



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 68 OF 2000

R.W.M..... PETITIONER

VERSUS

F.N.N RESPONDENT

J U D G E M E N T

R.W.M, the petitioner and F.N.N, the respondent, got married on 6th August, 1988 at Kanjuu CPK Church, Kirinyaga in Central Province.

The 2 lived and cohabited as shown in para 2 of the petition and they had 2 children as shown in para 4 of the petition.

Both the petitioner and respondent are domiciled in Kenya, and they both work for gain as shown in para 5 of the petition.

The petitioner complained of cruelty on the part of the respondent who was served with the petition and he entered appearance as well as filing an answer to the petition stating that it was the petitioner who has been cruel to him.

The petitioner stated that the problems in the marriage started when her husband lost his job with *[particulars withheld]*, and started a business which did not do well then he started allegations that the success of her business was influenced by her male friends. He also alleged that she was a prostitute.

The respondent eventually chased the petitioner out of the house in 1996, but they soon made up and went back. A reconciliatory meeting was arranged in the respondent's home in Embu. Her parents were invited, but the respondent abused them telling them to take away their prostitute daughter. The respondent also threw away the household goods and items of the petitioner who collected them and left taking the children with her. She moved to Nairobi and found her own accommodation and also put her children in schools and continued with her business.

The petitioner testified that the respondent has caused the breakdown of the marriage by his cruelty demonstrated by insulting the petitioner, violently evicting her from the matrimonial home several times, falsely and persistently accusing her of having sexual affairs with other men. According to the petitioner, the marriage cannot be salvaged. She prayed for the dissolution of her marriage to the respondent and also asked that her husband be condemned to pay costs of the petition.

At the conclusion of the petitioner's evidence, Mr. Nyaga, advocate for the respondent addressed the court saying that he would not offer any evidence. He closed the respondent's case. This to me meant that the respondent's "**Answer to Petition**" which gave particulars of cruelty in para 3 thereof was not

proved.

The petitioner was cross examined on the evidence she adduced in court. The respondent on the other hand did not adduce any evidence, though his lawyer cross examined the petitioner on her evidence.

From the evidence I have considered as a whole, the oral evidence and evidence by way of affidavit. I am satisfied that the respondent was cruel to the petitioner and this is what caused the breakdown of their marriage.

The cross examination of the petitioner did not demolish her evidence which I find remained uncontroverted.

The evidence I heard from the petitioner made me conclude that this marriage cannot be saved, it exists only in name.

For the reason I proceed to grant an order to dissolve the marriage between the petitioner and the respondent. I direct the respondent to pay the costs of the Divorce Petition.

Dated at Nairobi this 4th day of July, 2002.

JOYCE ALUOCH

HIGH COURT JUDGE