

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

In the matter of an Application under Article  
140 of the Constitution for a mandate in the  
nature of Writs of *Certiorari* and Prohibition.

1. Thuppahi Arachchige Ruwan Prasad,
2. Wijesinghe Arachchige Niroshini,

1<sup>st</sup> and 2<sup>nd</sup> Petitioners, BOTH OF:  
No. 47/K/14,  
Samithpura,  
Mattakkuliya.

**PETITIONERS**

**Court of Appeal Case No:**  
**CA/WRIT/511/2024**

**Vs.**

1. Inspector General of Police,  
Police Headquarters,  
Colombo 01.
2. DIG O. Hewawitharana,  
Narcotics Range,  
Police Narcotics Bureau
3. SSP D.G.H. Prashantha,  
Director,  
Police Narcotics Bureau
4. WCI Ms. Niluka Chamali Perera,  
Acting Officer-in-Charge,  
Police Narcotics Bureau.

2<sup>nd</sup> to 4<sup>th</sup> Respondents, ALL OF:  
Police Narcotics Bureau,  
3<sup>rd</sup> Floor,  
New Secretariat Building,  
Colombo 01.

5. CI Nadika Silva,  
Police Special Task Force
6. IP Rajanayaka,  
Police Special Task Force
7. Sergeant Sanjeewa – Badge No. 60728,  
Police Special Task Force
8. Sergeant Dinesh – Badge No. 73163,  
Police Special Task Force
9. Sergeant Wakista – Badge No. 84054,  
Police Special Task Force

5<sup>th</sup> to 9<sup>th</sup> Respondents, ALL OF:  
Police Special Task Force,  
Intelligence Division,  
Rajagiriya Camp.

10. Hon. the Attorney General,  
Attorney General's Department,  
Hulftsdorp Street,  
Colombo 12.
11. Hon. U.V.D.T. Dhammika,  
Magistrate of Welisara,  
Magistrate's Court of Welisara,  
Welisara.

**RESPONDENTS**

**Before:** Mayadunne Corea, J  
Mahen Gopallawa, J

**Counsel:** Asthika Devendra with Jayantha Wickramasooriya instructed by Praveen Prematilake for the Petitioners.  
M. Thennakoon, D.S.G. with Tharaka Kodagoda, S.C. for the Respondents.

**Supported on:** 10.02.2026.

**Order delivered on:** 27.03.2026.

**Mayadunne Corea J**

The Petitioners in this Application sought, *inter alia*, the following reliefs:

“c) *Grant and issue a mandate in the nature of Writ of Certiorari quashing the B/Additional Report dated 02.07.2024 marked P3 hereinabove in case bearing No. B 2652/2024 pending before the Magistrate Court of Welisara*

*In the alternative to (a) above*

d) *Grant and issue a mandate in the nature of Writ of Certiorari quashing the decision marked as P3(a) on/contained in P3 naming the Petitioners as the 5<sup>th</sup> and 6<sup>th</sup> suspects,*

e) *Grant and issue a mandate in the nature of Writ of Certiorari quashing the decisions marked as P3(b) on/contained in P3 seeking for a travel ban against the 5<sup>th</sup> and 6<sup>th</sup> suspects (Petitioners),*

*In addition*

f) *Grant and issue a mandate in the nature of Writ of Certiorari quashing the order/decision of the 11<sup>th</sup> Respondent; the learned Magistrate of Welisara, dated 02<sup>nd</sup> of July 2024 naming the Petitioners as the 5<sup>th</sup> and 6<sup>th</sup> suspects (Petitioners) contained in P4 and/or P4(a)*

- g) *Grant and issue a mandate in the nature of Writ of Certiorari quashing the order/decision of the 11<sup>th</sup> Respondent; the learned Magistrate of Welisara, dated 2<sup>nd</sup> of July 2024 imposing a travel ban on the 5<sup>th</sup> and 6<sup>th</sup> suspects (Petitioners) contained in P4 and/or P4(a)*
- h) *Grant and issue a mandate in the nature of Writ of Certiorari quashing the B/Additional Report dated 16<sup>th</sup> of July 2024 marked P5 hereinabove in case bearing No. B 2652/2024 pending before the Magistrate's Court of Welisara in as much as it relates to the 5<sup>th</sup> and 6<sup>th</sup> suspects (Petitioners)*
- i) *Grant and issue a mandate in the nature of Writ of Certiorari quashing the B/Additional Report dated 30<sup>th</sup> of July 2024 marked P6 hereinabove in case bearing No. B 2652/2024 pending before the Magistrate Court of Welisara in as much as it relates to the 5<sup>th</sup> and 6<sup>th</sup> suspects (Petitioners)*
- j) *Grant and issue a mandate in the nature of Writ of Certiorari quashing any orders made by the 11<sup>th</sup> Respondent on 16.07.2024 and/or 30.07.2024 adversely against the 5<sup>th</sup> and 6<sup>th</sup> suspects (Petitioners)*
- k) *Mandate in the nature of a Writ of Prohibition against one or more or all of the 1<sup>st</sup> to 11<sup>th</sup> Respondents and their officers acting with/under them preventing them from arresting the Petitioners in as much as it relates to the matters contained in and/or relevant to the Magistrate Court case bearing No. B 2652/2024 pending before the Magistrate Court of Welisara"*

The facts of the case briefly are as follows. It is alleged that the 1<sup>st</sup> Petitioner is a fisherman and also runs a pet shop. The 2<sup>nd</sup> Petitioner is the wife of the 1<sup>st</sup> Petitioner. By virtue of a B-report dated 27.06.2024, the 4<sup>th</sup> Respondent reported facts to the Magistrate's Court of Welisara in case no. B 2652/2024 against four suspects for the possession and trafficking of illicit drugs. By a subsequent B-report dated 02.07.2024, the 1<sup>st</sup> and 2<sup>nd</sup> Petitioners were named as the 5<sup>th</sup> and 6<sup>th</sup> suspects in the aforesaid case. Thereafter, the learned Magistrate issued an order imposing a travel ban on the Petitioners. Further, two additional B-reports marked and tendered as P5 and P6 have been filed. Hence, this Writ Application.

## **The Petitioners' contention**

The Petitioners challenged the acts of the Respondents on the following grounds:

- The Respondents have acted contrary to the Poisons, Opium and Dangerous Drugs Ordinance, No. 17 of 1929.
- The acts of the Respondents are unreasonable, irrational, arbitrary, capricious, tainted with mala fides, contrary to the principles of natural justice, and are in violation of the legitimate expectations of the Petitioners.
- Violation of the fundamental rights of the Petitioners guaranteed under articles 11, 12(1), 13(1), 13(4) and 13(5) of the Constitution.

## **The Respondents' contention**

The 1<sup>st</sup> to 10<sup>th</sup> Respondents raised the following objections:

- Availability of alternative remedies
- The Petitioners have not come to Court with clean hands and therefore, lacks *uberrima fides*.
- The Petitioners have failed to demonstrate that the Respondents have acted in the absence of or in excess of jurisdiction.

## **Analysis**

The Petitioners confined their submissions to obtain notice to three grounds, namely, that the learned Magistrate had named the Petitioners as suspects without any material as enumerated in paragraph 24 of the Petition. Hence, the said order making the Petitioners suspects is bad in law. The other grievances of the Petitioners were that the issuing of a travel ban is bad in law and to prevent them from being arrested. I will now consider the Petitioners' contention with the Respondents' objections.

It is common ground that the Respondents conducted a raid on a tip-off and arrested four suspects. The said suspects were subsequently produced before the learned Magistrate by way of a B-report filed on 27.06.2024 (P2) in case bearing number B2652/2024. The four

suspects were arrested on suspicion of possession of drugs, and for possessing, selling, aiding and abetting the commission of the said offences. Thereafter, the Respondents submitted a further B-report dated 02.07.2024 (P3) setting out additional facts pertaining to the said investigation. As disclosed in the said B-report, it was reported that the Petitioners had contacted one of the suspects through a particular telephone number, as revealed in the course of investigations (P3(a)).

Accordingly, the inquiring officers had sought, *inter alia*, an order to name the Petitioners as 5<sup>th</sup> and 6<sup>th</sup> suspects and had sought for the imposition of a travel ban on them. The Petitioners' main ground is that they have been named as suspects without any lawful basis or reasonable grounds.

**Did the Magistrate have sufficient material before him to name the Petitioners as suspects?**

The Petitioners' main contention is that the 11<sup>th</sup> Respondent had named them as suspects in the Magistrate's Court case in the absence of sufficient material against them. Let me now consider whether the learned Magistrate had sufficient material before him at the time the application to name the Petitioners as suspects was allowed.

I have considered the document marked as P3, the second B-report. In the B-report, the investigators have specifically mentioned names of the two Petitioners and have highlighted, based on the findings of the investigation, the nexus between the Petitioners and the suspects who had already been arrested. The investigators have also referred to a particular telephone number in the said report. The investigators have specifically stated and made a request to obtain further particulars pertaining to the telephone number, which emerged during the course of the investigation. I observe that the Petitioners have neither denied nor disclaimed ownership of the said telephone number in their Petition. If the said telephone number doesn't belong to the Petitioners they should have pleaded so before this Court, which they have not done. It is apparent that the investigating officers, in their request, sought an order from the Court to obtain the particulars of the said telephone number. It is submitted that in order to obtain these particulars which would expedite the investigations, an application was made to name the Petitioners as suspects.

The first B-report filed by the Respondents does not contain any material against the Petitioners and the Respondents have not made any application pertaining to the Petitioners. I am mindful of the fact that the B-Reports contemplated in this instance are intended to inform the Magistrate of facts in relation to an ongoing investigation. Hence, as the investigation progresses, new material may emerge revealing connections with persons who were not named as suspects in the initial B-Report. Further, if there is no material to connect a suspect to the crime, this too would be reported, resulting in the discharge of the suspect.

Let me now consider the second B-Report. Upon a plain reading of the second B-Report dated 02.07.2024, it is clear that the Petitioners have been named as suspects based on the facts revealed during the inquiry into the four suspects who had been arrested. In the initial B-Report filed, the 1<sup>st</sup> suspect is one Amarathunga Aarachchige Channa Mayura Dias. The Petitioners concede that the 1<sup>st</sup> suspect is known to the Petitioners. It is further conceded by the Petitioners that the 1<sup>st</sup> suspect lives in the same neighbourhood as the Petitioners and is no stranger to the Petitioners. Upon a careful consideration of the second B-Report, this Court also observes that the said B-Report is solely reporting the facts elicited at the inquiry, and that no case has yet been registered against the suspects. The said report further states that investigations are ongoing to identify other suspects involved in the crime. The report contains the following:

“වැඩිදුරටත් මෙම සැකකරුවන් සම්බන්ධයෙන් සිදු කරන ලද විමර්ශනයේදී මෙරට සිට මෙම මන ජාවාරම මෙහෙයවන ලද මට්ටක්කුලිය රොෂාන් යන අය හා ඔහුගේ බිරිද වන විජේසිංහ ආරච්චි නිරෝෂනී නොහොත් අරුණ යන අය මෙම මන්ද්‍රව්‍ය ලබා දීම සඳහා මෙම නඩුවේ 01 වන සැකකාරිය වෙත අංක 0770568089 දරණ දුරකථන අංකය මගින් සම්බන්ධ වී ඇති බවටද කරුණු අනාවරණ ඇති බව ගරු අධිකරණය වෙත ගෞරවයෙන් වාර්තා කර සිටිමි.

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කරුණු එසේ හෙයින් මෙම නඩුවට අදාළව සිදු කරන ලද විමර්ශනයේදී අනාවරණය වී, ඇති කරුණු ඇ අනුව 05. අංක 47/K/14 සම්පූර්ණ, මට්ටක්කුලිය, කොළඹ 15 ලිපිනයේ පදිංචි ජා.හැ. අංක 922091188 වී හිමි තුප්පහි ආරච්චිගේ ප්‍රසාද් රුවන් නොහොත් කුඩු රෝෂාන් යන අය මෙම නඩුවේ 05 වන සැකකරු වශයෙන්ද, 06. අංක 47/K/14 සම්පූර්ණ, මට්ටක්කුලිය, කොළඹ 15 ලිපිනයේ පදිංචි වන ජා.හැ. අංක 198884203036 හිමි විජේසිංහ ආරච්චිගේ නිරෝෂනී නොහොත් අරුණ යන අය මෙම නඩුවේ 06 වන සැකකාරිය වශයෙන්ද නම් කරන බව ගරු අධිකරණය වෙත ගෞරවයෙන් වාර්-ථා කරන අතර, ඉහත සඳහන් සැකකරු හා සැකකාරිය අධිකරණය හා විමර්ශන නිලධාරීන් මග හරිමින් විදේශ ගත වීමට හැකියාවක් ඇති බැවින් එම සැකකරුගේ හා සැකකාරියගේ ගුවන් ගමන් තහනම් කිරීම සඳහා ආගමන විගමන පාලක වරයා වෙත නියෝගයක් ලබා ගත යුතුව ඇති බවත්, ගරු අධිකරණය වෙත ගෞරවයෙන් වාර්-ථා කරමි.

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මෙම අත්අඩංගුවට ගන්නා ලද සැකකරුවන් සම්බන්ධයෙන් සිදුකරන ලද විමර්ශනයේ දී අනාවරණය ඇති අංක 0770568089 දරණ දේශීය දුරකථනය සම්බන්ධයෙන් ඉදිරි විමර්ශන සිදු කිරීම සඳහා ඉහත දුරකථන අංකයට අදාලව 2024.05.01 වන දින සිට මේ දක්වා ලබා ගන්නා ලද හා ලැබුණු විස්තර ඇතුළත් කුළුණු හා එම අංකයන් සහිත දුරකථන විස්තර වාර්තාවක් ලබා ගැනීමට අවශ්‍යව ඇත.”

It is also submitted that, according to the investigations, the investigators have identified a local telephone number mentioned in the B-Report and have sought for a Court order to obtain particulars pertaining to the said telephone number. It is the contention of the Respondents, that the investigators cannot obtain the particulars of a telephone without a Court order and to conduct investigations pertaining to the calls generated between the suspects telephone and the particular telephone number that is alleged to be of the Petitioners. It is also pertinent to observe the Petitioners have not denied ownership of the said telephone number. Hence, when the learned Magistrate made the order naming the Petitioners as 5<sup>th</sup> and 6<sup>th</sup> suspects, the Court was in possession of the above-stated facts. The Magistrate was aware as to why the Petitioners are being named as suspects and in my view, the learned Magistrate had sufficient material to accede to the request and to name the Petitioners as suspects. This takes me to the next concern of the Petitioners, namely, their fear of being arrested.

It is the view of this Court that the learned Magistrate had sufficient material before him to allow the application of the investigators and to name the Petitioners as the 5<sup>th</sup> and 6<sup>th</sup> suspects. However, as observed above, the learned Magistrate has refrained from making an order to arrest the 5<sup>th</sup> and 6<sup>th</sup> suspects. It is also observed that by further reports tendered as P5 and P6 too there is no request made by the investigators to arrest the two Petitioners.

### **The arrest of the Petitioners**

I observe that the Petitioners have pleaded that they were informed by a lady in the neighbourhood, purportedly the wife of the 1<sup>st</sup> suspect, Mayura Dias, that they would be arrested. However, the Petitioners have failed to annex an affidavit from the said person who is alleged to have informed them that they would be arrested. The Petitioners have failed to place before this Court any affidavit or other material to substantiate the contention of an imminent arrest.

Further, the Petitioners argue that during the period of the arrest of the said Channa Mayura Dias, the 1<sup>st</sup> suspect, several people including the 5<sup>th</sup> to 9<sup>th</sup> Respondents had visited the residence of the Petitioners. However, the Petitioners have failed to establish this contention with any independent evidence. Further the Petitioners have failed to disclose how they became aware of the visit of 5<sup>th</sup> to 9<sup>th</sup> Respondents to their residence. The Petitioners further contended that although there is no order for their arrest there is an imminent move to arrest them. It is observed by this Court that the impugned B-Report has been tendered to the Magistrate's Court in the year 2024 and the Petitioners had been named as suspects in the same year. However, the Petitioners have failed to place any material before this Court to establish that there exists an imminent threat of arrest or that any order has been made for their arrest, even as at the date of supporting this application in 2026. The last journal entry tendered to this Court bears the date 02.07.2024. The Petitioners have not pleaded that they have annexed the entirety of the case record of the Magistrate's Court proceedings or whether only a few pages of the record have been marked and tendered to this Court. It is therefore unclear whether the annexures represent merely a part of the proceedings or the entire case record, as this is not pleaded in the Petition.

The document marked as X is pleaded as a certified copy of the case record B2652/2024 relating to the dates 26.06.2024 and 02.07.2024, although the Petitioners have pleaded that the said case was taken up on 16.07.2024 and 30.07.2024. At the time of supporting this application, the Petitioners have failed to tender any certified copies of the case record pertaining to the other dates. I am mindful of the fact that if the alleged offence is a cognizable offence, then an arrest can be made even without a warrant (section 32 of the Code of Criminal Procedure Act). In instances where the statute itself confers the power to arrest, this Court would be reluctant to restrain the Respondents from executing their duties under such statutory powers, unless such powers are exercised illegally or *ultra vires*. In the instant case before us, the Petitioners have failed to demonstrate both the above contemplated instances with any credible material.

It is also pertinent to observe that the journal entries and the B-Reports filed are from the year 2024. In none of the B-Reports have the Respondents requested for the arrest of the Petitioners. Further, it is also observed that the Petitioners have not disclosed whether they are occupying their usual residence or are staying elsewhere. If they are residing at the same address, it can be observed that they have not been arrested. If they are absconding or evading arrest by staying in a different location, such a fact has not been disclosed. In my view, the Petitioners have failed to establish that they are to be illegally arrested or are in imminent threat of arrest.

Hence, the Petitioner's contention that they would be arrested upon being named as suspects, and their claim that this application was filed to prevent an illegal arrest, is not tenable. The learned Magistrate, in his order, has been very cautious and has not issued any order to arrest the Petitioners, but has ordered the remand of the four suspects arrested previously. Accordingly, the Petitioners' claim that they filed this application in fear of being arrested cannot be sustained.

The Petitioners allege that, upon being informed by the wife of a suspect who had been arrested that the Respondents were making inquiries concerning the Petitioners, the 2<sup>nd</sup> Petitioner was greatly alarmed and comprehended a genuine fear for her life and that of her husband. Although the learned Counsel had pleaded the same, the Petitioner's Counsel failed to establish with any material the reason for the Petitioners to apprehend such a fear. A mere investigation by the police and the reporting of facts to the Magistrate's Court cannot generate such fear in an ordinary citizen. The Petitioners also without any material, attempted to make an allegation of mala fides against the Respondents. The Counsel supporting this application contended that the Respondents were acting mala fides against the Petitioners. This Court observes that if the Respondents were acting mala fides, the Respondents could have arrested the Petitioners without filing a B-report reporting facts to the Magistrate's Court. In this instance, the Respondents had not taken steps to arrest the Petitioners but had in fact reported facts to the Magistrate's Court. In my view, when the Respondents had the opportunity under the Poisons, Opium and Dangerous Drugs Ordinance to arrest a person without a warrant, by not doing so and first reporting facts to the Magistrate's Court and also only making an application to name the Petitioners as suspects, demonstrates that the Respondents have acted bona fide, rather than as alleged by the Petitioners, in a mala fide manner. Hence, this Court is not inclined to accept the Petitioners' unfounded allegation of the Respondents acting with malice towards them as the Petitioners have failed to demonstrate any such malice with independent evidence or material.

### **Suppression of material facts**

Let me now consider the submission of the learned DGS who took several objections to the maintainability of this application. In the said objections, the learned DSG contended that there is a serious suppression of material facts and the Petitioners have failed to come with clean hands to invoke the jurisdiction of this Court. It is the contention of the

Respondents that there have been several cases against the two Petitioners. In the objections filed by the 4<sup>th</sup> Respondent, they submitted a document to inform that the Petitioners have previous convictions pertaining to the possession of drugs where the 5<sup>th</sup> suspect was convicted and sentenced to a fine and a suspended term of imprisonment. However, it is also observed the operative period of the suspended sentence is now concluded. It was contended that there had been a case filed against the 2<sup>nd</sup> Petitioner pertaining to the possession of drugs and following a plea of guilt, she had been sentenced to a term of imprisonment with a fine.

In the counter-affidavits the Petitioners have submitted that additionally, there had been another B-Report filed in the Magistrate's Court Gampaha and the 2<sup>nd</sup> Petitioner was acquitted in case no. 4962/24. However, an appeal was filed against the said decision and is now pending. Further, in the counter-affidavit of the 1<sup>st</sup> Petitioner, it is stated that he had been arrested by the officers of the CID on 24<sup>th</sup> December pertaining to case no. 65922/25/6 and is in the custody of the CID pursuant to a detention order dated 01.01.2026. However, this Court finds that the Petitioners have failed to disclose these facts in the Petition filed to invoke the jurisdiction of this Court. Although under paragraph 29 of the Petition, the Petitioners had made reference to a case bearing case no. 96695/20, and in paragraph 41, the Petitioners had made a broad statement to the fact that the 1<sup>st</sup> Petitioner had been convicted twice and fined before, and that there are three other cases pending, but has failed to disclose the above stated cases submitted by the learned DSG, nor has the 2<sup>nd</sup> Petitioner disclosed the said cases referred to by the DSG.

As correctly stated by the learned DGS, the Petitioners have come before this Court and invoked the discretionary remedy of Writ jurisdiction seeking to quash parts of the B-Report marked as P3 namely P3(a), P3(b) and also to quash P4 and P4(a). Yet, the Petitioners have failed to disclose their implication in the above stated cases which are related to the possession of drugs.

As stated above, the Petitioners have failed to disclose to this Court the vital connection of them to the case, i.e., the connection to the telephone number. They have failed to provide an explanation as to whether the said telephone belongs to them, nor have they denied ownership of it. Failure to address this issue or evading to answer the said issue, in my view, is a serious suppression and creates a doubt on the *uberrima fides* of the Petitioners.

The Petitioners also have failed to adduce any evidence to demonstrate whether they were asked to make a statement as suspects or are evading such a request. The Petitioners have failed to inform this Court whether they continue to reside at their usual abode or are residing elsewhere to avoid arrest, particularly in light of their own assertion that they were notified that the 5<sup>th</sup> to 9<sup>th</sup> Respondents had visited their residence. This raises the question as to how the Petitioners were unaware of the said visit, if they were in fact present at the house.

Hence, in my view, the Petitioners have failed to come to this Court with clean hands and have suppressed material facts, which disentitles them from the reliefs sought. As enumerated in the case of *W. S. Alponso Appuhami v. Hettiarachchi* 77 NLR 131 Pathirana J stated;

*“The necessity of a full and fair disclosure of all the material facts to be placed before the Court when an application for a writ or injunction is made and the process of the Court is invoked is laid down in the case of The King v. The General Commissioner for the Purpose of the Income Tax Acts for the District of Kensington - Ex-parte Princess Edmond de Poignac – (1917) Kings Bench Division 486. Although this case deals with a writ of prohibition the principles enunciated are applicable to all cases of writs or injunctions. In this case a Divisional Court without dealing with the merits of the case discharged the rule on the ground that the applicant had suppressed or misrepresented the facts material to her application. The Court of Appeal affirmed the decision of the Divisional Court that there had been a suppression of material facts by the applicant in her affidavit and therefore it was justified in refusing a writ of prohibition without going into the merits of the case. In other words, so rigorous is the necessity for a full and truthful disclosure of all material facts that the Court would not go into the merits of the application, but will dismiss it without further examination”.*

In *S.J.S. Business Enterprises (P) Ltd. v. State of Bihar and Ors* AIR 2004 SC 2421 Ruma Pal J. held;

*“As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the Courts to deter a litigant from abusing the process of Court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the Court, whatever view the Court may have taken.”*

In my view, the Petitioner who invoke the Writ jurisdiction of this Court should submit to Court all the relevant facts, not merely the facts that he believes would assist him, but all relevant facts that would assist the Court to come to a proper conclusion. In this instance, the Petitioners have failed to do so. By the said suppression and evasive pleading of facts, the Petitioners have failed to establish that they have invoked the jurisdiction of this Court with clean hands.

### **An alternative remedy**

It is the contention of the learned DSG that, if the Petitioners were of the view that there were insufficient grounds to name them as suspects, the Petitioners could have sought a revision of the said order. It was also contended that the Petitioners could have applied to the Magistrate's Court for their discharge, as in this case, they have only been made suspects and not accused. Accordingly, it was the contention of the DSG that the Petitioners have failed to exercise any of these remedies but had invoked the Writ jurisdiction of this Court to prevent the arrest of the Petitioners, to quash the naming of the Petitioners as suspects in the B-Report and to quash the orders of the learned Magistrate adverse to the Petitioners.

In reply, the Counsel for the Petitioners conceded that they have not made these applications before the learned Magistrate and their contention is that they will not be discharged as suspects, in view of facts being reported pertaining to the possession of drugs. It is sufficient to state that this Court observes that P2 is only a report whereby the facts are reported to Court, and it is not a report filed under section 136(1)(b) of the Code of Criminal Procedure Act. The Petitioners are yet to be made accused and are only named as suspects. As per the entries marked as P3(a) and P3(b) and the contents of the B-Report dated 02.07.2024, it appears that they have been named as suspects only to facilitate the obtaining of an order for information pertaining to a telephone number that had been disclosed during the investigations. It is also observed that the Poisons, Opium and Dangerous Drugs Ordinance empower police officers to conduct investigations pertaining to possession, trafficking of drugs, etc. Hence, the Respondents had the legal authority to conduct the said investigations, which in this instance the Respondents have followed.

As for the submissions made, if the two Petitioners are not connected to the facts reported to the Magistrate in P3, P4, P5, P6, it is the duty of the Petitioners to be present before the Magistrate if and when required and make legal representations. As correctly observed by the learned DSG, if the Petitioners were apprehensive of being illegally detained, they still have remedies provided by law and even if they are named suspects and arrested, they still have been provided with a legal process under the Poisons, Opium and Dangerous Drugs Ordinance to obtain bail.

Hence, in my view, parties should desist from invoking the Writ jurisdiction of this Court to prevent investigations and arrest, without first having recourse to the remedies provided in the statute itself. In most instances, the procedure prescribed by statute is more efficacious and cost-effective than seeking relief under the Writ jurisdiction of this Court. It is also pertinent to note that, if this Court were to intervene and interfere each time the relevant authorities report facts to a Court in the course of an inquiry conducted pursuant to their statutory powers, no investigation could be brought to its conclusion.

A similar observation was made by this Court in ***Deshabandu Tennakoon v Hon. B.A. Aruna Indrajith Buddhadasa CA Writ application 168/25***, decided on 17.03.2025 where the Court opined:

*“When the Magistrate or the minor judiciary exercises their powers with due diligence and in accordance with the law, the higher judiciary should not interfere with their functions and decision making. They must be allowed to perform their judicial duties freely and independently, as prescribed by law. Unnecessary and baseless interference by the apex Courts in the functioning of the minor judiciary can hinder their ability to discharge their duties effectively.”*

It is my view that, unless cogent material is placed before this Court necessitating its intervention, this Court should exercise, with due caution, its discretionary powers under Article 140 of the Constitution in matters relating to ongoing investigations, as in the instant case before me.

It is also observed that the Petitioners have failed to disclose any illegality, in the order of the learned Magistrate to name the Petitioners as suspects and to impose a travel ban, other than to contend that there was insufficient material before the Magistrate. Elsewhere in this

judgment I have dealt with the material that has been placed before the learned Magistrate before the Court made the impugned order.

As per the document marked P3(b), the investigators made the request on the basis that the Petitioners were likely to evade the investigating officer and travel abroad. Consequently, they sought a prohibition on foreign travel. As noted above, if aggrieved by the said order, the Petitioners had the opportunity to approach the relevant Court and apply for the lifting of the travel ban.

### **Conclusion**

Hence, in my view, the Petitioners have failed to establish a *prima facie* case that warrants an issuance of notice. Therefore, I refuse to grant formal notice and proceed to dismiss this Writ application.

**Judge of the Court of Appeal**

**Mahen Gopallawa, J**

I agree

**Judge of the Court of Appeal**