

**IN THE SUPREME COURT OF SEYCHELLES**

**Stanley Songoire**

of Au Cap, Mahé

**Appellant**

vs.

**Selma Williams**

of Cascade, Mahé

**Respondent**

**Civil Appeal No.3 of 2007**

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**Mr. A. Derjacques for the appellant**

**Respondent (unrepresented)**

**D. Karunakaran, J.**

**JUDGMENT**

The appellant being dissatisfied with the decision of the Family Tribunal dated 19<sup>th</sup> February 2007, has now brought this appeal against that decision, wherein the Tribunal held that the appellant was the reputed father of the child Joshua Hardick William - hereinafter called the "child" - born on 20<sup>th</sup> April, 2002 to the respondent, which decision resulted in an order that the appellant should pay a monthly sum of Rs 400/- to the respondent towards maintenance of the said child.

The grounds of appeal in essence, state that

(i) The Tribunal erred in law in finding that the appellant was the reputed father of the child as it acted on the respondent's evidence without any other independent evidence to corroborate it, whilst corroboration is a statutory requirement; and

(ii) The Tribunal erred in principle in awarding Rs400/- per month as maintenance for the child, which sum is too excessive in view of the Applicant's salary and contributions to his household and alimony paid for two other children.

The evidence before the Tribunal as it appears on record reveals the following:

The respondent, a single woman with five children and the appellant, who is a police officer, were at all material times friends. They used to have sexual relations over a period of about two years prior to the birth of the child. They kept their relationship secret as the appellant had already been married and living with his wedded wife and children. When the respondent fell pregnant in the later part of 2001, she informed the appellant of her pregnancy. The appellant continued to have sexual intercourse with her even during her early pregnancy. He also agreed to pay her R.500/- per month for the maintenance of the child yet to be born. When she was three months pregnant, the appellant picked up quarrel with the respondent, stopped contacts and severed the relationship. When the child was born the appellant was in fact, working in Praslin. He was not even aware of the birth of the

child. After his return to Mahe, the appellant did not show any interest to renew contact with the respondent or to see the child. The respondent being egocentric didn't want to bother the appellant for anything the child required.

According to the respondent (PW1), there happened an incident on the 1<sup>st</sup> May 2004, while she was attending the First May Feast at Anse Royale along with her child. Her relatives and friends were also with her attending the Feast. Amongst them was one Ms. Sophia Pillay (PW2), a common friend, who personally knew both the appellant and the respondent. In the Feast the respondent saw the appellant, who was in his police uniform, standing amidst the crowd. Since the respondent's relatives had always wanted to know the father of the child, the respondent seized that opportunity to show them the father. She pointed the appellant to them telling that he was the father of her child, Joshua. She then brought the child to the appellant along with some of her relatives. The appellant took the child in his hands and said to two of his work-colleagues around "*Get mon piti, I parey, mwan*". The appellant then gave respondent his phone number asking her to call him. Ms. Sophia Pillay (PW2), who was also in the company of the respondent that time also testified that she too witnessed the said incident, when the appellant took the child in his hands and said "*Get mon piti, I parey, mwan*". On another occasion, the respondent upon the appellant's request brought the child to the Mont Fleuri Police Station, where the appellant was working that time. The appellant then gave Rs200/- for the child and asked her to bring the child again.

The Tribunal having heard the testimony and observed the demeanor of the witnesses accepted the evidence of the respondent and her witness Ms. Sophia Pillay and rejected the evidence of the appellant as unreliable. On the question of corroboration, the Tribunal found that the evidence of the respondent was corroborated in material particulars by the evidence of her witness Ms. Sophia Pillay (PW2). Hence, the Tribunal in its decision concluded that the appellant was the reputed father of the child Joshua Hardick William, and ordered him to pay a monthly sum of Rs 400/- to the respondent for the maintenance of the said child.

In this appeal, the main contention of the appellant is that the Tribunal acted erroneously on the respondent's evidence alone without any other independent evidence to corroborate it, whilst corroboration is a statutory requirement.

It is truism that there is a statutory requirement under section 12 (2) (b) of the Children's Act, 1982 that before the Tribunal can find that a person is the reputed father of a child, the testimony of the mother must be corroborated by that of some independent testimony. Indeed, the corroborative evidence must have some relation to the conduct of the reputed father or some relation to the probability of the alleged one being the father. It involves something more than possibility. It involves evidence which tends to show probability. **See, Crea Vs. Agathine No: 2 SLR (1977)**. Evidence of words or conduct on the part of the alleged father, which amount to an admission on his part that he, in fact, is the father is sufficient corroboration. **See, Moncherry Vs Rassool SLR (1976) No: 29.**

In the instant case, on a careful perusal of the record, I find it abundantly clear that the evidence of the mother namely, the respondent is aptly corroborated by the independent evidence of her witness Ms. Sophia Pillay (PW2), which obviously confirm on material particulars. That is, the appellant has publicly admitted his fatherhood of the child during the First May Feast at Anse Royale in that, he took the child in his hands and in the presence of the respondent and her witness Ms. Sophia Pillay, said "*Get mon piti, I parey, mwan*" This material fact as to admission, as testified by the mother is clearly corroborated by the evidence of Ms. Sophia Pillay (PW2). This, in my judgment is more than sufficient to meet the statutory requirement on corroborative evidence. In the circumstances, I find the first ground of appeal is devoid of merits and hence fails.

As regards the second ground of appeal as to quantum of maintenance, one has to ask whether the Tribunal erred in any way in awarding Rs400/- per month as maintenance for the child. On a meticulous consideration of the

entire circumstances and other relevant factors surrounding this case, it does not seem to me that the Tribunal has erred or misdirected itself in assessing the quantum nor has it failed to take into consideration any relevant fact, which it ought to have taken into account in arriving at the right figure. Therefore, I find no ground on which this Court could interfere with the quantum of maintenance ordered by the Tribunal against the appellant in this matter. Having regards to all the circumstances of the case including the rise in cost of living index in the country, the quantum of maintenance ordered by the Tribunal at Rs R.400/- per month, in my considered view, is reasonable and appropriate.

The appeal is therefore, dismissed accordingly.

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**D. Karunakaran**

**Judge**

**Dated this 28<sup>th</sup> day off November 2008**

