

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 30 OF 2001

A.N.B..... PETITIONER

VERSUS

R.B..... RESPONDENT

J U D G E M E N T

A.N.B., got married to R.B.on 5th April, 1997 at the Christ the King Church in Kampala, Uganda.

A. the petitioner produced the original marriage certificate. She works for [particulars withheld] and therefore lives partly, Nairobi and partly in Kampala. The couple have no children as the petitioner testified that her husband does not like children and also did not want them to have any. He considered them a burden.

The petitioner did get pregnant once but unfortunately she had a miscarriage. After that, her husband started using a condom whenever they had sex. This caused distress to her because she would have wanted to have children.

Besides this, the petitioner said that the respondent started abusing her soon after the honey-moon. He told her he did not care as he only married her to enhance his status in the bank, where he was advised to get married. The respondent started beating the petitioner and at times would lock her up in the bedroom. He attempted to strangle her once, and the petitioner pretended to have suffered a blackout. That is when he stopped beating her and locked her up in that room and went to sleep in another room.

The following morning the petitioner packed up her clothes and came to Nairobi from Kampala. It was then that she had the miscarriage and she was admitted in hospital. The respondent never visited her in hospital but came after 2 weeks of that incident, and never returned to date.

The petitioner has continued to live in Nairobi to date. She prayed that her marriage to the respondent be dissolved. She did not want any maintenance from him saying that she has always managed on her own and could continue doing so.

The records show that the respondent was served with the petition, but he did not enter appearance or file an answer. The cause was certified as undefended.

The petitioner's evidence of cruelty was not challenged by the respondent who did not even enter appearance. In the circumstances, I am entitled to accept the evidence which shows the brutality suffered by the petitioner at the hands of her husband. I find that it is this cruelty which caused the breakdown of marriage between the petitioner and the respondent. I therefore more to dissolve the marriage between the two. I make no order as to the costs of the petition, but I direct each party to bear their own expenses occasioned by these proceedings.

The decree nisi will issue straight away today. The same will be made absolute within one month from today.

Dated at Nairobi this 8th day of August, 2002.

JOYCE ALUOCH

HIGH COURT JUDGE