

IN THE HIGH COURT OF MALAWI AT BLANTYRE

CIVIL CAUSE NO.139 OF 1979

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BETWEEN:

ROCKIA HOWSE.....PETITIONER

- and -

FOSTER G. HOWSE.....RESPONDENT

Coram: J.J. Skinner, Chief Justice

For the Petitioner: Chanthunya of Counsel  
Respondent Present: Unrepresented  
Official Interpreter: Sonani  
Court Reporter: Caffyn

J U D G M E N T

The petitioner, Mrs. Rockia House, prays for the dissolution of her marriage to the respondent on the grounds of cruelty. The petition is undefended. The facts are that the petitioner and the respondent were married on the 28th September 1973, at the Registrar General's Office in Blantyre. Thereafter, they lived and cohabited together in the City of Blantyre. There is one child of the marriage, a son, born on the 23rd March, 1974.

The point for consideration is whether the evidence of the petitioner has satisfied me that cruelty has been established in law. I believe the petitioner. I think she was a truthful witness. Her evidence is that the respondent failed to give her sufficient money for food for herself and the child, and that this gave rise to friction. She says that on one occasion when she was pregnant the respondent beat her, and as a result of this she lost a baby. She says there were minor beatings on other occasions. She described an incident on the 5th May 1978, when the respondent hit her, causing her to fall to the ground, and he then kicked her on the back. She suffered pain as a result of this. On this occasion he told her to leave the house, and that if she came back he would kill her. She left the matrimonial home and went to live with her parents, and she has never returned to the respondent because she is afraid of him.

I am satisfied that the allegations of cruelty are materially proved, and that the respondent has been subjected to bodily injury

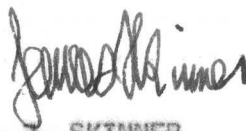
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and to bodily fear. The degree of cruelty necessary to establish a claim for dissolution of the marriage is, in my opinion, sufficiently established.

I am satisfied that there is no bar to the dissolution of the marriage. I grant a decree nisi in accordance with the prayer in the petition. The questions of custody and maintenance are adjourned to Chambers.

As to costs, the respondent is condemned in costs and they have been agreed before me at a figure of K150.00.

Pronounced in Open Court this 12th day of November 1980, at Blantyre.

  
J. J. SKINNER  
CHIEF JUSTICE