

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: DC 168/2014

[2015] SCSC 120

FLORY DORIS COLETTE DUBOIS

Petitioner

versus

ALFRED YVON DUBOIS

Respondent

Heard: 27th March 2015

Counsel: Mr. Chetty for petitioner

Ms. Domingue for respondent

Delivered: 27th March 2015

JUDGMENT

D. Karunakaran, Acting Chief Justice

- [1] I believe I need not adjourn this matter to another date for judgment and I proceed to give an extempore judgment since the facts are clear and straight forward on record. It does not require research on any point of law.
- [2] This is a petition for divorce. The petitioner, the wife has applied to the Court for a dissolution of her marriage with the respondent, on the ground that her marriage has irretrievably broken down since the respondent has behaved in such a way that the

petitioner cannot reasonably be expected to live or continue to live with him. The respondent, who is duly assisted by counsel Ms. Domingue contested the matter. According to the respondent the marriage has not been irretrievably broken down and all allegation made by the petition are not true and correct. Hence, the respondent seeks dismissal of the petition.

- [3] Both the petitioner and the respondent testified in support of their respective case. The petitioner testified in essence, that she was lawfully married to the respondent in Seychelles on the 22nd February 2006. After the marriage the parties lived together as husband and wife until their separation two years ago. The respondent is a teacher domiciled and resident in Seychelles and he lives at St. Louis, Mahe Seychelles. There are two children born of the marriage namely:
- (i) Chloe Alisha Dubois born on the 12th September 2006, and
 - (ii) Alfredo Pedro Dubois born on the 6th of September 2009
- [4] The petitioner categorically testified that her marriage has irretrievably broken down because of the physical and mental cruelty caused by the respondent to the petitioner which resulted in the breakdown of the marriage. Further the petitioner testified that the respondent used to physically assault her frequently as well as accused her of having an affair with her boss in employment. At time, he used to accused her that one of children born during marriage, was not his own child.
- [5] In the circumstances, the petitioner testified that her marriage has irretrievably broken down and there is no possibility of reconciliation. More over the petitioner testified that she is scared for her life and due to the threats from the respondent the reunion is out of question. For these reasons, the petitioner seeks this Court for a dissolution of her marriage.
- [6] On the other side the respondent testified in essence, that all the allegation made by the petitioner against him are not true and correct. He also testified that he is a true Christian who does not believe in divorce and he is still in love with the petitioner and he wishes to reconcile with the petitioner. Moreover he denied all the accusation made by the

petitioner in respect of adultery, cruelty and harsh treatments. The respondent in effect claimed that his religious law supercedes the law of the land.

[7] I carefully considered the evidence adduced by both parties in this matter. First of all, I note the whole issue revolves around the credibility of the witnesses. To begin with, I must state that the demeanours and deportment of the respondent did not appeal to me in the least to attach credibility to his testimony. Whereas, I believe the petitioner, whom spokes the truth find truthful, to the court in respect of all incidents narrated in her testimony.

[8] In the circumstance, I find that the petitioner has established her case to the required degree in Civil Law. In conclusion, I find that the marriage has irretrievably broken down and there is no possibility of reconciliation. The defence of the respondent based on his religious belief is not acceptable to this court. He is in effect challenging the very law of the country, which provides for dissolution of the civil marriage, which was though solemnised through religious institution.

[9] In the circumstances, I find that the marriage has irretrievably broken down, which is a fact whatever be the allegation made against each other. For these reasons, I dissolve the marriage of the parties and grant a conditional order of divorce, which may be made absolute after the expiry of six weeks from the date hereof.

[10] The petition is granted accordingly.

Signed, dated and delivered at Ile du Port on 27th March 2015.



D Karunakaran
Acting Chief Justice