

REPUBLIC OF KENYA

IN THE HIGH COURT AT MALINDI

DIVORCE CAUSE NO. 5 OF 2013

L. P.PETITIONER

VERSUS

A. S. M.....RESPONDENT

J. J.....CO-RESPONDENT

JUDGMENT

1. The Petition filed by L. P. proceeded as an undefended cause following certification by the Deputy Registrar under the Matrimonial Causes Rules.
2. L. P. met the 1st Respondent in 2005. The two became lovers and were married on 21st January, 2008 under the Marriage Act. Thereafter they cohabited as man and wife, spending three years in Italy.
3. The 1st Respondent was the first to return to Malindi in March, 2011. When the Petitioner followed in August, 2011, she found the 1st Respondent entangled in a love affair with the 2nd Respondent who was pregnant and insisting on living in the couple's rented home. The 2nd Respondent physically assaulted the Petitioner who decided to move out of the home.
4. The two Respondents continued cohabiting and have done so to date. For these reasons, the Petitioner seeks that the marriage be dissolved.
5. The Petitioner's case as presented through her pleadings and oral evidence is not challenged. It appears from the evidence that the 1st Respondent entered into an adulterous relationship with the 2nd Respondent upon his return to Kenya in March, 2011.
6. The 2nd Respondent had the temerity to assault the Petitioner in her own home as she asserted her perceived claim as the 1st Respondent's wife.

The couple has since assumed cohabitation following the departure of the Petitioner from the home.

7. I find that the Petitioner has established both adultery and cruelty on the part of the Respondents. I will proceed to grant the prayers sought in the Petition.

Delivered and signed at Malindi this **6th** day of **November, 2013** in the absence of the parties.

Court clerk – Samwel.

C. W. Meoli

JUDGE