

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
Divorce Cause 57 of 2005

P.N.N.....PETITIONER

VERSUS

C.W.N.....RESPONDENT

JUDGMENT

The Petition for dissolution of the marriage was filed by the husband who averred that the wife/Respondent has treated him with cruelty. The wife filed an answer and cross-petition but on the date of hearing of the cause, she remained absent with instructions to her counsel that she would not be adducing any evidence. As a result thereof, the Court has to determine the cause on the evidence adduced from the Petitioner.

It is not disputed that the parties married on 28th April, 2001 and the petitioner produced their marriage certificate issued under the Marriage Act (Cap. 150 of Laws of Kenya).

Both parties are domiciled in Kenya and cohabited at a premises situate in Nairobi. The marriage has not borne any issue.

As per the testimony of the Petitioner, it was shown that since the inception of the marriage, the Respondent exhibited absolute contempt and respect to the Petitioner. She would disregard his feeling totally and would do whatever she felt. She also did not give him matrimonial love and refused him his conjugal rights. He swore that due to her acts, he felt humiliated and underwent serious mental anguish and embarrassment. Her actions not only affected him mentally but did so to him physically. He lost weight and felt sick due to her actions. He felt totally neglected and humiliated.

He denied that he was mean to her and added that he paid for her University fees and looked after her personal needs and household needs. Even though she was working and undertook a business which she started without his prior knowledge and consent, she did not contribute anything towards the marriage and matrimonial home. He narrated two incidents of December 2003 and January 2004. The Respondent had already arranged a trip to Dubai in company of her friends while he was totally unaware of that trip. When he came to know about the trip she retorted that she would go in any event with or without his consent. She further stated that if he refused her she would take all her belongings and leave the matrimonial house, which she did on 24th January 2004. Since then, she has not come back to him. All his efforts to have meetings through their respective parents and the area Chief were shunned by the Respondent. She categorically refused to attend any of those meetings.

During his cross-examination nothing much arose. On the contrary, it showed that she refused to contribute anything from her income towards the matrimonial home. She defied whatever future plans were agreed between the two.

The Petitioner denied to have been accessory to or condoned those acts of cruelty. He also denied that they have colluded in prosecuting with this cause.

I do not have any reason not to believe this young man who faced a loveless and defiant wife. I am also satisfied that the consistent contempt, disrespect and defiance from a spouse is serious enough to be considered as acts of cruelty. That became weighty when the same affected the mind and body of the Petitioner.

I thus find that the Respondent is guilty of acts of cruelty meted by her to the Petitioner and thus grant his prayer of dissolution of the marriage solemnized between the parties on 28th April, 2001.

Decree nisi be made absolute within 45 days.

I do not grant him costs as prayed by him.

Orders accordingly.

Dated and signed at Nairobi this 17th day of February, 2007.

K.H. RAWAL
JUDGE

17.2.2007