

Trial Monitoring report

About the case: Easter Sunday Attacks

Case no. :

Courts:

Date of hearing: 2nd of August

Author (s) of report:

1. Who was in courts:

Who	Names / other information	Comments
Judge (s)		
Attorney General's Dept.	Priyantha Nawana	
Police (CID / TID etc.)	Dileepa Peris	
Accused / Suspects		
Lawyers for accused / suspects		
Aggrieved party		
Lawyers for aggrieved Petition	Mr. Saliya Peris	
Supporters of accused / suspects		
Supporters of aggrieved party		
Others		

2. What happened in court hearing?

Mr. Saliya Peris made his submission as follows.

Under the article 35 (1) by any person hold office as president no proceeding shall be instituted or continued against him in any court or tribunal shall be instituted or continued against him any court of tribunal in respect of anything done or omitted to be alone by either official or private capacity.

Now my learned friend interpretation of the proviso says provided that nothing in this paragraph I read and contorted as restrict of right of person to make application under 126 against attorney general in respect of anything done or omitted to be done president official capacity now there my learned friend contention if I understood if that we says that proviso relates to situation when the where are the president some act is challenge which committed or committed to do while he is president while that proviso applies only that instance and not otherwise. So the some total of my argument is sitting president if I challenge act or omission of the sitting president fundamental rights application can be instituted by the name of the attorney General.

But if you are challenging this act prior to be coming this president then the action cannot proceed against him. In other words president Ranil Wickramasinghe is acts or omission acquire prime minister if it was challenge fundamental rights application that action can not be continue.

Now I say that interpretation would give rise and any absurdity because proceeding. If we go back original article 35 in constitution 1978 while any person hold office as president. No proceeding shall be instituted or constituted against in any court or tribunal in respect of anything done or omitted to be done by him either in official or private capacity that was a original article 35.

Then my lord came 20th amendments bill now I invite lordships consider this matter in the 20th amendments determination where are the divisional bench your lordships court in SCS no one of 2022, 39 of 2022. Your lordship considered that the bill your lordship.

20th Amendment sought restore original 1978. Provision and your lordships held that not that with the 19th amendments jurisdiction had been expanded that IF the legislature go back to the original 19th constitution that would be violation of the sovereignty of the people and your lordships here that the original 20th amendments bill as is to restore 1978 provision that would acquire but would also require what your lordships say if the proviso continue the proviso remain providing the president would be challenge.

My respectful submission is interpreting article 35(1) as it stands now in relation to Mr Ranil Wickramasinghe acts or omission done by him in his capacity prime minister. As to whether this action can proceed I respectfully submit that your lordships should interpret article 35(1) of constitution and the proviso in light of that wisdom determination in 20th amendments my respectful submission is when one looks that article 35(1). While any person hold office as this president no proceeding shall be instituted and continued again in any court tribunal anything done or omitted to be done either in official or private capacity, I say the official capacity in may have held prior to be president.

Justice Aluwihare asks.

“We have another issue Mr. peris if you read article 35(1) and it says no proceeding shall be continued in relation to anything done or omitted by him either in official or private capacity. How do we apply the word continue to official and private acts or omission done either official or private capacity.

So that is why my lord may I say my lord I met the description official capacity and acts done in private capacity I do that because acts done in an official capacity any other office is subject to fundamental rights jurisdiction of your lordship court.