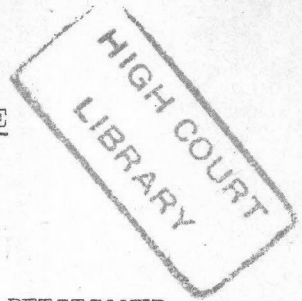


IN THE HIGH COURT OF MALAWI AT BLANTYRE

CIVIL CAUSE No. 442 of 1979



B E T W E E N:

JANETT MTEKATEKA PETITIONER
and
ANDREW MTEKATEKA RESPONDENT
and
ANNA SILIKA CO-RESPONDENT

Coram: SKINNER, C.J.
Mbalame, Principal Legal Aid for the Petitioner
Respondent: unrepresented, not present
Co-respondent: unrepresented, not present
Kawinga: Official Interpreter
Kelly: Court Reporter

J U D G M E N T

The petitioner prays for the dissolution of her marriage to the respondent on the grounds of adultery and fruelty.

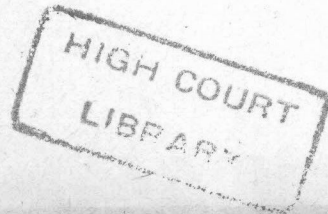
The facts are that the parties are Malawians, domiciled in Malawi, and they were married at the office of the Registrar of Marriages in Blantyre on the 12th January 1974 and lived and co-habited together in the Blantyre District until May 1978.

In July 1977 the respondent beat the petitioner with his fists, as a result of which her face and eye became swollen. He made another attack on her in the month of May 1978, he again beat her with his fists and when she refused to leave the matrimonial home he threatened to stab her with a knife. He failed to find a knife and he took a pair of scissors. She ran out of the house and her evidence is that she is afraid that if she lived with him he would do her further injury.

With regard to the allegations of cruelty it is sufficient to say that they are materially proved and I find that the petitioner has been subjected to bodily injury and that she has been put in continuous bodily fear. The degree of cruelty necessary to establish the claim for dissolution of marriage is sufficiently established here.

I now turn to the allegation of adultery. The only evidence I have is that of the wife. She found the co-respondent a number of times in the matrimonial home after she had left in May 1978 and she saw that the co-respondent's clothes were in the respondent's bedroom. I warn myself that I must treat her evidence on this with care as there is no corroboration. I believe her and I think the story she tells as regards finding the co-respondent and her clothes

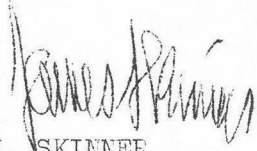
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in the matrimonial bedroom is true.

I am satisfied that there is no bar to granting a decree nisi. I grant a decree nisi in accordance with the prayer in the petition. The respondent is condemned in costs subject to taxation. The question of custody is adjourned to chambers.

Pronounced in open court this 31st day of July 1980 at Blantyre.


J.J. SKINNER
CHIEF JUSTICE