

1982 January 30

[A. LOIZOU, J.]

FRANCIS ANTHONY ARIARATNAM JOSEPH,
Petitioner.

v.

PAULE RIVIERE, WIFE OF FRANCIS ANTHONY
ARIARATNAM JOSEPH,
Respondent.

(*Matrimonial Petition No. 17/81*).

*Matrimonial Causes—Divorce—Cruelty—Legal cruelty—Drunkenness
—Whether it amounts to cruelty—Respondent attempting to
hit petitioner with a knife—Her conduct constituting danger
to petitioner’s life and limb and, also, to his mental health—
Legal cruelty established.*

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The parties to this petition were married at a Register Office in England on the 30th January, 1978 and have been living in Cyprus since that year. The respondent-wife became an alcoholic and was receiving treatment in Cyprus, in France and England but without success. Her behaviour towards the petitioner husband was at times violent and she attempted on several occasions to hit him with a big knife or sword. According to the medical evidence her whole conduct constituted not only a danger to the petitioner’s life and limb, but also, to his mental health in view of the strain that cohabitation with her in such circumstances caused.

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Upon a petition by the husband for dissolution of marriage on the ground of the wife’s cruelty:

Held, that though drunkenness, as such, does not amount to cruelty, a spouse is entitled to the protection of the Court against acts of cruelty committed by the other spouse when suffering from the effects of drink; that the totality of the circumstances of this case have shown conduct on the part of the respondent-wife of such a character as to have caused danger to life, limb or health, both bodily and mental to the petitioner-husband,

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and also has given rise to a reasonable apprehension of such danger and that in no circumstances the petitioner must be asked to endure such a conduct which was in no way excusable; and that, therefore, legal cruelty has been established; accordingly a decree nisi will be granted to the petitioner. 5

Decree nisi granted.

Cases referred to:

Fisk v. Fisk [1920] 122 L.T. 803;

Baker v. Baker [1955] 3 All E.R. 193;

Peratikos v. Peratikos (1979) 1 C.L.R. 41. 10

Matrimonial petition.

Petition by the husband for dissolution of marriage on the ground of the wife's cruelty.

E. Michaelides, for the petitioner.

Respondent absent. 15

A. LOIZOU J. gave the following judgment. This is a petition for divorce by the husband on the ground of cruelty by his wife who, though duly served has not entered an appearance, nor has she contested the proceedings.

The petitioner comes from Shrilanka, and he is the general manager and main shareholder of a company which owns a hotel now under construction in Limassol. He is a member of the Roman Catholic Church and he was married to the respondent, who also belongs to that church, on the 30th January 1978 at the Chelsea Register Office in the Royal Borough of Kensington in London in the U.K. They have been living in Cyprus since that year, which obviously has been chosen as their domicile in view of their residence and intention of permanency which both are present as evidenced by the permanent character of the business activities in which the husband is engaged in this country. This clearly gives jurisdiction to this Court to entertain the present proceedings. 20
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I have heard in this case the petitioner and two doctors who have testified with regard to the issue of cruelty and the facts as they appear from the totality of the evidence before me and as accepted by me are these. 35

The respondent/wife has become an alcoholic for some years

now and she has been receiving treatment in Cyprus, in France and England at various clinics specialising in that kind of treatment, but apparently without success. Her behaviour towards the petitioner has been at times violent, and there has been
5 evidence to the effect that she has attempted on several occasions to hit him with a big knife or sword. On one such occasion Dr. Landos and Dr. Onisiforou had to be urgently summoned to offer her medication in order to calm her down and prevent any serious consequences through her dangerous behaviour
10 of brandishing a big knife against the petitioner. Her whole conduct according to the medical evidence constitutes certainly, not only a danger to the petitioner's life and limb but also to his mental health in view of the strain that cohabitation with her in such circumstances causes.

15 On these facts I have no difficulty in arriving at the conclusion that legal cruelty has been established and that the petitioner's evidence was duly corroborated by that of these two witnesses.

It is correct to say that drunkenness, as such, does not amount to cruelty, but a spouse is entitled to the protection of the Court
20 against acts of cruelty committed by the other spouse when suffering from the effects of drink.

In the case of *Fisk v. Fisk* [1920] 122 L.T. 803, the habitual drunkenness of the wife was considered as a ground for refusing her decree of restitution. Moreover in the case of *Baker v. Baker* [1955] 3 All E.R. p. 193, it was held that persistent
25 drunkenness after warnings that such a course of conduct is inflicting pain on the other spouse, certainly if it is known to be injuring the other spouse's health may by itself amount to cruelty. In fact the husband's conduct which caused to the
30 wife great mental distress and was coupled with violence used towards her was found to amount to cruelty and that the wife was entitled to a decree.

I need not refer any further to the authorities on the question of legal cruelty as I had the opportunity of reviewing them in
35 the case of *Peratikos v. Peratikos* (1979) 1 C.L.R. p. 41. Suffice it to say that the totality of the circumstances of this case have shown conduct on the part of the respondent/wife of such a character as to have caused danger to life, limb or health, both

bodily and mental to the petitioner, husband, and also has given rise to a reasonable apprehension of such danger and that in no circumstances the petitioner must be asked to endure such a conduct which was in no way excusable.

In the result a decree nisi is granted to the petitioner, husband, 5
but there will be no order as to costs as none are claimed.

*Decree nisi granted. No order
as to costs.*