



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Divorce Cause 84 of 2005**

E.N.N..... PETITIONER

**VERSUS**

J.C.B ..... RESPONDENT

**JUDGEMENT**

The parties herein were formally married on 8<sup>th</sup> March, 2002 but were cohabiting as a man and wife since July, 2001. They are citizens and residents of Kenya.

As the Respondent/Husband has not filed any response the Petitioner gave her testimony.

She testified that the Respondent has been violent person and has severally assaulted her physically. She specified incidents of such physical violence. She also stated that he used to lock her out of their matrimonial home forcing her to take accommodation at YMCA. She produced receipts (Ex.2 collectively) to prove that she stayed at the said hostel on various dates in early parts of the year 2003.

She remorsed that in December, 2003, the Respondent assaulted her in the presence of her father, who had come to make efforts to reconcile them. He also embarrassed her in front of her father and sister by challenging her to prove that her father was really her father.

The Respondent was a compulsive drinker and was unable to manage a steady job. He was a total failure in the business due to his drinking habits. He would urinate on their bed and would unreasonably force her to have sex with him when he was under the influence of heavy drinks.

In December, 2003 he disappeared from the matrimonial home and has not met the Petitioner since then.

Lastly she testified that on few days she would find used condoms and semen on their bed after she had come back home from the office. The Respondent was also found sleeping with a lady worker of his mother when they went to see her in Mombasa. That was in August, 2003.

Her complaints to the chief resulted in an advice to seek help from FIDA a Women Right Protection Organization run by Women lawyers.

She denied having condoned or connived at the acts of cruelty and adultery. She also denied that she colluded with the Respondent in presenting or prosecuting this petition.

From her uncontroverted testimony it is proved that the acts of cruelty were of very serious nature and caused danger to her life and health. They are definitely those acts which could not be accepted as a wear and tear of a married life and of living together in thick and thin. They are also not isolated incidents.

In the premises I do find that the Respondent is guilty of acts of cruelty and adultery and thus the Petitioner is entitled to have an order of dissolution of the marriage.

I thus order that the marriage in fact solemnized between the parties before the court be dissolved. The Respondent to pay the costs of this petition.

Decree nisi be made absolute within 60 days.

Dated and signed at Nairobi this 10<sup>th</sup> day of November, 2006.

**K.H. RAWAL**

**JUDGE**

**10.11.06**