



Article 11

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இலங்கை மனித உரிமைகள் ஆணைக்குழு  
HUMAN RIGHTS COMMISSION OF SRI LANKA

මගේ අංකය }  
எனது இல. }  
My No. }

ඔබේ අංකය }  
உமது இல. }  
Your No. }

දිනය }  
திகதி } 26-02-2018  
Date }

1. A.M. Rasanga Niroshan  
Pollebedda,  
Maha Oya
2. A.M. Dinesh Kanchana  
Pollebedda,  
Maha Oya
3. A.M. Anura Pushpakumara  
Pollebedda,  
Maha Oya

**Complainants**

Complaint Number: **HRC/AM/03/12/S/TO** vs.

1. Officer-in-Charge  
Police station,  
Maha Oya
2. Wasantha Kumara  
Inspector of Police,  
Police station,  
Maha Oya
3. Police Sergeant Wijemuni 43199  
Police station,  
Maha Oya
4. Police Sergeant Upasena 26195  
Police station,  
Maha Oya
5. Police Constable Dissanayake 43830  
Police station,  
Maha Oya
6. Police Constable Dharmasiri 14315  
Police station,  
Maha Oya
7. Police Constable Attanayake 53379  
Police station,  
Maha Oya

**Respondents**

ප්‍රධාන කාර්යාලය } பிரதான அலுவலகம் } Head Office }	14, ආර්. ඒ. ජ මෙල් මාවත, කොළඹ - 04. 14, ஆர்.ஏ.த. மெல் மாவத்தை, கொழும்பு - 04. 14, R. A. De Mel Mawatha, Colombo - 04.	සභාපති } தவிசாளர் } Chairperson }	011-2505451	ෆැක්ස් } தொலைநகல் } Fax }	011-2505541/74	විද්‍යුත් තැපෑල } மின்னஞ்சல் } e-mail }	sechrc@sltnet.lk
දුරකථන } தொலைபேசி } Telephone }	94 -11- 2505580/81/82	ලේකම් } செயலாளர் } Secretary }	011-2505521	කණ්ඩායම් } தூரித அழைப்பு } Hotline }	011-2505575 1996	වෙබ් } இணையம் } Web }	1 www.hrsl.lk

## **A. THE COMPLAINT**

1. The Complaint dated 09.01.2012 was related to an alleged beating of three boys aged 15, 20 and 21 by the police.
2. The 2<sup>nd</sup> Complainant was taken into custody by the Respondents and was produced before the Magistrate on false charges.

## **B. RELEVANT FACTS**

### Position of the Complainants

3. On 31.12.2011, the Complainants were travelling at night on a tractor owned by the 2<sup>nd</sup> Complainant's father. A group of police officers stopped the tractor, which did not have a number plate and asked for the papers of the tractor. Even though the Complainants have produced the necessary documents, as the tractor did not have a number plate, the Respondents have arrested the Complainants and were proceeding to the police station. The Complainant state that they observed that the Respondents were drunk at that time.
4. The Respondents have passed the Gal Wala Yaya police post and were proceeding towards Rabukan Oya reservoir. When the Complainants have questioned the Respondents as to why they went passing the police post, the Respondents have beaten the Complainants and silenced them.
5. As they moved towards the Rabukan Oya reservoir, there was a group of people drinking by the road. The Respondents have questioned the group that was drinking and have started to assault them. At that moment, the 1<sup>st</sup> and 3<sup>rd</sup> Complainants have escaped and started to run away. Thereafter, the 1<sup>st</sup> and 3<sup>rd</sup> Complainants were admitted to the Maha oya hospital for treatment.
6. The Respondents have taken the 2<sup>nd</sup> Complainant into custody along with the tractor.
7. The 2<sup>nd</sup> Complainant was produced before the Dehiaththakanddiya Magistrate for charges of engaging in an unlawful assembly and voluntarily causing hurt to deter a public servant from his duty.

### Position of the Respondents

8. According to the extracts of the police information book, there was a complaint lodged on 31.12.2011 in the Maha Oya police station by one Karunasena who said that two drunk boys had come to his construction site. The drunk boys have created an uproar at the construction site and left in a Mahendra tractor. As it was dark, Karunasena could not see the number plate of the tractor. Karunasena had made a call to 119 and had reported the incident. Karunasena in his police statement states that two police officers arrived on bikes. Karunasena has directed the police officers to the tractor and they have arrested the boys. One police officer has driven the tractor while the others have left on motor bikes.

9. The Respondents state that there was a 119 call stating that there was a fight near Rabukkan Oya. While the Respondents were investigating the incident, they saw an unregistered Mahindra tractor approaching. The Respondents travelling on their motorbikes had tried to stop the tractor but it continued to move forward. When the tractor finally stopped, the Complainants produced their identity cards to the 2<sup>nd</sup> Respondent. The Complainants thereafter allegedly scolded the Respondents and assaulted them. The Respondents state that four people have escaped while the 2<sup>nd</sup> Complainant was taken into custody along with the tractor.
10. The Respondents deny assaulting the Complainants at any point.

### **C. PROCEEDINGS BEFORE THE HUMAN RIGHTS COMMISSION**

11. The 2<sup>nd</sup>- 7<sup>th</sup> Respondents have recorded statements before the Human Rights Commission.
12. At the inquiry held on 14.08.2012, the Complainants state that they were arrested on false charges. The 2<sup>nd</sup> Complainant states that after he was arrested, he was threatened and assaulted at the Maha Oya police station. The 2<sup>nd</sup> Complainant identifies the 2<sup>nd</sup> Respondent as the person who assaulted him. The 2<sup>nd</sup> Respondent at the inquiry has denied assaulting the Complainants and has stated that minimum force was used when making the arrest.
13. At the inquiry, it was revealed that the 3<sup>rd</sup> Complainant has undergone an operation as a result of the injuries.

### **D. APPLICABLE EVIDENCE**

14. There were three witnesses who produced affidavits confirming that they witnessed the Complainants being assaulted by the Respondents.
15. There are three Medical Reports which confirm that the Complainants have sustained injuries
  - i. The JMO report of the 1<sup>st</sup> Complainant:**

States that the 1<sup>st</sup> Complainant was admitted on 01.01.2012 and discharged on 03.01.2012 by a group of police officers. The report states that his left ear was red even though his hearing was normal. There were abrasions on his left knee. The injuries were caused as a result of assault.
  - ii. The JMO report of the 2<sup>nd</sup> Complainant:**

States that the 2<sup>nd</sup> Complainant was admitted on 06.01.2012 and discharged on 10.01.2012 and that he was assaulted by a group of drunken police officers. The report states that the injuries on his hands and chest were caused as a result of assault.
  - iii. The JMO report of the 3<sup>rd</sup> Complainant:**

States that the 3<sup>rd</sup> Complainant was admitted to hospital on 01.01.2012 and discharged on

03.01.2012. States that he was assaulted by three police officers. The report states that the injuries were caused by assault.


#### E. OBSERVATIONS

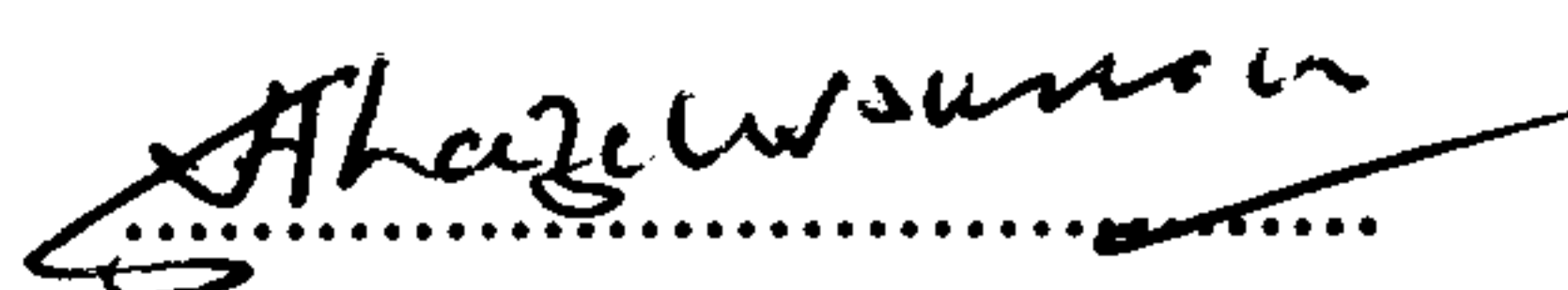
16. All the three Complainants have sustained injuries and were admitted to hospital as per the JMO reports. There are three witnesses who confirm that they saw the alleged incident taking place.
17. The Respondents in their statement confirm that all of them were present at the time the arrest was made. The 2<sup>nd</sup> Respondent has been identified in the Complainants statements, even though the other Respondents have not been individually identified, although the Complainants in their statements to the medical officer have stated that they were assaulted by a 'group of police officers.'
18. Therefore, it can be concluded that the 2<sup>nd</sup> Respondent **has violated** the Fundamental Rights guaranteed to the Complainants by Article 11 of the Constitution.

#### F. RECOMMENDATIONS

In view of the above, the Commission recommends the following;

- A) In terms of the provisions in Section 15 (6) of the HRC Act, a copy of the recommendation is hereby sent to the Inspector General of Police to investigate the allegation of torture with a view to instituting criminal proceedings, under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act, No 22 of 1994.
- B) In terms of section 15 (3) (c) of the HRC Act, a copy of the recommendation report of this case is hereby sent to the Attorney General for further action.
- C) In terms of the provisions in section 11 (g) of the HRC Act, the Commission recommends the 2<sup>nd</sup> Respondents to pay each Complainant a sum of Rs.10,000 as compensation, and the Sri Lanka Police to pay each Complainant a sum of Rs. 20,000, which means each of the three Complainants are entitled to a total of Rs.30,000.

  
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Saliya Pieris PC,  
Commissioner  
Human Rights Commission of Sri Lanka  
Commissioner  
Human Rights Commission of Sri Lanka  
No. 14, R.A. De Mel Mawatha,  
Colombo 04.

  
.....  
Ghazali Hussain  
Commissioner  
Human Rights Commission of Sri Lanka  
Commissioner  
Human Rights Commission of Sri Lanka  
No. 14, R.A. De Mel Mawatha,  
Colombo 04.

Copy- 1. Inspector General of Police  
2. Attorney General Department