


CA appoints three-judge bench to hear Ravi K writ petition

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Ravi Karunanayake

By S.S. Selvanayagam

Court of Appeal President A.H.M.D. Nawaz yesterday constituted a bench of three judges to hear the writ petitions filed by former Finance Minister Ravi Karunanayake and Arjun Aloysius as well as two others contesting arrest warrants issued against them in connection with the Treasury bond auction scam.

The petitions yesterday came before a Bench comprising Justices A.H.M.D. Nawaz and Sobitha Rajakaruna.

When the matter was taken up, Deputy Solicitor General Milinda Gunathilake submitted that he had already filed a motion seeking to constitute a divisional bench of three judges to hear this matter for notices and an interim stay order on the arrest warrant against the petitioners.

The Court is inclined to constitute a Divisional Bench as per the plea of the Deputy Solicitor General with the consent of the petitioners' legal counsel.

The matter was then taken up at 2.00 p.m. before the Divisional Bench. The Deputy Solicitor General raised a preliminary objection against the issuance of notice on the fifth respondent by the Fort Magistrate, who issued the arrest warrant for the petitioners.

He submitted that the petitioners now make submissions that the said Magistrate would have been biased as he had already wanted to recuse himself from a similar case since his wife is a Central Bank employee.

He contended that the petitioners would have raised this issue before the proceedings in the Magistrate Court of the said Judge and they would have asked him to recuse himself.

President's Counsel Faisz Musthapha maintains that the Deputy Solicitor General cannot resist the issuance of notice.

Counsel Navin Marapana, appearing for Aloysius, submitted that it was delaying tactic and all the five respondents manipulated the forum.

Counsel Manoj Bandara said there were trumped-up charges against his clients and there was no complaint filed against them. He said his clients were in a predicament and they would have been arrested and remanded.

He contends that the Magistrate exceeded his jurisdiction.

He further stated that this shows that the investigation is ongoing and pleaded for the arrest order of the Magistrate Court to be prevented and for a limited interim order to be issued.

The Court fixed the matter to be resumed today.

Faisz Musthapha PC with Rienzie Aresecularatne PC, Shaveendra Fernando PC, Senani Dayaratne, Faiza Markar and Riad Ameen, instructed by Gowry Shangary Thavarasha, appeared for Karunanayake.

Navin Marapana PC, instructed by Sanath Wijewardana, appeared for Aloysius while Manoj Bandara, with Asitha Gamage, instructed by Sudath Perera Associates, appeared for Central Bank employees Saman Kumara and

S. Pathumanapan.

Deputy Solicitor General Milinda Gunatilake appeared for the Attorney General and Acting IGP.

The petitioners cited the Attorney General, Acting IGP C.D. Wickramaratne, OIC of the Financial Investigation Unit 1 of the CID, the Ampavila SSP, Fort Magistrate Ranga Dissanayake and Registrar of Fort Magistrate's Court as respondents.

Petitioner Karunanayake in his petition stated he played a significant role in spearheading the election campaign of the United National Party for the Parliamentary General Election which is expected to be held on 25 April.

He states that he also intends to contest the Parliamentary General Election and therefore the petitioner necessarily needs to carry out an election campaign for this purpose.

The petitioner states that Section 19.5.4 of the report refers to the meeting held on 28 March 2016. According to the report of the Commission of Inquiry, the impugned meeting was chaired by him in the capacity of Minister of Finance.

He contends that notwithstanding the fact that he was the Minister of Finance at the time, neither the Central Bank of Sri Lanka nor State banks came under his purview, and neither the said banks nor their officers were obligated to concur or give effect to his inclinations, if any.

He stated that it should be assumed that the said officers may have been acting on the directions and dictates of persons who in fact held legal powers of supervision and direction over them, and not by him.

He maintains that he appeared before the commission merely as a witness, and not as a person concerned or implicated in any of the matters investigated by the commission.

He claims the said order of the magistrate dated 6 March 2020, issuing the said warrant of arrest, is illegal, ultra vires and made without jurisdiction. He disputes that as such, he is entitled to a writ of certiorari to quash the said order of the magistrate, dated 6 March 2020, and a writ of prohibition preventing the respondents or any person acting under their directions, from executing the said warrant of arrest.

He is asking the Court to issue a writ of certiorari quashing the decisions and instructions of the Attorney General and a writ of prohibition restraining the respondents or any persons acting under the directions of any one or more of

them from executing the said arrest warrant.

He is seeking an order from Court to quash the certificate filed by the fourth Respondent SSP in the Colombo Fort Magistrate's Court case bearing No. B/16089/2020, purportedly acting under Section 8 of the Offences against Public Property Act No. 12 of 1982.

He seeks an interim order staying the execution of the order dated 6 March issuing a warrant of arrest against him until the final determination of the instant application.