

1970

*Present : Samerawickrame, J.*

U. INDRAWATHIE KUMARIHAMY, Appellant, *and*  
I. W. PURIJJALA, Respondent

*S. C. 1187/67—M. C. Matale, 25213*

*Maintenance—Illegitimate child—A false denial by the defendant—Whether it always constitutes corroborative evidence.*

In an application for maintenance of an illegitimate child, an untrue statement by the alleged father in answer to a question put to him regarding his conduct is not corroborative of the mother's evidence unless it is capable of leading to an inference that the defendant is the father of the child.

**A**PPEAL from a judgment of the Magistrate's Court, Matale.

*Mrs. Manouri Mullettuwegama*, for the applicant-appellant.

*H. W. Jayewardene, Q.C.*, with *Sepala Munasinghe* and *Ben Eliyatamby*, for the defendant-respondent.

*Cur. adv. vult.*

December 21, 1970. SAMERAWICKRAME, J.—

The application of the applicant-appellant for maintenance was dismissed on the ground that there was no corroboration. Learned counsel for the applicant-appellant submitted that a false denial may amount to corroboration and referred to the fact that the defendant-respondent had falsely denied that he sent a Vesak card to the applicant at or about the relevant time. The respondent did not in fact totally deny sending the Vesak card but was evasive about it and tried to make out that it was sent in the year 1963 and not in 1966. It would appear from the post-mark on the envelope which has been produced by the applicant-appellant that the card was sent in the year 1966. Even assuming that there has been a false denial by the defendant-respondent on this point, the effect of it has to be considered. It is not every untrue statement by an alleged father that is corroboration of the mother's evidence—vide *Somasena v. Kusumawathie*<sup>1</sup>. The false denial on the part of the defendant must be capable of leading to an inference in support of the applicant's evidence that the defendant is the father of the child—vide *Dharmadasa v. Gunawathy*<sup>2</sup>. The learned Magistrate states that the Vesak card in itself is quite innocuous. I am therefore unable to hold that the false denial in respect of the Vesak card affords corroboration. The applicant-appellant's appeal accordingly fails and I dismiss it but I do so with regret.

There will be no order for costs.

*Appeal dismissed.*

