

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)
A.D. 1997

Suit No. D86 of 1996

BETWEEN:

CAROL-JEAN HIPPOLYTE

• Petitioner

and

JOSEPH CUTHBERT HIPPOLYTE

Respondent

Mr. S. Anthony for the Petitioner
Mr. D. Theodore for the Respondent

1997: June 2 and 5.

J U D G M E N T

MATTHEW J.

The Petitioner is 36 years old and the Respondent is 44. They were married at the Castries Methodist Church on September 8, 1994. After the marriage they lived together at Sunny Acres. They still live at Sunny Acres but in separate houses. They have two children namely:

Cheska, born on April 18, 1987; and

Curth, born on February 14, 1996.

It is not disputed that the Petitioner first filed a petition for divorce towards the end of 1994. According to the Petitioner she did not pursue it because they tried to reconcile their differences and the Respondent promised that he would stop seeing one Denise.

At the trial each Party gave evidence but did not call any witness. The Petitioner stated that her marriage had been irretrievably broken down. She said they had been having problems for several

years and that her husband had admitted having an affair with another woman. She said she had been subjected to physical and mental abuse and there was lack of communication between them. She said she left the matrimonial home as a result in November 1996 and that the children are with her.

She stated that for years her husband had been having affairs but when he became involved with the last one he openly admitted it. She said he would not come home at nights and on several occasions would use obscene statements at her and would make degrading remarks about her appearance and would compare her body in a bathing suit to that of Denise.

She said the last time he physically abused her was in 1994 when he used his hands and knee to inflict blows on her body.

She was subjected to a rigorous cross-examination indicating that she had adulterous relationships with Alfred Prospere at first, and later with a Vincentian marine officer called Pascal Bacchus. She denied having sexual relations with both. As regards Prospere she said she knew him as a friend from the time she was 13 and she did admit Prospere had picked her up from work and driven her home and had also given her lifts after evening classes at the Morne.

It was suggested to her that Denise was a figment of her imagination. She denied that her husband had questioned her and she admitted having sexual intercourse with Prospere. She said she would be very crazy to admit that to her husband who was very threatening.

She said she met Bacchus in October 1996 at a disco, the Indes Night Club. She said the occasion was when she and her husband were invited out and he said he was not going but would stay home. She agreed she received a letter from Bacchus from St. Vincent dated October 1, 1996 and it was suggested to her that it was after

she received the letter she filed her divorce petition on November 21, 1996. She replied that she had gone to her lawyer to file the divorce petition since September, 1996.

She was asked to read the post script in the letter which stated:

"I'll try to find out the exact date for the course. I suppose it might be a week diving in Grenada. Maybe you could fly down and meet me there. That won't be a bad idea, would it?"

Counsel for the Respondent also directed her attention to the passage of the letter which stated:

"I have strong urges for you Carol. Sometimes the things that you say to me make me feel so hot that I feel like my groin area is going to explode."

She admitted making many telephone calls to St. Vincent, sometimes several for one day. On October 8, 1996 she admitted making three calls; on October 10, 1996 she admitted making four calls; on October 11, 1996 she admitted making two calls; on October 12, 1996 she made three calls and on October 13, 1996 she made four calls. The overseas bill for the St. Vincent calls for the month of October was over \$700.00.

She admitted as well making calls to St. Vincent on the Bank's telephone.

She also admitted going to St. Vincent on Friday November 10, 1996 where she met Bacchus and that before leaving she had purchased from Images at Pointe Seraphine Chas Mens Cologne for Bacchus costing \$40.50. She said Bacchus paid her passage and she stayed at a hotel in St. Vincent and returned to St. Lucia on the following Sunday. She said she never had sex with Bacchus.

She said her husband is a man who is uncontrollable and did not contribute to the upkeep of the home.

She denied that she told the Respondent that she would set her brother Wally and his gang on him. The Court quickly saw through this irrelevant bit of evidence meant to prejudice the Petitioner's case by reference to the alleged character of her brother.

It was suggested to her that the breakdown of the marriage was due to her adulterous behaviour which was having an effect on the Respondent. Her reply was that the breakdown of the marriage was caused by her husband not taking care of his family and not liking to work and not because of Prospere or Bacchus.

When the Respondent gave evidence he said the marriage has broken down because of all the events that had taken place and it cannot be repaired. He said his wife is very rude and she is supported by her family in so doing and it had become impossible for him to control his home. He said that with her brother, Wally Richardson, around he did not think he wants to risk his life while living with his wife.

He said his wife was out late one night on September 14, 1992 and when he questioned her she said she had had sex with Prospere. He said when his wife returned from St. Vincent on the Sunday she said she had a nice time and it was like a honeymoon.

He said he had gone to her bag where he found the letter from Bacchus and there he got his proof. He said his wife was a spendthrift and judging from the telephone bills one could not quarrel with that.

Learned Counsel for the Respondent in his final address asked to look at the evidence in respect of Bacchus where Petitioner has

denied adultery. He says if she can lie so much in respect of Bacchus how can we believe that she had no affair with Prospere.

I do not feel I can look at the matter in this way. There does not seem to be any concrete evidence that the Petitioner was having or ever had an affair with Alfred Prospere. Whatever suspicions the Respondent had the evidence was not so strong as to suggest a relationship.

Of course there is much more evidence with respect to Bacchus, an association which began late in the marriage. I am of the view that the marriage was way beyond repair when the Petitioner began her association with Bacchus and it is difficult to contemplate that this relationship was purely platonic.

As I said earlier it was suggested to the Petitioner that the idea of Denise was a figment of her imagination but when the Respondent was cross-examined he admitted there was a Denise whom he says works at a restaurant. He denied however that he had told his wife he had an affair with her, but I do not believe him.

I do not believe that the Petitioner ever admitted in any way that she had affairs with Prospere or Bacchus. In my judgment the marriage has been irretrievably broken down because of the Respondent's behaviour, but I do not believe the Petitioner has behaved in such a way that I can exercise my discretion in respect of the costs of this petition in her favour.

My order therefore is as follows:

1. This Court holds that the marriage celebrated between the Parties on September 8, 1984 has broken down irretrievably.
2. The Court finds that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.
3. The Court decrees that the said marriage be dissolved unless

cause shown within three months why the decree should not be made absolute.

4. Ancillary proceedings shall be adjourned to Chambers for hearing on a day to be fixed upon application by either Party.
5. There shall be no order as to costs.

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A. N. J. MATTHEW
High Court Judge