

IN THE HIGH COURT OF MALAWIPRINCIPAL REGISTRYCIVIL CAUSE NO. 650 OF 1986BETWEEN:GLADYS MUGHOGHO PETITIONER

- and -

BAKILI MUGHOGHO RESPONDENT

CORAM: MAKUTA, Chief Justice
 Nampota, Counsel for the Petitioner
 Respondent, absent, unrepresented
 Manda, Court Reproter
 Namvenya, Official Interpreter

J U D G M E N T

The petitioner prays for dissolution of her marriage with the respondent on the ground of cruelty. The parties were lawfully married on 18th December, 1979, at the Office of the Registrar General in Blantyre. After the celebration the parties lived and cohabited together at ADMARC Flats at Kanjedza in the City of Blantyre.

There are three children of the marriage, namely Humphrey Mughogho, born on 12th February, 1980; Kingsley Mughogho, born on 25th December, 1982, and Ester Mughogho, born on 25th May, 1986. All the children are living with the petitioner.

The petitioner is not working and is living with her parents at Chitawira in the City of Blantyre. The respondent was working for ADMARC as a mechanic but he is now unemployed. Both parties are Malawians and are domiciled in Malawi. This Court, therefore, has jurisdiction to hear this case.

This petition is not defended. I therefore warn myself of the dangers of collusion. I have, however, considered the circumstances and I am satisfied that there was no collusion in the presentation of this petition.

The evidence of the petitioner is that since the celebration of the marriage the respondent has treated her with cruelty. In 1981 the respondent viciously beat the petitioner with clenched fists as a result of which the petitioner's left eye got swollen and for sometime she was using one eye. In 1982 the respondent again beat the petitioner with his fists and the petitioner's face again got badly swollen. In November 1984 the respondent further beat the petitioner while pregnant in front of so many people near the United Transport (Malawi) Head Offices at Chichiri in the City of

Blantyre, injuring her left eye. This beating also resulted in having incomplete miscarriage. Further, on 13th December, 1984, at the matrimonial home the respondent struck the petitioner with violent blows which resulted in the swelling of her face and injury to the left ear. Finally, on 19th December, 1985, again while pregnant, the respondent struck the petitioner with clenched fists at a road at the ADMARC Flats, Kanjedza Township, in the presence of so many people resulting in her suffering considerable bodily pains. Indeed the petitioner suffered not only the bodily pains but also endured a great deal of embarrassment and humiliation. As a result of these relentless assaults the petitioner left the matrimonial home on the same day and, as already mentioned above, is now living with her parents at Chitawira in the City of Blantyre. They have not lived together again.

Looking at the evidence in its totality I am satisfied that the allegations of cruelty have been proved against the respondent and this petition must, therefore, succeed. I am satisfied that there is no bar to granting relief and I, therefore, pronounce a decree nisi. The respondent is condemned to costs of these proceedings. The petitioner will have custody of the children.

PRONOUNCED in open Court this 27th day of May, 1988,
at Blantyre.


F.L. Makuta

CHIEF JUSTICE