

REPUBLIC OF KENYA

IN THE HIGH COURT AT MALINDI

DIVORCE CAUSE NO. 3 OF 2013

F. R.PETITIONER

VERSUS

E.T.S.....RESPONDENT

JUDGMENT

1. This Petition proceeded as an undefended cause after the Respondent failed to enter appearance or file an answer upon being served. Pursuant to the certificate issued by the Deputy Registrar, the hearing proceeded on 1st October, 2013.
2. The Petitioner gave evidence and adopted her statement filed in court on 31st July, 2013. The Petitioner's case is that she is an Italian citizen. On 1st March, 2010 she and the Respondent were married under the Marriage Act at the District Commissioner's office, Malindi. Thereafter the couple cohabited in Italy until the year 2011. During this period the Respondent while drunk assaulted the Petitioner forcing her children and neighbours to intervene. The Respondent was arrested and sent back to Kenya in June, 2011.
3. The couple subsequently returned to Kenya but the Respondent's cruelty continued. In December, 2011 the Respondent tore up the air ticket procured by and refused to accompany the Petitioner to Italy to see her terminally ill father. After his death the Respondent used money sent to him by the Petitioner together with an air ticket but did not attend the funeral.
4. The Petitioner returned to Kenya in June, 2012. She was assaulted again by the Respondent necessitating her admission at Malindi District Hospital. The matter was reported to police but the Respondent continued to assault the Petitioner. The Petitioner states that the Respondent has been involved in adulterous unions with G M M and P N, the latter whom the Respondent has declared on his facebook page to be his current wife.
5. The Petitioner's evidence is not controverted. I find that she has proved the grounds of cruelty and adultery against the Respondent. I accordingly allow the prayers in the petition.

Delivered and signed at Malindi this **11th** day of **December, 2013** in the presence of Mr. Gicharu holding brief for Ms. Mwangi for Petitioner.

C. W. Meoli

JUDGE