



REPUBLIC OF KENYA.

IN THE HIGH COURT OF KENYA

AT KITALE.

DIVORCE NO. 3 OF 2000.

H.J.L..... : PETITIONER.

VERSUS

J.R.N..... : RESPONDENT.

J U D G M E N T.

1. The petitioner in this divorce cause, **H.J.L.** petitioned for an order of dissolution of the marriage with the respondent, J.R.B. That marriage was solemnized on 18th October, 1996 at the Superintendent Registrar's office at Rift Valley. After the solemnization, both the petitioner and respondent cohabited as man and wife in Nakuru, Ngonyek area in Cherangani and at the Kitale. Both parties are police officers and they have one child between them.

2. The petitioner alleges that the respondent has treated her with cruelty since marriage. The petitioner testified that four months after she gave birth to the only child of this marriage, on 7th June, 1998, the respondent instructed his sister to assault the petitioner in his presence. The petitioner was assaulted, she reported this matter to the police and she was treated for the injuries sustained; at the Kitale District Hospital. The petitioner further testified that on the same day the respondent went to her house and carted away all her household goods leaving her and the child of the marriage destitute.

3. The petitioner further testified that on 9th September, 1998, the respondent threatened to kill her and the child of the marriage. This matter was also reported to the police. Eventually, the respondent chased away the petitioner from the matrimonial home on 31st December, 1998; since that date the parties have not cohabited as husband and wife. According to the petitioner the respondent has been cohabiting with other women. For those reasons the petitioner seeks for the dissolution of the marriage and the custody of the child of the marriage as well as costs of this cause.

4. Although the respondent filed an answer to this petition and cross petitioned for divorce, he did not attend court to give evidence in support of the answer and cross-petition. Thus the petitioner's evidence was not controverted. The petitioner was able to prove that she was subjected to cruelty in the course of the marriage and that she did not condone the cruelty. This petition was also not filed through collusion. Further I find the parties separated in December, 1998 and they have not cohabited since.

Accordingly, the petitioner proved the allegations of cruelty and desertion; she is entitled to the orders of dissolving the marriage. The petitioner has always had the custody of the child of the marriage and she should therefore continue to have the same rights. After all, the respondent has not supported the child or even bothered to find out about her well being.

5. I hereby issue an order dissolving the marriage, a decree *nisi* shall issue for a period of three (3) months. If no application is made after three months this decree shall be made absolute.

The petitioner shall have the custody of the child of the marriage and the costs of this petition.

Judgment read and signed on 24th day of June, 2011.

**MARTHA KOOME.
JUDGE.**