

## BY COURIER

10<sup>th</sup> November 2012

Mr. K.N. Choksy P.C.  
23/3, Sir Ernest De Silva Mawatha,  
Colombo 7.

Mr. K.N. Choksy,

I was shocked and amused on your views titled '*Mechanism and Process for the Impeachment of the Chief Justice*' / '*Making the Judiciary Accountable*', in the media – and the duplicity of your comment – '*There is an accountability process in every sphere of public service in its broad sense*', and that Judges must be like "Caesar's wife" i.e. beyond any suspicion whatsoever'.

It would appear that you have suddenly woken, oblivious of your own deeds:

1. Whilst you being a Member of Parliament accountable to the people, did you not try very hard to obstruct my prosecution of the fraud on the construction of the Hilton Hotel ?

Thus were not, *inter-alia*, the following observations of the District Judge in issuing interim injunctions upheld by the Supreme Court, an indictment, among others, specifically on you ?

- # *the other Defendants, [i.e. the Directors], as persons having connections concerning the said Hotel business, having intervened therein in such matter, acting to obtain the said monies, had not readily acted to conduct a correct examination ..... they having prevented such correct examination, were attempting to, howsoever, effect the payment of monies.*
- # *they are exercising the influence, that they have gained in society, acting together with the Company, to prevent the raising of the questions concerning the matters of the work in connection with the Contracts, the Prospectus ..... they were acting through such collaboration, in a manner amounting to defeat the interests of the Shareholders of the Company,*
- # *The significance, that is shown herein, is that generally, the Company which has to pay money, would be raising questions, in respect of such situation, and would not allow other parties to act arbitrarily...If the position, that explains this is correct, then this actually, is an instance of acting in fraudulent collusion".*

2. Though a Defendant, with your wrong-doings adduced before Court, you having been unable to file Objections in the District Court, did you not questionably appear through Counsel in the Court of Appeal, adducing the frivolous argument, that I had no right and status to have instituted such an action in my own country ? Did not the Supreme Court consequently refuse to hear you, and uphold my action as a serious *prima-facie* case of fraud, with every prospect of being successfully proven ?
3. Your wrong-doings, *vis-à-vis*, these frauds were well and truly set out in the Written Submissions tendered to the Supreme Court, settled by President's Counsel by Messrs H.L. de Silva P.C., and K. Kanag-Isvaran, P.C.
4. Did you not endeavour to abuse your power and position as a Member of Parliament and later as a Minister, to influence President Premadasa and President D.B. Wijetunga, in whose presence you were proven by me to have *uttered* falsehoods ?

5. Were you not served with a Charge Sheet under Section 9 of the Special Presidential Commission of Inquiry Law by Supreme Court Judge P.R.P. Perera and Appeal Court Judges H.S. Yapa and F.N.D. Jayasuriya, after investigations having been conducted by Officers of the CID assisted by Solicitor General, Mr. Douglas Premaratne P.C., and having recorded the evidence of 24 Witnesses and obtained a Report of a Panel of 3 Chartered Architects, *inter-alia*, stating thus ?

"..... acts of commission and/or omission on your part were fraudulent and were detrimental to the interests of the said Company and/or the Government of Sri Lanka, in its capacity as the major Shareholder, causing financial loss and damage to the said Company and/or the Government of Sri Lanka" ..... you are hereby required to show cause as to why you should not be found guilty of misuse or abuse of power and/or corruption and/or commission of fraudulent acts in terms of Section 9 of the Special Presidential Commission of Inquiry Law No.7 of 1978, as amended"

6. Did not the Special Presidential Commission make a ruling on your Written Submission, *inter-alia*, as follows ?

"We are of the unanimous view that in this respect he (*reference being to Mr. K.N. Choksy P.C., M.P.*) has stated untrue, erroneous and false facts, which necessarily has the tendency to mislead and deceive the public in general, and the members of this Commission ..... In these circumstances, it surprises and startles this Commission how Mr. Choksy with a conscience and consistent with his duties as Counsel to the Commission, making submissions to the effect that the Supreme Court refused to adopt the English law as laid down in these two English Cases and held that the English law did not coincide with the law of Sri Lanka."

and after which you deliberately abandoned appearing before the said Commission to evade being held accountable ?

7. Would you disclose to the public, as to the circumstances under which, President Chandrika Bandaranaike Kumaratunga did not extend the Warrant of the Special Presidential Commission ?
8. Were not the perverse amnesties in the guise of an Income Tax Amnesty presented by you to Parliament, as the Minister of Finance, pronounced by the Supreme Court to be, *inter-alia*, inimical to the rule of law, violative of the 'Universal Declaration of Human Rights and International Covenant on Civil & Political Rights', and that it had defrauded public revenue, causing extensive loss to the State, resulting in the *ouster* of the then Government and the said perverse Legislation being repealed ?
9. Is it because that the present Chief Justice Dr. Shirani A. Bandaranayake had been a Member of the 5 Judge Bench of the Supreme Court, which made the aforesaid pronouncement condemning your Statute, that prompted you to make your aforesaid statement to the media concerning Her Ladyship the Chief Justice ?
10. Was it not disclosed in the Supreme Court in a Golden Key Case that you had been a very large depositor, and subsequent to disclosure by the Directors to Court, that a property alienated by you, had been agreed to be returned (SC (FR) No. 317/2009 and MC No. B7773/1/2009) ?

In the context of the foregoing, could you explain to the public your pontification that – ‘There is an accountability process in every sphere of public service in its broad sense’ ?

You refer to international precedent and legislation in other domains, such as the US and Australia. What would the consequences have been on your aforesaid conduct and actions in those foreign domains ?



Nihal Sri Ameresekere, F.C.A, F.C.M.A., C.M.A., C.G.M.A., C.F.E.