

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

*In the matter of an Application for Mandates in the
nature of Writs of Certiorari, Mandamus and
Prohibition under and in terms of Article 140 of the
Constitution of the Democratic Socialist Republic of Sri
Lanka.*

Bulathwalage Prasanna Ranaweera
223/E, Bandaranayake Mawatha,
Hunupitiya,
Wattala.

CA/ Writ Application No:

PETITIONER

CA/WRT/194/2025

Vs.

- 1. Officer- in- Charge**
Financial Crime Investigation Unit,
Criminal Investigation Department,
Colombo 01.
- 2. Director**
Criminal Investigation Department,
Colombo 01.
- 3. Hon. Magistrate**
Magistrate Court,
Mahara.
- 4. Hon. Attorney General**
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: **M. T. MOHAMMED LAFFAR, J (President C/A)- Acting.**
K. P. FERNANDO, J.

Counsel: Amila Palliyage with Sandeepani Wijesooriya, Savani Udugarapola,
Lakitha Wakishta Arachchi and Subaj De Silva for the Petitioner.

S. Herath, DSG for the Respondents.

Supported on: 28. 03. 2025

Decided on: 28. 04. 2025

MOHAMMED LAFFAR, J. (President of The Court of Appeal- Acting)

The Petitioner is seeking, *inter alia*, a Writ of Certiorari to quash the report dated 06.03.2025, filed by the ASP under the Offences Against Public Property Act No. 12 of 1982 (as amended), in the Magistrate's Court of Mahara in case bearing No. B/516/2016, filed against the Petitioner.

Additionally, the Petitioner is seeking a Writ of Prohibition, prohibiting the Officer-in-Charge of the Criminal Investigation Department from arresting the Petitioner in relation to the aforementioned case, and a Writ of Mandamus, directing the learned Magistrate of Mahara to consider granting bail to the Petitioner. The Petitioner is also seeking an interim order preventing the Respondents from arresting the Petitioner.

On 28.03.2025, we heard the learned Counsel for the Petitioner in support of this application, and thereafter, we heard the learned Deputy Solicitor General for the Respondents.

A complaint was made to the 1st Respondent regarding a fraud allegedly committed by former Minister Mervyn Silva, involving the execution of a deed of sale in respect of a state land situated in Kiribathgoda. When it was revealed to the 1st and 2nd Respondents that the Petitioner was also involved in the alleged fraud in his capacity as Chairman of the

Kelaniya Pradeshiya Sabha, the ASP filed a B Report in the Magistrate's Court of Mahara under the provisions of the aforementioned Act.

The Petitioner contends that he had no involvement whatsoever in the execution of the said fraudulent deed. In contrast, the 1st and 2nd Respondents contend that, in his capacity as Chairman of the Kelaniya Pradeshiya Sabha, the Petitioner knowingly and deliberately approved unauthorized constructions on the said state land.

In order to substantiate the contentions of the 1st and 2nd Respondents, the learned Deputy Solicitor General tendered certain confidential documents to this Court.

At the outset, the attention of this Court is drawn to the affidavit filed by the Police Officer No. 35078, who is in charge of the case pending before the Magistrate's Court of Mahara. In the said affidavit, it is stated that the Petitioner, in his capacity as Chairman, forcibly removed all files pertaining to the unauthorized constructions on the land in dispute. Furthermore, it is alleged that the approval and the assessment numbers for the said unauthorized constructions were personally granted by the Petitioner, with full knowledge of the aforesaid illegal transfer.

Having perused the confidential documents submitted by the State, it is, *ex facie*, established that there exists a *prima facie* case against the Petitioner, indicating his involvement in the alleged fraudulent transaction.

Subsequently, the Petitioner became a Member of Parliament, a position in which he participated in the enactment of laws for the country. As such, he is expected to have a thorough understanding of the law and to exhibit a heightened sense of responsibility in adhering to it. Unlike an ordinary citizen, the Petitioner holds, or has held, a position of authority and trust, and it is therefore incumbent upon him to demonstrate a greater awareness of the law and a stronger commitment to upholding the rule of law.

The Petitioner must be reminded that no individual, regardless of their social or political status, is above the law. He is equally subject to the rule of law, and any legal process must be respected and followed.

There is no legal impediment preventing the Petitioner from appearing before the learned Magistrate and stating his innocence. If, upon examination, there is insufficient evidence to substantiate the allegations made against him, the Magistrate is well within the law to consider granting bail.

It is also imperative that the Petitioner understands his duty to cooperate fully with the ongoing investigation. Assisting the police officers in conducting a fair and impartial investigation is not only a legal obligation but also a moral one, especially for a person who has served in a legislative capacity. Such cooperation ensures that the process of justice is upheld and that the integrity of the legal system is maintained.

In the case of *Jayaweera v Assistant Commissioner of Agrarian Services Ratnapura*¹ it was observed by Jayasuriya, J, as follows;

“a petitioner who is seeking relief in an application for the issue of a writ of Certiorari is not entitled to relief as a matter of course, as a matter of right or as a matter of routine, even if he is entitled to relief, still the Court has a discretion to deny his relief having regard to his conduct, delay, laches, waiver, submission to jurisdiction, - are all valid impediments which stand against the right of relief.”

In the instant application, if this Court grants the reliefs as prayed for, I am of the view that such an order would amount to an unwarranted interference with the ongoing investigation being conducted by the 1st and 2nd Respondents. Furthermore, it would also constitute an intrusion into the powers and functions of the learned Magistrate of Mahara, who is duly empowered by law to inquire into this matter.

¹ 1996 2SLR 70

Moreover, it is settled law that this Court will not exercise writ jurisdiction where an alternative remedy is available to the Petitioner under the law. Admittedly, the Petitioner has the right to appear before the learned Magistrate and, upon establishing his innocence, seeks bail. If bail is refused, he is entitled to invoke the appellate jurisdiction of the High Court for the same relief. Without first availing himself of these alternative remedies, the Petitioner is not entitled to invoke the writ jurisdiction of this Court.

It is transpired that the Petitioner has not cooperated with the 1st and 2nd Respondents by providing statements and not appeared before the learned Magistrate and has absconded. Before he complains to this court, he must first comply with the order of the learned Magistrate to appear before court and to give statements to the 1st and 2nd respondents.

Having scrutinised the petition, affidavit and all other supporting documents filed by the Petitioner, the confidential documents tendered by the state, the submissions of the learned counsel for the petitioner and the learned DSG for the Respondents. It appears that there is no necessity arises for this Court to interfere with the judicial process of the learned magistrate and the investigation process of the Respondents by way of judicial review. Thus, the notices are refused and the application is dismissed, no costs.

Proceedings are terminated.

President of the Court of Appeal (Actg)

K. P. Fernando, J.

I agree.

Judge of the Court of Appeal