

JERE J.  
NO

IN THE HIGH COURT OF MALAWI

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CIVIL CAUSE NO. 277 OF 1979

BETWEEN:

ESTER GRAM HARA ..... PETITIONER

and

LIFTED JAMES HARA ..... RESPONDENT

Coram: Skinner, C.J.  
For the Petitioner: Mbalame, Ag. Chief Legal Aid Advocate  
Respondent absent: unrepresented  
Official Interpreter: Sonani  
Court Reporter: Brown

JUDGMENT

This is a petition for divorce brought by Ester Gram Hara praying inter alia for the dissolution of her marriage with Lifted James Hara on the grounds of the respondent's cruelty to her.

The parties were married on the 4th day of September 1971 at the office of the District Commissioner, Zomba. In her petition the petitioner alleges that the respondent has since the celebration of the marriage treated her with cruelty and that she has suffered injury to her health. It is also alleged that he is a man of ungovernable temper and that he has frequently struck and threatened her. A specific act of cruelty is alleged to have happened on a night in the month of May 1978 at the then matrimonial home when the respondent is alleged to have struck the petitioner on her hips with the radio as a result of which she suffered injury.

Mr. Mbalame called the petitioner and one other witness. The evidence of the petitioner relating to the allegation of cruelty was that the respondent had beaten her throughout the marriage. He had beaten her many times and on one occasion with a baton. On another occasion he had burned her. She gave evidence of the incident which took place in May 1978. She said that at that time she was some seven months pregnant and on the evening in question she was asleep. The husband returned to the matrimonial home late at night and switched on the radio. The volume was very loud and the petitioner asked him to reduce it. Instead of doing so he hit her with the radio twice. She was hit on the left hip and she fell down. She was taken to the hospital the next morning and was treated there. As a result of this incident and the other incidents she was afraid of her husband and she was afraid that he might kill her or do her serious injury - a not unreasonable fear.

I had evidence from the petitioner's mother, who corroborates her as far as the incident in May 1978 is concerned.

I am satisfied from the evidence that the husband was guilty of cruelty as alleged in the petition, and that his conduct was of such

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a character as to cause danger to the petitioner's health and to give rise to a reasonable apprehension of danger to life and limb.

I grant a decree nisi in accordance with the prayer of the petition.

The respondent is condemned in costs subject to taxation.

The question of maintenance and custody is adjourned to chambers.

Pronounced in open court this 21st day of March, 1980, at Blantyre.



J. N. SKINNER  
CHIEF JUSTICE