

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

In the matter of an application for mandates in the nature of Writs of Certiorari, Prohibition and Mandamus under and in terms of Article 140 of the Constitution.

1. Boosse Deva Sadun Kumara,
2. Rajapaksha Thusew Nambi Duneesha Madurangi,

CA Writ Application No. 258/26

1<sup>st</sup> and 2<sup>nd</sup> Petitioners are both of;

No. 107/1/A,  
Maha Ambalangoda,  
Ambalangoda

**PETITIONERS**

Vs.

1. Bandara Wijekoon  
Head Quarters Inspector  
Police Station,  
Ambalangoda.
2. Vishwa  
Sub Inspector of Police,  
Special Raid Unit No. 3  
Police Narcotics Bureau,  
New Secretariat Building,  
Colombo 01.
3. Athula (PC 32845)  
Special Raid Unit No. 3  
Police Narcotics Bureau,  
New Secretariat Building,  
Colombo 01.
4. Sapumal, (PC 60711)

Special Raid Unit No. 3,  
Police Narcotics Bureau,  
New Secretariat Building,  
Colombo 01.

5. Dilshan (PC 11377)  
Special Raid Unit No. 3  
Police Narcotics Bureau,  
New Secretariat Building,  
Colombo 01.
6. Kumara, (PC 11406)  
Special Raid Unit No. 3  
Police Narcotics Bureau,  
New Secretariat Building,  
Colombo 01.
7. Udayanga, (PC 99486)  
Special Raid Unit No. 3  
Police Narcotics Bureau,  
New Secretariat Building,  
Colombo 01.
8. Mahesh, (PC 80557)  
Special Raid Unit No. 3  
Police Narcotics Bureau,  
New Secretariat Building,  
Colombo 01.
9. H.M.C.P. Herath  
Senior Superintendent of Police  
Director,  
Special Raid Unit No. 3  
Police Narcotics Bureau,  
New Secretariat Building,  
Colombo 01.
10. K.D.G.L.A. Dharmasena  
Deputy Inspector General of Police,  
Special Raid Unit No. 3  
Police Narcotics Bureau,

New Secretariat Building,  
Colombo 01.

11. Priyantha Weerasooriya  
Inspector General of Police,  
Police Headquarters,  
Colombo 02.
12. Registrar,  
Magistrate's Court,  
Balapitiya.
13. Hon. Attorney General  
Attorney General's Department  
Colombo 12.

**RESPONDENTS**

Before: **Damith Thotawatte, J.**  
**K.M.S. Dissanayake, J.**

Counsels: Geeth Karunaratna, Dimasha Marso instructed by Bhagya  
Pieris for the Petitioners.

Janaka Bandara, DSG for the 13<sup>th</sup> Respondent.

Supported: 11.05.2026 and 26.05.2026

Order: 27.05.2026

**Thotawatte, J.**

Upon a careful consideration of the averments set out in the Petition, the documents filed in support thereof, and the oral submissions made by learned Counsel appearing for the Petitioners and the Respondents respectively, this Court is satisfied that the grievances complained of relate to the exercise of statutory powers by police officers under the

Poisons, Opium and Dangerous Drugs Ordinance No. 17 of 1929 (as amended) and the Code of Criminal Procedure Act No. 15 of 1979 (as amended), arising in the course of investigations and proceedings presently pending before the learned Magistrate's Court of Balapitiya in Case No. 92601/26.

Whilst the material currently before this Court indicates that the investigating authorities had, at the outset, proceeded with a degree of promptness and diligence in respect of the impugned operation and seizure of suspected heroin, it is equally apparent that such diligence was not maintained in the subsequent conduct of the investigation. A period of no less than six days elapsed before the matter was brought to the attention of the learned Magistrate. The initial report submitted by the HQI of the Ambalangoda Police requested, *inter alia*, that the case be laid by pending the conclusion of further investigations. Thereafter, the police failed to appear before Court on two successive mention dates, including the final mention date, necessitating the issuance of notices by the learned Magistrate.

This Court views such conduct with concern. Having regard to the fact that the quantity of heroin allegedly recovered exceeds 25 grams, and that the suspect, notwithstanding having been identified by the investigating officers, has succeeded in evading custody, the conduct exhibited by the investigating authorities appears inconsistent with the degree of diligence and expediency ordinarily expected in relation to investigations of such gravity.

However, the Petition, notwithstanding the serious nature of the allegations advanced therein, does not clearly disclose any distinct jurisdictional defect, identifiable statutory illegality, procedural ultra vires act, or other ascertainable public law error of the nature traditionally amenable to the writ jurisdiction of this Court under Article 140 of the Constitution. Although the Petition invokes broad allegations of arbitrariness, mala fides, abuse of power and fabrication, the Petitioners have failed to clearly identify the precise statutory power alleged to have been unlawfully exercised, the jurisdictional precondition said to be absent, the specific legal prohibition alleged to have been violated, or the precise administrative or quasi-judicial determination sought to be quashed. Rather, the substance of the grievances urged by the Petitioners appears to invite this Court to enter into disputed factual controversies requiring evidentiary determination, including whether narcotics had in fact been recovered, whether the police version was contradicted by the surrounding material, whether evidence had been fabricated or planted, and whether the investigating officers had misrepresented facts connected to the pending criminal proceedings. Such matters necessarily involve questions of credibility, factual evaluation

and evidentiary assessment which are ordinarily amenable to determination within the framework of the pending criminal proceedings and are not matters ordinarily capable of determination upon affidavit material in the exercise of writ jurisdiction.

This Court notes that the 1<sup>st</sup> Petitioner seeks to invoke its discretionary writ jurisdiction while remaining a fugitive from the very criminal investigation proceedings challenged in this application. Writ jurisdiction is discretionary and equitable in nature. In the exercise of that discretion, the conduct of a petitioner who comes before this Court is a relevant consideration, particularly where the relief sought would directly bear upon a pending criminal investigation.

Having considered the Petition as presented, this Court is not persuaded that sufficient grounds have been disclosed to justify the issuance of notice in the exercise of its writ jurisdiction.

Accordingly, this application is refused and dismissed without issuance of notice.

**Judge of the Court of Appeal**

**K.M.S. Dissanayake, J.**

I agree

**Judge of the Court of Appeal**