

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

*In the matter of an application under and
in terms of the Article 126 read with the
Article 17 of the Constitution.*

SC FR Application No:

Gnanendra Shani Abeysekara,
No. L/1/1, Elvitigala Flats,
Colombo 08.

PETITIONER

-Vs-

- 1. Mr. C. D. Wickramarathne,**
Acting Inspector General of Police,
Police Headquarters, Colombo 01.
- 2. Mr. K. W. E. Karalliyadda,**
Chairman,
- 3. Mrs. Savithri D. Wijesekere,**
Member,
- 4. Mr. Y. L. M. Zawahir,**
Member,
- 5. Mr. Tilak Collure,**
Member,
- 6. Mr. Gamini Nawarathne,**
Member,
- 7. Mr. Ashoka Wijethilaka,**
Member,
- 8. Mr. G. Jeyakumar,**
Member,

9. Mr. Nishantha A Weeraigha, The Secretary,

The 2nd to 9th Respondents all of:
National Police Commission,
(BMICH) Premises, Block 09,
Colombo 07.

**10. Mr. Mahinda Deshapriya,
Chairman,**

11. Mr. N. J. Abeysekara PC, Member,

**12. Prof. S. Ratnajeevan H. Hoole,
Member,**

13. Commissioner General of Elections,

The 10th to 13th Respondents all of:

Election Commission, Election
Secretariat, SaranaMawatha,
Rajagiriya

**14. Mr. Nuan Wedasighe, Deputy
Inspector General of Police, Criminal
Investigation Department,
Colombo 01**

**15. Mr. Prasanna de Alwis, Director,
Criminal Investigation Department,
Colombo 01.**

**16. Mr. Kamal Gunarathne, The
Secretary, Ministry of Defence, No.
15/5, BaladakshaMawatha,
Colombo03.**

17. The Honourable Attorney General,

Department of the Attorney General,
Colombo 12.

RESPONDENTS

On this the 14th day of July 2020

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

The Petition of the Petitioner above named appearing by his Attorney-at-Law Mr. Manjula Balasooriya states as follows:-

The Petitioner

The Petitioner states that he is a citizen of Sri Lanka, and presently holds the rank of Senior Superintendent of Police of the Sri Lanka Police, and prior to his suspension/interdiction from service, held the post of Director of the Criminal Investigation Department (CID). The Petitioner is 59 years of age, is married and is a father of two children.

A true copy of the Seniority List of Senior Superintendent of Police as at 17.12.2019 (without STF) is marked as P-1 and annexed and pleaded as part and parcel of this Petition.

1. The Petitioner is 59 years of age, is married and is a father of two children.

The Respondents

2. The Petitioner states that:
 - i) The 1st Respondent is the Acting Inspector General of Police who has most unfairly, arbitrarily, capriciously, unreasonably, unlawfully, and illegally, transferred and Interdicted the Petitioner purportedly with the approval of the National Police Commission and the concurrence of the Election Commission of Sri Lanka, as more fully set out below;
 - ii) The 2nd Respondent is the Chairman and 3rd to 8th Respondents are the Members and the 9th Respondent is the Secretary of the National Police

Commission. The Petitioner states that the National Police Commission has purportedly approved the impugned transfer of the Petitioner;

- iii) The 10th Respondent is the Chairman and 11th and 12th Respondents are the Members of the Election Commission of Sri Lanka. The 13th Respondent is the Commissioner General of Elections. The Petitioner states that impugned transfer order has been issued purportedly with the concurrence of the Election Commission of Sri Lanka;
- iv) The 14th Respondent is the Deputy Inspector General of the Criminal Investigation Department while the 15th Respondent is the present holder of the office of Director of the Criminal Investigation Department.
- v) The 16th Respondent is the Secretary to the Ministry of Defence;
- vi) The 17th Respondent is the Honourable Attorney General who has been made a party to this application as required by law.

Details of the Petitioner's career

3. The Petitioner joined the Sri Lanka Police on 10th February 1986 as a Sub Inspector of Police and had his basic training at the Sri Lanka Police College – Kalutara. The Petitioner successfully completed his basic training and passed out from the said College on 30th May 1986.

*True copy of the page 22 of the service record of the Petitioner is marked as **P-1A** and is annexed and pleaded as part and parcel of the Petition.*

4. Thereafter, the Petitioner served as a Sub Inspector of Police at the Cinnamon Gardens Police Station from 30th May 1986 to 1st July 1986. The Petitioner was absorbed into the Special Task Force of the Sri Lanka Police on 1st of July 1986 and underwent Para Military Training at the Katukurunda Training Wing until 5th December 1986.
5. During his service in the Special Task Force, he had served in many parts of the Island including operational areas. The Petitioner was posted to the Special Task Force camp at Kiran in the Batticaloa District in the Eastern Province of Sri Lanka on 9th December 1986 and served there until 29th July 1987. Thereafter, he was posted to Morakottanchena Special Task Force Camp on 29th July 1987 and served there until 10th May 1988.
6. On 10th May 1988, he was called back to serve at the Special Task Force Camp at Kiran and served there until 17th December 1989.

7. He was stationed at Yalabowa Special Task Force Camp at Wellawaya in Uva Province from 17th December 1989 to 9th July 1990. Thereafter the Petitioner was posted to Sangamankanda Special Task Force Camp in the Ampara District until 17th December 1990. On 17th December 1990 the Petitioner was posted to the Special Task Force Camp at Sastrawela Jungle Training Camp in the Eastern Province of Sri Lanka as an Officer-in-Command.
8. On 1st January 1991, the Petitioner was promoted to the rank of Inspector of Police and was transferred to the VIP Security Division of the Police Special Task Force with effect from 27th January 1992. Later, the Petitioner underwent training on Close Protection of VIPs from 3rd February 1992 to 3rd March 1992 at the Katukurunda Special Task Force Training Wing.
9. Thereupon, the Petitioner was assigned to provide close protection to His Excellency the President and Cabinet Ministers. From 11th April 1992 to 6th October 1994, the Petitioner performed his duties as a close protector of designated VVIPs, as a member of the Close Protection Team of the Special Task Force. On 6th October 1994, the Petitioner was posted to the Special Task Force Camp at Porathiv in the Eastern Province of Sri Lanka where he served as the Officer in Command till 20th January 1995.
10. From 20th January 1995 onwards, the Petitioner was absorbed to the general duties of the Sri Lanka Police and served as the Deputy Officer-in-Charge of Crimes at Narahenpita Police Station from 20th January 1995 to 01st January 1996. Subsequently, the Petitioner was transferred to the Grandpass Police Station as Officer-in-Charge of the Crime Branch on 01st January 1996.
11. The Petitioner performed duties as Officer-in-Charge of Range Criminal Investigation Office at Maradana Colombo Unit from 27th September 1998 to 10th January 1999.
12. The Petitioner was promoted to the rank of Chief Inspector of Police with effect from 1st January 2003 and the same was antedated to 8th September 1998 subsequently. This was considered as a special promotion on Merit by the Sri Lanka Police.

True copies of the letters pertaining to the decision of the National Police Commission to antedate the promotion of the Petitioner to the rank of Chief Inspector of Police are marked as P-2A to P-2C and are annexed and pleaded as part and parcel of the Petition.

The Petitioner respectfully prays to reserve his right to submit further details/documentation regarding the same if deemed necessary by Your Lordships' Court.

13. The Petitioner states that on a special request made by the then Deputy Inspector General of Police of the Criminal Investigation Department to the Inspector General of Police, the Petitioner was assigned to the Criminal Investigation Department on 10th January 1999. From 23rd August 2004 to 27th September 2007, the Petitioner served as the Officer-in-Charge of the Criminal Investigation Department.
14. The Petitioner was promoted to the rank of Assistant Superintendent of Police on 27th September 2007, which was considered as a field promotion of the Sri Lanka Police and was posted as the Assistant Superintendent of Police in charge of Jaffna (District I) in the Northern Province of Sri Lanka on 27th September 2007. On 1st January 2008 the Petitioner's field promotion was confirmed and he was gazetted as an Assistant Superintendent of Police.

A true copy of a letter sent by the National Police Commission informing the Petitioner that he has been promoted to the rank of Assistant Superintendent of Police with effect from 01/01/2008 is marked as P-3 and is annexed and pleaded as part and parcel of the Petition.

15. The Petitioner states that on 1st April 2009, he was reposted to the Criminal Investigation Department, where he served till 20th April 2010. Subsequently, the Petitioner was transferred as the District-in-Charge Officer of Homagama South. Thereafter, on 14th July 2010, the Petitioner was transferred back to the Criminal Investigation Department.
16. The Petitioner states that he was given a special promotion by the National Police Commission based on the special recommendation made by the then Inspector General of Police Mr. N.K. Illangakoon to the rank of Superintendent of Police on 25th August 2011. The said special promotion was given to the Petitioner by the National Police Commission based on a commendation made by Hon. Justice Shiranee Tilakawardane for the Petitioner's exceptional work in the Angulana Murder Investigation.

A true copy of the commendation by Hon. Justice Shiranee Tilakawardane is marked as P-4 and is annexed and pleaded as part and parcel of the Petition.

17. The Petitioner was promoted to the rank of Senior Superintendent of Police by the National Police Commission on 25th August 2016 based on the unblemished

record maintained by the Petitioner during 05 years of previous service in the rank of Superintendent of Police.

*A true copy of a telephone message sent by the 1st Respondent on 30/10/2019 bearing RTM No. 1155, CRTM No. 1938 and his No. D/HRM/Promotion/299/2019 which indicates the effective date of promotion of the Petitioner to the ranks of Superintendent of Police and Senior Superintendent of Police is marked as **P-5** and is annexed and pleaded as part and parcel of the Petition.*

18. The Petitioner states that as a senior officer of the Criminal Investigation Department, he supervised the Special Investigation Unit (II), Special Branch, Gang Robbery Branch and Homicide Investigation Unit of the Criminal Investigation Department.
19. The Petitioner states that on 9th September 2017, he was appointed as the Director of the Criminal Investigation Department - Sri Lanka's premier law enforcement body and the functional division of the police charged with international law enforcement cooperation, investigation of high profile and complex crimes, large scale financial crimes and human smuggling.

*A true copy of a letter sent by the Senior Deputy Inspector General of Police of the Criminal Investigation Department, Mr. D. W. R. B. Seneviratne to the 2nd Respondent dated 25/08/2017 recommending the Petitioner to the position of Director of the Criminal Investigation Department is marked as **P-6** and is annexed and pleaded as part and parcel of the Petition.*

*A true copy of the telephone message sent by the 2nd Respondent bearing TM No. 61 and his No. D/MD/ADM/1644/2017 appointing the Petitioner to the position of Director of the Criminal Investigation Department is marked as **P-7** and is annexed and pleaded as part and parcel of the Petition.*

Petitioner is an outstanding police officer

20. The Petitioner states that he has an unblemished record of service for over 33 years and was never suspended or served with a charge sheet, to date. Although he has been named as a Respondent in several fundamental rights applications, the same is not on his personal capacity but as the Director of the Criminal Investigation Department.
21. During his period of service, he received numerous commendations, awards and special salary increments. In addition, the Petitioner also underwent rigorous training which enabled him to function as an exemplary officer.

*The details of aforesaid commendations, awards and special salary increments and the training that the Petitioner underwent are set out in a schedule attached hereto marked **P-8**(together with corresponding supporting documents attached with respective sub markings), pleaded as part and parcel hereof.*

22. Further, during active service the Petitioner was involved in the investigation of a number of high-profile crimes, including:

- i) The attempted murder of (former) President Chandrika Bandaranayaka Kumaranathunga in 1999;
- ii) Katunayake International Airport attack by the LTTE in 2001;
- iii) The Murder of Sujith Prasanna Perera, the Deputy Superintendent of Customs in 2004
- iv) The Murder of Yvone Johnson at Royal Park Condominium in 2005;
- v) The attempted murder of (former) Secretary of Defense and incumbent President, Mr. Gotabhaya Rajapaksha in 2006;
- vi) The kidnapping and disappearance of 11 youth by the Naval Intelligence personnel in 2008;
- vii) The 'Angulana double murder' case in 2009;
- viii) The kidnapping and disappearance of Prageeth Eknaligoda in 2010;
- ix) The abduction and contract killing of a businessman by a team under a Deputy Inspector of Police in 2013

*A list prepared by the Petitioner depicting special investigations conducted by him is marked as **P-9** and is annexed and pleaded as part and parcel of the Petition.*

23. The Petitioner states that the Secretary General of the International Criminal Police Organization (INTERPOL) awarded him a certificate highly appreciating the Petitioners' high level of professionalism and excellent support to the Interpol incident response team.

*A copy of the certificate issued by the Secretary General of the International Criminal Police Organization is marked as **P-9A** and is annexed and pleaded as part and parcel of the Petition.*

Purported transfer of the Petitioner

24. From and after his appointment on the 9th September 2017, the Petitioner proceeded to function and perform his duties as the Director of the Criminal Investigation Department.

25. The Presidential Election 2019 was held on 16th November 2019 and the final result of the same was announced on the next day, namely, the 17th November 2019.

26. Just four days after the release of the results the aforesaid Presidential Election, namely on the 21st November 2019, the 1st Respondent, by a telephone message bearing RTM No. 678, C/RTM No. 1304 and his No. D/HRM/ADM/2011/2019 informed the Petitioner that he has been transferred with immediate effect as the Personal Assistant to the Deputy Inspector General of Police, Galle Range. The relevant portions of that said telephone message read as follows:

ජාතික පොලිස් කොමිෂන් සභාවේ 2019.11.21 දිනැති අංක NPC/ED/GO/TR/05/01/19-III දරණ ලිපියේ සඳහන් අනුමැතිය පරිදි හා මැතිවරණ කොමිෂන් සභාවේ 2019.11.20 දිනැති අංක EC/SO/PE/EDR/1/4 දරණ ලිපියේ සඳහන් එකඟතාවය අනුව පහත ස්ථාන මාරු කිරීම් වහාම ක්‍රියාත්මක වන පරිදි මෙයින් නියෝග කරමි.

01. ජො.පො.අ. ජී. එස්. අබේසේකර මහතා අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුවේ අධි - යක්ෂ තනතුරේ සිට ගාල්ල කොට්ඨාශය වෙත (නි.පො.ප. ගාල්ල දිසාවගේ පුද්ගලික සහකාර ලෙස)

*A true copy of aforesaid telephone message bearing RTM No. 678, C/RTM No. 1304 and his No. D/HRM/ADM/2011/2019 is marked as **P-10** and is annexed and pleaded as part and parcel of the Petition.*

27. By the very same telephone message P-10, the 15th Respondent was appointed as the Director of the Criminal Investigation Department. The 15th Respondent was the Director of the Environmental Protection Division, prior to such appointment.

28. The Petitioner states that, just four days after the release of the results of the aforesaid Presidential Election, on 21st November 2019, by a telephone message bearing RTM No. 678, C/RTM No. 1304 and his No. D/HRM/ADM/2011/2019 informed the Petitioner that he has been transferred with immediate effect as the Personal Assistant to the Deputy Inspector General of Police, Galle Range.

(In proof of the same true copy of aforesaid telephone message bearing RTM No. 678, C/RTM No. 1304 and his No. D/HRM/ADM/2011/2019 is marked as P-8, and pleaded as part and parcel hereof.)

29. Nevertheless, the Petitioner states that he was able to obtain a copy of the letter dated 20th of November 2019 of the Acting Inspector General of Police by which he has informed the Secretary to the Ministry of Defence that he recommend to transfer the Petitioner as the Personal Assistant to the Senior Deputy Inspector General of Police, Kandy region and that the Acting Inspector General of Police submitted the "C forms", bio data of the Petitioner and the recommendation of the said Secretary to the National Police commission for the approval. The Petitioner states that however the National Police commission has transferred the Petitioner as the Personal Assistant to the Deputy Inspector General of Galle Region.

Copies of the said letter dated 20th of November 2019 and the copy of the extract of the meeting of the National Police Commission held on 21st of November 2019 and 3rd of December 2019 are marked as P-10A and P-10B and annexed and pleaded as part and parcel of this Petition.

30. The Petitioner states that as far as the Petitioner is aware this was the first instance in the history of the Sri Lanka Police, a Senior Superintendent of Police was appointed as a personal assistant to a Deputy Inspector General of Police.

31. The Petitioner respectfully state that the Secretary of Defence has no role to play in relation to the transfer, disciplinary control and termination of the Petitioner. In the circumstance the Petitioner states that the letter dated 20th of November 2019 of the Acting Inspector General of Police itself demonstrates that the National Police Commission has been interfered with by the Secretary to the Ministry of Defence to transfer the Petitioner from the Criminal Investigation Department. Nevertheless the Petitioner states that he is unaware at which stage the recommendation was changed to transfer the Petitioner as the Personal Assistant of the Deputy Inspector General of Police, Galle region.

32. Nevertheless, it is evident the decision to transfer him as a personal Assistant of the Deputy Inspector General of Police was completely done with the malicious intention to harass the Petitioner.

33. The Petitioner further states that the aforesaid transfer of the Petitioner was not a routine transfer. The Petitioner further states that he did not receive any prior

notice of such transfer and no reason was either given or stated for such transfer.

34. Therefore, up to date, the Petitioner is unaware of the reason for his transfer and in the circumstances; such transfer of the Petitioner remains a transfer without reason.
35. In any event, after handing over his files and documents to the relevant officers at the Criminal Investigations Department, he reported for duties as the Personal Assistant of the Deputy Inspector General of Police of Galle Range, the on 25th November 2019.

A telephone message pertaining to reporting of duties by the Petitioner is marked as P-11 and is annexed and pleaded as part and parcel of the Petition.

36. The Petitioner states that due to threats to his life arising due to the very sensitive and complex investigations carried out by the Petitioner, in or around 2008 the predecessor of the 2nd Respondent Mr. N. K. Illangakoon allocated an additional vehicle bearing No. KX 5303 to the Petitioner for the use of his personal security. Further, the Petitioner was provided with security when travelling to and from his home and his house was protected at night by the officers of the Special Task Force. All these security measures were removed on the same day that the Petitioner was purportedly transferred.
37. The Petitioner states that even in June 2018 the personal security provided him by the Police Special Task Force was withdrawn without any reason and thereafter the Senior Deputy Inspector General of Police, Criminal Investigation Department communicated the said withdrawal security to the then Inspector General of Police dated 16th of June 2018 and then Inspector General of Police directed the then Commandant of the Police Special Task Force to provide the security already been providing.

A copy of the letter dated 16th of June 2018 is marked as P-11A and annexed and pleaded as part and parcel of this Petition.

38. The Petitioner states that on 22nd November 2019, he sought permission of the Senior Deputy Inspector General of Police of the Criminal Investigation Department to take the aforesaid vehicle bearing No. KX 5303 to the Galle range. The said SDIG of the CID recommended the Petitioner's request and forwarded the same to the 1st Respondent. Up to date, the Petitioner did not receive any response to his request and the Petitioner still fears for the safety of

his life. The Petitioner state that however despite allowing the aforesaid request of the Petitioner, subsequently the vehicle aforesaid was withdrawn from the Petitioner.

A true copy of aforesaid letter dated 22/11/2019 which also contains the recommendation of the SDIG of the CID is marked as P-11B and is annexed and pleaded as part and parcel of the Petition.

39. The Petitioner states that the wife of the Petitioner by the letter dated 9th of December 2019 requested from the Chairman of the National Authority for the Protection of Victims of Crime and Witnesses to look into the security of the Petitioner who is a material witness of several important criminal cases. However the Director (Law and implementation) of the said Authority by his letter dated 2nd of January 2020 has informed the Director of the Victims and Witnesses Assistance. and Security Division to prepare a report relating to the threats on the Petitioner while providing security in the interim as required. The Petitioner states that upto date no further steps were taken in respect of the aforesaid both letters.

True copies of aforesaid letters are marked as P-11C and P-11D and is annexed and pleaded as part and parcel of the Petition.

40. The Petitioner respectfully states that:

- i) Out of 101 Senior Superintendents of Police, he was ranked 13th in the seniority list of the Senior Superintendents of Police at the time of his abrupt transfer and he was in the at the time of his interdiction;
- ii) The Petitioner is the only Senior Superintendent of Police who is assigned to serve as a Personal Assistant to a Deputy Inspector General of Police;
- iii) There is no specific list of duties to be carried out by a Personal Assistant to a Deputy Inspector General of Police and the work currently required to be carried by the Petitioner are opening of letters received by the Deputy Inspector General of Police and entering them in a register, relaying messages and orders to and from the Deputy Inspector General of Police to the relevant officers and divisions and answering telephone calls received by the Deputy Inspector General of Police when he is not in office;
- iv) Therefore, the Petitioner's transfer from the position of Director of the Criminal Investigation Department to the post of Personal Assistant to the Deputy Inspector General of Police Galle Range amounts to a degradation of service.

A true copy of Seniority List of Senior Superintendents of Police as at 17/12/2019 is marked as P-12 and is annexed and pleaded as part and parcel of the Petition.

41. The Petitioner states that several high-profile investigations were conducted by the Criminal Investigation Department at the time the Petitioner was the Director. Many such investigations are still continuing. Therefore, the transfer of the Petitioner from the Criminal Investigation Department necessary resulted in the removal of the Petitioner from the supervision, direction and control of such investigations.
42. Some of the aforesaid investigations also pertain to complaints relating to high profile persons including several persons from security forces and politicians. The Petitioner verily believes that the aforesaid transfer of the Petitioner for which no reason has been assigned, has been motivated for reasons other than service-related requirements and/or exigencies of service. The Petitioner verily believes that he was transferred from the position of Director of the Criminal Investigation Department due to external influences and/or collateral reasons to jeopardize the sensitive, complex and high-profile investigations supervised by the Petitioner in his capacity as the Director of the Criminal Investigations Department.
43. In the circumstance, the Petitioner states that by the aforesaid transfer, he has been penalized without any lawful or justifiable cause, reason or justification.
44. The Petitioner states that he had a reasonable and legitimate expectation of continuing in such position as the Director of the Criminal Investigation Department, unless it became necessary for the Petitioner to be transferred out of such position due to exigencies of service or for disciplinary reasons and the aforesaid transfer of the Petitioner is a transfer without reason.
45. On or around on 26th November 2019, the Petitioner became aware through media reports that 704 officers attached to the Criminal Investigation Department had been barred from overseas travel. The Petitioner further became aware that although he has been transferred out of the Criminal Investigation Department on the 21st November 2019, the Petitioner's name has also been included in the aforesaid list of persons.
True copies of the newspaper articles pertaining to above are marked as P-14 and is annexed and pleaded as part and parcel of the Petition.
46. The Petitioner states that the aforesaid transfer hinders the career prospects of the Petitioner. Further, the aforesaid transfer effected as set out above, has subjected the Petitioner to public ridicule and embarrassment among the fellow officers in the Police service.

Investigations against the Petitioner after the transfer of the Petitioner

47. The Petitioner states that even though the transfer of the Petitioner was not merited with reasons, the Petitioner states that the Respondents started a voyage of discovery of reasons to justify the transfer of the Petitioner.

48. The Petitioner states that on 03rd December 2019, the Deputy Inspector General of Police Galle range was informed by the Director of the Special Investigation Unit to refer the Petitioner to the said Unit on 06th December 2019 at 9.00am to record a statement from the Petitioner relating to two "urgent inquiries" conducted by the said Unit on the orders of the Inspector General of Police.

*A true copy of the telephone message pertaining to above is marked as **P-15** and is annexed and pleaded as part and parcel of the Petition.*

49. Accordingly, on the 06th December 2019, the Petitioner reported to and made a statement to the Special Investigation Unit. The Petitioner states that the said unit questioned him relating to the overseas travel of IP Nishantha Silva, who functions as OIC of the Gang Robberies Branch at the Criminal Investigation Department and relating to a complaint made by the retired Deputy Inspector General of Police Mr. Palitha Siriwardena, relating to several matters including the investigations relating to damage caused on several Buddha statues in the Mawanella area.

50. The Petitioner states that in the aforesaid circumstances, on 08th December 2019 he preferred an appeal to the Inspector General of Police against his transfer. Up to date, the Petitioner has not received any response thereto.

*A true copy of the aforesaid appeal is marked as **P-16** and is annexed and pleaded as part and parcel of the Petition.*

51. The Petitioner states that the aforesaid purported subsequent investigations demonstrate that the Respondents did not have materials to transfer the Petitioner as more fully described.

Interdiction of the Petitioner

52. The Petitioner states that by the letter dated 7th of January 2020 of the National Police Commission has directed the Inspector General of Police to interdict the Petitioner after transferring him the Police Headquarter with immediate effect. The Petitioner states that the said letter contains that the Petitioner has disrespected the Sri Lanka Police by the telephone conversation he had with former Minister Mr. Ranjan Ramanayake and the same conduct is amount to an offence in terms of Clause 31:1:10 reads with Clause 31:1 of the Chapter XLVIII of the Part II of the Establishment Code.

*A true copy of the aforesaid letter is marked as **P-17** and is annexed and pleaded as part and parcel of the Petition.*

53. The Petitioner states that even though the Secretary to the Ministry of Defence has no role in the interdiction of the Petitioner, in this instance also the aforesaid decision contained in P-17 has been copied to the Secretary to the Ministry of Defence. The Petitioner states that the same conduct of the National Police Commission demonstrates that the telephone conversations the Petitioner had with former Minister Mr. Ranjan Ramanayake have been used to achieve the malicious objective of the Respondents.

54. The Petitioner states that on the same day itself the Inspector General of Police implemented said decision of the National Police Commission by CRTM 521 and interdicted the Petitioner. The Petitioner states that by the letter bearing reference No: NCP/ED/GO/D/02/293/2019 Inspector General of Police had informed the National Police Commission that their decision has been implemented.

*True copies of the aforesaid RTM and the letter bearing reference No: NCP/ED/GO/D/02/293/2019 are marked as **P-17A and P-17B** and are annexed and pleaded as part and parcel of the Petition.*

55. The Petitioner states that on the same day night at about 23.23 hour the Petitioner received a telephone call from an unusual number 501 and threatened as follows;

“ අඩෝ කැරියා තෝ රහපාපුවා ඔක්කොම ඉවරයිනේ. අපිට තියෙන්නේ පුදුම සතුටක්. උඹ රන්ජන් රාමනායකගේ ගෙදර වලං හෝදන්නේ නැතුව වරෙන් මගේ ගෙදර වලං හෝදන්න. තොට ඊට වැඩිය හොඳ වැඩක් දෙන්න අපි කලක ඉඳලා බලාගෙනයි හිටියේ. තොගෙන් පලිය ගන්න කලින් තොගේ ඇස් දෙකට ජේන්න තොගේ ගැනිගෙයි දරු දෙන්නගෙයි මිනී වලට කරගහන්න ලේස්ති වෙලා හිටපන්. බලපන් තොටයි තොගේ පවුලටයි අපි කරන දේ බලලා අපිට කොච්චර සතුටු වෙන්න පුළුවන්ද, තෝ වේසිගෙ පුතා රණවිරුවොන්ට කරපු දේට තෝව කියටවත් පණ පිටින් තියන්නේ නෑ. තෝ යන යන තැන අපිට ජේනවා. රණවිරුවන්ට කරපු දේට තොට හෙණ හතම ගහපන්. මේක අපේ වාරේ කියලා දැනගනින් ”;

56. The Petitioner states that thereafter on the following day morning he submitted a written complaint to the Officer In charge of Poddala Police Station, Inspector General of Police and to the Human Rights Commission. The Petitioner states that the Human Rights Commission informed the Petitioner that the Human Right Commission has called for a report from the Inspector General of Police in respect of the Petitioners' complaint. The Petitioner states that even though the inquiry relating to Petitioners' complaint is pending before the Human Rights Commission the Petitioner is unaware as to whether the Inspector General has submitted a report as required.

True copies of the letters sent by the Human Rights Commission are marked as P-18A and P-18B and annexed and pleaded as part and parcel of this Petition.

57. The Petitioner states that he decided to prefer an appeal to the National Police Commission requesting to reinstate the Petitioner and further the Petitioner in his appeal requested without prejudice to the above, that the Petitioner may be paid at least half of his salary during the period he has to be under interdiction.

A true copy of the appeal of the Petitioner dated 24th of February 2020 is marked as P-18B and annexed and pleaded as part and parcel of this Petition.

58. The Petitioner states nevertheless that the Petitioner has not been reinstated up to date.

59. The Petitioner states that even though his request to reinstate has not been considered, the National Police Commission has decided to pay half of his salary and however upto date the Sri Lanka Police has failed to implement said decision. The Petitioner states the malicious conduct of the Acting IGP is evident by the two different manners in which the Inspector General of Police implemented decisions to interdict the Petitioner and now prolonging to pay the half salary of then Petitioner.

60. The Petitioner states that even though the complaint relating to death threat to the Petitioner was submitted, the National Police Commission wrote to him on 20th of January 2020 to make a complaint to the nearest police station.

Investigations against the Petitioner even after the impugn transfer and the interdiction

61. The Petitioner states that even though the Petitioner was transferred and interdicted arbitrary by the Respondents, up to date the Petitioner has not been served a charge sheet nor has a formal inquiry been commenced against the Petitioner.

62. The Petitioner states that *inter alia* the following investigations have been commenced against the Petitioner to find materials to justify the transfer and the interdiction of the Petitioner;

- a) A complaint has been made to the Special Investigation Unit by Inspector of Police namely Induka de Silva alleging that the Petitioner transferred said Induka de Silva from the Criminal Investigation Department and harassed him while serving in the Criminal Investigation Department. However the Petitioner states that even though the acting Inspector General of Police has directed to commence an investigation upon the said compliant, up to date a statement relating to said complaint has not been recorded from the Petitioner.

- b) An investigation has been commenced against the Petitioner upon a allegation that even after the fax message was given by the SSP Kegalle seeking to get the assistance of the International Criminal Police Organization (INTERPOL) to conduct the investigation relating to the destruction of Buddhist statues at Mawanella, the Petitioner has failed to take appropriate steps to in respect of the same. The Petitioner states that statement was recorded from the Petitioner in respect of the above allegation and at the said juncture the Petitioner categorically explained the steps he has immediately taken and that the International Criminal Police Organization (INTERPOL) has refused provide their assistance. Nevertheless the SSP Kegalle did not expect a response for the same.
- c) A statement was recorded from the Petitioner in respect of the alleged abduction of incident of Ghania Barrister Francis, an employee of the Switzerland Embassy
- d) Further investigation has been commenced in relating to the release of certain production of Dr. Segu Shabdeen Saffi against whom investigations were conducted on several complaints of alleged illegal sterilization
- e) An investigation was commenced against the Petitioner upon a complaint made by Mr. Sarath Weerabandara and Kandagamuwa who were the Director and Assistant Director of Kurunegala Teaching Hospital respectively.
- f) An investigation was commenced against the Petitioner for handing over twenty 9mm ammunition with his service pistol
- g) Falsely accusing Asoka Silva for the theft of a priceless ivory dragon pandol (මකර තොරණ) in Kusalpitiya temple without conducting a proper investigation and not finding the said pandol
- h) Providing a report by the Criminal Investigation Department to the Senior DIG on the order of the acting IGP on same day of 20th June 2019 regarding the involvement of MP Rishad Badudeen on Easter Sunday attack or other terrorist attack of the kind.
- i) Investigation regarding the Solicitor General's statement to "Aruna" weekend paper on 29th September 2019 on preparations to arrest of HE president Gotabhaya Rajapakse and 7 others with respect to Avengard investigation by myself.
- j) Illegal arrest and wrongful implication for the murder of SF Banda and three others by shooting.

- k) Failure to conduct proper investigation on the suicide bombing attack occurred on Easter Sunday (2019.04.21) at Kochchiade church and murders and other crimes associated therein.
- l) Not carrying out proper investigation on the suicide bombing occurred on Easter Sunday (2019.04.21) at Zion church and murders and other crimes associated therein.
- m) Not carrying out proper investigation on the suicide bombing which occurred on Easter Sunday (2019.04.21) at Katuwapitiya church in Negambo and murders and other crimes associated therein.
- n) Not carrying out proper investigation on the suicide bombing which occurred on Easter Sunday (2019.04.21) at Cinnamon Grand Hotel and murders and other crimes associated therein.
- o) Not carrying out proper investigation on the suicide bombing occurred on Easter Sunday (2019.04.21) at Kingsbury Hotel and murders and other crimes associated therein.
- p) Not carrying out proper investigation on the suicide bombing occurred on Easter Sunday (2019.04.21) at Shangri La Hotel and murders and other crimes associated therein.
- q) Not carrying out proper investigation on the suicide bombing occurred on Easter Sunday (2019.04.21) at a multistoried house around Mahawela Gardens and murders and other crimes associated therein.

63. The Petitioner states that none of the said complaints can be sustained against the Petitioner whereas the said complaints are based on the fabricated and/or false complaint tainted with malice. The Petitioner states that he reserved his right to file further material to establish that the aforesaid complaint are devoid of merit.

Preliminary investigation against the Petitioner on the allegation contained in the letter of interdiction

64. The Petitioner states that by the letter dated 7th of January 2020 of the National Police Commission has directed the Inspector General of Police to interdict the Petitioner and the heading of the said letter bears that the interdiction is done to facilitate the preliminary investigation against the Petitioner.

65. The Petitioner states that the said letter further contains that that the preliminary investigation report should be submitted within two (02) weeks from the said letter.

66. The Petitioner states that from 7th of January 2020 the 1st Respondent has failed to commence the preliminary investigation against the Petitioner upto date and however certain other fabricated and/or false complaints were investigating into against the Petitioner due to a reason unknown to him.

67. The Petitioner states that by the Public Administration Circular bearing No: 30/2019 Clause 13:2, 21:2, 22:1:1 and 14:12 of the Chapter XLVIII of the Part II of the Establishment Code were amended and in terms of the said amendments the Petitioner states that;

- a) A preliminary investigation against a particular officer should be concluded within two (2) months;
- b) The officer who institute/direct a preliminary investigation against a particular officer should in the letter of interdiction itself should direct the Preliminary Investigating Officer/ Preliminary Investigating Panel to conclude such investigation within two months
- c) The said amendment demonstrates that the Preliminary Investigating Officer/ Preliminary Investigating Panel should have been appointed by the letter of interdiction itself
- d) The formal inquiry should be concluded within six months

A true copy of the Public Administration Circular bearing No: 30/2019 is marked P-19 and annexed and pleaded as part and parcel of this Petition

68. The Petitioner states that up to date a statement relating to the alleged incident in the letter of interdiction has not been recorded from the Petitioner.

69. The Petitioner states that at least there is no likelihood of commencing the preliminary investigation against Petitioner.

Infringement of the Petitioner's Fundamental Rights

70. In the foregoing circumstances the Petitioner states that his transfer from the position of Director of the Criminal Investigation Department and his interdiction constitutes administrative and/or executive action within the meaning of the Constitution, which;

- i. Is without any justifiable reason, arbitrary, unreasonable, unfair, unjust, capricious and irrational;
- ii. Is based on irrelevant considerations and has been carried out for collateral purposes, motivated by extraneous considerations;
- iii. Is without any legal basis whatsoever;
- iv. Is against the legitimate expectations of the Petitioner;

- v. Is tainted with *mala fides*;
- vi. Is *ultra vires*;
- vii. Is illegal and contrary to law;
- viii. has been carried out contrary to the principles of natural justice; and
- ix. Is discriminatory of the Petitioner.

71. The Petitioner further states that in the circumstances the aforesaid transfer and the interdiction of the Petitioner violates the Fundamental Rights guaranteed to the Petitioner:

- a) under Article 11 of the Constitution guaranteeing to him that he shall not be subjected to degrading treatment or punishment;
- b) under Article 12(1) of the Constitution guaranteeing to him equality before the law and equal protection of the law;
- c) under Article 12(2) of the Constitution guaranteeing to him the freedom not to be discriminated on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds;
- d) under Article 14(1)(g) of the Constitution guaranteeing to him the freedom to engage in any lawful occupation, profession, trade, business or enterprise.

72. The Petitioner states that:

- i) The Petitioner has investigated several high-profile cases during his career, including while he was the Director of the Criminal Investigations Department;
- ii) As such, the life of the Petitioner has consistently been under threat;
- iii) It is for this reason that the Petitioner was provided with security even while he was an Assistant Superintendent of Police;
- iv) It was for this very reason that the Senior Deputy Inspector General of Police of the Criminal Investigation Department made the recommendation set out in P-11 aforesaid;
- v) The non-provision of such security at present unnecessarily increases the exposure of the Petitioner to such threats and dangers;

- vi) Therefore, grave and irreparable loss and damage would be caused to the Petitioner, unless the interim relief sought herein is granted to the Petitioner.

73. The Petitioner respectfully reserves his right to add parties to this application and tender further material.

74. The Petitioner has not previously invoked the jurisdiction of Your Lordships' Court in this matter, with the exception of the circumstances pertaining to the transfer of the Petitioner, which were challenged by way of an application under Article 126 of the Constitution filed in Your Lordship's Court on 20th December under case number SC FR 495/2019. The Petitioner wishes to instruct his registered Attorney-at-Law to file a motion to withdraw the said application, as it is superseded by the present application.

WHEREFORE THE PETITIONER RESPECTFULLY PRAYS THAT YOUR LORDSHIPS' COURT BE PLEASED TO:

- a) Grant the Petitioner, Leave to Proceed with this application in the first instance;
- b) Grant and issue an Interim Order directing the 1st Respondent to restore the security arrangements for the Petitioner to the level provided to him prior to the 21st of November 2019, until the hearing and final determination of this application;
- c) Declare that the Petitioner's Fundamental Rights guaranteed under Articles 11, 12(1) and 12(2) of the Constitution were violated by one or more or all of the Respondents and/ or the State by the unfair, unreasonable, malicious, arbitrary and discriminatory transfer of the Petitioner;
- d) Declare that the Petitioner's Fundamental Rights guaranteed under Articles 11, 12(1) and 12(2) of the Constitution were violated by one or more or all of the Respondents and/ or the State by the unfair, unreasonable, malicious, arbitrary and discriminatory interdiction of the Petitioner;
- e) Direct the 3rd to 10th Respondents to submit Your Lordships' Court the approval of the National Police Commission to transfer the Petitioner, said to be contained in its letter dated 21/11/2019 and bearing No. NPC/

ED/GO/TR/05/01/19-III, and the letters of the 1st Respondent (or any persons acting on his behalf) requesting such approval of the National Police Commission to transfer the Petitioner;

- f) Direct the 11th to 14th Respondents to submit Your Lordships' Court the concurrence of the Election Commission of Sri Lanka to transfer the Petitioner, said to be contained in its letter dated 20/11/2019 bearing No. EC/SO/PE/EDR/1/4, and the letters of the 1st Respondent (or any persons acting on his behalf) requesting such concurrence of the Election Commission of Sri Lanka to transfer the Petitioner;
- g) Grant and issue a Declaration that Fundamental Rights guaranteed to the Petitioner under Articles 11, 12(1), 12(2) and 14(1)(g) of the Constitution have been infringed;
- h) Make Order quashing the approval of the National Police Commission to transfer the Petitioner from the position of Director of the Criminal Investigation Department of Sri Lanka Police, which is said to be contained in its letter dated 21/11/2019 and bearing No. NPC/ED/GO/TR/05/01/19-III;
- i) Make Order quashing the concurrence of the Election Commission of Sri Lanka to transfer the Petitioner from the position of Director of the Criminal Investigation Department of Sri Lanka Police which is said to be contained in its letter dated 20/11/2019 bearing No. EC/SO/PE/EDR/1/4;
- j) Make Order quashing the interdiction of the Petitioner by P-17A and P-17B;
- k) Make Order quashing the transfer of the Petitioner from the position of Director of the Criminal Investigation Department of Sri Lanka Police as reflected in P-10;
- l) Make Order quashing the transfer of the 15th Respondent to the position of Director of the Criminal Investigation Department of Sri Lanka Police as reflected in P-10;
- m) Make Order directing that the Petitioner be restored to the position of Director of the Criminal Investigation Department of Sri Lanka Police;

- n) Direct the 1st Respondent to restore the security arrangements for the Petitioner to the level provided to him prior to the 21st of November 2019;
- o) Award the Petitioner a compensation in a sum of Rs. Ten Million or such other sum as may be deemed appropriate by Your Lordships' Court;
- p) Grant costs; and
- q) Grant such other and further relief that Your Lordships' Court shall deem meet in terms of Article 126(4) of the Constitution of the Democratic Socialist Republic of Sri Lanka

.....
Attorney-at-Law for the Petitioner