

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

In the matter of an application
under Articles 17 and 126 of the
Constitution of the Democratic
Socialist Republic of Sri Lanka.

Vindani Priyadarshika
Sooriyarachchi
No. 75/09, Ferguson Road,
Colombo 14

Petitioner

SC/FRA No. 293/2020

V.

1. Mangala Dehideniya
Superintendent of Police
Office of the Superintendent of the
Police,
Colombo-North Police Division,
Colombo 14

2. Caldera
Officer in Charge
Grandpass Police Station,
Colombo 14

3. Rajarathna
Sub-Inspector of Police Grandpass

Police Station,
Colombo 14

4. Inspector General of Police
Sri Lanka Police Head Quarters,
Colombo 1

5. Hon. Attorney General
Attorney General's Department,
Colombo 12

Respondents

Before : **S. Thurairaja, PC, J.**
 K. Priyantha Fernando, J.
 Sampath Abayakoon, J.

Counsel : Amila Palliyage with Sandeepani Wijesooriya, Savani
 Udugampola, Lakitha Wakishta Arachchi and Subaj de
 Silva for Petitioner instructed by Rowanthi
 Doralugoda.

Sudarshana de Silva, ASG for Respondent.

Argued on : 15.09.2025

Decided on : 24.10.2025

K. PRIYANTHA FERNANDO, J

1. The Petitioner in the instant case alleged that the fundamental rights guaranteed to her in terms of Articles 11, 12(1) and 13(2) of the Constitution of Sri Lanka had been infringed due to the actions of the Respondents. This Court was inclined to grant leave for the alleged violation of Article 12(1) of the Constitution.
2. The Petitioner is currently residing in No. 75/09, Ferguson Road, Colombo 14. The 1st Respondent is the Superintendent of Police attached to the Colombo-North Police Division at the time of the incident, the 2nd Respondent was the Officer in Charge of the Grandpass Police Station at the time of the incident, the 3rd Respondent is the Sub-Inspector of Police attached to the Grandpass Police Station, the 4th Respondent is the Inspector General of Police who has the overall command of the Sri Lankan Police Force and the 5th Respondent is the Hon. Attorney General who has been made party to this application in compliance with the Law.
3. The Petitioner states that, on 10.08.2020, one or more of all the Respondents unlawfully/illegally entered her house when the occupants of the house were not present. The Petitioner asserts that she had gone on a pilgrimage and the incident was notified to her by one of her neighbors. The Petitioner states that, the same neighbour also informed her that the 1st and 2nd Respondents had broken the locks of her house and unlawfully/illegally entered the premises and later on have put new locks to the door. The Petitioner states that one of her relatives whom she trusted with the house during the Petitioner's absence was denied entry to the house, and the keys to the new locks were not handed over to the relative until the following day.
4. The Petitioner states that she was informed that the Respondents broke into her house without a proper search warrant or a Court order. Thereafter, she has complained to the Human Rights Commission of Sri Lanka on 11.08.2020, Police Head Quarters on 12.08.2020 and National Police Commission on 12.08.2020 of the alleged injustice caused to her.
5. The Petitioner's submissions are categorised under three main grounds. First, it is contended that no illegal substance or suspicious item was discovered at the Petitioner's residence. Second, the Petitioner submits that the entry into and search of her residence was carried out in the absence of a valid search warrant or a Court order. Third, it is

asserted that the Respondents failed to report the relevant facts to the Court in a timely manner, having done so only several weeks after the incident in question.

6. The Petitioner further submitted that the Respondents were unable to locate any illegal substance or items of a suspicious nature within the premises. In this regard, it is argued that the provisions of Section 77 of the Poisons, Opium and Dangerous Drugs Ordinance are inapplicable, as the Respondents lacked reasonable grounds to believe that any illegal substances were stored, possessed, sold, or manufactured at the Petitioner's residence. It is further contended that the 2nd respondent had sufficient time to obtain a search warrant prior to entering the premises, as there was no risk of evidence being removed or evasion as there was no resident present at the premises.
7. At the hearing, the learned Counsel for the Petitioner relied upon the decision in ***Anura Bandaranayake v Rajaguru, Inspector General of Police [1999] 1 SLR 104*** and submitted that Section 125 of the Evidence Ordinance which protects a police officer from being compelled to disclose the source of information regarding an offence has no application in instances where an alleged violation of fundamental rights is under consideration. In that context, Counsel challenged both the legality and credibility of the information purportedly relied upon by the police.
8. On the foregoing basis, the Petitioner claims that her fundamental rights, as guaranteed under Article 12(1) of the Constitution, have been infringed.
9. It is the position of the learned Additional Solicitor General for the Respondents that the acts of the 1st and 2nd Respondents have been according to law and are based on probable cause and have not at any point been malicious or discriminatory in nature.
10. The learned Additional Solicitor General for the respondent stated that, on 10.08.2020 the Respondents took part in a cordoned search which included a series of searches in the '75 Watta' - Thotalanga area on instructions received from the Senior Superintendent of Police Colombo North division. At this time, the 2nd respondent has received information from a private informant that a quantity of heroin was brought to the house number 75/09 Watta Thotalanga. Upon reaching the said house, the Respondents have got no response from the residents of the house, despite the neighbours mentioning that there were residents present in the house that morning. The learned Additional Solicitor General submitted that, as there was no response from the house, invoking their powers vested on them by Section 77 of

the Poisons, Opium and Dangerous Drugs Ordinance, the Respondents have entered the house having broken the padlocks. It was submitted that they have not found any suspicious item and thereafter as there was no one to hand over the custody of the house, the Respondents have decided to place a police officer to guard the house and to insert the new padlock. The learned Additional Solicitor General submitted that the keys of the new padlock had been kept with the 2nd respondent for safety reasons and the same had been informed to the Grama Niladari of the area.

11. At the hearing, the learned Additional Solicitor General for the Respondents submitted that, the breaking and entering the house of the Petitioner was permitted under the law and was based on reasonable belief of an offence under the Poisons, Opium and Dangerous Drugs Ordinance and therefore the conduct of the Respondents was not Arbitrary. He further submitted that the breaking and entering was done pursuant to the powers vested in the 2nd respondent particularly under Section 77 (2) of the aforementioned act.
12. The learned Additional Solicitor General further contended that, the Petitioner has failed to demonstrate any basis on which it could be inferred that he was singled out or discriminated against by the Respondents in the course of the said operation. It was submitted that the Respondents were engaged in a broader cordoned search of the area known as ‘ 75 Watta ’, which had been identified as an area reporting frequent cases of narcotics-related activity. The entry into the premises in question was carried out based on information that was reasonably believed to be credible.
13. It was additionally submitted that, as evidenced by document marked 2R4, the operation ultimately led to the recovery of 25.380 grams of heroin and 99.845 grams of ganja. Accordingly, the learned Additional Solicitor General argued that the actions of the Respondents were lawful, and did not amount to a violation of the Petitioner’s fundamental rights under Article 12(1) of the Constitution.
14. The present application concerns an alleged infringement of the fundamental rights guaranteed to the Petitioner under Article 12(1) of the Constitution. Article 12(1) of the Constitution states that,

“All persons are equal before the law and are entitled to the equal protection of the law.”

15. The Petitioner's complaint is that the 1st and 2nd Respondents unlawfully entered her residence in her absence, without a search warrant, and conducted a search which yielded no incriminating or suspicious material. It is the Petitioner's contention that, such conduct amounts to an arbitrary and unjustified act on the part of the police, thereby constituting a violation of her right to equality and equal protection of the law as enshrined in Article 12(1) of the Constitution.
16. Upon consideration of the material placed before this Court, including the document marked 2R2, it is evident that the 2nd Respondent received information from a personal contact alleging that approximately 3kg of heroin were being stored at the Petitioner's residence. Acting upon this information, the police proceeded to conduct a search of the said premises.
17. It is to be noted that, according to the affidavit of the 2nd Respondent dated 10.06.2022, although the premises appeared unoccupied at the time of entry, subsequent inquiries with neighbours revealed that the house had been occupied earlier that same morning. The officer states that, in the given circumstances, and as there was a possibility the residents would abscond, he acted in terms of Section 77(2) of the Poisons, Opium and Dangerous Drugs Ordinance, and entered the premises without a warrant. It is also pertinent to note that, while the Petitioner has asserted she was on a pilgrimage on the day of the incident, the Petitioner has not disclosed the specific time or date she left the premises to go on the pilgrimage.
18. **Section 77(2) of the Poisons, Opium and Dangerous Drugs Ordinance** states that,

“ Where any police officer not below the rank of Sergeant or any excise officer not below the rank of Inspector or any officer of the excise striking force not below the rank of Preventive Officer has reason to believe that anything is, in contravention of this Ordinance or any regulation, kept, possessed, sold, or manufactured in any place or premises, or that any document directly or indirectly relating to or connected with any transaction or dealing which was, or any intended transaction or dealing which, if carried out, would be, an offence against this Ordinance, or in the case of a transaction or dealing carried out or intended to be carried out in any place outside Sri Lanka, would be an offence against the provisions of any corresponding law in force in that place, is in any place or premises, and that a search warrant

cannot be obtained under subsection (1) without affording the offender an opportunity of escape or of concealing evidence of the offence, he may after recording the grounds of his belief and at any time within the next twelve hours exercise all or any of the powers which could have been conferred on him by subsection (1)”

19. On the above premise, this Court is of the view that the reasonableness of police action must be assessed in light of the circumstances prevailing at the time the decision was taken. When a police officer receives credible information of a serious offence such as the possession of large quantities of Heroine or any other narcotics, it is not only within his powers but indeed his duty to act expeditiously to prevent the commission of such offence and secure public safety. Section 77(2) of the aforesaid Ordinance empowers the police, in appropriate circumstances, to act without a warrant when there is reasonable belief that an offence under the Ordinance is being committed.

20. The affidavit of the 2nd Respondent and document marked 2R2 further shows that, following the forced entry and search, the police officers actually took measures to secure the house and its property by replacing the broken padlocks with new ones, kept the keys in their custody, and instructed the standing guard to inform the owner to retrieve the same. The Grama Niladhari of the area was also informed of these developments.

“මා නැවත පැති දොර වසා පෙර තිබූ ඉබ්බා දැමුවත් එය නිසි ලෙස අගුල් නොවටුනි. එම නිසා පො. සැ 56206 සමරවික්‍රම පිටත්කර හැර අලුතින් ඉබ්බන් දෙදෙනෙකු ගෙන්වා ගෙන පැති දොරට දමා ඒවායේ යතුරු මාහාරයෙම තබා ගනිමි. මෙම නිවසේ දේපල ආරක්ෂා කර ගැනීමට පො. සැ 34170 රණසිංහ, පො.කො.කො 41426 කරුණාරත්න, සහ 85806 බන්ඩාර යන නිලධාරීන් ගෙන්වාගෙන නිසි උපදෙස් ලබාදී පැය 1300 ට සාක්කු සටලන් පොත් අත්සන් කර එම නිවස ඉදිරිපිට මාගර්යේ නතර කරන ලදී.”

21. These actions, taken as a whole, indicate that the officers acted *Bona fide*, with no evidence of malice, arbitrariness, or discriminatory conduct directed at the Petitioner.

22. While this Court is mindful of the importance of safeguarding individual liberties of one’s home, it must also adopt a balanced and practical approach in interpreting the powers of law enforcement, especially in the case where credible information relating to serious offences such as drug trafficking is received. If officers are unreasonably restricted from acting on such information in certain circumstances, it could severely affect the enforcement of law and the protection of society at large.

23. In the circumstances, this Court finds that the conduct of the Respondents, particularly the 1st and 2nd Respondents, does not amount to a violation of the Petitioner's fundamental rights guaranteed under Article 12(1) of the Constitution. The actions taken appear to have been based on a reasonable belief and within the scope of authority vested in the officer under Section 77(2) of the Poisons, Opium and Dangerous Drugs Ordinance.
24. Accordingly, I hold that the Petitioner is not entitled to the reliefs prayed for in her Petition. The application is hereby dismissed.

JUDGE OF THE SUPREME COURT

JUSTICE S. THURAIRAJA, PC

I agree

JUDGE OF THE SUPREME COURT

JUSTICE SAMPATH ABAYAKOON

I agree

JUDGE OF THE SUPREME COURT