

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

Case No. **CA/COC/43/2024**

In the matter of an application and in terms of Section 6 of the Contempt of a Court, Tribunal, or Institution Act No. 8 of 2024 and Section 11 of the Oaths and Affirmations Ordinance No. 9 of 1895 (as amended) read together with Chapter LXV of the Civil Procedure Code and Section 663 of the Civil Procedure Code (as amended) to take cognizance of and impose punishment as for acts of Contempt of Court.

Korale Gamaralalage Devika
Pushpakumari Nissanka
No.30/7, 2nd Lane,
Angulana Station Road,
Laxapathiya North, Moratuwa.

PETITIONER

Vs

Weerakone Mudiyansele Francis
Dinesh,
No.78/3/A, Kothalawalapura Housing
Scheme, Ratmalana

also at 106, Ebert Lane, Kaldemulla,
Moratuwa.

RESPONDENT

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**
: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : Jivan Goonethilake with Poornima
Kathriarachchi instructed by Chandana
Siriwardhana for the Petitioner.

J.P. Gamage with Chamara N. Fernando for
the Respondent.

Written Submissions on : 24.11.2025 for the Respondent.
15.12.2025 for the Petitioner.

Supported on : 27.10.2025

Decided on : 05.02.2026

K. Priyantha Fernando, J.(CA)

The Petitioner, by way of a Petition dated 4th December 2024, invoked the jurisdiction of this Court under and in terms of Section 6 of the Contempt of a Court, Tribunal or Institution Act No. 8 of 2024 seeking to charge the Respondent with the offence of Contempt of Court.

BACKGROUND:

This case stems from a pending civil action in the District Court of Moratuwa (bearing case No. 4203/2021/M), wherein the Petitioner sought to recover two 22 Karat bangles, Rs. 34,000/- in cash and a 5kg Cylinder of gas which were given to the Respondent by the Petitioner when the Respondent was living there as a tenant. The Petitioner put forth that the above items were given to the Respondent on the basis that the same would be returned when the Respondent was in a better financial position.

THE CONTENTION OF THE PETITIONER:

It was the Petitioner's contention that during the trial of the District Court action, the Respondent while leading evidence, put forth that as the General Manager of "Café Delight" his monthly income ranged from Rs. 300,000/= to Rs. 400,000/= (X3A). The Respondent affirmed this position once again during the cross examination (X3B) and submitted the same as evidence that he did not require to borrow the purported bangles, money or gas from the Petitioner owing to his prudent financial position.

During the trial the Petitioner marked two case records, one, an action for maintenance in the Magistrate Court of Mount Lavinia (bearing case No. 1132/M/2019 [X2]) and one for Bigamy in the Magistrate Court of Nugegoda (bearing case No. 28745/ [X1]). Both actions have been filed by the wife of the Respondent Marian Rebecca Cramer, against the Respondent.

The Petitioner drew the attention of court to the Respondent's conduct in the Maintenance action. The Respondent had taken up the position that he earned a salary of only Rs. 80,000/- (X2a) and even denied earning Rs.175,000/- (X2b) during the Cross Examination of the said case. As such, it is the Petitioner's contention that the Respondent had, as in line with Section 3 of the Contempt of a Court, Tribunal or Institution Act No. 8 Of 2024 brought the authority of court into disrespect and has interfered with and caused prejudice to the judicial process

The Petitioner also cited Section 11 of the Oaths and Affirmation Ordinance No. 9 of 1985 which provides that the giving of false evidence before a Court amounts to Contempt of Court. The Respondent prays for an issue of rule on the Respondent and to inquire and determine upon the commission of the said offenses against the District Court of Moratuwa and Magistrate Court of Mount Lavinia and impose appropriate punishment.

THE POSITION OF THE RESPONDENTS:

The Respondent contended that his own conduct of taking two different positions in respect of his salary is perjury and not an offence defined by the Contempt of a Court, Tribunal or Institution Act No. 8 of 2024 as it is not set out in section 3 or 4 of the Act.

The Respondent cited Section 11 of the Oath and Affirmation ordinance and highlighted that the Act sets out that the “opinion of the court before which the judicial proceeding is held” is the standard which decides whether or not false evidence has been given and thus whether a contemptuous act has been committed. The Respondent was of the view that the Petitioner should satisfy Court that the alleged act is within the object of the Act and the definition given in Section 3 of the Act. Finally, the Respondent referred to Sections 55 (1) and (2) of the Judicature Act No. 20 of 1978 which confers upon all District, Family, Small claim, Magistrate and Primary Courts “special jurisdiction to take cognizance” of every offence of contempt of court and impose punishment upon the accused.

Furthermore, it is worth noting that the Petitioner has filed an affidavit dated 26th January 2026 requesting the permission of court to amend the Petition in lieu of an alleged further charge of contempt in relation to the genuineness of the Respondent’s certificate obtained from the Open University of Sri Lanka marked as ‘V1’.

ANALYSIS:

The position taken by the Respondent was that he has committed perjury and not Contempt of Court. In response the Petitioner argued that if the Respondent were deemed to be correct, any person could lie to court and not be held in Contempt, thus getting away without consequence.

In support of his claim, the Petitioner referred to two cases:

- a. *Hee Jung Kim Alias Kim Hee Jung and another vs Don Bandumali Jayasinghe (nee Welikala)* SC/Contempt no. 3/2016, which held that:

“the giving of false evidence is thus the practicing of fraud upon the court by making it believe as true that which the deponent does not believe to be true...the offence is thus contempt of court”.

b. **Nagananda Kodithuwakku vs Jayantha Jayasuriya** (SC

Contempt no.02/2022), which states that:

“making false representations before the Supreme Court, knowing it to be false, undisputedly amounts to a contempt of the court and is a direct interference with the administration of justice”.

It is important to note that in both cases, the same court has tried the accused for contempt due to the giving of false evidence. The instant case is different only with regard to facts.

In relation to Section 11 of the Oaths and Affirmations Ordinance, the Petitioner put forth that the requirement of *“in the opinion of the Court before which the judicial proceedings is held”* has been satisfied, as it was held in the delivered judgment by the Learned Judge of the District Court of Moratuwa that the Respondent has provided false evidence. According to this provision and the finding of the trial judge, it is the view of this Court that the Petitioner should invariably file instant contempt matter before the District Court.

Additionally, the Petitioner has advanced the argument whether the Court of Appeal is the proper forum for this case and referred to Article 105(3) of the Constitution which identifies the Court of Appeal as the “superior court of record”. The Petitioner referred to the Supreme Court case of **Regent International Hotels Ltd v Cyril Gardiner and others** 1978-79-80 1 SLR 278 in which it was held that:

“The Court of Appeal, as a superior court of record, possesses all the powers under Article 105(3) of the constitution of punishing for contempt whether committed in facie curiae or ex facie curiae”

The same is conveyed by Section 6 (3) of the Contempt of a Court, Tribunal or

Institution Act No. 8 of 2024. Hence, it is clear that the Court of Appeal is indeed vested with power to punish acts of contempt which have been committed against any other lower court. However, as decided further down in this judgment, the Court of Appeal is not expected to hear every single contempt act occurs in the lower courts all over the island due to practical impossibility and because such courts also have been granted with powers to deal with them.

The Petitioner called into question the conduct of the Respondent who is currently charged with the following:

- a. B/5310/25 - Providing of forged visas for persons travelling to Canada.
- b. B/2478/25 – Extortion of a sum of Rs. 4,561,425.00/- promising job opportunities to people flying to Canada.

The Petitioner has contended that since the Respondent is a habitual perjurer and relevant alleged contemptuous conduct has occurred in two cases, the Court of Appeal is more suitable to try this matter.

Furthermore, in response to the Respondent’s argument concerning Section 55 of the Judicature Act No. 20 of 1978, the Petitioner contended that while the legislation vests the District Court and other courts with the power to decide matters of Contempt of Court, it does not take away the authority of this court to try such matters.

This Court has been vested with the power to punish for contempt of court by means of two legal regimes; as per Article 105 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka and the Contempt of a Court, Tribunal or Institution Act No. 8 of 2024.

Article 105 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka reads as follows:

105. (1) Subject to the provisions of the Constitution, the institutions for the administration of justice which protect, vindicate and enforce the rights of the People shall be –

(a) the Supreme Court of the Republic of Sri Lanka,

- (b) the Court of Appeal of the Republic of Sri Lanka,*
- (c) the High Court of the Republic of Sri Lanka and such other Courts of First Instance, tribunals or such institutions as Parliament may from time to time ordain and establish.*

Section 6 of the Contempt of a Court, Tribunal or Institution Act, No. 8 of 2024 states as follows:

“6. (1) The Supreme Court and the Court of Appeal shall have the power to punish for contempt of itself, whether committed in its presence or hearing or elsewhere.

(2) Where the Supreme Court or the Court of Appeal, as the case may be, in the exercise of its jurisdiction as referred to in subsection (1), takes cognizance

(a) of contempt of court committed in its presence or hearing, the Supreme Court or the Court of Appeal shall hear and determine such matter in accordance with the procedure set out in section 8; and

(b) of contempt of court committed otherwise than in its presence or hearing, the Supreme Court or the Court of Appeal shall hear and determine such matter in accordance with the procedure set out in section 9.

*(3) The Court of Appeal shall have the power to punish for contempt of a Court of First Instance or tribunal or institution, whether committed in its presence or hearing or elsewhere: **Provided however, the provisions of this section shall not prejudice or affect the rights of a Court of First Instance to punish for contempt of itself.***

(4) Where the Court of Appeal, in the exercise of its jurisdiction as referred to in subsection (3), takes cognizance of contempt of a Court of First Instance or tribunal or institution referred to in that subsection, the Court of Appeal shall hear and determine such matter in accordance with the procedure set out in section 10.”(the emphasis was added)

It is clear from the above Section 6 (3), that the power vested in the Court of Appeal has not affected the rights of the Courts of First Instance to punish for contempt. This situation of concurrent jurisdiction has prevailed even before the Contempt of Court, Tribunal or Institution Act, No. 8 of 2024 was enacted.

Although the Court of Appeal has been granted the power to adjudicate cases of contempt, it does not mean that the Court of Appeal is the only forum for the adjudication of such matters. In fact, this was opined in the case of **Mary Jean Varma v Dr. Chrisantha Nicholas Anthony Nonis and others** CA/(CC)/11/2016 decided on 24.01.2017 by His Lordship P. Padman Surasena (as His Lordship then was). The relevant portion of the judgment reads as follows:

“...It is to be noted that the main case is still pending before that High Court and the orders that are alleged to have been violated by the Respondents are interim orders that the learned High Court Judge had made at the very first instance of the case.

The case record containing all the relevant material as well as all the relevant parties are already before the said High Court. If the Respondents have violated the interim orders granted by the High Court thus committing an offence of contempt, the question arises as to why the said High Court cannot deal with this case particularly when it has been specifically vested with such power by the legislature. Similarly the question as to why in those circumstances this court should entertain this case when it is clearly a matter which should come under the purview of the High Court.

One has to bear in mind in this regard that in our system of law, the Court of Appeal is considered as one of the two superior courts of record. It also has to be borne in mind that the main function of the Court of Appeal is to deal with appeals as its very name "Court of Appeal" denotes.

The other aspect which has to be highlighted at this moment is that this is a case involving exercise of original jurisdiction (as opposed to the appellate jurisdiction).

Although Article 105 (3) of the Constitution has enabled the Court of Appeal to punish for contempt of any court, tribunal or other institution referred to in paragraph 1 (c) of that Article, it should not be taken as if, it is the Court of Appeal that should deal with all the situations of committing contempt of court in any of those institutions referred to in paragraph 1 (c) of that Article throughout the whole country.

Number of judges designated to those institutions referred to in paragraph 1 (c) of that Article is indeed very much more than the mere twelve judges in the Court of Appeal. Thus, it is manifestly clear that it would not be practically possible for this Court to deal with all such contempt matters if litigants from all over the country start filing such cases before the Court of Appeal. In these circumstances it is clear that the power given to the Court of Appeal by Article 105 (3) of the constitution is a power which the Court of Appeal may use, when necessary, in circumstances that it thinks warrants the exercise of that power.” (emphasis added)

Moreover, Sections 663, 792 and 798 of the Civil Procedure Code specifically provide for the procedure and appeal process in relation to offences of contempt in the District Court. The relevant sections are reproduced as follows:

“663. An injunction granted by the court on any such application may in case of disobedience be enforced by the punishment of the offender as for a contempt of court.”

“792. In all courts the summary procedure to be followed for the exercise of the special jurisdiction to take cognizance of and to punish summarily offences of contempt of court, and offences declared by this Ordinance to be

punishable as contempts of court, shall be that which is prescribed in the sections next immediately following.”

*“798. An appeal shall lie to the Court of Appeal from every order, sentence, or conviction made by any court in the exercise of its special jurisdiction to take cognizance of, and to **punish by way of summary procedure the offence of contempt of court, and of offences by this Ordinance made punishable as contempt of court**; and the procedure on any such appeal shall follow the procedure laid down in the Code of Criminal Procedure Act regulating appeals from orders made in the ordinary criminal jurisdiction of Magistrates' Courts.”*(the emphasis was added)

CONCLUSION:

In totality of all the above circumstances, it is my considered view that although the Court of Appeal has been vested with the jurisdiction to hear simple Perjury matters such as this, it should be heard in the Original Court since it is the most prudent approach which would ensure practicality whilst ensuring the parties have access to a proper process of appeal as provided for in the Section 798 of the Civil Procedure Code. This is in consonance with the decision *Mary Jean Varma.*

Next, I wish to specifically address the argument advanced by the Petitioner in relation to Sections 55(1) and (2) of the Judicature Act No. 20 of 1978. The Petitioner in reply to the Respondent stated that although the District Court is empowered to hear matters of contempt, the punishment that might be awarded by those courts is not stringent enough for the habitual conduct of the Respondent.

Sections 55(1) and (2) of the Judicature Act No. 20 of 1978 reads as follows:

“ 55. Contempt proceedings.

- (1) *Every District Court, Family Court, Small Claims Court, Magistrate's Court and Primary Court shall, for the purpose of maintaining its proper authority and efficiency, have a special jurisdiction to take cognizance of,*

and to punish with the penalties in that behalf as hereinafter provided, every offence of contempt of court committed in the presence of the court itself and all offences which are committed in the course of any act or proceeding in the said court respectively, and which are declared by any law for the time being in force to be punishable as contempt of court.

(2) The following sentences of fines or imprisonment as the case may be, may be imposed on conviction for contempt by the following courts respectively, namely—

(a) by a District Court and Family Court a fine not exceeding two thousand five hundred rupees or imprisonment, either simple or rigorous, for a period not exceeding two years;

(b) by a Small Claims Court and Magistrate's Court – a fine not exceeding one thousand five hundred rupees or imprisonment either simple or rigorous, for a period not exceeding eighteen months; and

(c) by a Primary Court – a fine not exceeding five hundred rupees or imprisonment, either simple or rigorous, for a period not exceeding three months.” (emphasis added)

According to Section 55(2) of the Judicature Act No. 20 of 1978, the District Court (the court in which the original case is being heard) is able to impose simple or rigorous imprisonment for a period not exceeding two years for acts of contempt committed. I am of the view that, maximum period of two years sentence is sufficiently proportionate to the alleged perjury considered along with the behaviour of the Accused and hence the argument of the Petitioner is untenable. This is more so, since the Respondent, if convicted before the Magistrate Court or High Court for alleged visa fraud and/or criminal extortion is subject to a punishment of additional period of prison sentence.

Addressing the Petitioner's request to add a further charge of contempt in relation to the genuineness of the Respondent's certificate obtained from the Open University of Sri Lanka, I am of the view that an action for alleged fraud should first be pursued in the Magistrate Court under in terms of **CHAPTER XVIII of the Code of Criminal Procedure Act No. 15 of 1979** titled “OFFENCES RELATING TO DOCUMENTS,

PROPERTY-MARKS, CURRENCY NOTES AND BANKNOTES”. Only thereafter would the addition of further charges be considered by the particular court.

Accordingly, the application of the Petitioner is dismissed without costs.

Judge of the Court of Appeal

Hon. Rohantha Abeyseriya PC, J.(P/CA)

I agree.

President of the Court of Appeal