



**CRKB v JB (Divorce Cause 120 of 2000)
[2004] KEHC 1718 (KLR) (Family) (1 July 2004) (Judgment)**

C.R.K.B v J.B [2004] eKLR

Neutral citation: [2004] KEHC 1718 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

DIVORCE CAUSE 120 OF 2000

MK KOOME, J

JULY 1, 2004

BETWEEN

CRKB PETITIONER

AND

JB RESPONDENT

JUDGMENT

1. The petitioner in this Divorce Cause C.R.K.B petitioned for the dissolution of the marriage solemnized between her and the respondent on 27th September 1986 at the Igoji Catholic Church.
2. After the marriage the parties cohabited as husband and wife at various housing estates in Nairobi until 1991 when they relocated to Kampala Uganda. They separated and they have remained separated since June 1994. there are three children born of the said union namely:
 - S.N born in 1987
 - M.M born in 1989 and
 - B.M born in 1991
3. The respondent did not attend court during the hearing. The petitioner gave evidence in support of the petition. The Answer to petition and Cross petition technically stand dismissed for want of prosecution.
4. The petitioner gave evidence and gave a detailed account of the incidences of cruelty meted out to her by the respondent since the celebration of the marriage. These particulars of cruelty are narrated in the petition and the petitioner reiterated them in her testimony. Due to these incidences of cruelty



that had become regular and the order of the day, the petitioner was forced to run away from the matrimonial home on 20th June 1994. She had sustained very severe injuries from which she received medical treatment and due to fear for her life, she was forced to seek refuge from a family friend. The respondent has never apologized for these acts of cruelty and according to the petitioner they have never cohabited as husband and wife since June 1994.

5. I have given due consideration to the unchallenged testimony by the petitioner, and the pleadings filed herein. I am satisfied that this marriage is irretrievably broken down. Even the respondent had sought in his Answer, a cross petition for divorce. Whichever way one looks at this marriage it cannot be salvaged, certainly not by the court. I find therefore that the petitioner has been able to prove her case to the required standard. This was a very difficult relationship and in my humble view the petition herein was not presented through collusion nor did the petitioner condone the cruelty.
6. Accordingly I shall grant the order of divorce as prayed. The decree nisi shall issue for a period of 3 months and shall be made absolute on application.
7. The petitioner shall have the custody care and control of the three children and the respondent shall be entitled to visitation rights.
8. The respondent shall pay school fees and medical insurance cover for the children. Any party shall be at liberty to apply.

It is so ordered.

JUDGMENT READ AND SIGNED ON 1ST JULY 2004.

MARTHA KOOME

JUDGE

