

LAURA TOURIAN (OTHERWISE MAMALIAN),

*Petitioner,*

v.

SAMUEL TOURIAN,

*Respondent.*

—  
LAURA  
TOURIAN  
v.  
SAMUEL  
TOURIAN

(*Matrimonial Petition No. 8/64*)

*Matrimonial Causes—Divorce—Wife's undefended petition for divorce on ground of desertion and husband's wilful refusal to consummate the marriage.*

*Matrimonial Causes—Jurisdiction—Marriage celebrated in Cyprus under the provisions of Marriage Law (now Cap. 279)—Parties members of the Reformed Presbyterian Church—Respondent husband domiciled in Cyprus.*

The petitioner wife sought the dissolution of her marriage with the respondent on the ground of desertion and wilful refusal on the part of the respondent to consummate the marriage.

The parties were married at the Commissioner's Office in Nicosia under the provisions of the Marriage Law on the 25th February, 1956. Both parties belong to the Reformed Presbyterian Church but there was no religious ceremony.

The husband who was born in Turkey (Marash) in 1920, was brought to Cyprus two years later, in 1922, by his parents, who are Armenians and who were forced to emigrate at the time from Turkey. In 1939 the respondent became a British naturalized subject and he has been employed by the British Forces as a clerk for the last 11 years in Cyprus.

*Held, (I) on the question of jurisdiction :*

Respondent husband has lived all his life in Cyprus and on this evidence I am satisfied that the respondent husband is domiciled in Cyprus and that this Court has jurisdiction to hear and determine the present petition.

*(II) on the merits :*

(1) On the evidence adduced the Court is satisfied :

- (a) that the respondent husband wilfully refused to consummate the marriage although this was proposed to him by the wife with such tact, persuasion and encouragement as an ordinary spouse would use in such circumstances ; and

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(b) that the respondent turned out of the house the petitioner in or about March, 1956, and that the evidence proves that he is guilty of desertion (constructive desertion).

*Decree nisi on the ground of desertion and husband's wilful refusal to consummate the marriage, granted.*

**Matrimonial Petition.**

Petition by wife for the dissolution of the marriage on the ground of desertion and wilful refusal on the part of the husband to consummate the marriage.

*S. Devletian*, for the petitioner.

Respondent, absent. Not defended.

JOSEPHIDES, J. : This is an undefended wife's petition for divorce on the ground of desertion and wilful refusal on the part of the respondent to consummate the marriage. The parties were married at the Commissioner's Office in Nicosia under the provisions of the Marriage Law on the 25th February, 1956. Both parties belong to the Reformed Presbyterian Church but there was no religious ceremony.

On the question of *jurisdiction* : the husband, who was born in Turkey (Marash) in 1920, was brought to Cyprus two years later, in 1922, by his parents, who are Armenians and who were forced to emigrate at the time from Turkey. In 1939 the respondent became a British naturalized subject and he has been employed by the British Forces as a clerk for the last 11 years in Cyprus. He has lived all his life in Cyprus and on this evidence I am satisfied that the respondent husband is domiciled in Cyprus and that this Court has jurisdiction to hear and determine the present petition.

As to the *facts* of this case, on the evidence of the petitioner, who is corroborated by her cousin Hrair Tourian, I find the facts as follows : The parties after their marriage on the 25th February, 1956, went to live at 34, Victoria Street, Nicosia. The mother-in-law was living with them. On the first night of the marriage the petitioner wife asked the respondent with kindness and tact to consummate the marriage but he refused to touch her, saying that it was a mistake on his part to marry her. During the following days she tried again on several occasions to persuade him to have sexual intercourse with her but she always met with his refusal. He would not talk to

her except in monosyllables of "yes" and "no" and he never gave any explanation for his behaviour. He asked the petitioner repeatedly to leave the house but she again tried to persuade him to live with her as husband and wife. This went on for about 4 weeks when eventually the husband ordered the petitioner out of the house. At this juncture the cousin of the petitioner, Mr. Tourian, spoke to the husband and tried to persuade him to live with his wife but he refused saying to Mr. Tourian "I cannot have intercourse with your cousin. It is no fault on her part. It would be better if we parted". He did not give any reason for his behaviour. Mr. Tourian tried on 5 or 6 occasions to persuade the husband to live with his wife but without any success. That was about 4 or 5 weeks after the marriage in February, 1956.

The petitioner, who came from Beirut in 1955, worked as a schoolmistress with the American Academy for Girls in Nicosia. She went on working even during the short time that she lived together with her husband at 34, Victoria Street, Nicosia. Her contract with the school authorities expired in 1959 when she went back to Beirut where she is now employed as a secretary in the American University, Beirut. In 1961, the petitioner's cousin, Mr. Tourian, was in Beirut and at the petitioner's request, on his return to Cyprus he spoke again to the husband asking him to reconsider the matter and have his wife back, but he again refused.

On this evidence I am satisfied—

- (a) that the respondent husband wilfully refused to consummate the marriage although this was proposed to him by the wife with such tact, persuasion and encouragement as an ordinary spouse would use in such circumstances; and
- (b) that the respondent turned out of the house the petitioner in or about March, 1956, and that the evidence proves that he is guilty of desertion (constructive desertion).

For all these reasons I grant a decree *nisi* to the petitioner on both grounds.

No costs are claimed and there will be no order as to costs.

*Decree nisi on ground of desertion and husband's wilful refusal to consummate the marriage, granted. No order as to costs.*