

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

In the matter of an application made under
Article 17 read with Article 126 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

SC FR Case No:260/2012

01. M.D.S.Peiris
No.25, Ratnayaka Road,
Thalpitiya South Fishing Village
Wadduwa.
02. D. Thushan Sampath
No.25, Ratnayake Road,
Thalpitiya South Fishing Village
Wadduwa.
03. D. Dilhani Priyangika
No.25, Ratnayake Road,
Thalpitiya South Fishing Village
Wadduwa.
04. D.Thushara Sampath
No.25, Ratnayake Road,

Thalpitiya South Fishing Village
Wadduwa.

Petitioners

Vs.

01. Nimal Karunaratne
Former OIC,
Wadduwa Police Station.
Presently serving at the Mount Lavinia
Police Station.

02. A.A.P. Chandana Sepala
Formerly attached to the Wadduwa Police
Station.
Presently serving at the Mount Lavinia
Police Station.

03. Officer Susantha
Wadduwa Police Station,
Wadduwa.

04. P.C. Lionel
No.88816, Wadduwa Police Station,
Wadduwa.

05. P.C. Sarath
No.61547, Wadduwa Police Station,
Wadduwa.
06. Anura Senanayaka
Deputy Inspector General,
Police for the Western Province.
- 6A. Nandana Munasinghe
Senior Deputy Inspector,
General Police for the
Western Province.
- 6B. T.M.W. Deshabandu Thennakoon
Senior Deputy Inspector
General Police for the Western
Province,
Department of Police,
Colombo 01.
07. Officer-in-Charge
Wadduwa Police Station,
Wadduwa.
08. N.K.Illangakoon
Inspector General of Police,
Sri Lanka Police Department Police
Head Quarters, Colombo 01.

8A. Pujith Jayasundara

Inspector General of Police,
Sri Lanka Police,
Department Police Head Quarters,
Colombo 01.

8B. C.D. Wickramaratne

Inspector General of Police,
Department of Police,
Police Head Quarters,
Colombo 01.

09. The Hon.Attorney General

Attorney General's Department,
Hulftsdorp,
Colombo 12.

Respondents

Before : Hon. Jayantha Jayasuriya, PC, CJ

Hon. A.H.M.D. Nawaz, J.

Hon. Arjuna Obeyesekere, J.

Counsel : Pulasthi Hewamanne with Ms. Harini Jayawardhane
and Ms. Fadhila Fairoze instructed by Sanjeewa
Kaluarachchi for the Petitioners

Sandamal Rajapaksha with Sampath Wijewardena for
the 1st - 5th Respondents.

Ms. Yuresha De Silva, DSG for the 6th - 9th

Respondents

Argued on : 08.11.22, 18.01.23, 11.01.2024 and 04.07.2024

Written submissions : Petitioners on 29.01.2014 and 02.09.2024
1st - 5th Respondents on 26.09.2014
6th - 9th Respondents on 10.02.2022
and 30.09.2024

Decided on : 08.11.2024

Jayantha Jayasuriya, PC,CJ

Four Petitioners invoked the jurisdiction of this Court in terms of Articles 17 and 126 of the Constitution. The 1st Petitioner is the widow of late D. Nimal Chandrasiri Appuhamy (hereinafter referred to as the “deceased” or “victim”) and 2nd to the 4th Petitioners are their children. The aforementioned deceased was a fisherman who had been the sole breadwinner of the family.

Whilst the 1st Respondent had served as the Officer-in-Charge of Wadduwa Police station during the time relevant to this application 2nd to the 5th Respondents had been police officers attached to the same police station during the same period of time. The Petitioners contend that the arrest, detention and subsequent death of the victim while in the custody of the police resulted in violation of rights guaranteed under Articles 11, 12(1), 13(1), 13(2) and 13(4). This Court has granted leave to proceed for the alleged infringement of Rights guaranteed under Articles 11, 13(1), 13(2) and 13(4) of the Constitution, against the first to the fifth Respondents.

According to the Petitioners, on 15th April 2012, the victim has left home early in the morning for work on the 4th Petitioner's motorcycle bearing number UV 6608. Around 6.00 am the 1st Petitioner received a call from the Wadduwa Police Station and had been informed that her husband has been arrested and is in police custody. However, no reasons were given for his arrest. Having been satisfied that the call in fact has been originated from Wadduwa Police, 2nd and 4th Petitioners had rushed to Wadduwa Police station. The said two Petitioners has reached the police station between 6.00am and 6.15am and had directly proceeded to the Cell and had observed that their father was alone in the police cell, lying on the bench, holding his chest and in considerable pain. He had been cladded with a vest and a pair of shorts. Petitioners claim that they observed blood stains on the left shoulder blade of the victim. In response to a question by the 4th Petitioner the victim has claimed that he was beaten by the Police and that he needed some water to drink. The 4th Petitioner, seeing that there was an empty bottle inside the Cell within his reach, took the bottle and asked a lady police constable who was on duty, where he can find some water. He was thereupon told that he could get some water from the Kitchen. The 4th Petitioner, after filling the bottle of water returned back to the Cell. However, the 4th Petitioner was unable to reach the victim, so he left the water bottle on the floor. The Petitioners reiterate that the victim was in considerable pain and could not lift the bottle of water from the floor. The 4th Petitioner on seeing this spoke to the 2nd Respondent and said that his father was in pain and had requested the latter to open the cell so that he can give some water to his father who was in immense pain. Petitioners contend that 2nd Respondent at that stage responded saying that the victim is just pretending as he was just scared. However, the 4th Petitioner having observed that the victim was in severe pain has requested the 2nd Respondent to take the victim to the hospital. The two Petitioners, having been informed that the victim was arrested for possession of Cannabis and as no steps were taken to take him to a hospital, had returned home to explore possibilities of taking necessary steps to have the victim been taken to the hospital.

By around 6.30 a.m., the Petitioners had informed their relatives and friends including two individuals who had known the 2nd Respondent. Around 9.15am Petitioners together with the two friends had returned to the Police Station. At that stage the victim who was dressed only in a pair of shorts had been lying on the bench motionless all alone in the cell. Victim's eyes were shut and had not responded to the Petitioners. Petitioners having left the police station at that stage had returned around 10.45 am with money to deposit as security for bail. Nonetheless, at that point, they were informed that the victim was taken to the hospital. Later-on around 11.00 am at Panadura Hospital the Petitioners had come to know about the death of the victim. The 4th Petitioner who saw the body of the victim lying on a trolley claims that there were visible injuries on his body including a big cut near the left collar bone, many wounds on the right side of the neck and a black mark in the middle of the chest about three inches long.

The 1st to the 5th Respondents contend that the victim was arrested lawfully for keeping two sticks of Cannabis and the victim did not act violently but surrendered without any obstruction. The 2nd Respondent who arrested the victim had testified at the inquest. According to him the victim was arrested around 5.25am and was brought to the police station at 5.30 am. The 2nd Respondent along with the 4th and 5th Respondents had been on night patrol duty and the arrest was made as they detected two sticks of Cannabis in the trouser pocket of the victim when he was stopped and examined. According to this Respondent the victim had not complained of any difficulty or of any injury at the time of arrest. The victim was produced at the station and had been handed over to the reserve who placed the victim in the cell. He further claims that the victim was produced before the 1st Respondent, who was the Officer-in-Charge of the police station. According to this Respondent thereafter he did not have any contact with the victim but later on came to know that he was taken to the hospital and that the victim had thereafter passed away.

The 6th Respondent, who was the Deputy Inspector General of Police contends that an investigation in relation to the death of victim Nimal Chandrasiri, was conducted by a Superintendent of Police and the Attorney General has forwarded an indictment naming five persons including the 1st, 2nd, 4th and 5th Respondents, as accused for an offence under Section 2(4) of the Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment Act No 22 of 1994. Furthermore, a separate indictment against the 1st Respondent has been forwarded for an offence under Section 190 of the Penal Code on the basis that the said Respondent made a false entry in the note book claiming that he arrested the victim while he was on routine search duty in the morning of the day in question. Furthermore, it is contended that the 2nd, 4th and 5th Respondents had been placed on interdiction and the 1st Respondent had been permitted to retire subject to minutes of pension. Thereafter, disciplinary action has been initiated against 1st, 2nd, 4th and 5th Respondents. Therefore, it is contended that the acts of the 6th to the 8th Respondents and their incumbent holders in office had not resulted in the violation of any fundamental rights but had taken steps to investigate and prosecute officers who are responsible for the alleged violation of fundamental rights as pleaded by the Petitioners.

According to medical evidence, the victim has died on admission, around 11.10 am on 15th April 2012. The Post Mortem Examination has been conducted at 4.30 pm on the same day. The Post Mortem Report reveals one anti mortem injury namely a laceration of 1 cm long over the left clavicle with surrounding contusions on the left side of the front upper part of the chest. The doctor who held the post mortem examination has opined that “the injury found on the left side of chest could be due to Blunt trauma to the chest and which is not a fatal injury. Myocarditis could cause arrhythmias and death”. The said report further reveals that “History of found unconscious at the police cell and brought by the police to the hospital and on admission to OPD on 15/04/12 at 11.10 am no pulse, no respiration or heart beat,

failed resuscitation. At post mortem there is a laceration with underlying contusion on the left side of front upper chest, there are evidence of medical intervention, there are tiny whitish patches in the myocardium, haemorrhagic spots in the pancreas and oedema of the lungs. Histological examination of the myocardium suggestive of healing myocarditis”. However, the cause of death is recorded as “Death due to blunt trauma to the chest and stress which precipitates the pre-existing Myocarditis and causing arrhythmias”.

While the hearing of this application was in progress it was brought to the attention of the Court that the trial against five accused in the High Court on the indictment which contains the charge under the Act No. 22 of 1994 is pending. Thereafter, at the conclusion of the recording of the evidence of two medical witnesses who were listed as prosecution witnesses before trial Court, a copy of such proceedings were tendered before this Court by way of a motion, with copies to all parties. Two medical experts are the doctor who conducted the post mortem examination and the doctor who worked at the Emergency Treatment Unit (ETU) at Panadura Hospital on the day the victim was brought there. According to the admission card the victim has been brought to the ETU at 10.35 am. According to this doctor, the victim’s heartbeat and the respiratory system had not been functioning when she examined at admission. Thereafter that attempt to resuscitate, that continued for about 35 minutes had failed. Thereafter, the death has been certified at 11.10 am. This doctor has said that she observed a bruise on the upper left chest. This doctor has said that in her opinion it was not a laceration. Furthermore, she has said there were no other injuries and no bleeding was observed.

However, the doctor who conducted the post mortem examination in his evidence has described the aforesaid injury as a laceration. This doctor having confirmed the findings recorded in the report had said that the victim has had a heart condition called Myocarditis and the pressure on the upper chest could have triggered

arrhythmias causing the death. In the cross examination the doctor has said that such a situation could have occurred resulting in death even without any external pressure being applied on the chest. He had further confirmed that the laceration was not a fatal injury and had clarified that the laceration could have been caused due to blunt trauma following an assault or a fall.

The Learned Counsel for the 1st to the 5th Respondents contended that the conduct of the Respondents whom he is representing as revealed from all the material tendered to Court including the testimonies of the two medical experts before the High Court does not reflect any illegality or wrong doing. It is his contention that the 2nd, 4th and 5th Respondents had acted within the powers vested on them under the law. The arrest followed by the detention at the police station for approximately five hours is justified with the detection they made when the victim was stopped and searched. The materials available to this Court reveal no irregularity in this regard. In fact the Petitioners confirm that they were informed of the arrest within about half an hour. Therefore, it is contended that no infringement of rights guaranteed under Articles 13(1), 13(2) and 13(4) has occurred. In relation to the alleged infringement of Article 11 of the Constitution, the Learned Counsel submitted that the medical evidence clearly reveals that the death of the victim has taken place due to an illness that he was suffering prior to the arrest. Furthermore, it is his contention that medical evidence is inconclusive as to the nature of the sole injury on the victim, the injury on the upper left side of the chest. The doctor who examined the victim on admission has described as a bruise and the doctor who conducted the post mortem examination has described it as a laceration. Furthermore, the doctor who conducted the post mortem examination has opined that 1 cm long injury could have been caused either due to an assault or a fall. The Learned Counsel contended that the evidence of the two experts do not corroborate the assertion of the Petitioners that the victim had been subjected to an assault at the police station. It was further submitted that no finding can be made against the Respondents on an infringement of Article 11 of the Constitution.

The position taken up on behalf of the 1st to the 5th Respondents as set out hereinbefore is challenged by the Learned Counsel for the Petitioners. On behalf of the Petitioners, it was contended that the Petitioners through the material submitted to Court including the facts averred in the affidavits of the Petitioners, have satisfied the evidential burden placed on them to establish the violation of fundamental rights guaranteed to them including the rights guaranteed under Article 11 of the Constitution. It is contended, there is clear proof of the fact that the victim had died while he was in the custody of the officers attached to Wadduwa Police. It was further contended that the right guaranteed under Article 11 is not restricted to the protection against torture. It extends to a protection from cruel, inhuman or degrading treatment as well. The Learned Counsel drew the attention of the Court to the fact that the delay in providing necessary medical attention to the victim *per se* amounts to a cruel, inhuman and degrading treatment, in the given circumstances of this case. He further contended that the Respondents failed to discharge the burden placed on them to explain the circumstances under which the victim met with his death, whilst being held in their custody. It is contended that their bare denial other than the meagre attempt to explain the injury on the chest falls short of the threshold material the Respondents had to present if they are to discharge their burden successfully. They have failed to discharge the burden placed on them in a situation of this nature. The Learned Counsel further contended that the statement the victim made to his son that he was assaulted by the police officers is admissible evidence against the Respondents and the medical evidence corroborates the assertion of the deceased. On behalf of the Petitioners it was contended that series of facts established through the material presented in this Court including that the victim was in the custody of the police officers at the time of his death, that there are signs of assault and the victim has been in severe pain at least from around 6.00 am, the victim has passed away on admission, no proper medical attention was provided to the victim and let him suffer for more than four hours and the failure of the Respondents to provide a detailed account as to

the events from the time the victim was brought to the police station up to his death cumulatively establish that the rights guaranteed under Article 11 and 13(4) of the Constitution has been infringed. The Respondents have acted in the colour of their office and therefore the State is responsible for such violation.

Jurisprudence developed by this Court in relation to the rights guaranteed under Article 11 of the Constitution aptly sets out the scope, the burden and the standard of proof that is required to hold that a violation of fundamental rights guaranteed under the said Article had occurred.

In **Amal Sudath Silva v Kodituwakku** [1987] 2 SLR 119 it is observed that;

“Article 11 of our Constitution mandates that no person shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment. It prohibits every person from inflicting torture some, cruel or inhuman treatment on another. It is an absolute fundamental right subject to no restrictions or limitations whatsoever. Every person in this country, be he a criminal or not, is entitled to this right to the fullest content of its guarantee...” (at page 126)

The protection guaranteed under Article 11 extends beyond physical abuse, is well recognized by this Court. In **W.M.K. De Silva v Chairman, Ceylon Fertilizer Corporation** [1989] 2 SLR 393. Justice Amerasinghe observed that;

“In my view Article 11 of the Constitution prohibits any act by which severe pain or suffering, whether physical or mental is, without lawful sanction in accordance with a procedure established by law, intentionally inflicted on a person (whom shall refer to as 'the victim') by a public official acting in the discharge of his executive or administrative duties or under colour of office...” (at page 405)

Similarly, Justice Amerasinghe in **Channa Pieris and others v Attorney General and others** (1994) 1 SLR 01 held that in the context of rights guaranteed under Article 11 that;

“Torture, cruel, inhuman or degrading treatment or punishment may take many forms, psychological and physical.” (at page 6)

In **Adhikary and Another v Amarasinghe and Others** [2003] 1 SLR 270, this Court has observed that;

“...The words used in Article 11, viz., 'torture, cruel, inhuman or degrading treatment or punishment'¹ would take many forms of injuries which could be broadly categorized as physical and psychological and would embrace countless situations that could be faced by the victims. Accordingly, the protection in terms of Article 11 would not be restricted to mere physical harm caused to a victim, but would certainly extend to a situation where a person had suffered psychologically due to such section.” (at page 274)

With reference to the scope of the rights guaranteed under Article 11, Justice Thurairaja P.C in **Anuradha v Head Quarter Police Inspectors, Police Station Anuradhapura and others** SC FR 369/2013, SCM 22.10.2020 observed that;

“This is an unqualified non-derogable right and every person is entitled to it. This unqualified nature of the right and the fact that this provision is entrenched makes it abundantly clear that the Constitution envisages 'zero tolerance' towards cruel, inhuman or degrading treatment which is the anti-thesis of 'Human Dignity'.” (at page 12)

Principles governing the burden and the standard of proof required to establish a violation of the fundamental right guaranteed under Article 11 can be derived from the jurisprudence developed by this Court.

In **Kapugeekiyana v Hettiarachchi** [1984] 2 SLR 153, this Court has observed that;

“In deciding whether any particular fundamental right has been infringed I would apply the test laid down in Velmurugu (above) that the civil, and not the criminal standard of persuasion applies, with this observation, that the nature and gravity of an issue must necessarily determine the manner of attaining reasonable satisfaction of the truth of that issue.” (at page 165)

This Court in **Channa Peiris** (*supra*) observed that;

- *“The acts or conduct complained of must be qualitatively of a kind that a Court may take cognizance of. Where it is not so, the Court will not declare that Article 11 has been violated.”* and
- *“Having regard to the nature and gravity of the issue, a high degree of certainty is required before the balance of probability might be said to tilt in favour of a petitioner endeavouring to discharge his burden of proving that he was subjected to torture or to cruel, inhuman or degrading treatment.”* (at page 6)

The material presented before this Court reveals that the arrest of the victim has taken place around 5.30 am when he was riding a motorcycle and has been brought to the Police within about half an hour thereafter. The victim was in sound health when he left home and there were no signs of any illness or other medical condition when he was taken into custody by the 2nd Respondent. However, when the family members saw him for the first time in the police cell around 6.00 – 6.15 am the victim was seen to be in severe pain. When the family members visited three hours later, the condition of the victim has aggravated as he was lying motionless. It is only around 10.30 am steps were taken to provide medical attention to the victim. At that stage, desperate attempts by medical experts to resuscitate him failed. There is uncontroverted evidence that blunt trauma and stress has precipitated the pre-existing myocarditis

causing arrhythmias. It also reveals that the injury on the chest per se is not fatal. From these facts established with sufficient precision it is reasonable to deduce that the victim had been suffering from pain but was left without proper attention for more than four hours even after such a situation was brought to the attention of the 2nd Respondent who was the arresting officer. The 1st Respondent who was the Officer in Charge of the Police station in which the victim was held in custody for reasons best known to him has failed to take any remedial measures in a timely manner but had made an attempt to fabricate and falsify the manner and the time of arrest of the victim. It was only around 10.30 am the 1st Respondent had taken steps to move the motionless, critically ill victim or perhaps who had already succumbed to the hospital.

In this regard, it is pertinent to observe that the investigation of crimes followed by arrest and detention of suspects are necessary ingredients of the law enforcement process which bears an important and inalienable role in preserving, protecting and enhancing rule of law. It is to ensure an efficient and effective process the persons who carry on the responsibilities of law enforcement are empowered to take all necessary steps including measures that would curtail the freedom of movement of persons. However, when such powers are exercised by persons it remains their duty to ensure that the rights of persons are curtailed only to the extent permitted by law. It is their responsibility to ensure that the persons whose rights are curtailed are treated with due care and attention.

This Court has recognized the need to ensure safe custody of persons whose freedom of movement has been curtailed by law enforcement officials and the responsibility to not to ill-treat persons who come under their custody when they exercise powers vested on them. [*Queen v Tennakone Mudiyansele Appuhamy* 60 NLR 313 at 324-327; *Vijesekara v Sumedha Thushanga PC* SC FR 449/17, SCM 14th July 2021; *Malika v D.M.Aberathna*, SC FR 157/14 SCM 21st May 2021]. Furthermore, this Court has also recognized that the failure to provide medical attention when needed

infringes the guarantee against cruel, inhuman or degrading treatment as provided under Article 11 of the Constitution. [*Somawardena v Superintendent of Prisons and Others* SC FR 494/93 SCM 22nd March 1995; *Deshapriya v Captain Weerakoon, Commanding Officer, Sri Lanka Navy Ship “Gemunu” and others* (2003) 2 SLR 99; *H.M.M.Sampath Kumara v Officer-in-Charge, Police Station Katunayake and Others*, SC FR 265/11, SCM 05th April 2019].

The 1st Respondent in his capacity as the Officer-in-Charge of the police station in which the victim was held in custody, had the responsibility to ensure that the victim be provided with prompt medical attention when the need for such attention became apparent. The 2nd Respondent who was the arresting officer should have taken prompt action when the condition of the victim was brought to his attention. There is a dearth of material before this Court as to the exact steps the first and the 2nd Respondent took between 6.00 am to 10.30 am to ensure that the victim was treated with due care and attention, given the circumstances that prevailed.

In the context of the totality of the material available and the submissions of the Learned Counsel for the Petitioners it is pertinent to observe that in my view there is a dearth of material for this Court to conclude that the victim has been subjected to physical abuse that would amount to an infringement of Article 11 of the Constitution. The material available falls short of required standard to establish that an assault of such gravity amounting to “torture” had taken place. The statement of the victim made to the 4th Respondent to the effect that the police officers assaulted him in the context of the two inherent infirmities namely the absence of cross examination and that the statement was not made under oath taken together with the medical evidence confirming that the only injury present on the deceased was a 1 cm laceration on the left upper chest and no other injuries of any other nature, at the least contusions or abrasions existed in any area of the body, I am of the view that the Petitioners have failed to establish that the victim was subjected to physical abuse amounting to torture

falling within the ambit of Article 11 of the Constitution, whilst in the custody of the police officers.

Nonetheless, it is also pertinent to note that the failure on the part of the 1st and 2nd Respondents to sufficiently explain fully the sequence of events and circumstances surrounding the four hour period during which the victim was held in the custody of the police station, including any steps they took to address the suffering of the victim have to be considered with sufficient weight in attributing responsibility for causing cruel, degrading or inhuman treatment that would amount to a violation of the rights guaranteed under Article 11. As I have enumerated hereinbefore, the 1st and the 2nd Respondents had a duty to treat that victim with due care and attention and ensure his safety whilst being in their custody. The two Respondents failed to discharge their burden to establish before this Court that they did in fact satisfactorily discharged the duty placed on them in the given circumstances.

When all these factors are taken cumulatively, I am of the view that the 1st and 2nd Respondents have infringed the rights guaranteed under Article 11 of the Constitution. There is also no doubt that the two Respondents have acted in the colour of their office at the time such violations took place.

Taking into account the cumulative effect of the series of events commencing from the arrest and the subsequent death on the next of kin of the victim, specially, the events leading to the infringement of the protection guaranteed to the victim under Article 11 of the Constitution, due to the wrongful conduct of the two Respondents as enumerated hereinbefore, it is just and equitable for this Court to grant relief to the Petitioners.

The Learned Deputy Solicitor General who represented 6th to the 9th Respondents drew the attention of this Court to the steps the authorities have initiated against the

other Respondents and submitted that the Court ought to take into consideration such steps initiated by State authorities in determining the extent to which the State could be held responsible or accountable to the conduct of the errant officers. Petitioners in their affidavits confirm that a team of officers from the Criminal Investigations Department led by a Superintendent of Police visited them within twenty four hours (around 12.30 am on 16th April 2012) recorded their statements and a Deputy Inspector General of Police visited them the following day. However, the Learned Counsel for the Petitioners contended that the long delay in taking meaningful steps demonstrate the apathy of the State, specially in the leadership of the Police Department in taking action against errant officers. The material available to this Court reveal that the 1st Respondent had retired from service in the year 2015 under Section 2:12 of the pension minutes and the other Respondents had been initially interdicted only after five years of the incident (2017). However, they had been restored in service within a short period of time until they were interdicted two years later in 2019 for the second time. The report of the preliminary investigation has been submitted with the recommendations to take formal disciplinary action against errant officers has been submitted only in 2023, ten years after the incident. Even though the Respondents had been indicted in the year 2017, the long delay to commence a formal disciplinary inquiry based on specific charges raises concerns on the effectiveness of the process initiated by the State against the errant officers. In fact the material available to this Court reflects that in December 2022, the Inspector General of Police has reiterated the need to conduct disciplinary proceedings parallel to criminal proceedings as advised by the Attorney-General, and the report of the preliminary investigation has been submitted in consequence to such direction only. The failure to initiate disciplinary proceedings against the errant officers in a timely manner causes a serious dent on the effectiveness of such a process.

In view of the findings enumerated hereinbefore, I hold that the Rights guaranteed to the victim under Article 11 of the Constitution has been violated due to the acts of the

1st and 2nd Respondents. Therefore, each of the two Respondents are directed to pay Rupees One Hundred and Twenty-Five Thousand from their personal funds and the State is directed to pay Rupees Two Hundred and Fifty Thousand, as compensation, to the Petitioners. Each Petitioner is entitled to Twenty Five percent of the total sum paid by the two Respondents and the State as per the direction of this Court.

Chief Justice

A.H.M.D. Nawaz, J.
I agree

Judge of the Supreme Court

Arjuna Obeyesekere, J,
I agree

Judge of the Supreme Court