

1968      *Present* : H. N. G. Fernando, S.P.J., and Alles, J.

R. A. JAYARATNE, Petitioner, and Mrs. SIRIMAVO R. D. BANDARANAIKE and others, Respondents

*S. C. 470/66—Application for Rule for Contempt of Court*

*Contempt of Court—Rule nisi—Requirement of prima facie evidence.*

A rule *nisi* for contempt of Court will not be issued unless there is available evidence which can lead the Court to conclude that an offence of contempt appears to have been committed.

### APPLICATION for Rule *nisi* for Contempt of Court.

*K. C. Nadarajah*, with *Ananda Paranavitana*, for the Petitioner.

*V. T. Thamotheram*, Deputy Solicitor-General, with *H. L. de Silva*, Crown Counsel, as *Amicus Curiae*.

November 16, 1966. H. N. G. FERNANDO, S.P.J.—

The learned Deputy Solicitor-General appearing on notice from this Court has referred to the fact that for a long period, the practice of the Court has been that a Rule Nisi for contempt of Court is only issued if there is available evidence which can lead the Court to conclude that an offence appears to have been committed. In the instant case, the only material which might lead to the opinion that the first Respondent made the statements attributed to her is the newspaper report of a speech alleged to have been made by her. There is no affidavit before the Court nor any sworn testimony before the Court alleging that the first Respondent made these statements which are attributed to her. On this material there is no legal ground upon which to base a conviction for the alleged offence of contempt. We are therefore in agreement with the learned Deputy Solicitor-General that, in accordance with the practice of the Court, a rule should not now issue against the first Respondent on the present application. The application for rule against the first Respondent is therefore refused.

The question whether the publication in the newspaper itself constitutes a contempt of Court on the part of the newspaper is one which seems to be worthy of argument and decision. Let rule issue accordingly on the 2nd and 3rd Respondents, as prayed for in the petition.

ALLES, J.—I agree.

*Application against 1st respondent refused.  
Rule nisi to issue on 2nd and 3rd respondents.*