

1898.  
May 9.

PINCHOHAMY v. DE SILVA.

*P. C., Galle, 11,088.*

*Ordinance No. 19 of 1889—Cancellation of order for maintenance—Appealable order.*

No appeal lies from an order cancelling an order for maintenance made in terms of the Ordinance No. 19 of 1889.

IN this case of maintenance it appeared that in obedience to the order dated 27th November, 1893, the husband had been paying maintenance to his wife until the 10th February, 1898. In that month he represented to the Police Court that his wife had been and was then living in adultery with a person whom he named, and moved that the order against him be cancelled. The Magistrate held his allegations proved and cancelled the order.

The wife appealed.

*Bawa*, for appellant.

*Van Langenberg*, for respondent.

BROWNE, A.J.—It has been objected that no appeal lies against the order under the decision reported in 2 *C. L. R.* 88, and as argument thereon it was submitted (in addition to the grounds discussed in the decision) that an appeal under the Criminal Procedure Code would lie, for that the true effect of section 17 of the Ordinance No. 19 of 1889 was only to remove the restriction of section 405 of the Code, that no appeal from a Police Court shall be maintainable in respect of a fine not exceeding Rs. 25, so as to allow of an appeal in respect of a sum (as here) of Rs. 5.

*Contra* it was submitted that the Ordinance contained its own special procedure for its purpose, which is not of a purely criminal character, and the rules of criminal procedure do not apply.

I do not see it is open to me, after the collective decision cited, to discuss these questions or rule thereon. That decision limited the right of appeal in such proceedings to two cases only, where an order for monthly allowance had been made or where summons has been refused. The present is not either of these cases, and therefore no appeal lies.