

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

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

Panagodage Shamal Fernando,
80, Edirisinghe Road,
Nugegoda.

CA (Writ) App. No. 1088/2025

PETITIONER

Vs.

1. Officer In Charge,
Fort Police Station,
Fort.
2. Inspector General of Police,
Sri Lanka Police,
Police Headquarters,
Colombo 02.
3. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: Dr. D. F. H. Gunawardhana, J.

Counsel:

The Petitioner appeared in person.

Supported on: 19.11.2025

Delivered on: 24.11.2025

Dr. D. F. H. Gunawardhana, J.

Order

Introduction

The Petitioner in this Application seeks a *Writ of Certiorari* to quash the proceedings initiated by the Police in the Magistrate's Court case bearing No. B23744/22. The Petitioner seeks to quash the said proceedings on the basis of illegality on the part of the Police in prosecuting the said action against him.

According to the Petition, the Petitioner has had some dispute with Seylan Bank over a certain civil transaction, and in addition to that, the Petitioner has sent an email message to a person named Mr. Nande. Based on that, one J.D.S.J. Nanayakkara (hereinafter referred to as "Mr. Jayakody"), who is attached to the Central Bank, has made a complaint to the Police Station of Fort of a possible threat posed by the Petitioner; on the complaint so made, the Police has initiated action by first filing a B Report. The said complaint is marked as P2 and the B Report as P3 annexed to the Petition. The email annexed to that and several other documents are marked as P4, to establish that the Petitioner had made a complaint to the Central Bank against Seylan Bank over a civil dispute.

Therefore, now the Petitioner is seeking a *Writ of Certiorari* to quash the proceedings of the Magistrate's Court by this Application. This was supported by the Petitioner in person appearing before me on 19.11.2025; hence, this order.

On a perusal of the record, which was briefed by the Petitioner, I found that there had been a certain lease agreement between the Petitioner and Seylan Bank. However, the Seylan Bank had surcharged a certain percentage in violation of certain rules and Central Bank Rules. Accordingly, the Petitioner has complained to the Consumer Relationship Department of the Central Bank. On that complaint, the said Mr. Jayakody had inquired into the matter and had informed the Seylan Bank by a letter marked as **P4** annexed to the Petition, to refund the money overcharged.

Thereafter, the Petitioner had further wanted the Central Bank to take action against the Seylan Bank. On that, the Central Bank wanted the parties to come to an amicable settlement, to which the Petitioner was not agreeable. Subsequently, the Petitioner has threatened the said Mr. Jayakody as well as certain other officers of the Central Bank, by making telephone calls and also sending the email messages. On the advice of the Governor of the Central Bank, the said Mr. Jayakody has made a complaint to the Fort Police Station, within whose jurisdiction the said Mr. Jayakody is serving attached to the Central Bank, as the Central Bank is also situated within its jurisdiction.

However, after investigations based on the said complaint of Mr. Jayakody, the police had decided to proceed with the action against the Petitioner in terms of Sections 486 and 487 of the Penal Code. Now the Petitioner is seeking to quash the said proceedings in the Magistrate's Court.

According to the Petition, the Petitioner has once raised a preliminary objection as to the maintainability of the proceedings against him in the Magistrate's Court, and the learned Magistrate has overruled it. But the said order is not before us, and thereafter the Petitioner has

gone to the High Court by way of a Revision Application. The said Revision Application number is given in the Petition as HCRA 48/23; however, neither the application nor the order made therein has been briefed to us. Therefore, we are kept in the dark.

In addition to that, it is very clear based on the Petitioner's own showing that the Petitioner has once exercised some right of appeal.

However, it must be borne in mind that according to the police investigations as reported to Court in P3, the Petitioner is now an Accused of a commission of an offence under the Penal Code which is punishable by the Magistrate's Court in terms of the Penal Code. Therefore, the facts have been reported, and the Magistrate's proceedings have been initiated. Now, the Petitioner has to face the trial, and if the Prosecution cannot prove its case beyond reasonable doubt, the Petitioner will be exonerated. Otherwise, the Petitioner will be called upon for his defence. However, until then, he will be presumed to be innocent.

Nevertheless, since there is an allegation against the Petitioner that there is a criminal offence committed by him against certain officers attached to the Central Bank; having received the said complaint from the said officer, the police have inquired into the matter, produced the facts to court, and had started proceedings as the law requires. Therefore, the police have followed the correct procedure provided by law; otherwise, the police would have been responsible for derelicting their duties. Thus, there appears to be no wrong committed on the part of the police; the police have done their statutory duty which they are required to do by law.

If this Court exercise its jurisdiction to arrogate the jurisdiction of the Magistrate's Court to quash the proceedings that have just commenced against the Petitioner, it will amount to usurping or arrogating the jurisdiction of the Magistrate's Court by the Court of Appeal in the guise of the

powers conferred onto it in terms of Article 140 of the Constitution; it is my view that this cannot be done. The Magistrate's Court of Fort is set up under the Judicature Act, No. 2 of 1978 (as amended), which derives its powers from the Constitution. The learned Magistrate has thereof, been appointed to the Judicial Service Commission in terms of Article 111H of the Constitution.

In addition to that, it must always be borne in mind that the powers of the Magistrate conferred on it by the Judicature Act and the Constitution, comes directly from Article 3 read with Article 4(c) of the Constitution, which derives its power from the Judicial power of the people as part of their sovereignty. Therefore, if such sovereign power exercised through the Magistrate's Court is hindered by a *Writ of Certiorari* issued by this Court, also then there is in fact a matter to be looked into by the Magistrate, that amounts to a violation of Articles 3 and 4 of the Constitution, in addition to the usurpation and arrogation of the power of the Magistrate.

Therefore, in this case, if the police cannot prove their case beyond reasonable doubt, the case in the Magistrate's Court will collapse and the Petitioner will be exonerated; otherwise, the Petitioner will be called for his defence. If the Petitioner is exonerated from the said charges, the Petitioner can still go for a civil action against the person who puts the law into motion. Therefore, I do not see that any writ lies in this case.

Conclusion

Therefore, I dismiss this Application *in limine*. Since the Petitioner has wasted the Court's time by unnecessarily filing this case, I am compelled to order some cost; accordingly, I order Rs. 26,250/- (Twenty-Six Thousand Two Hundred and Fifty Rupees) as state cost.

JUDGE OF THE COURT OF APPEAL