

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

CA TR 12/2016

Abdul Wadood Mohamed Athas,
No. 231,
Mahaweedhiya,
Ambalangoda.

DEFENDANT - PETITIONER

Vs.

Maduwage Yasapaala Silva,
No. 15, Higalduwa Road,
Ambalangoda.

PLAINTIFF - RESPONDENT

Before : **Vijith K. Malalgoda, PC, J(P/CA)**
S. Thurairaja, PC, J

Counsel : D.M.G. Dissanayaka & L.M.C.D. Bandara
instructed by E.S.M De Zoysa for the Defendant-
Petitioner.

Indunil Piyadasa instructed by M. Matugamage
for the Plaintiff – Respondent.

Decided on : 30.01.2017

Vijith K. Malalgoda, PC, J(P/CA)

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the defendant respondent. This is a transfer application filed by the petitioner to transfer the district court case No.3453L pending in the district court of Balapitiya. The petitioner's position is that in 2012 there was a threat to his life by a telephone call and thereafter he has made another complaint in 2016, to the Ambalangoda police that he is frighten of go to court to appear in this case due to life threats but other than these two police complaints

petitioner has failed to substantiate his position by bringing any material before this court. As submitted by the petitioner himself the person who said to have threatened his life in 2012, is now murdered, according to his own documentation before this court. With regard to the present complaint the petitioner has lodged in 2016, we observe that though he says that has a threat but he doesn't say as to how the threat is being aimed at him and at the same time the said complaint lodged by him only made for future references but he has not asked any investigations be carried out. When looking at the complaint we observe that there are no special reasons submitted by the petitioner to satisfy that his life is in danger in the hands of the plaintiff respondents in this case. When considering these submissions we see no merit in this application. Therefore we are not inclined to issue notices at this juncture. Application for transfer is therefore refused.

President of the Court of Appeal

S. Thuraija, PC, J

I agree

Judge of the Court of Appeal

Na/-