

Present: De Sampayo A.J.

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KUSALHAMY v. DIONIS APPU.

524—P. C. Matara, 3,476.

Maintenance—Evidence of mother that child was maintained within one year after birth—Corroboration.

In a maintenance case the evidence of the mother that the defendant maintained the child within twelve months after its birth need not be corroborated.

THE facts appear from the judgment.

A. St. V. Jayewardene, for appellant.—The mother must be corroborated on the point that the child was maintained within twelve months of its birth. Under section 7 of the Maintenance Ordinance corroboration is necessary in this particular also. The corroboration required should not be limited to the question of paternity.

Cooray, for respondent.—The section does not insist on corroboration on any point beyond that of paternity. See *Perera v. Fernando*.¹

July 26, 1912. DE SAMPAYO A.J.—

In this case the appellant has been ordered to pay maintenance in respect of a child alleged to have been born to the applicant by the appellant. The evidence is very strong that the appellant was

¹ (1911) 15 N. L. R. 309; 5 Leader L. R. 68.

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the father of the child, and indeed, the fact is not seriously disputed on this appeal. It is contended, however, that the order for maintenance cannot be sustained because the evidence of the complainant, the mother of the child, was not corroborated in respect of her evidence that the appellant maintained the child within twelve months after its birth; the argument being that, under section 7 of Ordinance No. 19 of 1889, the evidence of the mother of the child should be corroborated even in this particular. If the construction of the section in question be so, I find so difficulty in holding that the evidence of the mother in this case has been materially corroborated on this point. The complainant herself testified to the fact that the appellant maintained the child and herself from the time of the birth, though later, namely, after his marriage to another woman, he did not visit her in her house, but gave her help or maintenance in the shape of money and goods; and she has added that the appellant ceased to do so only within four months of the commencement of these proceedings. The mother of the complainant, in whose house the complainant was living in her evidence stated similarly that the appellant had given help to the applicant after the birth of the child, and that after his own marriage he used to come himself and give her money until four months before the case. I cannot say that this is not a substantial corroboration of the complainant's evidence. But as regards the construction attempted to be put on this section, I am glad that my own impressions are supported by a decision cited by Mr. Cooray, for the respondent, in *Perera v. Fernando*,¹ in which it was, after full consideration, held that the corroboration required by the section in question referred only to identity of the putative father. Therefore I think that the point urged on this appeal fails, and the order must be affirmed with costs.

Affirmed.

¹ (1911) 15 N. L. R. 309; 5 Leader L. R. 68.