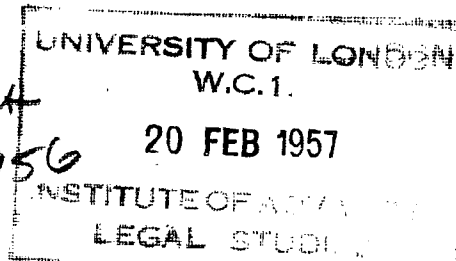


~~PC~~
~~GL 62~~

Judgment
31, 1956



Supreme Court of Ceylon
No. 346 of 1951

Magistrate's Court,
Batticaloa No. 10248.

451 1956

IN HER MAJESTY'S PRIVY COUNCIL
ON AN APPEAL FROM
THE SUPREME COURT OF CEYLON.

BETWEEN

VELUPILLAI PARPATHY of Division 1,

Periakallar.....Applicant-Respondent.

AND

KALIKUTTY KANAPATHIPILLAI of Division 1,

Periakallar.....Defendant-Appellant.

RECORD OF
PROCEEDINGS.

INTERNATIONAL
LAWYERS,
25, RUSSELL SQUARE,
LONDON,
W.C.1.

UNIVERSITY OF LONDON
W.C.1
20 FEB 1957
INSTITUTE OF ADVANCED
LEGAL STUDIES

Supreme Court of Ceylon
No. 346 of 1951

Magistrate's Court,
Batticaloa No. 10248. **46053**

IN HER MAJESTY'S PRIVY COUNCIL
ON AN APPEAL FROM
THE SUPREME COURT OF CEYLON.

BETWEEN

VELUPILLAI PARPATHY of Division 1,

Periakallar.....*Applicant-Respondent.*

AND

KALIKUTTY KANAPATHIPILLAI of Division 1,

Periakallar.....*Defendant-Appellant.*

RECORD OF
PROCEEDINGS.

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No. 1.

Affidavit of Applicant.

No. 10248.

IN THE MAGISTRATE'S COURT OF BATTICALOA.

VELUPILLAI PARVATHY of 1st Division Periakallar.

Applicant.

Vs.

KALICUDDY KANAPATHIPILLAI of Division No. 1 Periakallar.
Respondent.

¹⁰ I, Velupillai Parvathy of Periakallar not being a Christian do hereby solemnly sincerely and truly affirm and declare as follows:-

1. I am the Applicant above named.
2. The defendant above named being the father of my child Valliammai about 13 days old, and having sufficient means, the defendant has failed and neglected to maintain me and the child.
3. I therefore pray for an order of maintenance for the child.

Sgd. In Tamil
Applicant.

²⁰ The foregoing affidavit was read over and explained by me unto the affirmant in the Tamil language and she appearing to understand the contents of the same set her signature in my presence.

Affirmed to at Batticaloa
this 7th day of June, 1950
Before me,
Sgd. Illegibly
Magistrate.

Issue SS on defendant for 24-6-50

Sgd. Illegibly
Magistrate.

7-6-50.

No. 2.

Journal Entries.

24-6-50.

Applicant. V. PARVATHY
Defendant. K. KANAPATHIPILLAI
SS not issued. Issue now for 15-7-50.

15-7-50.

Applicant. V. PARVATHY
Defendant. K. KANAPATHIPILLAI } Present.
SS served. 10
Defendant. denies marriage and paternity.
Inquiry. 16-9

1-9-50.

Mr. M. A. L. KARIAPPER for applicant files list of
witnesses and cites 5.

16-9-50.

Inquiry.

Applicant. V. PARVATHY
Respondent. K. KANAPATHIPILLAI } Present.
Mr. Advocate KANAGASUNDERAM for defendant is
not ready. He is ordered to pay Rs. 21/- which he ²⁰
pays to Applicant in open court. Inquiry is refixed
at Batticaloa on 21/10 final.

18-10-50.

Proctor for defendant files list of witnesses and cites
one. K. R. 370 of 18-10-50 for Rs. 10/50 filed - deposited
18/10.

21-10-50.

Inquiry.

Applicant. V. PARVATHY
Defendant. K. KANAPATHIPILLAI } Present.
Vide proceedings. 30

23-10-50.

Req. for Rs. 10/50 issued to Dr. Jayawardene, D. M. O.

Applicant's Evidence.

21st October 1950.

Case No. 10248.

MAGISTRATE'S COURT BATTICALOA.

Applicant: V. PARVATHY
 Defendant: K. KANAPATHIPILLAI

Mr. Advocate: Chitty instructed by
 Mr. Devanayagam for the defendant

10 Mr. Advocate Olegesekeram instructed by
 Mr. Kariapper for the applicant calls:

V. PARVATHY. affirmed 27. W/o V. MYLVAGANAM. KALLAR. V. Parvathy
Examination

I am the applicant: I married about nine years ago. My husband is not living with me now. He left me 7 years ago and after leaving me he took another woman and he has been living with her for the last seven years. Since he left me he has been living with this woman. He has three children by this woman. After leaving me he was living with this woman at Annamalai. After my husband left me I have been living with my uncle at Kallar.
 20 Annamalai is four miles from Kallar, across a ferry. I have had nothing to do with my husband after he left me. I had no children while I was living with my husband. I have never met him after he left me. My husband lived with me for about four years and left me. After that I have been living with my uncle Veeracutty. I lived with my uncle for two months. Then I went to the defendant's house. The defendant's house is about two houses away from my uncle's house. The defendant is related to me as a cousin. I left my uncle and went to the defendant's house because he said that he had no one to work in his house and he
 30 wanted me to work in his house. Defendant was living with his wife and children. I went as a help to his wife. I received no salary; they were only feeding me and giving me clothes. I was staying in the defendant's house for 4 years and during that time I was on terms of sexual intimacy with the defendant. During that time on two occasions there were signs of my conceiving; both on account of this defendant.

No. 3
Applicant's
Evidence
V. Parvathy
Examination
—Continued

On both occasions the defendant gave me some medicine and as a result of that abortion was caused and I had no child and my menses which had ceased, resumed. When my husband left me I had no income and so I agreed to go to the defendant's house. This defendant got his daughter Kanagamma admitted to Vincent's High School, Batticaloa. A week later the defendant told his wife that a servant was wanted at the school and said that if I was sent there I could be of help to his daughter also and asked her consent. At that time too I was helping in the defendant's house. The defendant then took me to Vincent's school and left me there. I was doing ¹⁰ the work of a cook in the school. That was about three years ago. During the holidays when he comes to remove his daughter he takes me also and for the holidays I stay there. This happens for every holiday. The last occasion I was in the defendant's house was in August 1949. I spent about 20 or 30 days in the defendant's house that time. When I went for the holidays that time there was no sign of pregnancy. During the holidays the defendant had sexual intercourse with me. After my husband left me I had no sexual relations with any other man except the defendant. After the August holidays I returned to school. After I returned to school I noticed signs of ²⁰ pregnancy. I ceased to have my menses till this child was born in May this year. The child was born on 24th May this year. The child's name is Valliamma. After I discovered that I was pregnant I continued to work in the school. During the December holidays the defendant did not take me to his house. When he came to remove his daughter he said that he would come in 3 days time to take me. During August and December the defendant used to come and meet me about once a week and sometimes once in two or three weeks. He meets me near the gate outside the school. During that time I told him about my condition. He told me that if I took ³⁰ the medicine as usual I would be all right and he brought me the medicine. I did not take it. If I take the medicine I feel tired and cannot do my normal work. In December when he promised to come and take me later I waited for him. Three days later the defendant came and took me and went in search of a house. I wanted him to take me to the village or get me a house near the school. Then the defendant went out and returned later and said that he could not get a house near the school and asked me whether I knew of any place where I could stay. I told the defendant that I did not know anybody in town but that I knew Sonnamma who was supplying hoppers to ⁴⁰ the school and suggested that we go there. We both went. We

found the house and it was arranged by the defendant that I stay in Sonnamma's house. Sonnamma is a witness for me. Defendant stayed with me for three days in that house. After that he came and saw me in that house about once a week. Whenever he comes to school to see his daughter he comes and sees me. He used to support me when I was there. After that I did not go back to the school to work. Defendant used to send me money through Saverimuthu if he was unable to come himself. Saverimuthu is a servant under the Roman Catholic priests. He stays near that place. The defendant ceased to
 10 visit me and give me any money in April this year. I then asked Sonnamma to write a letter to the defendant. She wrote a letter to the defendant in the latter part of April. After sending the letter Sonnamma had gone to her daughter's place. That night I had some pain and the following morning I went to the hospital and stayed there for three days and returned to Sonnamma's house. When I was there my uncle Veeracutty with whom I had been staying came there. My uncle questioned me and I told him that I had conceived a child by the defendant and that he did not want me to go back to the village in order to save his own self-respect. My uncle then
 20 took me to Kallar. The woman with whom I was staying accompanied me. I went to my uncle's house at Kallar. He got me to make a statement to the headman. Sonnamma also made a statment to the headman. I told the headman that this defendant had left me at Batticaloa and that I had conceived by this defendant. When the defendant left me at Sonnamma's house I told her that I had conceived a child for the defendant. The defendant told Sonnamma that he was from Anuradapura and that he had married me from Kallar and that he wanted a house to stay. I went to Kallar on May 1st this year and on the same day the Headman recorded my
 30 statement. A few days later my child was born at my uncle's house. This defendant is the father of the child. I have no means to look after the child and I want the defendant to pay maintenance. The defendant is a goldsmith earning about Rs. 300/- a month at the least. He has workmen working under him. He has also got properties of his own. I want Rs. 50/- a month as maintenance.

CROSS-EXAMINED-My husband Mylvaganam is now at Annamalai. He is living about three miles from my house and he has been so living for a considerable period of time. I have never seen him. He does not come to Kallar. After he left me I have
 40 not seen him. All that I said about his being married and having

No. 3
 Applicant's
 Evidence
 V. Parvathy.
 Examination
 —Continued

V. Parvathy.
 Cross-
 Examination

No. 3.
Applicant's
Evidence
V. Parvathy.
Cross-
Examination
—Continued

children is all what I have heard. I do not know personally whether he has taken another woman or whether he has children by that woman. I have been living as the defendant's mistress for the last seven years in the same house with his wife and children. He has two grown up children and two small children. One grown up daughter is about 10 or 11 years and the second is just younger to this child and the youngest child is two years old. I do not take work as a cook in various places. I have been cooking at Vincent's school for three years. I was dismissed from the school when I was found pregnant. After that I had to look about for a means of livelihood. I was not dismissed from the school but after the defendant told me not to go back to the school I did not go. My principal witness is Sornamma. I am not aware whether Sornamma has claimed maintenance in this court. Sornamma's husband is one Sinnathurai. I do not know whether Sornamma is living in adultery with another man. I am not aware that she was found by this court to be living in adultery. I deny that Sornamma is a woman of loose character. I was taken to hospital to be examined whether I was pregnant. I went alone to the hospital. For seven years I had not regarded Mylvaganam as my husband. I am the mistress of the defendant. I went to the hospital only once, towards the latter part of April. The child was born in the latter part of May. The hospital authorities questioned me as to who was the father of the child. I was asked for the name of my husband and I gave the name of my husband as Mylvaganam. I gave the name of a man whom I had not set eyes on for 7 years and whom I did not know was dead or alive. Veeracutty did not go with me to the hospital. Veeracutty is my mother's brother. I lived in his house for about two months before I went to work in the house of the defendant. I do not know in what year I was born. My mother's name was Pethapillai. My father is alive. He is one Velupillai. I was born at Kallar. My mother was married to my father. I cannot explain how in my birth certificate my father's name is unknown. My mother is not living. She died in 1938. The last time I was in sexual intimacy with the defendant was in August 1949 and it was as a result of that that this child was conceived. This defendant had been having sexual intercourse with me at Sornamma's house whenever he came there. From the fourth to the seventh month also he has been occasionally having sexual intercourse with me at Sornamma's house; from December till about March. Between August and December I was working at the school. During that time I had no

sexual intimacy with the defendant. When I knew I was pregnant I did not take any steps. The defendant brought some medicine but I did not take it. I threw that medicine away. According to me this was my third pregnancy. The first two pregnancies were aborted on account of the medicine I took. It was within the period of four years I was working at the defendant's house. I cannot say in which year. I was working in the defendant's house as a cook. During the whole period I was at the defendant's house the defendant's wife and children were there. There were four rooms, a mandapam and a separate kitchen. When I came to know that I was pregnant in September I did not mention that to anybody in the school. The first person to whom I mentioned that apart from the defendant himself was Sonnamma. When defendant took me to Sonnamma's house he told Sonnamma that I was pregnant and that he could not take me to Anuradhapura from where he came. On the very first day in my presence he told Sonnamma all this. Later Sonnamma questioned me as to how I got married to the defendant when I was working in the school. Then I told her that I was not the defendant's wife and came out with the truth. I may have come out with this when we both were chatting. After I mentioned this to Sonnamma I told it to my uncle when he came in April before my child was born. Between December and April except for Sonnamma I had told no one else. I have summoned certain witnesses today. A dhoby, I do not know his name. He is from Puliyantivu. He lives at Veechikalmunai. At the instance of the defendant that dhoby had been washing for me. I had five sarees and some jackets and to get my clothes washed this defendant had to make the arrangements. Sonnamma has a different dhoby. Defendant engaged a dhoby who was washing for Sonnamma's brother and wife. One day when this defendant was there a dhoby had come and as I had some linen to be washed the defendant asked me to give those clothes to this dhoby and from that day I have been giving my clothes to that dhoby. The defendant himself arranged for this dhoby to wash for me and also the amount to be paid to him. The defendant had paid the dhoby his wages for two months. Another of my witnesses is one Maniam from Urani, he is a labourer. I do not know what his exact occupation is. Maniam is Sonnamma's brother's brother-in-law. Maniam had come to Sonnamma's house and seen defendant at Sonnamma's house. One Saverimuthu is also my witness. He is working under the Roman Catholic priests. He was in the habit of coming to Sonnamma's house to take hoppers and seeing me and the

No. 3
Applicant's
Evidence
V. Parvathy.
Cross-
Examination
—Continued

defendant he had enquired from Sonnamma and Sonnamma had told him that we were a newly married couple who were staying there. That is two months before my child was born. One Sinnathurai who is a gram seller near Vincent's school is a witness for me. Sinnathurai is a neighbour of Sonnamma and he had seen me and the defendant at Sonamma's as well as near Vincent's school. I have no witnesses here who know anything about Mylvaganam my husband. I had heard certain things from people about him. The headman of my village to whom I made the complaint told me about him. The headman's name is Poopalapillai. The Headman knows the whereabouts of my husband. 10 I have not summoned my husband. During this time I have not sued my husband for divorce or claimed maintenance on grounds of desertion. The defendant has been maintaining me quite generously all throughout. While I was employed at the school I was getting a salary from the school and defendant used to supplement this occasionally with Rs. 5/- or Rs. 10/-. After I left the school he arranged for my food and lodging. One month he had paid Sonnamma and the other month I paid Sonnamma. She has not been paid for the rest of the time. She received no money from me for March and April. I have been living at my uncle's place from the time I left Sonnamma's till now. The 20 defendant paid Sonnamma Rs. 10/- for one month and I also paid Sonnamma Rs. 10/- for one month. There are three rooms in Sonnamma's house and a separate kitchen. Sonnamma and her husband and children occupy one room, her younger brother and his wife and children occupy another room and I occupy the third room. Sonnamma's younger brother is one Sinnaver. Sonnamma's husband is one Sinnathurai. He is still living with her. I do not know that he divorced her three years ago. Sinnathurai is a carpenter but I do not know where he works. I do not know a man called Swaki. I deny that I have been living off and on with my husband Mylvaganam after he left me and that at the time I went 30 to the hospital I gave the name of the father of the child as Mylvaganam. I was only asked for my husband's name. I deny that I have filed this action in order to extort money from the defendant who was at one time my employer. I did not make any application to have the name of the child registered. The Headman Poopalapillai asked me about the birth of the child four days after the birth of the child. The child's birth has not yet been registered. I know that the defendant cannot marry me because I am already married and he is also married. I know that the child is an illegitimate child. It is not because I am distrait and want some money only for the child 40 but because the defendant is the father of the child and I want it so

recorded in the birth certificate in addition to the child's name. Over the defendant's giving me medicine to cause the abortion there was a quarrel between the defendant and his wife and thereafter the defendant's wife began to ill-treat me. It was at that time that I was taken to the school.

No. 3
Applicant's
Evidence
V. Parvathy.
Cross
Examination
—Continued

Re-examined: The Rs. 10/- paid to Sonnamma both by the defendant and myself was only in respect of rent and not for meals. I cooked my own meals. I went to the hospital as I had pain in my stomach. They kept me for 3 or 4 days and gave me medicine and the pain disappeared. At the time I was admitted to the hospital they asked me for my husband's name and I gave it as Mylvaganam. The only person to whom I was married was Mylvaganam. The medicine given to me acted as a very strong purgative and it would make me unfit for several days. The only place where I worked for a salary was at Vincent's School. It is not correct that I worked as a cook in several places.

V: Parvathy.
Re-
Examination

Cross-examined with permission — At the time my husband's name was asked and I gave it as Mylvaganam I do not know what I told the doctor as I was suffering severe pain. I can only remember giving my husband's name; I cannot remember anything else.

Sgd./Illegibly
Magistrate. 21 - 10 - 50

A. SONNAMMA, affirmed. 38. W/o Sinnathurai. Puliyantivu. My husband is living with me now. I live near to Vincent's School and Central College. During the latter part of last year I was supplying hoppers to Vincent's School. I have seen this applicant when she was working at Vincent's School. On 26th December last year this applicant came to my house. The applicant came on the day after Christmas. The defendant accompanied her. Both the defendant and applicant wanted the house for them to live in. I told them that there was no room in my place as I was expecting my children for Christmas. Finally they persuaded me to give them one room. They were to pay me Rs. 10/- per month as rent. The defendant as well as the applicant stayed there. The defendant stayed there for 3 days. On the day they came I gave them meals. The next day they cooked for themselves. After the defendant left the applicant continued to live there. Before he left the defendant paid me Rs. 10/-. After that the applicant continued to stay there till the end of April. During

A. Sonnamma
Examination

No. 3
Applicant's
Evidence
A. Sonnamma
Examination
—Continued

that time she was pregnant; she told me that she was pregnant. When they came I asked the applicant why she had come from the school. Then the defendant said that he was from Anuradhapura and that he had married her and that they had no place to stay. I understood from that that they were husband and wife. In April the applicant fell ill. In April this defendant did not come. In March he had come there. The applicant wanted me to write a letter to the defendant. No reply came to that letter. After sending the letter I had gone to Sathurukondan and in my absence the applicant had been to hospital. When I returned the applicant was in my house. Then one Veeracutty came¹⁰ there. Veeracutty told me that he was the uncle of the applicant. Veeracutty questioned the applicant as to why she had left the school, with whom she had come and why she was staying there. The applicant said that the defendant had brought her there. Veeracutty asked the applicant whether she was willing to go with him. She agreed and he took her away. I also went along with her to Veeracutty's house. The applicant had been brought to my place by another person. I did not know who Veeracutty was though he said he was her uncle and so I went along with them to the Headman as I had taken the responsibility for the applicant. During the time the²⁰ applicant was in my house no one else visited the applicant except this defendant. I went with Veeracutty and the applicant to Kallar on the 1st of May. I made a statement to the Headman of Kallar and I was satisfied that the man who came to take her that day was her uncle. The headman told me so.

A. Sonnamma
Cross-
Examination

CROSS-EXAMINED: I am living with Sinnathurai now. I deny that I made any application to Court after 1945. In 1949 we celebrated our Silver Wedding. My husband and I were separated from 1937 to 1942 and he was paying maintenance. My husband's full name is Sinnatamby Joseph Sinnathurai. In 1945 I made an application³⁰ for maintenance against my husband in this court. In 1945 he was not living with me. In 1946 he applied to Court on the grounds that I was living in adultery with one F. Swaki and for cancellation of maintenance. In April 1946 in this court it was found that I had committed adultery with Swaki. I gave evidence in that case and I was disbelieved. On 13th March 1947 my husband sued me as 1st defendant and Swaki as 2nd defendant in a divorce action. On 19th August 1947 decree was entered annulling the marriage. According to my religion I have a husband. After the divorce was granted in 1947 we were brought together again in 1949 by the parish⁴⁰

priest. We had to pay some money to the church for a mass. The priest who asked us both to live together after the divorce was Fr. Jerome. He knew that we had been divorced by the court. I do not know where F. Swaki is living. After April 1946 I do not know what happened to him. In that case a number of witnesses including a constable gave evidence regarding the incident of 16th April 1946. It was a false allegation. I do not know why I was disbelieved. I deny that I am a woman of loose character. I did not know these parties at all before they came to live with me. I did not want to give them a room because my children were coming to live with me. Because the defendant said that he was married to the applicant I allowed them to live in my house. If I knew that he was a married man with children I would not have allowed him to live in my house with the applicant as his mistress. After that I learned from the applicant that she was the defendant's mistress. She told me this after the 2nd or 3rd month she came to my house. I then told the applicant that she should not live in my house but she wanted time till she gave birth to the child. While she was living there the defendant used to come and stay there. Even after I learnt the truth about them. I did not object to that. I did not approve of it but as she wanted to wait till the child birth I allowed her to stay. I knew the applicant prior to 26th December 1949 when she was working at the school. She used to take charge of the hoppers from me. In December I did not notice that she was pregnant. She did not tell me anything. The first time she told me that she was the defendant's mistress was two or three months after she came to live in my house. On the day she was brought to my house the defendant told me that applicant was pregnant and because of that fact he could not take her to a distant place like Anuradhapura and that she could not also work in the school. Prior to the 26th December I did not know that the applicant was a married woman. I do not know her husband Mylvaganam. She never told me that she was Mylvaganam's wife. During the time the applicant was living with me she never told me that she had been married earlier. Up to the time she left my house the applicant never told me that she was married to Mylvaganam. It is today for the first time I have heard that she is married to one Mylvaganam. Before I wrote to the defendant at the applicant's request she was feeling ill and that is why she asked me to write. After writing the letter I left the house for a few days. She had gone to the hospital. She was complaining of pain in the abdomen and so I thought it was labour pains. She had gone to the hospital by herself and returned by herself.

N.J. 3
Applicant's
Evidence
A.Sonnamma
Cross-
Examination
—Continued

No. 3
Applicant's
Evidence
A, Sonnamma
Cross-
Examination
—Continued

The distance is about half a mile. When I came home she was all right and she informed me that the child birth would take some more time.

A Sonnamma
Re-
Examination

RE-EXAMINED:- The marriage between me and Sinnathurai was celebrated in the Roman Catholic church as we are Roman Catholics and according to our church only one marriage is allowed. The Silver Wedding was celebrated before the applicant came to my house. My eldest child is a daughter. She was married in 1948 and my husband took me for the wedding. Now he lives in my house as well as in my daughter's house.

Sgd/Illegibly ¹⁰
Magistrate. 21 - 10 - 50

Mr. Chitty for the defendant suggests a blood test of the parties and the child. His suggestion is that it should be done at Batticaloa Hospital. Mr. Olegesekeram for the applicant is not agreeable to any blood test being done at Batticaloa but he says his client will agree to the blood test if it is carried out at Colombo. Proctors for both parties agree to make the necessary arrangements for the blood test before the next date of enquiry. In order to give sufficient time for the blood test to be carried out between this date and the next date it is agreed that the next date of enquiry will be about six ²⁰ weeks hence. Enquiry refixed for 2 - 12 - 50.

Sgd/Illegibly
Magistrate. 21 - 10 - 50.

20 - 11 - 50

Defendant. Proctor files list of witnesses and cites 5.
SS on 1 & 2 given to defendant.
SS on 3 to 5 - Fiscal.
K. R. 6842 of 20/11/50 for Rs. 5/- filed.

29 - 11 - 50

Defendant's Proctor files additional list of witnesses and ³⁰ cites 2. Defendant.
K. R. 1065 of 29/11/50 for Rs. 10/- filed
Applicant Proctor files list of witnesses and cites one Applicant.

2 - 12 - 50

Inquiry (continued)

Applicant V. Parpathy
 Defendant K. Kanapathipillai } present.
 Vide proceedings.

No. 3
 Applicant's
 Evidence
 —Continued

8 - 12 - 50

Requ. issued to DRO Kal 15/-
 „ „ „ S. Murugappu 5/-

2nd December 1950.

10

Case No. 10248.

MAGISTRATE COURT BATTICALOA.

Appearances as before

Trial continued

T. POOPALAPILLAI. Affirmed. Headman No. 76. Peria-
 kallar. I have been headman for the last five years. The applicant
 is a native of Kallar and to my knowledge she has been living in the
 house of the defendant. As far as I am aware she has been well behaved.
 The applicant was married to a man from Annamalai which is about
 four miles from Kallar across a ferry. I have never seen the applicant
 20 and that man together anywhere.

T. Poopala-
 pillai.
 Examination

It is not correct that the applicant was loafing about.

On the 1st May this year the applicant, Sornamma of Batticaloa
 and Veerakutty the applicant's maternal uncle came to me. The car
 driver was also present. The applicant complained to me that she was
 pregnant for K. Kanapathipillai the defendant; that her uncle Veera-
 kutty had come to take her from Batticaloa but that Sornamma objected
 saying that she wanted to hand over the applicant to Veerakutty in the
 presence of someone in authority. Therefore they had all come to me.
 Sornamma said that Kanapathipillai had brought the applicant who
 30 was pregnant and wanted her to be kept in her (Sornamma's) place.

No. 3
Applicant's
Evidence
T. Poopala-
pillai.
Examination
—Continued

(Mr. Chitty objects to this statement of the witness Sornamma recorded by the Headman being admitted, as it does not come under the provisions of section 157. I overrule the objection and allow the statement to go in.)

Sornamma is the woman who gave evidence on the last date. She stated that Kanapathipillai brought the applicant to her house saying that she was his wife and wanted a place to live in, and that at that time applicant was pregnant. Thereafter the defendant was in the habit of visiting the applicant once or twice a week but that somewhere in April he failed to come and thereafter the applicant's uncle had come and wanted to remove her from the house, to which Sornamma had objected and wanted to hand over the applicant before someone in authority. Sornamma returned to Batticaloa that night itself and the applicant lived with her uncle Veerakutty. The applicant later gave me information regarding the birth of the child in May 1950 – about 15 or 20 days after she arrived at the village.

To Court – The applicant was under the employ of the defendant for about 7 or 8 years and during this period for about 2 or 3 years she was employed as a Cook at the Vincent Girls' High School, Pullianthivu and during the school holidays she used to stay in the defendant's house. For the rest of the period she stayed in the defendant's house – she was living and working there.

The defendant's daughter was studying in the Vincent Girls' High school, as a boarder, and during that time the applicant was a Cook in that same school.

T. Poopala-
pillai.
Cross-
Examination

CROSS-EXAMINED:- During the course of my career as Headman, apart from this case, one other case of pregnancy was reported to me and that was after this case.

To Court-I have not given evidence in a Maintenance Case where a woman had complained to me of having been pregnant to a certain man.

This was the first instance and after this case one other case has been reported to me. I personally know that the applicant was living in the defendant's house for a number of years. If I had gone to the defendant's house in search of him on any official matter, and if he was not at home and if the applicant was there I would have questioned her as to where the defendant was.

The householders' Lists are filled up by the householder and not by me. If the defendant had made a false declaration in the list I would have questioned him, because I knew that the applicant was in his house. I have known her for a long time and I know in which list her name should appear. It will be a surprise to me to hear that her name did not appear in the defendant's list. The defendant was issued only token cards because he is a cultivator, on which he gets only flour; his father-in-law's household is issued with Rice Ration Books; when I asked the applicant why her name had been entered in the defendant's
 10 father-in-law's household list, she told me that that had been done as she wanted to get rice. I have to swear an affidavit that I have personally verified the contents of the list and that I found the lists to be correct. I have sworn such an affidavit for the defendant's household. The applicant told me that if she fell out with the defendant's people she would have to cook her own meals and hence wanted a Rice Ration Book, there-fore I asked her to put her name in the list of the defendant's father-in-law. Actually these two houses are in the same compound and one house bears No. 193 and the other 193A. Formerly
 20 one list was furnished by both households, thereafter the defendant's father-in-law wanted a separate list for his house because he did not do cultivation himself, while the defendant had paddy of his own. My idea was that it was sufficient if the applicant's name appeared in any list or other.

I have been given instructions about householders' lists. I do not know that it is a serious matter for a person's name to be entered in the wrong list. The D. R. O. has only told us that any one person should not be issued with two Ration books and that one person's name should not be entered in two lists, and that persons who own fields and their dependants should not be issued with Ration Books. I did
 30 not ask the applicant to enter her name in the wrong householder's list in order to get rice. In 1945 the lists were prepared by another headman and thereafter the same order has been followed in the subsequent lists. In 1945, before I was appointed Headman, I was the enumerator and in that capacity I have verified the list and saw the inmates of the house. I have sworn an affidavit that the householder's list of the defendant was correct. Then also I put the applicant's name in another householder's list. I deny that I made a false declaration in 1945 and thereafter up to date.

No. 3
 Applicant's
 Evidence
 T. Poopala-
 pillai.
 Cross-
 Examination
 —Continued

No. 3
Applicant's
Evidence
T. Poopala-
pillai,
Cross-
Examination
—Continued

On this occasion I went to the defendant's father-in-law's house and checked up the names on the list with the inmates of the house; when I called out Parpathy's name, she came out from the defendant's house. I, therefore, found the list correct and signed the declaration. The first two names on the list of the defendant's father-in-law's house were husband and wife and the third was that of Parpathy who came from the next house. I knew that if her name was entered in the defendant's household list she would not get rice because the defendant has his own paddy. It is not correct that the applicant was never resident in the defendant's house and that that was why her name does not appear in the defendant's household list. 10

I did not watch the applicant's movements more than any other woman in the village. I know that she was well behaved because I lived close to her. In 1942 or 1943 when I was in the Food Control Department I have been to Annamalai; I did not come across the applicant's husband there. I have heard that her husband was married and settled at Annamalai. I have not seen the applicant's husband at all. Even if I was shown that man I cannot recognise him. I cannot say how many times the applicant is married or to whom. I heard of the applicant's marriage to a man of Annamalai. 20

I say that the applicant is a woman of good character because as a headman I should know the character of everyone in the village. Sornamma is a woman from Pullianthivu which is quite outside my jurisdiction. It is part of my duty to find out whether a person in my area is a thief or vagrant or whether a woman has a bad moral character.

The defendant lived with his wife, daughter and two sons and a servant girl and up to date the defendant is living with his family in the same house. I know the applicant's mother but not her father. I am not aware of the fact that the applicant herself is illegitimate. I have known her as Velupillai Parpathypillai but I do not know her father. I do not remember when the mother died. When I first met the applicant she was in the house of the defendant. I do not know when she went to Annamalai or when she returned. 30

T. Poopala-
pillai,
Re-
Examination

RE-EXAMINED: - From the time I knew her, i.e. from 1943, she was in the defendant's house at Kallar. During the last five years that I have been the headman, the applicant did not marry anyone else or live with anyone as husband and wife. On the 1st May Sornamma made her statement to me after Veerakutty, to the effect that the

applicant was entrusted to her by the defendant. Thereafter the applicant made her complaint to me. They did not come to me to complain about the pregnancy of the applicant but because Sornamma wanted to hand over the applicant to her uncle in my presence. The defendant and his father-in-law live in a garden about 1/2 acres in extent, and they live in two houses which are about 3 fathoms apart. I produce certified copy of the statements made to me by Sornamma and Parpathy marked P1.

No. 3
Applicant's
Evidence
T. Poopala-
pillai
Re-
Examination
—Continued

Sgd /illegibly

Magistrate

2/12/50.

10

V. SAVERIMUTTU. - Sworn. 45. Mason. Pullianthivu. I know Sornamma; her house is three houses away from mine. I have seen the applicant in December last year in that house, where she lived for about 4 months. During that period I had seen the defendant coming to that house. I am in the habit of going to Sornamma's house for hoppers for St. Michael's College and I have seen both the defendant and the applicant there.

V. Saveri-
muthu.
Examination

On three occasions the defendant has given me money to be given to the applicant. The first occasion was in February this year when he gave me Rs. 20/-; on the second occasion he gave me Rs. 15/- and on the third Rs. 25/-. I handed these monies to the applicant.

I learnt from Sornamma that the applicant and the defendant were from Kallar and that they were residing there. The applicant had given monies to me for curry, vegetables etc to be bought from the market.

CROSS-EXAMINED :- Before I saw the applicant and the defendant in the house of Sornamma, I had never seen either of them before. On the first occasion the defendant met me at Kalmunai and handed the money to be given to the applicant. The defendant had no reason to trust me. I am born and bred in Batticaloa and so were my parents. I deny I am from South India. I am a Mason working under the Fathers at St. Mary's. I supply them hoppers etc and do odd jobs for them. I am paid Rs. 4/50 per day when I work as Mason for them and during the other times I get money as a petty contractor supplying them hoppers etc. I deny I am giving this evidence for a few rupees.

V. Saveri-
muthu
Cross-
Examination

RE-EXAMINED :- Nil.

Sgd/Illegibly

Magistrate. 2/12/50

APPLICANT'S CASE CLOSED.

Defendant's Evidence.

Mr. Chitty calls:-

S. THORONACHARI. Affirmed. Headman. No. 95. Annamalai. I know the applicant's husband from boyhood. He is living at Annamalai which is his native village. He got married to the applicant about 10 years ago. He is still living at Annamalai which is about 2 miles from Kallar. I know the applicant. I have seen her once or twice a month at Annamalai in the house of the sister of her husband, which is about 4 or 5 houses away from the house of her husband. The last occasion when I saw the applicant at Annamalai in her sister-in-law's house was about 1½ years ago from today; I have seen her in that house and also on the road. The applicant's husband is a goldsmith as well as a cultivator; he is now living with his mistress Pakiam and her mother Rasamma. He has three children by his mistress, the eldest child is 7 years old. 10

To Court:

He is living with his mistress for the last 7 or 8 years.

After Mylvaganam, applicant's husband had taken a mistress, I have seen the applicant at Annamalai, in his sister's house. 20
I last saw the applicant in the middle of last year at Annamalai.
I do not know whether the applicant was working anywhere.

To Court:

Why the applicant was at Annamalai in Mylvaganam's sister's house, I do not know. Mylvaganam's sister is married to one Sangarapillai and she is living there with her husband and children. Mylvaganam had his workshop in his house and his fields were about a quarter mile out of the village. He was always in the village and never went out for his work.

CROSS - EXAMINED: Mylvaganam and his mistress are acknowledged as husband and wife in the village. During the last 7 or 8 years I have not seen the applicant in the same house as Mylvaganam or in his company. 30

To Court: Applicant and her husband Mylvaganam were living together for about 1½ to 2 years before they separated, Why they separated I cannot say.

No. 4.
Defendant's
Evidence
S. Thorona-
chari.
Cross-
Examination
—Continued

She left Annamalai thereafter and lived at Kallar. After that I have not seen the applicant residing at Annamalai. I cannot say why the applicant visited Annamalai once or twice a month.

To Court: Whenever I used to pass that way I have seen the applicant on the road or in the house of Mylvaganam's sister.

I have never seen Mylvaganam and applicant together. I deny that the applicant had never come back to Annamalai after she left her husband.

A nephew of mine is studying at Jaffna. I do not know if the defendant is paying for his education. The defendant is a man of means. I do not know about his wealth. I do not know if my nephew, who is an orphan, is being proposed in marriage to the defendant's daughter. That boy's maternal uncle has a young daughter and that maternal uncle was educating him when the boy was studying at Batticaloa. But who is paying for his education at Jaffna I do not know.

My batta was paid in hand to me and not deposited in Court. To my knowledge the applicant's husband and his mistress are living happily. I am headman for the last 18 years. Mylvaganam and his present mistress have not complained to me over anything. Applicant, on her visits to Annamalai, has not complained to me either. I have never seen the applicant in Mylvaganam's house or compound. I have never seen applicant and her husband together.

I am not related to the defendant. I do not go to the defendant's house at all. I have some relatives who live about 4 or 5 houses from the defendants' house at Kallar and I go to see them.

To Court:

On those occasions I have not seen the applicant in the defendant's house because I do not go to his house at all.

I have not seen the applicant at Kallar when I have occasion to visit my relatives.

No. 4
Defendants
Evidence
S. Thorona-
chari.
Re-
Examination

RE - EXAMINED: I go to Kallar if any of my relatives are ill or for a funeral. I last went to Kallar to attend the funeral of a sister-in-law of mine. Prior to that I might have been to Kallar about 6 months ago, or before for some special occasion. On these occasions I have not seen the applicant at Kallar. I am all the time at Annamalai which is a small village. The applicant's husband is in good terms with his sister and brother-in-law. I have had no dealings with the defendant, nor am I related to him and further Kallar falls outside my jurisdiction. I have been paid for attending Court and I have issued a receipt for the batta received. I have not come here as a friend of the 10 defendant.

Sgd/Illegibly,

Magistrate 2/12/50.

K. Kanapathi
pillai
Examination

K. KANAPATHIPILLAI: Affirmed. 42. Goldsmith. Kallar. I am the defendant. As a goldsmith I earn about Rs. 150/- to Rs. 200/- per month. I do no other work. I am married to a woman from Kallar for the last 18 years; my wife and I are living happily for this period of time. We have three children living, one is dead. My eldest daughter aged 14 years is at the Vincent High School, my son aged 11 years is at the Sivananda Vidyalaya and the three years old boy 20 is at home. I have a servant girl in the house to do odd jobs for my wife.

I produce marked D1 my householder's list for the years 1946 - 1947 and D2 for 1947 to 1948. In D1 the first name is that of myself, Nagaretnam is my wife, Kanagamma my daughter, Nadarasa my son and Sellamma my servant girl. These names are correctly entered. In the other list too the names are correctly entered. They are myself, my wife, my daughter and servant boy. These forms were checked and verified by the headman Poopalapillai who gave evidence for the applicant. At the time of the verification the headman personally 30 checked. In D1 this very Headman was the enumerator and he has verified the contents personally. In D2 he has certified as headman after visiting my house.

It is not true that the applicant was living in my house. She was living in the adjoining house where my father-in-law and his wife were living. Applicant used to do odd jobs like pounding rice for her living. She had quarrelled with her husband and was resident in the house of my parents-in-law.

The applicant was employed at the Vincent Girl's High School as Cook – I was told that she was a cook there. There is no truth in the statement that I got her that employment. I am not in the habit of getting servants for anyone. My child was attending this school and even now my daughter is in that school. I go to see my child once or twice a month, whenever, I find the time. I deny that on the pretext of seeing my child I go to speak with the applicant. I have never spoken to the applicant but I have seen her there. I deny I was keeping the applicant as my mistress in the same house as
 10 my wife and children for a number of years. I never had the intention of keeping the applicant as mistress and I have never done that. My house has two small rooms and a kitchen and a Mandapam (hall). My wife and children sleep on one side of the hall and I on the other. We sleep in the rooms during the rainy season, otherwise we use the hall.

No. 4.
 Dependents
 Evidence
 K. Kana-
 pathipillai
 Examination
 —Continued

It is not correct that I kept the applicant as my mistress for a number of years. It is not correct that I surprised her to have intercourse with me in August. I deny the version applicant has told Court and I also deny the version she has told the Headman. I deny that I myself suggested Sornamma's house and that I took applicant there.
 20 I deny her version to the headman that she suggested Sornamma's house and that I took her there. Sornamma is a woman who is not even known to me until this case. I heard Saverimuttu's evidence. I deny I sent money through him to be given to the applicant. I saw this man for the first time in this court.

I have known this applicant from childhood; she is distantly related to me. Her mother was one Pitchaipillai, who is now dead. I do not know her father. Her uncle Veerakutty lives about three gardens from mine and he is also a goldsmith. The applicant was in the habit of going to his house. For the purposes of this case I made
 30 inquiries about Sornamma.

Q/ When did you come to know about the character of Sornamma?

A/ Subsequent to the institution of this case.

I obtained a certified copy of the divorce proceedings against Sornamma. I know the husband of the applicant. I know nothing of him. I see him very rarely. I do not go to Annamalai which is across a ferry from Kallar; about 2 miles away. I was a school

No. 4
Defendant's
Evidence
K. Kana-
pathipillai
Examination
—Continued

boy at the time the applicant got married. I am 42 years now; applicant must be about 35 or 36 years of age. At the time of her marriage I was not in the village. I did not attend her wedding but I know the fact that she got married. I cannot say how long ago that was. I last saw the applicant's husband about $1\frac{1}{2}$ years ago, and before that about 2 years ago, at Kallar.

K. Kana-
pathipillai
Cross
Examination

CROSS-EXAMINED: I did not speak to him – I saw him on the road. At the time of applicant's marriage, I was already married. My wife is 32 years old. Judging by appearances my wife must be younger than the applicant; it may be that they are of the same ¹⁰ age. The applicant has been living in my garden for the last 7 or 8 years. That is my garden but the applicant was living in the house of my parents-in-law which is also in my compound.

To Court: She was cooking her own meals.

I am a paddy cultivator. I lease out my fields and I have token cards for my household for flour but my father - in - law gets rice on Rice Ration Books. I deny that the applicant was living and working in my house. She was living in my father-in-law's house and her name was entered in his list.

To Court: I cannot say why the applicant, after her quarrel with her ²⁰ husband, lived in my father-in-law's house; but she lived there and earned her living and cooked her own meals. I cannot say why she came there instead of going elsewhere.

Applicant is a distant relation of mine by marriage. Veerakutty is her maternal uncle and she is now living with him for the last six months after she left the school. When she left school in May, I heard that she was pregnant and within a few weeks I heard that a child was born to her in Veerakutty's house.

To Court: Pullianthivu, where the Vincent School is, is about 20 miles from Kallar. Why she left her close relations and ³⁰ stayed with my father-in-law for a number of years I cannot say; nor am I able to say why she left that house and got employment in a school 20 miles away, which happens to be a school where my child also stays. I cannot say, after being in the school, how she brought forth a child. Nor can I say why, when pregnant with child,

she came to her uncle Veerakutty's house and not to my father-in-law's house. After applicant's pregnancy was externally visible I have not seen her in my father-in-law's house. Even during the three years that she was at the Vincent School, during the school holidays she did not spend her time in my father-in-law's house. After she got employment at the school she did not come back to my father-in-law's house but used to visit my father-in-law's house and spent her time in Veerakutty's house. Even since she took employment at the Vincent School 4 years ago she did not stay in my father-in-law's house.

No. 4
Defendant's
Evidence
K. Kana-
pathipillai
Cross-
Examination
—Continued

10

I did not tell my proctor that during the holidays the applicant used to stay in Veerakutty's house, but I have stated that she was not living in my house. I deny the statement of the applicant that she stayed in my house during the holidays. I deny her statement that during the August holidays she conceived this child in my house. I told my Proctor that she stayed in her uncle's house. My daughter joined the Vincent School about 4 years ago. I do not know when the applicant took up work there.

20 **To Court:** At the time the applicant took up work at Vincent School, my daughter was already there.

It may be that at about the same time of the applicant taking up employment at the Vincent School my daughter also joined that school. The talk in our village is that a Notary's Sister, Chellammah of our village, had found this employment for the applicant. I would have cited that lady, but she is now at Hatton with her daughter. I used to go to the school to bring my daughter home for the holidays. When I go to the school, I do not go right in but I wait at the gate. I remember having seen the applicant there on
30 one or two occasions near the gate.

To Court: As I happen to arrive at the gate she also happens to come to the gate, I from outside and she from inside.

The Vincent School kitchen is at the back of the school. I found this out from my daughter.

No. 4
 Defendant's
 Evidence
 K. Kanapathipillai
 Cross-
 Examination
 —Continued

To Court: I found out from my daughter where the kitchen was; I just made inquiries from my daughter about the dormitories, bathrooms and then the kitchen to find out whether she was comfortable there.

I wanted to find out whether my daughter was comfortable at the school and whether she was getting good meals etc. It is not correct that in that connection my daughter called the applicant. I did not think of calling the applicant to ask her to look after my child.

To Court: Before my daughter told me about the applicant working there, I knew about it. My daughter told me that every-¹⁰ thing was comfortable.

I deny that whenever I went to see my daughter I took the opportunity to see the applicant also. I deny that during the holidays the applicant stayed in my house. For the December holidays the applicant did not come to Kallar. Thereafter in May this year I heard that she had been brought to Kallar. I deny that in December the applicant and I found lodgings in Sornamma's house. I have never seen Sornamma before. Why she should give false evidence against me I do not know.

After she quarrelled with her husband the applicant did not like²⁰ to stay with her people and therefore lived in the house of my father-in-law. I deny I provided food and clothing to a strange woman and thought that she could be of domestic help to my wife.

To Court: I cannot say why she has chosen to father her child on me.

To my knowledge this applicant was earning a livelihood at Kallar. To my knowledge while she was living in my father-in-law's house she did not bring forth any children, after she left her husband. I only know of her conceiving this child.

To Court: I do not know for how many years the applicant lived with her husband. I do not know if she had any children by her husband. To my knowledge this is her first child.³⁰ That is what I have heard.

Thangarajah the nephew of the Headman of Annamalai is studying at Jaffna and he is an orphan. I am not paying for his education. I do not know who is paying for it. He is studying at the Jaffna Central College. I do not remit money for his

boarding. I heard that he is studying at the Jaffna Central College. I deny I am interested in the boy because I have an idea of taking that boy as my son-in-law. My daughter is only 14 years old. One Thambiappa is that boy's maternal uncle and he is doing well. This Thambiappa has transferred a property on trust to my wife and has borrowed Rs. 4000/-. I gave him this money. That debt is not settled yet. I obtained another transfer on trust from one Nallarattnam for Rs. 8000/-, which is also not settled. I deny I do not want to acknowledge this child because of my wealth. This child is not mine and therefore I do not acknowledge it. I deny that because of trouble at home I found an employment for the applicant at the Vincent School.

No. 4
Defendant's
Evidence.
K. Kana-
pathipillai
Cross-
Examination
—Continued

I go to Mandoor for work where I have customers even now. I deny that I was found to be intimate with the daughter of the ferryman at Mandoor. I deny that he assaulted me. I go to Samanthurai, Attalachenai, Karathivu etc. for work.

To Court: I originally lent Rs. 2000/- to Nallarattnam, he was unable to redeem it and thereafter I lent him a further Rs. 5000/- and a deed was executed for Rs. 8000/-. I paid him these monies within a space of 4 years.

20 People of my community live at Annamalai but I do not go there. I have no relatives there. The headman of Annamalai has come to Kallar but he has not come to my house. His relations live about two or three houses away from mine. I sent his batta through another man and obtained receipts. I did not know the court procedure and I was told that it would be safer to give the money to the Headman personally and I did so. I deny that I myself went to the headman and paid the batta and spoke to him about this case. This is the first time I have come to court.

30 **RE-EXAMINED:** I have not appeared in Court; for civil cases I have given my proxy to my proctor and gone away. The suggestion that I was assaulted for being intimate with a ferryman's daughter is pure fiction.

K. Kana-
pathipillai
Re-
Examination

Q/ Is it because you are well off that she has brought this case in order to get some money off you?

A/ I cannot say on what line she has come to court with this action.

No. 4
Defendant's
Evidence.
K. Kana-
pathipillai
Re-
Examination
—Continued

It is not correct that because I am well off I am refusing to pay maintenance for this child; but because I am not responsible for the child. Applicant has been staying in my father-in-law's house for about 4 or 5 years. She used to help them in the house work and also go about pounding rice etc. to earn a living. I was not responsible for this arrangement between my father-in-law and her and even now I do not know what arrangement she had with my mother-in-law.

Sgd./Illigibly
Magistrate
2 - 12 - 50.

10

DEFENDANT'S CASE CLOSED.

Submissions of law on 21 - 12 - 50,

Sgd./Illigibly
Magistrate
2 - 12 - 50.

21 - 12 - 50.

Applicant: V. PARAPATHY
Defendant: K. KANAPATHIPILLAI

Submissions.

Mr. Chitty applies for a date on personal grounds.
Mr. Olegasekeram consents.

20

Submissions on 13 - 1.

Intd.....

13 - 1 - 51

Mag.

Applicant: V. PARPATHY
Defendant: K. KANAPATHIPILLAI

} Present.

Submissions.

Vide proceedings.

Addresses to Court.

13th January 1951

Case No. 10248.

MAGISTRATE'S COURT BATTICALOA.

Appearances as before

Parties present.

Mr. Chitty addresses me on the facts and on the law.
He submits :-

10 Lack of corroboration required by law in the evidence led for
applicant; documentary evidence in the case tends to support the
respondent rather than the applicant; he cites Yuill v Yuill - All
England Reports page 1943 on demeanour; applicant is a married woman
not legally separated or divorced from her husband and within easy
access of the husband; applicant's name not in defendant's householder's
list; her first complaint to the headman different from her story in Court;
he draws attention of Court to section 112 of the Evidence Ordinance on
the presumption of that section and states that the applicant's lawful
husband was a material witness for her to prove that this child was not
20 his, if indeed her story is true. He cites All India Reporter 1934 at
page 49 which is referred to in 48 New Law Reports at page 261 and
47 New Law Reports at page 112.

Mr. Olegasekaram addresses me:-

He cites M. C. K. Case No. 5781; 52 New Law Reports page
69; 25 New Law Reports at page 241; 27 New Law Reports page 282
(284)

Order on 20th January 1951.

20 - 1 - 51.

Applicant: V. PARPATHY

30 Defendant: K. KANAPATHIPILLAI

Order not ready
Call case on 31 - 1 - 51.

Sgd./Illigibly
Magistrate

Judgment of the Magistrate.

28th January 1951

Case No. 10248.

M. C. Batticaloa.

JUDGMENT

The applicant's case is that she had married a man named Mylvaganam about 9 years ago and that she and her husband separated from each other after some quarrel about seven years ago; and since then they had been living apart - he at Annamalai and she ¹⁰ at Kallar about 4 miles away. Her husband had since then taken another woman as his wife and had three children by her; the Village Headman of Annamallai, who was called as witness by the defendant, admitted in cross examination that to his knowledge the applicant's husband and his mistress were living happily together.

After separating from her husband, the applicant had gone to live with her uncle at Kallar close to the defendant's house and while there, the defendant, who is a distant cousin of hers, requested her to come and live in his house and work there as a help to his wife. The applicant had agreed to this and gone to live in defendant's house; and ²⁰ while there the defendant had become sexually intimate with her. On two occasions while she was living with the defendant her menses had ceased, the defendant had got her to take some medicine which had produced abortion and her menses had returned. Owing to the defendant having given medicine to applicant to produce abortion, there was a quarrel between the defendant and his wife and thereafter the defendant's wife had begun to ill - treat the applicant. At that time the defendant appears to have had his daughter admitted to a school at Batticaloa town - ²⁰ 20 miles away from his village - as a student living in the school boarding house. A week later the defendant had found ³⁰ employment for the applicant in this school as a cook and taken her to the school. While the applicant was there, the defendant had maintained contact with her by going to the school periodically on the pretext of seeing his daughter. When the school closed for the holidays, the applicant would return to the

defendant's house for the holidays with the defendant's daughter. This arrangement had been going on for two or three years, when in August 1949 the applicant conceived a child for the defendant and when she returned to school after the holidays, her menses ceased once again. She informed the defendant about this and he had procured the same medicine for her as on the two previous occasions, but on this occasion the applicant had omitted to take this medicine and thrown it away when the defendant left her. She says she did this because this medicine was in the nature of a strong purgative and whenever she took it, after it had acted on her, she had felt tired and could not do her normal work. In consequence of her omission to take this medicine, by December 1949 she had been four months pregnant and no longer able to in the school. The defendant did not take her to his village for the Christmas holidays, but he tried to find a house for her in Batticaloa Town. Having failed in this he had asked the applicant whether she could find a house. While the applicant was employed as a cook for the school she had come to know a woman called Sornamma, who was supplying hoppers to the school. At applicant's suggestion, both the defendant and the applicant had gone to Sornamma and the defendant had informed Sornamma that he was married to the applicant, that the applicant was pregnant, and that as he was from Anuradhapura he could not take her all that way in her condition at the time and had therefore wanted Sornamma to keep the applicant till her childbirth. After some hesitation Sornamma had agreed to this, and both the defendant and the applicant had remained at Sornamma's house for three days; thereafter the defendant had left for his village after settling terms with Sornamma about the applicant's board and lodging. While the applicant was at Sornamma's the defendant had been visiting her regularly about once a week and giving her the necessary money for her maintenance and had also continued to have sexual intercourse with her at Sornamma's house. This had gone on till the beginning of April 1950, when the defendant ceased to visit the applicant and also stopped sending her money. Before that, between December and March, he had personally given her money and also sent money to her on three separate occasions through one Saverimuthu, who is a mason working at St. Michael's Boys' College in Batticaloa town. Saverimuttu's evidence shows that in February the defendant had sent Rs. 20/- through him to the applicant, that again on two other occasions he had sent Rs. 15/- and Rs. 25/- also through Saverimuthu, to the applicant.

No. 6.
 Judgment
 of the
 Magistrate
 23-1-51.
 —Continued

When the defendant stopped visiting the applicant in April and failed to support her, the applicant got Sornamma to write a letter to the defendant, but the defendant failed to send any reply. Then one day the applicant felt ill and had gone to the hospital and on her return from hospital her maternal uncle Veerakutty had gone to Sornamma's house and had wanted to remove the applicant to his house. Sornamma, however, was not prepared to allow the applicant to go with her uncle because, according to Sornamma the defendant had left the applicant in her charge and so she could not hand the applicant over to any other man unless it was done in the presence of somebody in authority. For this purpose Sornamma had accompanied the applicant and her uncle to their village and there in the presence of the village headman the applicant had been handed over to Veerakutty after the headman had recorded the statements of the applicant and Sornamma in his diary. These statements have been produced in this case. This visit to the Village headman was on 1st May and the applicant's child was born on 24th May 1950, According to the applicant, at the time she left Sornamma's house for her village, Sornamma had been paid only for two months although the applicant had stayed at Sornamma's for nearly four months. I refer to this as a significant fact, because the failure of the applicant to pay Sornamma her dues was purely owing to the applicant being in a bad way pecuniarily at the time; but in spite of this omission by the applicant, it is an indisputable fact that Sornamma had gone with the applicant all the way to the applicant's village 20 miles away and made her statement to the Headman, and that statement is a matter of record in the Headman's diary. In my opinion this conduct on the part of Sornamma completely negatives Mr. Adv. Chitty's suggestion that Sornamma is a false witness procured by the applicant for money.

If the evidence of Sornamma and Saverimuthu is accepted - and I see no reason whatever why their evidence should not be accepted - then this evidence provides a very strong corroboration of the applicant's story; because it shows that at a time when the applicant was visibly pregnant the defendant had, both by word and conduct, admitted that he was responsible for the applicant's pregnancy.

In the words of Atkin L. J., quoted by Jayawardene A. J., in his Judgment reported in 27 N. L. R. at page 282, "Corroborative evidence in a maintenance action must be evidence which makes it

more probable than not, that the respondent to the summons is the father of the child". I accept the evidence of Sornamma and Saverimuthu as true, and hold that this is strong corroborative evidence to support the applicant's allegation that the defendant is the father of her child.

No. 6,
Judgment
of the
Magistrate
28-1-51.
—Continued

The Village headman of Kallar, which is the village where both the applicant and the defendant reside, has also given evidence for the applicant and stated that to his knowledge the applicant had been living in the house of the defendant under the defendant's employ for
10 about 7 or 8 years, that during this period for about 2 or 3 years she had also been employed as a cook at the Vincent School in Batticaloa town and that even then she was in the habit of spending her holidays at the defendant's house.

The defendant's story was that the applicant had never been employed by him, but by his father-in-law, and that she had stayed in that man's house. In support of this the householder's list for the defendant's house as well as his father-in-law's house were produced by the defendant and applicant's name was shown to be in the list of the defendant's father-in-law's house. Now the evidence in the case
20 shows that both these houses are side by side in the same compound - one bearing No. 193 and the other No. 193A.

The Village Headman was cross examined on this by Mr. Chitty at some length and he gave what appeared to me to be a very reasonable explanation why the applicant's name appeared in the defendant's father-in-law's list and not in the defendant's list. He said that the defendant had paddy of his own and was getting only flour on his ration card, but that the defendant's father-in-law wanted rice on his card; the applicant had also wanted rice on her card and so he allowed her to have her name entered in the
30 defendant's father-in-law's household list, so as to enable her to get the rice she wanted, because he did not think there was anything wrong in allowing her to do that.

The defendant's case is that the applicant was never in his employ, that she never lived in his house and that he was not responsible for getting her a job as a cook at the Vincent School in Batticaloa - 20 miles away from the village where he and the applicant

No. 6.
Judgment
of the
Magistrate
28-1-51.
—Continued

lived. His story is that when the applicant separated from her husband she had gone and lived with the defendant's father - in - law, in the house adjoining his in the same compound for about 7 years, and that while she was there she had found a job at the Vincent School about three years ago. He cannot, however, give any satisfactory explanation as to:

- I. Why the applicant had lived with his father - in - law when she had her own maternal uncle Veerakutty living quite close by.
- II. How the applicant found employment 20 miles from her ¹⁰ village in the same school where the defendant had had his daughter admitted as a boarding student only a short time before the applicant had gone to the same school as a cook.
- III. Why the applicant's three witnesses should give false evidence against him, when according to him he came to know Sornamma and Saverimuthu only after this case came up for inquiry.
- IV. Why the applicant should have chosen to "father" her child on him.

The defendant also made, what to my mind was rather a poor ²⁰ attempt, to suggest that after the applicant had separated from her husband she had been in the habit of visiting the village where that husband lived, and stayed at his sister's house. This suggestion was obviously an attempt to introduce some evidence into this case to support the presumption under section 112 of the Evidence Ordinance. The man who was called to prove this was the Headman of the village where the applicant's husband lived. I was not in the least impressed by this man's evidence. His whole story appeared to me to be very artificial, and while under cross examination he finished up by saying that the last time he had seen the applicant in his village was about the ³⁰ middle of June 1949; that would be three months before conception had taken place in August. This witness denied the suggestion by the applicant's Counsel that his orphan nephew was being educated in Jaffna by the defendant; the defendant also denied this. Curiously enough, the defendant was able to say in cross examination in which of the various Colleges in Jaffna this boy was being educated.

Having commented at some length on the evidence led by both parties to this case and having also dealt with the point taken by Mr. Chitty that the evidence called by the applicant to support her story lacked the necessary corroboration required by law, I shall now proceed to consider the final argument put forward by Mr. Chitty in support of the defendant's case. This argument was that, since the applicant's former husband, who was alive at the time the applicant's child was conceived and born, and the applicant lived only a few miles apart all through the period of separation, the only presumption under section 112 of the Evidence Ordinance, was that this husband of the applicant was the father of the applicant's child. In support of his argument Mr. Chitty cited a Privy Council decision in an Indian case reported in the All India Reporter 1934 at page 49, which is also reported in 48 N. L. R. at page 261. In the Privy Council case, Their Lordships had, in the course of their judgment interpreted the word "access" in section 112 of the Evidence Ordinance as meaning "opportunity of sexual intercourse, and not actual sexual intercourse." Mr. Chitty also cited two Ceylon cases where this interpretation had been followed by two judges of the Supreme Court of Ceylon. Mr. Adv. Olegesekaram for the applicant cited a very recent case also from the Supreme Court of Ceylon where Swan J, had held that the meaning given by Their Lordships in the Indian Privy Council case was merely "obiter dictum", and that the full bench decision of the Supreme Court of Ceylon reported in 25 N. L. R. where "access" was held to mean actual sexual intercourse was still binding on our Courts. I am not going to presume to venture an opinion on the various opinions expressed by eminent judges on the meaning of "access" in the various judgments cited to me by Counsel. What I would say, however, is that even if access meant opportunity of sexual intercourse, what their Lordships had in mind by opportunity of sexual intercourse was not a mere physical possibility of approach to each other by the two spouses concerned depended entirely on the distances that separated them at the time of the conception in question. In my opinion what Their Lordships did mean has been clearly expressed by them in the Privy Council decision in *Alles vs Alles* - an extract from which Swan J, has quoted in the course of his judgment reported at page 71 of 51 N. L. R. In that judgment Their Lordships have stated that the issue which the court has to decide is whether on the whole evidence made available to the Court, it can be safely concluded that there was no access at the time the child could have been conceived.

No. 6.
Judgment
of the
Magistrate
28-1-51.
—Continued

No. 6.
Judgment
of the
Magistrate
28-1-51.
—Continued

On a careful consideration of the whole of the evidence led by both parties in this case I hold that it can be safely concluded that there was no access between the applicant and her husband Mylvaganam at or about the time that the child in question was conceived by the applicant. My reason for so holding is that the evidence discloses that the applicant and Mylvaganam had quarrelled and separated more than 6 years prior to this conception; and that thereafter Mylvaganam had found a mistress by whom he had three children and that he was living quite happily with his family; that the applicant for her part had found the defendant who was keeping her as his mistress and she was quite happy with him. In these circumstances to me it seems unthinkable either that Mylvaganam would have approached his long discarded wife for purposes of sexual intercourse, or that the applicant would have approached her long discarded husband for the same purpose.

Hence on all the evidence in this case, I have had no hesitation whatever in coming to the conclusion that the defendant is the father of the applicant's child for whom she is claiming maintenance. With regard to the amount to be ordered as maintenance, the applicant has assessed the defendant's income at Rs. 300/-, while the defendant puts his income at anything between Rs. 150/- and Rs. 200/-. Between the two I consider that it would be a fair estimate if I place the defendant's income at some figure between Rs. 200/- and Rs. 250. On this basis I order the defendant to pay Rs. 30/- a month as maintenance for the child — first payment to be on the 10th February 1951. The defendant will also pay the applicant Rs. 75/- as costs of this action.

Sgd/Illegibly

Magistrate

28-1-51

No. 7
Petition of
Appeal
to the
Supreme
Court
19-2-51.

No. 7.

30

Petition of Appeal to the Supreme Court.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

Velupillai Parapathy of Periakallar

Div. 1

Applicant — Respondent

Magistrate's Court,
Batticaloa
No. 10248.

Vs.

Kalikutty Kanapathipillai of
Periakallar Division No. 1.

Defendant - Appellant.

To

The Honourable The Chief Justice and the other Judges of
the Hon'ble The Supreme Court of the Island of Ceylon.

10 The 19th day of February 1951.

The humble petition of appeal of Kalikutty Kanapathipillai the
defendant - appellant abovenamed most respectfully showeth as follows:-

1. The applicant - respondent abovenamed filed the above
action claiming maintenance for her illegitimate child from the
defendant - appellant abovenamed.

2. The defendant - appellant denied paternity and the case came
up for inquiry. The learned Magistrate heard evidence for both the
applicant and the defendant and ordered the defendant - appellant to
pay a sum of Rs. 30/- per mensem as maintenance for the child.

20 3. Feeling aggrieved by the said order the defendant - appellant
begs to appeal therefrom to Your Lordships' Court on the following
among other grounds that may be urged by his counsel at the hearing
of this appeal:

(a) That the said order is contrary to Law and against the
weight of evidence adduced in the case.

(b) The applicant - respondent has not led evidence which
corroborates her testimony to make it more probable than
not that the defendant - appellant is the father of the child.

30 (c) The witnesses Sonnamma herself is a witness whose testimony
is not worthy of any credit. The witness Savarimuttu is
the type of witness who is capable of being procured very
easily.

No. 7.
Petition of
Appeal
to the
Supreme
Court
19-2-51.
- Continued

No. 7
Petition of
Appeal
to the
Supreme
Court
19-2-51.
—Continued

- (d) The presumption that the child of the applicant-respondent is the child of her legally married husband who is living only 3 or 4 miles away from her village has not been rebutted.
- (e) In fact there was every opportunity of access for the husband to the applicant - respondent and the presumption raised by section 112 of the evidence ordinance has not been rebutted by the applicant - respondent.

Wherefore the defendant - appellant prays that Your Lordships' Court will be graciously pleased to set aside the order of maintenance¹⁰ made in the above case by the learned Magistrate, to dismiss the applicant - respondent's application for maintenance and for such other and further relief as to Your Lordships' Court shall deem meet.

Sgd. In Tamil
Defendant - Appellant.

No. 8.

Decree of the Supreme Court.

No. 346/1951

ELIZABETH THE SECOND, Queen of Ceylon and of
Her other Realms and Territories,
Head of the Commonwealth

20

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Velupillai Parpathy of
Periakallar Div. 1

Applicant
and
Respondent.

Versus

K. Kanapathipillai of
Periakallar

Defendant
and
Appellant.

Case No. 10248

In the Magistrate's Court of Batticaloa.

30

No. 8
Decree
of the
Supreme
Court
23-8-51.

Counsel for Appellant : Mr. Advocate S. J. V. Chelvanayagam, K. C. with Mr. Adv. S. Saravanamuttu & V. K. Palasunderam.

No. 8
Decree
of the
Supreme
Court
23-8-51.
—Continued

Counsel for Respondent: Mr. Advocate C. T. Olegasegaram.

This case having come before the Hon. Sir Edward George Perera Jayatileke, Kt., K. C., Chief Justice, of this Court, for hearing and determination on the 23rd August, 1951.

It is considered and adjudged that this appeal be and the same is hereby rejected with costs as the appeal has been filed out of time.

10

Sgd / E. G. P. Jayatileke
CHIEF JUSTICE.

Witness the Hon. Sir Edward George Perera Jayatileke, Kt., K. C. Chief Justice, at Colombo, the 27th day of August in the year of our Lord One thousand Nine hundred and fifty one, and of Our Reign the fifteenth.

Sgd / W. G. Woutersz
Dy. Registrar, S.C.

No. 9.
Journal Entries.

20 31-1-51.

Applicant. V. PARPATHY

Defendant. K. KANAPATHIPILLAI

Order delivered in open court in the presence of parties,
and their Proctors.

Sgd./Illegibly
Magistrate.

No. 9
Journal
Entries to
31-1-51 to
8-2-55

No. 9. 19-2-51
Journal
Entries.
31. 1. 51. to
8. 2. 55.
—Continued

The defendant tenders petition of appeal against the order of this court.

1. accept appeal
2. Issue notice of appeal
3. Forward record to S. C. in due course.

Sgd./Illegibly
Magistrate.

Notice of appeal served on applt.

Sgd./ 10
Magistrate.
19/4/51

10-9-51

Record received from S. C. with order rejecting appeal.
Notice parties for 20/10/51

Sgd./
Magistrate.

20-10-51

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI 20
Notice served on applt.
Applicant pt
P. c. decision conveyed to her

Sgd./Illegibly

22-10-51

The applicant moves to recover Rs. 270/- arrears from February 1951 to the end of Oct @ Rs. 30/- a month and Rs. 75/- costs ordered in the lower court. Total Rs. 345/-

Issue Dt. Wt. for Rs. 345/- returnable 17/11/51 30

Sgd./
Magistrate.

17-11-51

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Dt. Wt. returned unexecuted
Reissue Dt. Wt. for 1/12/51

No. 9.
Journal
Entries.
31. 1. 51, to
8. 2. 53.
—Continued

1-12-51

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Dt. Wt. returned unexecuted
Reissue for 22/12/51

10

22-12-51

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Fiscal reports that no demand was made as the deft. could
not be found.

Issue wt for 12/1/52

Sgd./
Magistrate

12-1-52

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Wt returned unexecuted.
Reissue for 9/2/52

20

Sgd./
Magistrate

9-2-52

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Wt returned unexecuted.
Reissue for 8/3/52

30

Sgd./
Magistrate

No. 9. 8-3-52
Journal
Entries.
31. 1. 51. to
8. 2. 55.
—Continued

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Wt returned unexecuted
Issue open warrant.

Sgd./
Magistrate

26-7-52

Record received from S. C.
Notice parties for 24/8

10

Sgd./
Magistrate

24-8

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Notice not served on parties
Reissue notice for 7/9/54

Sgd./
Magistrate

7-9

20

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Notice served on appl
Notice not served on def
Reissue notice for 21/9

Sgd./
Magistrate.

21-9

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Notice not served.
No order.

30

Sgd./
Magistrate.

17-12-54

The applicant V. PARPATHY files an affidavit and begs that the court be pleased to allow substituted service of notice on the deft to affix a copy of notice to the house of the deft.

No. 9.
Journal
Entries.
31. 1. 51. to
8. 2. 55.
—Continued

To be supported.

Sgd./
Magistrate.

20-12-54

10

Case called for support
Wt for 11/1/55 at Kalmunai

Sgd./
Magistrate.

11-1-55

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
Wt returned unexecuted.
Reissue wt for 25/1/55

Sgd./
Magistrate.

20

25-1

Applicant. V. PARPATHY
Defendant. K. KANAPATHIPILLAI
No return to wt. Call for and reissue for 8/2/55

Sgd./
Magistrate.

8-2

Applicant. absent
Defendant. absent
Open warrant.

30

Sgd./
Magistrate.

Order of the Privy Council.

AT THE COURT AT CLARENCE HOUSE

The 22nd day of February, 1952.

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

HIS ROYAL HIGHNESS THE DUKE OF EDINBURGH

ARCHBISHOP OF CANTERBURY

LORD PRESIDENT

SECRETARY SIR DAVID MAXWELL FYFE

10

MR. SECRETARY STUART

SIR ALAN LASCELLES

SIR ULICK ALEXANDER

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 18th day of February 1952 in the words following, viz:-

“WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of Kalikutty Kanapathipillai in the matter of an Appeal from the Supreme Court of Ceylon²⁰ between the Petitioner (Appellant) and Velupillai Parpathy (Respondent) setting forth (amongst other matters): that the Petitioner desires special leave to appeal from the Judgment of the Supreme Court of Ceylon dated the 23rd August 1951 rejecting on a preliminary objection the Petitioner's Appeal from a judgment of the Magistrate's Court of Batticaloa made on the 28th January 1951 whereby it was adjudged that the Petitioner was the father of an illegitimate child born to the Respondent on the 24th May 1950 and that he should pay to the Respondent as maintenance for the child Rs. 30/- a month: that the main question is as to the effect in bastardy proceedings of the provision³⁰ contained in section 112 of the Evidence Ordinance of Ceylon: that by reason of the opening words of that section the fact that the Respondent was at all material times married to Mylvaganam was conclusive proof that her child was the legitimate child of Mylvaganam: that the question therefore was whether it had been shown that that man had no access

to the Respondent at any material time: that in the Courts of Ceylon there has been controversy as to whether the word 'access' in the section means 'actual intercourse' or merely 'possibility of intercourse': that another legal issue arose as to the admissibility of certain statements which the Magistrate admitted under the provisions of section 157 of the Evidence Ordinance: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal against the Judgment of the Supreme Court dated the 23rd August 1951 or for such other Order as to Your Majesty in Council may seem just:

No. 10.
Order of the
Privy
Council
22-2-52

10 "THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof (no one appearing in opposition thereto) Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Supreme Court of Ceylon dated the 23rd day of August 1951 upon depositing in the Registry of the Privy Council the sum of £ 400 as security for costs:

20 "AND THEIR LORDSHIPS do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same."

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

30 Wherefore the Governor-General or Officer administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

Sgd./ W. G. Agnew

D 1
Householder's List

D 1
House-
holder's
List
4-4-45.

1 Full names of persons who are permanent residents in the House (Other than Visitors)		2 Sex		3 Age		4 Race	5 Occupation if any	6 Relationship to chief Occupant	7 Present Ration Book		Part II For Office use only To be completed in accordance with instructions		
				Yrs	Mths				Class	Number	Cate- gory	New Ration Book No.	Signature of Recipient of Ration Book.
Kalikkuddy Kanapathipillai		Male	37		C. Tamil	W C			S O	T 072916	O	T 062403	
Kanapathipillai Nagarathnam		Female	29		C. Tamil	Nil		Wife	S O	T 072917	O	T 062404	
Kanapathipillai Kanagamma		Female	10		C. Tamil	Student		Daughter		T 072918	O	T 062405	Sgd. in
Kanapathipillai Nadarasa		Male	7		C. Tamil	Student		Son		T 100434	C	T 099120	Tamil
S. Sivalingam		Male	15		"	Servant		Servant	O		O	T 057420	K. Kana- gamma for 46 - 47

8. D. R. O's Division	Karavaka	11. Name and Address of present Authorised Distributor / Co-operative Store	Co-operative Stores Periakallar North.
9. Village or Ward	Periakallar Division I	12. House No. and Street	193
10. Name and Number of Village Headman's Division or Town	Periakallar Division I		

13. Please state whether any member of the Household receives an allowance of country rice or paddy, and if so any reference No. or Nos.

I. Kalikkuddy Kanapathipillai. - the Chief Occupant, do hereby declare that the information furnished by me herein and overleaf is; to the best of my knowledge and belief true and accurate, that I have not filled any other form and that I have ascertained from the persons who are permanent residents of my household (other than visitors) that their names have not been included in another form

Sgd. in Tamil K. Kanapathipillai
Signature of Chief Occupant
Date 27. 3. 45.

Sgd. T. Poopalapillai
Signature of Enumerator
Date 4. 4. 45.

Sgd. K. Ponnambalam
Signature of Village Headman
Date 4. 4. 45.

Translated by
A. Sebastianpillai. S. T.

Householder's List

D 2
Householder's
List
27-3-47.

Full names of persons who are permanent residents in the House (Other than Visitors)		Sex	Age		Race	Occupation if any	Relationship to chief Occupant	Present Ration Book		Category	New Ration Book No.	Signature of Recipient of Ration Books
			Yrs	Mths				Class	Number			
Part I												
Householder's List No. K P / 76 / 193 / 249												
Part II												
For Office use only												
To be completed in accordance with instructions												
Name of Chief Occupant first												
Kalikkuddy Kanapathipillai		Male	39		C. Tamil	Goldsmith		T	T 062403	O	035004	
Kanapathipillai Nagarathnam		Female	31		C. Tamil		Wife	T	T 062404	O	05	
K. Kannagamma		Female	12		C. Tamil		Daughter	T	T 062405	O	06	Sgd. in
K. Nadarasa		Male	10		C. Tamil		Son	T	T 098120	O	07	Tamil
S. Sellamma		Female	13		C. Tamil		Servant			O	34	K. Kana-pathipillai for 47 - 48.

D 2
House-
holder's
List
27-3-47.
-Continued

8. D. R. O's Division	Karavaku Nintavur	11. Name and Address of present Authorised Distributor / Co- operative Store		Periakallar Co-operative Store
9. Village or Ward	Periakallar	12. House No. and Street		199
10. Name and Number of Village Headman's Division or Town	Periakallar North K P 76			

13. Please state whether any member of the Household receives an allowance of country Rice or Paddy, and if so, any Reference No. or Nos.

I. Kalikkuddy Kanapathipillai. - the Chief Occupant, do hereby declare that the information furnished by me herein and overleaf is; to the best of my knowledge and belief true and accurate, that I have not filled any other form and that I have ascertained from the persons who are permanent residents of my household (other than visitors) that their names have not been included in another form.

Sgd. in Tamil K. Kanapathipillai
Signature of Chief Occupant
Date 21. 3. 47.

Verified & found Correct
Sgd. T. Poopalapillai
Signature of Village Headman
Date 27. 3. 47.

Translated by
Sgd. Illegibly S. T.

P. 1.

Exhibits.
P. 1.
Statement
made by
Sornamma
to Headman
1-5-50.

Statement made by Sornamma to Headman.

P. 1.

On -1. 5. 50 at about 6.30 p.m. I questioned A. Sornammah and she stated:- "Today at about 3.30 p.m. Veerakutty came to my house and asked Parpathy as to why she had come there. I asked him who he was. Parpathy said that it was her uncle. I asked him why he had come. Veerakutty. He replied that he was in search of her (Parpathy) for the past 7 or 8 months and that he wanted to take her to his village. I refused to allow that and told him that one K. Kanapathi- 10 pillai brought her to me saying that she was his wife and as she was pregnant, he wanted me to accommodate her in my house for some time and hence I could not allow her to go in his absence. I further told him that he (K. Kanapathipillai) used to come frequently and give money for her expenses and that he had not come for the last two or three weeks and therefore on 27.4.50 I sent a letter to him asking him whether I was to get her admitted to the hospital for her child-birth and in the absence of a reply from him I cannot allow her to be taken away. Veerakutty said that she (Parpathy) has her relations and he wanted to take her to his village for the confinement. When I asked 20 Parpathy, she was willing to go. Therefore I asked Veerakutty to bring a car so that I may go along with them and give over Parpathy to him in the presence of the V. H. of their village. Then Parpathy, Veerakutty and I came here in a car hired by Veerakutty. Here is the girl - She is pregnant. I am going away.

Read and explained.

Sgd./ A. Sornammah.

STATEMENT OF PARPATHY

When I questioned V. Parpathy she stated;—

"I have been living in the house of Karlikutty Kanapathipillai 30 for about seven or eight years. I was away at Vincent School as a cook for three years. Whenever I come for the holidays I stay at Kanapathipillai's house. I stayed there during the last August holidays. For the August holidays he came to school and brought

me. One night when I was sleeping in the house Kanapathipillai came to me. I attempted to raise cries. He closed my mouth and asked me not to disgrace him by raising cries and told me that he would buy a house and garden at Batticaloa and keep me there. Hence I kept quiet. After the holidays I went to the school. He used to come there frequently and talk to me. The same month I did not get my menses. I told him about it. He wanted me to obtain leave and come over to take treatment. I asked him as to why I should take medicine. He said that if I did not I would be sent out of school. Then I asked him what was the necessity for me to be at school when he had already promised to maintain me. When he asked me as to where he could keep me I suggested Sornamma's house and in December he took me and left me there. I lived there. He came once a week and gave me money. He brought a physician and gave me medicine. I waited till he left and threw it out. He has not come there for the last two or three weeks. Sornammah had sent a letter on 27.4.50. He had sent Rs. 20/- through A. Sinnathurai. Here is that money. I have conceived this child for K. Kanapathipillai. This evening my uncle came. It appears as if he would desert me. So I told my uncle and came along with him. The lady of the house in which I was living also accompanied us. As I am an orphan, I make this entry for my future guidance.

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Exhibits
P 1.
Statement
made by
Sornamma
to Headman
1-5-50.
—Continued

Read & explained.

Sgd./ V. Parpathy

Sgd./ T. Poopalapillai

V. H.

2/12/50.

Supreme Court of Ceylon
No. 346 of 1951.

Magistrate's Court,
Batticaloa. No. 10248.

*In Her Majesty's Privy Council on an Appeal from
The Supreme Court of Ceylon.*

BETWEEN

VELUPILLAI PARPATHY of Division I.

Periakallar.....Applicant-Respondent.

AND

KALIKUTTY KANAPATHIPILLAI of Division I.

Periakallar.....Defendant-Appellant

**RECORD OF
PROCEEDINGS.**
