

Present: Pereira J.

1914.

BEBI v. TIDIYAS APPU.

1,014—P. C. Tangalla, 2,436.

Maintenance suit—Inculpatory statements made by defendant to police are admissible in evidence against him—Defendant is not "accused."

In a proceeding for an order for maintenance under Ordinance No. 19 of 1889, the person proceeded against is not in the position of an accused party in a criminal case; and inculpatory statements made by him to a police officer are therefore not inadmissible in evidence against him.

IN this case the applicant claimed maintenance from the defendant. At the trial the police headman was called among other witnesses to prove that defendant admitted that he was the father of the child.

J. S. Jayewardene, for the defendant, appellant.—The admission as to paternity made by the defendant to the police headman is not admissible, as it is a confession to a police officer. The Magistrate has been mainly influenced by that inadmissible admission.

Balasingham, for respondent.—The proceedings in maintenance cases are civil in their nature and not criminal. See *Anna Perera v. Emaliano Nonis*.¹

Cur. adv. vult.

November 27, 1914. PERRIRA J.—

There is abundant evidence to support the conclusion arrived at by the Magistrate on the facts of the case. Objection has been taken in the petition of appeal, and repeated in the course of the

¹ (1908) 12 N. L. R. 263.

1914.
PEREIRA J.
Bebi v.
Tidiyas
Appu

argument of the appeal, that a so-called admission made by the defendant to a police headman should not have been accepted as evidence. This objection cannot be sustained. The defendant was guilty of no offence known to the law. Indeed, it has been held by this Court that proceedings under the Maintenance Ordinance are not in their nature criminal. (4 N. L. R. 4, 4 N. L. R. 121, 1 Bal. 106.) The statement to the police officer could not, therefore, be regarded as being tantamount to a confession.

I dismiss the appeal.

Appeal dismissed.

