

**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,
against Botunga Arachchige
Chandraratne Abeywardana

SC Contempt No. 04/2023

Botunga Arachchige Chandraratne
Abeywardana
No.94, Templers Road,
Mount Lavinia

Respondent

Before : A. L. Shiran Gooneratne, J.
K. Priyantha Fernando, J.
Menaka Wijesundera, J.

Counsel : Prabuddha Hettiarachchi with S. Wijesooriya instructed by Julius and Creasy for the Plaintiff-Appellant-Respondent.
Faiszer Musthapa, PC with Upul Kumarapperuma, PC, Mehran Careem, Nimantha Chandrasena and Duvini Godagama instructed by Sanjeewa Kaluarachchi for the Respondent.

Nirmalan Wigneshwaran, DSG for the AG.

Written

Submissions : Not tendered. Documents relevant to the medical conditions submitted on 27th of October 2025.

Argued on : 13.10.2025

Decided on : 05.12.2025

MENAKA WIJESUNDERA J.

The Respondent in the instant matter, namely Botunga Arachchige Chandraratne Abeywardena, had filed a motion in this Court on the 15th of November, 2021, in SC MISC No. 03/2021, seeking a review of the Supreme Court judgment in SC (CHC) Appeal No. 05/2011, in which he stated as follows:

“I now state not only the Plaintiff-Appellant, the Hon. judges of the Supreme Court bench too, by ignorance or by oversight or intentionally, have resorted to fabrication of false evidence to justify their impugned judgment, penalizing the Defendant.”

Which the judges of this Court have found to be contemptuous and is an affront to the dignity of this Court. As such, the Respondent had been charged for **Contempt of the Supreme Court under Article 105 (3) of the Constitution**, and he had pleaded not guilty and the matter had been fixed for inquiry on 06.06.2024.

On the date of the inquiry, the Respondent had appeared for himself and the inquiry had commenced. The Attorney General had conducted his case and upon conclusion, closed the case for the prosecution. Thereafter, the Respondent had been called upon to place his case and he had asked for more time and the Court had granted the same.

Once the inquiry resumed on the 10th of September, 2024, the Respondent had once again appeared in person and had wanted more time to retain a Counsel for himself, which the Court had granted and had fixed the inquiry for another date.

On the 25th of February, 2025, the Respondent had retained Counsel and the inquiry had recommenced. The Respondent had sought clemency from this Court and expressed remorse on the contemptuous statement made in the motion filed on the 15th of November, 2021.

Thereafter, he had proceeded to file an affidavit in which he had explained further the circumstances under which he had made the above-mentioned statement in the motion he has made to this Court.

In his affidavit, he has expressed remorse at the alleged statement in the above-mentioned motion.

He has further stated that he is, by profession, an electronic engineer and that he has obtained a degree in electronics and telecommunication engineering from the Faculty of Engineering, University of Peradeniya in 1975.

Subsequently, he had founded a company in 1980, which had been registered in Sri Lanka in the name of Electroteks Limited specialized in manufacturing highly advanced telecommunication systems. He had been instrumental in establishing data communication systems in local banks, which had been instrumental in introducing modern ATM machines to the local banks.

Therefore, he states that having contributed to the local economy so actively that he had no intention to be contemptuous to the Judges of the Supreme Court, and that he had acted in ill health, distress and frustration, which he believes he should not have done at all.

Upon taking the abovementioned submissions in to consideration, this Court once more took steps to read over the charges to the Respondent and then he pleaded guilty in this matter and expressed unconditional remorse through the affidavit and his Counsel and stated that he deeply regrets the contents of the motion he had filed before this Court.

In this matter, action has been taken against the above-mentioned person under Article 105(3) of the Constitution which 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 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 of the Constitution, this Court has been bestowed with the power to act in matters of contempt. When taking into account the purpose of enacting the laws pertaining to contempt of Court in the Constitution, is in my opinion, to safeguard and to protect the integrity and the independence of the judiciary.

Contempt of Court can simply be defined as acts which undermine the administration of justice and the offence of contempt of Court can take many forms. In the matter at hand, the contemptuous act has been written down in a motion filed before this Court. The Respondent in the instant matter has pleaded guilty and expressed his deep-seated remorse and has accepted that he is the author of the alleged motion.

Therefore, at this point, what this Court must ascertain is whether his remorse and genuine regret can be taken in mitigation when finding him guilty for the said offence of contempt and when punishing for the same.

In the case of **Reginold Perera v The King 52 NLR 293 at 296**, it was held with regard to the concept of Contempt of Court that,

“That phrase has not lacked authoritative interpretation. There must be involved some ‘act done or writing published calculated to bring a Court or a judge of the Court into contempt or to lower his authority’ or something ‘calculated to obstruct or interfere with the due course of justice or the lawful process of the Courts’.

In the case of **Dayawati and Peiris v Dr S.D.M. Fernando (1988) 2 SLR 314** Justice Amarasinghe had cited the Indian Supreme Court in the case of **Deborata Bandopoadhay v The State of Weast Bengalle (AIR1969 SC 189)** and in **Rangunath Rai v P. Sahai (1968 SC 189, 193)** that,

“A question whether there is contempt of Court or not is a serious one. The Court is both the accuser and the judge of the accusation. It behaves the Court to act with as great circumspection as possible making all allowances for errors of judgement and difficulties arising from inveterate practices in Courts and tribunals. It is only when a clear case of contumacious conduct not explainable otherwise, arises that the contemnor must be punished...

Punishment under the law of contempt is called for when the lapse is deliberate and is in disregard of one's duty and in defiance of authority".

In the present matter, the Respondent has pleaded guilty and has expressed deep regret at his actions by filing the alleged offensive motion. Hence, keeping in mind the above-mentioned principles governing the offence of contempt of Court now what has to be decided by this Court is the nature of the sentence to be imposed on the Respondent.

In mitigation, the learned President's Counsel for the Respondent had submitted that the Respondent is suffering from a heart condition and is a person who suffers from depression.

However, the Act No. 8 of 2024, which is the Act relevant to the matter at hand, does not stipulate a sentence pertaining to the offence of contempt of Court. This was also pointed out by Justice Kodagoda in the SC minutes dated 23.09.2025, **SC Contempt No. 03/2025.**

In the above mentioned case, where Justice Yasantha Kodagoda had drawn his mind to the absence of a sentence being laid down in the above mentioned Act No. 08 of 2024 for persons who have been found guilty of Contempt of Court, he has hypothetically laid an upper limit of 07 years imprisonment of either description as being the maximum imprisonment that may be imposed on a person convicted of the offence of contempt of Court, together with or without an order for the payment of a fine. To arrive at this decision, he has referred to the case of **Chandradasa Nanayakkara v Liyanage Cyril (1984) 2 Sri L.R.193**, wherein the Court of Appeal had determined that a stiff sentence was necessary so as to ensure that the punishment imposed would serve as a deterrence to others.

Therefore, as at present, the Act no. 8 of 2024 has not laid down a sentence to be imposed on a person convicted for the offence of contempt of Court but the Court exercising its discretion can impose a fine or a term of imprisonment or both depending on the facts and the conduct of the accused in each case.

However, Justice Yasantha Kodagoda in the above-mentioned judgment at page 24, has referred to certain general principles pertaining to sentencing policies, where it has not been enacted in the relevant statute.

The general principles laid down are as follows:

(a) Within the range of the punishment prescribed by law,

- (b) Commensurate with the seriousness of the Accused's contemptuous conduct including its nature, impact and consequences and therefore, be proportionate to the gravity of the offence.
- (c) Determined following an objective consideration of all attendant circumstances, including aggravating factors that increase culpability and mitigatory circumstances that lessen the punishment, and
- (d) Determined following a consideration of the objectives to be achieved in punishing an offender, and thus should include retribution resulting in a punitive measure being imposed, restoration (where relevant), deterrence and should ideally cause the rehabilitation of the convict.

In the same judgment Justice Kodagoda has also referred to **Section 152 of the Powers of Criminal (sentencing) Act of 2000 of England**, which has provided for the reduction in sentences for those who have pleaded guilty. It provides that:

“Section 152: Reduction in sentences for guilty pleas

- (1) In determining what sentence to pass on an offender who has pleaded guilty to an offence in proceedings before that or another court, a court shall take into account—
 - (a)the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty; and
 - (b)the circumstances in which this indication was given.”

Therefore, as per the above section, the stage at which the plea of guilt has been submitted is important.

In the matter at hand, having considered the laws and principles of sentencing and the facts of the case, I have to conclude that he has expressed regret and remorse at the very first opportunity where he had proper legal assistance, which he had not obtained earlier, although he had been given many opportunities to do so by this Court.

I also observe that the Respondent, up to this instance, has maintained a record of being a law-abiding citizen. It is also noteworthy that he has pursued his education in the field of electronics and subsequently applied his expertise for the benefit of the national banking sector, by introducing the Automated Teller Machine (ATM) system to local banks, as stated above.

Furthermore, considering the medical concerns evidenced by the reports submitted, I am of the view that this is not a matter which requires an incarceration of the Respondent as a form of punishment.

Having considered the material stated above, the Court directs the Respondent to refrain from this kind of behaviour and exercise greater caution with regard to his future conduct.

As such, the Respondent is hereby discharged.

JUDGE OF THE SUPREME COURT

A. L. Shiran Gooneratne, J.

I agree.

JUDGE OF THE SUPREME COURT

K. Priyantha Fernando, J

I agree.

JUDGE OF THE SUPREME COURT