

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

Muthupahana Gedara Jeewaka
No. 336, Kandy Road
Kelaniya.
(Now in the remand)

PETITIONER

CA /Bail No. 09/2016

CMC Colombo No. 56444/05

Vs

1. Officer In Charge
Police Station
Peliyagoda.
2. The Attorney General
Attorney General's Department
Colombo 12.

RESPONDENTS

BEFORE

: Deepali Wijesundera J.

: L.U. Jayasuriya J.

COUNSEL

: Apsara Botheju for the Petitioner

D.S. Soosatiahs S.S.C. for the
Attorney General

ARGUED ON

: 14th March, 2017

DECIDED ON

: 31st March, 2017

Deepali Wijesundera J.

The suspect petitioner was remanded under *Sec. 8 and 9 of the Assistance to and Protection of Victims of Crime and Witness Act, No 4 of 2015* and was remanded by the Chief Magistrate of Colombo. He's alleged to have threatened a witness.

In the instant case the suspect petitioner was ordered bail by the Magistrate and remanded on another B report before he could furnish bail. When suspects are produced before the Magistrate's Court under the provisions of the said act the Magistrate is duty bound to see whether the police have abused the provisions of the said Act.

Further the Magistrate should ascertain whether the facts placed before him falls within *sec. 81 of the Code of Criminal Procedure Act* where the provision is in place to bind over the parties produced before him. After considering the facts placed before the Magistrate, if the Magistrate is of the view that a particular suspect has violated the bail conditions, he should proceed to cancel the bail order and remanded the suspect. Such a suspect should not be remanded under the provisions of *Act No. 04 of 2015*.

We decide to release the suspect petitioner on bail. The learned Magistrate is ordered to release the suspect petitioner on Rs. 25,000/= cash bail with two sureties acceptable to the Magistrate.

JUDGE OF THE COURT OF APPEAL

L.U. Jayasuriya J.

I agree.

JUDGE OF THE COURT OF APPEAL