

ARPINE KEONDJIAN THEN ARPINE HAGOPIAN,
Petitioner,

v.

ARDASHES KEONDJIAN,
Respondent.

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ARPINE
KEONDJIAN
v.
ARDASHES
KEONDJIAN

(*Matrimonial Petition No. 2/64*)

Matrimonial causes—Jurisdiction—Marriage celebrated under the provisions of the Marriage Law (now Cap. 279) by a Registered Minister—Wife a member of the Armenian Church in Cyprus—Husband a member of the Reformed Presbyterian Church—Article 111 of the Constitution—The case does not fall within the ambit of Article 111 of the Constitution—Consequently the High Court has exclusive jurisdiction in the matter—Wife petitioner ordinarily resident in Cyprus for a period of three years immediately preceding the commencement of the proceedings—Jurisdiction of the High Court under section 18 (1) (b) of the English Matrimonial Causes Act, 1950, established.

The petitioner wife, a member of the Armenian Church of Cyprus, sought the dissolution of her marriage with the respondent, who is a member of the Reformed Presbyterian Church on two grounds, *viz.* cruelty and desertion.

The parties were married by a Registered Minister on the 20th February, 1941, under the provisions of the Marriage Law then in force in Cyprus, which is substantially the same as the Marriage Law, Cap. 279. Under the provisions of the said Law, a marriage celebrated by a Registered Minister under the provisions of the Marriage Law is considered to be a valid civil marriage.

The petition, which was not defended, is based on two grounds, *viz.* cruelty and desertion.

Held, (1) as this cause is not a matter relating to divorce within the ambit of Article 111 of the Constitution and, consequently, not cognizable by a tribunal of a Church, this Court has exclusive jurisdiction to hear and determine the present petition.

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(2) Petitioner wife had been permanently resident in Cyprus for a period exceeding three years immediately preceding the commencement of these proceedings, and, consequently, this Court has jurisdiction to hear the present petition under the provisions of section 18 (1) (b) of the English Matrimonial Causes Act, 1950, which is applicable to Cyprus.

(3) The husband has left Cyprus with the intention of permanently deserting his wife without cause and that more than three years elapsed between the date of his desertion and the presentation of this petition.

(4) Decree *nisi* granted to the wife on the ground of desertion with costs.

Order accordingly.

Matrimonial Petition.

Petition by wife for dissolution of her marriage on the ground of desertion.

A. C. Indianos, for the petitioner.

Respondent absent, duly served.

The following judgment was delivered by :

JOSEPHIDES, J. : In this case the petitioner, who is a member of the Armenian Church in Cyprus, and the respondent who is a member of the Reformed Presbyterian Church, were married by a Registered Minister in the Reformed Presbyterian Church at Larnaca on the 20th February, 1941, under the provisions of the Marriage Law then in force in Cyprus, which is substantially the same as the Marriage Law, Cap. 279. No other religious ceremony was solemnised. Under the provisions of the Marriage Law a marriage celebrated by a Registered Minister under the provisions of the Marriage Law is considered to be a valid civil marriage. As this cause is not a matter relating to divorce within the ambit of Article 111 of the Constitution and, consequently, not cognizable by a tribunal of a Church, this Court has exclusive jurisdiction to hear and determine the present petition.

The respondent was born in 1904 in Adana, Turkey, and came to live in Cyprus some time before the annexation of Cyprus by England in November, 1914 and he, subsequently, became a British Subject. He lived and worked in Cyprus until about the middle of October, 1960, when he left for England where he has been working ever since. He has no immovable property in Cyprus. I

have no doubt on the evidence that the respondent had been domiciled in Cyprus until the middle of October, 1960, but I do not think that, in the circumstances of this case, it is necessary for me to decide whether since then he has changed his place of domicile.

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The petitioner, who was born in Adana, Turkey, in 1919 was brought to Cyprus by her parents in 1921 to escape from the massacres there. She has been living in Cyprus ever since except that in September last year she went to visit her daughter who is married in Beirut and some two or three months later, at about Christmas, 1963, the troubles broke out in Cyprus and, her house being in the Turkish quarter of Nicosia, she has taken refuge with her daughter in Beirut until more peaceful conditions prevail in Cyprus.

On this evidence I am satisfied that the petitioner wife has been permanently resident in Cyprus for a period exceeding three years immediately preceding the commencement of these proceedings, and, consequently, this Court has jurisdiction to hear the present petition under the provisions of section 18 (1) (b) of the English Matrimonial Causes Act, 1950, which is applicable to Cyprus.

The present petition, which is undefended, is based on two grounds, *viz.* cruelty and desertion. There is sufficient evidence of ill-treatment in this case, but having regard to the fact that the evidence adduced on the ground of desertion is more than ample to prove that ground I do not propose to decide the ground of cruelty.

As already stated, the parties were married on the 20th February, 1941, and a daughter was born to them on the 25th January, 1943. She is now married in Beirut and over 21 years of age. The marriage of the parties has been a very unhappy one. Throughout all the years of the marriage the husband ill-treated the wife. Three specific instances of ill-treatment were given in evidence which I have no hesitation in accepting as true. There was an assault with a trick-track, an assault with a hammer which broke in two, and an assault with a solid packet. The wife was medically treated by three doctors as she had a breakdown resulting from this ill-treatment. The husband repeatedly insulted the wife and he failed to provide for her maintenance and that of their infant child.

The marriage of the daughter was fixed to be celebrated in Beirut on the 16th October, 1960 and it had been ar-

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ranged that the wife would go there first and the husband would follow later so that both of them would attend the wedding of their daughter. In fact the wife left for Beirut on the 11th October, 1960, but the husband did not go to Beirut to attend the daughter's wedding. The wife returned to Cyprus on the 18th October, 1960, and she then found out that the husband had in the meantime left Cyprus, and he has not returned since.

Some four months later the wife received a letter from the husband (dated the 19th February, 1961) from an address in London asking her to join him there. Meantime, he had left Cyprus secretly and had not written to her or provided anything towards her maintenance for four months. In her reply dated the 23rd February, 1961, the wife stated that she did not believe that his invitation was a sincere one and called upon him to give a practical indication of his honesty of purpose considering that he did not mention anything about his occupation and means of keeping a house and the prospects of future cohabitation, having regard to his past conduct. Since October, 1960, the husband has neither contributed anything towards the wife's maintenance nor returned to Cyprus.

On this evidence I am satisfied that the husband has left Cyprus with the intention of permanently deserting his wife without cause and that more than three years elapsed between the date of his desertion and the presentation of this petition.

I accordingly grant to the wife a decree *nisi* on the ground of desertion with costs.

Order accordingly.