empowerment;

**WHEREAS** you were interviewed by media personnel immediately outside the premises of *Temple Trees*, the Official Residence of the Hon. Prime Minister, after a parliamentary group meeting of which you were a member, on 21 August 2017;

**WHEREAS** the said interview was broadcast on “ *News 1<sup>st</sup>* ” news bulletin at 10.00 p.m on සිරස TV of MTV Channel ( Private) Limited on 21<sup>st</sup> August 2017;

**WHEREAS** you, in the course of the aforementioned interview, *inter alia* stated as follows;

“මම කියන්නේ නීතියෙයා තමයි කිවුවට නීතියෙයෝ බහුතරයක් තමයි ලංකාව වනාශ කෙරේ. ඒ තමයි තිත්ත ඇත්ත. මේ කළ කෝටකාරයෝ. බහුතරයක්, හැමෝම නෙවෙයි. ලංකාවේ බහුතරයක් ඉන්නේ අ.....ආ... Corrupted විනිසුරුවරු. Corrupted මේ.. මේ.. ලෝයස්ලා ඔවුන් සල්ලි වලට වැඩ කරන්නේ. ඒ හින්දා මම හිතනවා අධිකරණ ඇමතිවරයා හැටියට එන පුද්ගලයා නීතියෙයෙක් උනාට කමක්නෑ. ජනතාවාදී නීතියෙයෙක් වෙන්න ඔන. ඔහු ජනතාවට කඩේ යන අය වෙන්න ඔන සේවාදායකයන්ට කඩේ යන කෙනෙක් වෙන්න හොඳ නෑ කියන එක තමයි මගේ මතය.”

**WHEREAS** Mr. Ranawaka Sunil Perera, a member of the public, residing at 43/11, Walawwatta Road, Gangodawila, Nugegoda, after viewing the broadcast of the aforementioned statement, complained to the Supreme Court in terms of Article 105(3) of the Constitution on 22 August 2017 alleging that the said statement was contempt of Court, in Case No. S.C. ( Contempt of Court) 04/2017;

**WHEREAS**, the Supreme Court, by its order dated 21 November 2017 and 14 December 2017 made in the above case, called for a copy of the full recording of the aforementioned statement from MTV Channel (Private) Limited, in your presence and in the presence of your counsel, who represented you before the Supreme Court;

**WHEREAS**, His Lordship the Chief Justice and the other Honourable Judges of the Supreme Court, thereupon, viewed the recording that contained the aforementioned statement; and,

**WHEREAS** His Lordship the Chief Justice and their Lordships the other Honourable Judges of the Supreme Court of the Democratic Socialist Republic of Sri Lanka, have taken cognizance of the aforementioned statement as being contempt of Court warranting proceedings to be brought against you in terms of Article 105(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka, as minuted in the case record on 01 June 2018,

This rule is, therefore, issued to command you to show cause as to why you should not be found guilty and punished under Article 105(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka for committing the offence of contempt of Court.

**08.08.2018**

**Pradeep Mahamuthugala.**  
**Registrar of the Supreme Court”**

Pradeep Mahamuthugala called by the Attorney General gave evidence. He stated in his evidence that he is the Registrar of the Supreme Court; that the Rule in this case was served on the Respondent on 8.8.2018 and the plea of the Respondent has been recorded.

Gayan Sampath called by the Attorney General gave evidence and stated the following facts. He was the News Director in Sirasa TV on 21.8.2017. Dhananjaya Naranbedda and Lucknuwan have been assigned to cover the activities near Temple Trees on 21.8.2017. They forwarded a video which contained a statement made by Ranjan Ramanayake the Respondent in this case on 21.8.2017 near Temple Trees. He examined the said video and published it in Sirasa News at 10.00p.m. Later on a directive by the Supreme Court, he submitted the DVD/CD

containing the said video to the Supreme Court. This video was replayed in court. After watching the video, he identified it as the DVD/CD that he submitted to the Supreme Court. This DVD/CD was marked and produced as P1. However, the witness admitted that P1 was an edited version. The contents of the DVD/CD have been typed and the said document was marked as P2. It contained among other things the following words. ‘Majority in Sri Lanka are corrupted judges, corrupted lawyers. They work for money.’ (ලංකාවේ බහුතරයක් ඉන්නේ කරප්ටඩ් විනිසුරුවරු. කරප්ටඩ් ලෝයර්ස්ලා. ඔවුන් සල්ලි වලට වැඩ කරන්නේ.)

Luck Nuwan Dhanushka Warnakulasuriya called by the Attorney General gave evidence and stated that on 21.8.2017, he being the cameraman attached to the Sirasa TV videoed a programme in which Ranjan Ramanayake (the Respondent in this case) made a statement; that he forwarded it to Gayan Sampath, the News Editor in Sirasa TV; that Dhanajaya Naranbedda assisted him in operating the microphone; and that this video is produced as P1.

Dhanajaya Naranbedda called by the Attorney General stated in evidence that he operated the microphone and assisted Luck Nuwan Dhanushka Warnakulasuriya who videoed the programme in which Ranjan Ramanayake made a statement and that the said video is the video produced as P1. He further said that Ranjan Ramanayake did not, on any occasion, ask him as to why he did not record good things said about judges by him (Ranjan Ramanayake).

Sudeva Hettiarachchi called by the Attorney General stated in evidence that he is the News Director in Hiru Television and Hiru Radio; that the members of the Hiru Television record activities and speeches made by various people in a Microchip; that he examines it before publishing it; and that he decides to publish an edited or unedited version of the activities and speeches made by people. He further stated in

evidence that on 21.8.2017 he received a Microchip recorded by Eranda Gunawardena who is a member of Hiru Television and that after editing, it was televised for the 1<sup>st</sup> time in Hiru Television on 12.10.2017 after the proceedings against the Respondent Ranjan Ramanayake commenced in the Supreme Court. He produced the unedited video of the said speech of Ranjan Ramanayake and its transcript in this court as P3 and P4. He stated in evidence that the said video contained a statement made by the Respondent Ranjan Ramanayake on 21.8.2017. This video was replayed in court. It contained among other things the following words made by the Respondent Ranjan Ramanayake. “Majority in Sri Lanka are corrupt Judges. Corrupt lawyers. About 95%. They work for money. They everyday protected murderers, corrupt people and drug dealers for money.”(ලංකාවේ බහුතරයක් ඉන්නේ කරප්පඩි විනිසුරුවරු. කරප්පඩි ලෝය්ස්ලා. සියයට 95 ක් චිතර වගේ. ඔවුන් සල්ලිවලට වැඩ කරන්නේ. ඔවුන් හැමදාම මිනීමරුවන්ව, දුමිතයන්ව, කුඩුකාරයන්ව ආරක්ෂා කළා සල්ලිවලට.)The above words are also contained in the transcript of the video (P3) marked as P4. He stated in evidence that P3 is the unedited statement made by the Respondent Ranjan Ramanayake on 21.8.2017. He further stated in evidence that the edited version of the statement made on 21.8.2017 by the Respondent Ranjan Ramanayake was televised in Hiru Television on 12.10.2017. He produced the said edited version and its transcript marked as P5 and P6. P5 was replayed in open court. P6 contained the following words. “Majority in Sri Lanka are corrupt Judges. Corrupt lawyers. About 95%. They work for money. They everyday protected murderers, corrupt people and drug dealers for money.” He further stated that the Respondent Ranjan Ramanayake outside the Supreme Court building made several statements. He produced the said video as P7 and its transcript as P8. P7 was replayed in open court. P7 and P8 reveal the following matters.

1. On 14.12.2017 the Respondent Ranjan Ramanayake has said the following words. “I will not, under any circumstances, withdraw the opinion expressed by me. Therefore I told only about these Judges.” (මෙ කියපු මතය ඉවත් කරගන්නේ නැහැ කිසිලෙසකින්වත්. ඒ හින්දා මා කිව්වේ මේ විනිසුරුවරු ගැනමයි.)
2. On 23.3.2018 the Respondent Ranjan Ramanayake has said the following words. “If the Honourable court gets some self satisfaction to conclude it after sending me to jail, I will very happily go. I will not withdraw anything what I have said.” (ගරු අධිකරණයට යම්කිසි ස්වයං වින්දනයක් තියෙනවානම් මාව හිරේ දාලා ඒක ඉවරයක් කරගන්න මම බොහොම කැමැත්තෙන් යනවා. මම කිව්ව දේවල් එකක්වත් ඉල්ලා අස් කරගන්නේ නැහැ.)
3. On 4.6.2018 the Respondent Ranjan Ramanayake has said the following words. “As at present I have twenty one cases. I will not withdraw what I have said.” (මට නඩු දැනට 21 ක් තියෙනවා. මම කියපු කතාව මම ඉල්ලා අස්කර ගන්නේ නැහැ.)
4. On 18.6.2018 the Respondent Ranjan Ramanayake has said the following words. “I will never withdraw. I maintain the opinion that I am correct.” (මම කවදාවත් ඉල්ලා අස්කර ගන්නේ නැහැ. මම ඉන්නේ නිවැරදියි කියන මතයේ.)
5. On 5.9.2018 the Respondent Ranjan Ramanayake has said the following words. “I will never withdraw. Even if they sentenced me to one year, two years, five years, ten years, twenty years or life imprisonment, I maintain what I have said.” (ආයි ඉල්ලා අස්කරගන්නේ නැහැ පිටිනේට. මේ අය අවුරුද්දක් නෙවෙයි, දෙකක් නෙවෙයි, පහක් නෙවෙයි, දහයක් නෙවෙයි, විස්සක් නෙවෙයි, පිටිතාන්තය දක්වා මාව හිරේ දැමීමත් මම කියන්නේ මම කිව්ව දේමයි.)

All the above statements have been made outside the Supreme Court building but in the premises of the Supreme Court.

Under cross-examination he (Sudeva Hettiarchchi) admitted that the words ‘a’, ‘a’ and ‘me’, ‘me’ are not found in P3. However we note that the words ‘a’, ‘a’ and



‘me’, ‘me’ are found in document marked P2. P2 is a transcript of P1. P1 is the video which contained the statement made by the Respondent Ranjan Ramanayake and was published in Sirasa News at 10.00p.m.

Witness Eranda Gunawardena said that he, as cameramen of Hiru Television was waiting outside the Temple Trees on 21.8.2017; that he recorded what the Respondent Ranjan Ramanayake said outside the Temple Trees on 21.8.2017; and that the said video is produced as P3.

Wickramage Ajith Wickramasinghe called by the Attorney General stated in evidence that he, as the court correspondent of Hiru Television, videoed the statement made by the Respondent Ranjan Ramanayake outside the Supreme Court building on several occasions and that he produces the said video as P7 but did not record what the Respondent Ranjan Ramanayake said on 21.8.2017 outside the Temple Trees. The said video P7 was replayed in open court. He stated that the said video P7 contained the statement made by the Respondent Ranjan Ramanayake on 21.8.2017, 14.12.2017, 23.3.2018, 4.6.2018, 18.6.2018 and 5.9.2018. He further stated in evidence that he videoed what the Respondent Ranjan Ramanayake said outside the Supreme Court building on 14.12.2017, 23.3.2018, 4.6.2018, 18.6.2018 and 5.9.2018. The said video was marked as P7. According to P7, the statements alleged to have been made by the Respondent Ranjan Ramanayake on 14.12.2017, 23.3.2018, 4.6.2018, 18.6.2018 and 5.9.2018 outside the Supreme Court building respectively are as follows.

1. “I will not, under any circumstances, withdraw the opinion expressed by me. Therefore, I told only about these Judges.” This witness in evidence confirmed that the Respondent Ranjan Ramanayake made the above statement on 14.12.2017.
2. “If the Honourable court gets some self satisfaction to conclude it after

sending me to jail, I will very happily go. I will not withdraw anything what I have said.”

3. “As at present I have twenty one cases. I will not withdraw what I have said.”
4. “I will never withdraw. I maintain the opinion that I am correct.”
5. “I will never withdraw. Even if they sentenced me to one year, two years, five years, ten years, twenty years or life imprisonment, I maintain what I have said.”

This witness (Wickramage Ajith Wickramasinghe) in evidence confirmed that the Respondent Ranjan Ramanayake made the above statements. He, under cross-examination, admitted that the words ‘pardon me’ used by the Respondent Ranjan Ramanayake are missing in the video relating to 14.12.2017.

The Respondent Ranjan Ramanayake gave evidence under oath. He stated that he is a Member of Parliament and a non-Cabinet Minister. He further stated that he was a film actor; that he entered politics in the year 2006; that in the Parliamentary Election held in August 2015 he was elected as a Member of Parliament from Gampaha District; that from August 2015 to date he represents Gampaha District; that as at present he is a State Minister; that he has produced films regarding corrupt politicians; that he entered politics in order to send corrupt politicians to jail; that in the ten year period of his politics he was not accused of any corruption; that he refused to accept two vehicles sent to him by the Government; that he refused to accept enhancement of attendance allowance given to the Members of Parliament and enhancement of salary given to the Members of Parliament; and that he does not enjoy privileges given to the Members of Parliament. He further stated in his evidence that on 21.8.2017 after attending a meeting at Temple Trees

he addressed the journalists and said that 95% of Judges and lawyers are corrupt; that although he said the above words, he had no intention of mentioning of Judges but had the intention of speaking about lawyers; that when he made the above statement to the journalists, his intention was to criticize the former Minister of Justice and talk about lawyers; that when he used the word 'Judges' he changed it saying 'me, me'; and that in the said interview held on 21.8.2017 outside the Temple Trees no question arose about Judges.

Thereafter, at the request of Mr. Sumanthiran President's Counsel appearing for the Respondent, video marked P7 was replayed in open court. Mr. Sumanthiran President's Counsel questioned the Respondent Ranjan Ramanayake if his intention was not to mention about Judges as to why he made a statement on 14.12.2017 stating that he would not withdraw what he said earlier. He (Ranjan Ramanayake) then said that his statement made on 21.8.2017 has some truth when the statements made by former Chief Justices were considered. He again said that it was not his intention to refer to Judges when he made the statement on 21.8.2017 outside the Temple Trees. He further stated in his evidence that on 14.12.2017, 23.3.2018, 4.6.2018, 18.6.2018 and 5.9.2018 he mentioned about good Judges such as Neville Samarakoon Chief Justice and Sarath Ambepitiya but these portions of his statements had been removed by Hiru TV.

Ranjan Ramanayake further stated in his evidence that on 21.8.2017 when he made the statement outside the Temple Trees, he did not want to speak about Judges but the word 'Judges' slipped from his mouth. He further stated in his evidence that when he makes statements to the electronic media, he has his own team to record what he says. Whilst Ranjan Ramanayake was giving evidence, P1 which is a CD/DVD recorded by Sirasa TV was replayed in open court. He (Ranjan

Ramanayake) admitted in the witness box that P1 contains what he said on 21.8.2017 outside the Temple Trees. P2 which is a transcript of P1 was shown to him whilst he was giving evidence in the witness box. He admitted that P2 contains what he said on 21.8.2017 outside the Temple Trees. P1 and P2 contain among other things the following words.

“Majority in Sri Lanka are corrupted Judges, corrupted lawyers. They work for money.”

Whilst he (Ranjan Ramanayake) was giving evidence in the witness box, P3 which is a CD/DVD recorded by Hiru TV was replayed in open court and P4 which is a transcript of P3 was shown to him. He went through P4. He admitted that P3 and P4 contain what he said on 21.8.2017 outside the Temple Trees.

Whilst he (Ranjan Ramanayake) was giving evidence in the witness box, P5 which is a CD/DVD recorded by Hiru TV was replayed in open court and P6 which is a transcript of P5 was shown to him. He went through P6. He admitted that P5 and P6 contain what he said on 21.8.2017 outside the Temple Trees.

Whilst he (Ranjan Ramanayake) was giving evidence in the witness box, P7 which is a CD/DVD recorded by Hiru TV was replayed in open court. He admitted that P7 contains the statements made by him on 14.12.2017, 23.3.2018, 4.6.2018, 18.6.2018 and 5.9.2018 in court premises but outside the Supreme Court building. He admitted in evidence that the word ‘Judges’ in his statement made by him on 21.8.2017 outside the Temple Trees was a mistake. He also admitted that he did not correct this mistake in his subsequent statements made by him in court premises outside the Supreme Court building on 14.12.2017, 23.3.2018, 4.6.2018, 18.6.2018 and 5.9.2018. The defence of the Respondent (Ranjan Ramanayake) is that he had no intention to refer to Judges and reference to Judges in his statement made on 21.8.2017 outside the Temple Trees was a mistake. If that is so, he could

have easily corrected this mistake and apologized for the mistake in his subsequent statements made on 14.12.2017, 23.3.2018, 4.6.2018, 18.6.2018 and 5.9.2018. But he did not do so. For the above reasons, we reject his defence. His evidence does not create any reasonable doubt in the case presented against him. Although Ranjan Ramanayake says in his evidence that he had had no intention to refer to Judges in his statement made on 21.8.2017 outside the Temple Trees, his subsequent statements made on 14.12.2017, 23.3.2018, 4.6.2018, 18.6.2018 and 5.9.2018 indicate and clearly demonstrate that his intention was to refer to Judges.

Learned President's Counsel for the respondent contended that according to the evidence led before this court, nothing had been said against the Supreme Court and that therefore the Supreme Court has no jurisdiction to hear and determine this case. We now advert to this contention. Although learned President's Counsel contended so, according to the evidence, the respondent has said that the majority of Judges in Sri Lanka are corrupted Judges. Thus the above statement of the respondent refers to the Judges of the Supreme Court as well. Therefore the above contention of learned President's Counsel should fail.

Article 105(3) of the Constitution reads as follows.

*“The Supreme Court of the Republic of Sri Lanka and the Court of Appeal of the Republic of Sri Lanka shall each be a superior court of record and shall have all the powers of such court including the power to punish for contempt of itself, whether committed in the court itself or elsewhere, with imprisonment or fine or both as the court may deem fit. The power of the Court of Appeal shall include the power to punish for contempt of any other court, tribunal or institution referred to in paragraph (1)(c) of this Article, whether committed in the presence of such court or elsewhere :*

*Provided that the preceding provisions of this Article shall not prejudice or affect the rights now or hereafter vested by any law in such other court, tribunal or institution to punish for contempt of itself.”*

According to the above Article, the Supreme Court has the power to deal with the offence of contempt of court whether the offence of contempt of court was committed in court or elsewhere. Therefore the above contention of learned President’s Counsel for the Respondent should fail. Further it is noted that the objection to the jurisdiction of this court was taken up after closure of the Respondent’s case. For the purpose of clarity, we would like to state here that this objection was taken up only when learned President’s Counsel for the Respondent was making his final submission. It is an accepted principle that the objection to the jurisdiction should be taken up at the very inception of the case. This view is supported by the following judicial decisions. In Nagalingam Vs Lakshman De Mel 78 NLR 231 this court held as follows.

*“Further the Petitioner, having participated in the proceedings without any objection and having taken the chance of the final outcome of the proceedings, is precluded from raising any objection to the jurisdiction of the Commissioner of Labour to make a valid Order after the zero hour. The jurisdictional defect, if any, has been cured by the Petitioner's consent and acquiescence.”*

In The King Vs Kitchilan 45 NLR 82 Court of Criminal Appeal held as follows.

*“Even if there had been a misjoinder of charges, the Court would have dismissed the appeal as no embarrassment or prejudice had been caused to the accused. In such a case the Court of Criminal Appeal has a wider discretion than that conferred upon an Appellate Court under section 425 of*

*the Criminal Procedure Code. The proper time at which an objection of the nature should be taken is before the accused has pleaded.”*

Learned President’s Counsel for the Respondent submitted that the procedure laid down in Section 792 and 793 of the Civil Procedure Code should have been followed in this case. The said section reads as follows.

*Section 792: In all courts the summary procedure to be followed for the exercise of the special jurisdiction to take cognizance of contempt and to punish summarily offences of contempt of court, and offences declared by this Ordinance to be punishable as contempt of court, shall be that which is prescribed in the sections next immediately following.*

*Section 793: The court shall issue a summons to the accused person in the form No. 132 in the First Schedule or to the like effect, which summons shall state shortly the nature of the alleged offence and the information or grounds upon which the summons is issued, and shall require the accused person to appear before the court on a day named in the summons to answer the charge.*

In the present case, the charge was read to the Respondent and an opportunity was given to him to plead or not to plead guilty to the charge. He pleaded not guilty to the charge. The evidence against him was led in open court and his counsel was given an opportunity to cross-examine the witnesses. The respondent was given an opportunity to call witnesses. The respondent too gave evidence. Thus the respondent was given the freedom of a fair trial which is in my view more than the procedure laid down in Section 792 of the Civil Procedure Code. For the above reasons, we reject the above contention of learned President’s Counsel for the Respondent.

Learned President's Counsel for the Respondent cited Section 38 of the Penal Code. It reads as follows.

- 1) *Except in the Chapter and sections mentioned in subsections (2) and (3), the word "offence" denotes a thing made punishable by this Code.*
- 2) *In Chapter IV. and in the following sections, namely, sections 67, 100, 101, 101A. 102, 103, 105, 107, 108, 109, 110, 111, 112, 113.113A, 113B.184, 191, 192,200,208,210, 211, 216, 217, 218, 219, 220, 318, 319, 320. 321, 322, 338, 339, 377, 378, and 431, the word "offence" denotes a thing punishable in Sri Lanka under this Code, or under any law other than this Code.*
- 3) *And in sections 138, 174. 175, 198, 199, 209, 213, and 427, the word "offence" has the same meaning as in subsection (2) when the thing punishable under any law other than this Code is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.*

Learned President's Counsel for the Respondent citing Section 38 of the Penal Code contended that the offence of contempt of court has not been made punishable by any law. We now advert to this contention. Is the offence of contempt of court punishable by any law? To answer this question, we would consider Article 105(3) of the Constitution. We would again like to state Article 105 (3) of the Constitution. It reads as follows.

*“The Supreme Court of the Republic of Sri Lanka and the Court of Appeal of the Republic of Sri Lanka shall each be a superior court of record and shall have all the powers of such court including the power to punish for contempt of itself, whether committed in the court itself or elsewhere, with imprisonment or fine or both as the court may deem fit. The power of the*



*Court of Appeal shall include the power to punish for contempt of any other court, tribunal or institution referred to in paragraph (1)(c) of this Article, whether committed in the presence of such court or elsewhere :*

*Provided that the preceding provisions of this Article shall not prejudice or affect the rights now or hereafter vested by any law in such other court, tribunal or institution to punish for contempt of itself.”*

The words “*the power to punish for contempt of itself, whether committed in the court itself or elsewhere, with imprisonment or fine or both as the court may deem fit*” in the above Article should be stressed. The above Article clearly states that a person who committed the offence of contempt of court can be punished with an imprisonment. In this regard we would like to consider definition given to the offence in the Criminal Procedure Code. Section 2 of the Criminal Procedure Code defines the offence as follows.

*“Offence means any act or omission made punishable by any law for the time being in force in Sri Lanka;”*

The act of contempt of court has been made punishable by Article 105(3) of the Constitution. Therefore the act of contempt of court is an offence and this offence is punishable with an imprisonment or a fine.

Lord Denin MR in the case of *In Re Bramblevale Ltd* [1970] 1CH 128 held as follows.

*“A contempt of court is an offence of a criminal character. A man may be sent to prison for it.”*

In the case of *Croos Vs Dabrera* [1990] 1SLR 205 Court of Appeal held as follows.

*“The offence of contempt of court under our law is a criminal charge and the burden of proof is that of proof beyond reasonable doubt.”*

When we consider all the aforementioned matters, I reject the above contention of

learned President's Counsel for the Respondent.

Learned President's Counsel for the Respondent cited Perera Vs The King 1951 AC 482. In the said case Perera being a Member of the House of Representative of Ceylon paid a visit to the Remand Prison in Colombo and made the following observation in the Prison Visitors' Book.

*“Visited Remand Prison in the company of Jailor Wijewardena. Premises clean. Adequate library facilities required. The present practice of appeals of Remand prisoners being heard in their absence is not healthy. When represented by Counsel or otherwise the prisoner should be present at proceedings. In my opinion not more than one prisoner should be in a cell (7x9) approximately.”*

The Commissioner of Prisons later forwarded the above remarks to The Registrar of the Supreme Court asking for his observation. The Registrar of the Supreme Court forwarded the above remarks to a Judge of the Supreme Court who was in charge of unstamped petitions from prisoners in jail and His Lordship made the following minute.

*“The statement is incorrect and is a contempt of the Court. Issue a rule on Perera returnable on Tuesday the 25<sup>th</sup>. I shall sit specially on that day.”*

Mr. Perera was found guilty of contempt of court and a sentence was imposed on him. The Privy Council in appeal set aside the conviction and the sentence and held as follows.

*“Finally his criticism was honest criticism on a matter of public importance. When these and no other are the circumstances that attend the action complained of there cannot be Contempt of Court.”*

Learned President's Counsel for the Respondent citing the above judicial decision contended that Mr. Perera in the above case did not make any reference to a Judge. He further contended that in the present case, the respondent did not make any reference to a Judge and that therefore the respondent cannot be convicted for the offence of contempt of court. But we would like to state here that according to the evidence led in this court, the respondent has said the following words. "*The majority in Sri Lanka are corrupted judges.*" Further the Respondent on a later occasion (14.12.2017) has said the following words. "I will not, under any circumstances, withdraw the opinion expressed by me. Therefore I told only about these Judges." (මම කියපු මතය ඉවත් කරගන්නේ නැතැ කිසිලෙසකින්වත්. ඒ තිත්දා මා කිව්වේ මේ චිහිසුරුවරු ගැනමයි.)

Thus it is clear that the respondent has spoken about Judges. When we consider all the above matters, we hold the view that the above contention does not hold water.

The charge levelled against him is that he committed the offence of contempt of court when he made the statement on 21.8.2017 outside the Temple Trees. He admitted in his evidence that he said the following words when he made the above statement. "Majority in Sri Lanka are corrupted Judges, corrupted lawyers. They work for money."

We have earlier rejected his defence. For the above reasons, we affirm the Rule served on the Respondent and hold that the charge of contempt of court levelled against him has been proved beyond reasonable doubt.

For the aforementioned reasons, we convict him for the offence of contempt of

court punishable under Article 105(3) of the Constitution and sentence him to a term of four (4) years rigorous imprisonment. The Registrar of this court is directed to issue a warrant committing the Respondent to prison to a term of four (4) years rigorous imprisonment.

Justice Sisira. J. de Abrew  
Judge of the Supreme Court.

Justice Vijith. K. Malagoda  
Judge of the Supreme Court.

Justice P. Padman Surasena J  
Judge of the Supreme Court.

