

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE

(CIVIL)

A.D. 1996

Suit No. D46/1994

Between:

EDMUND DELAIRE

- Petitioner

VS

MARCELLINA DELAIRE

- Respondent

1996: February 8
March 15 & 20

Mr. T. Chong for Petitioner
Mrs. V. Barnard for Respondent

J U D G M E N T

d'Auvergne J.

The parties were married to each other on the 3rd February, 1987 at La Clery, St. Lucia after a very long courtship.

There are no children of the marriage but the wife has two daughters born outside wedlock prior to the marriage.

The second daughter who is in her early twenties is the child of one Herelton Celestin who drove her on evenings after classes to her home in Talvern, Babonneau where she resided with her mother the Respondent in a two storey building purchased by the Petitioner after the marriage.

The Petitioner is a Saint Lucian who works in the United States of

America and returns to his home in Saint Lucia every vacation for periods not exceeding twenty-one days.

The evidence disclosed that at the time of the marriage the Respondent was already acting as manageress/overseer of the Petitioner's two estates and continued to do so after the marriage. As a further incentive the Petitioner opened an account in their joint names from which the Respondent was to pay the expenses of the estates and provide for her upkeep.

Unfortunately unhappy differences arose and the relationship deteriorated. The Petitioner alleged that the Respondent had a continuous relationship with the said Herelton Celestin and even told the Court that the Respondent admitted to committing adultery with him. The Respondent vehemently denied the said alleged relationship and admittance of adultery.

The Petitioner told the Court that he was seeking a divorce on the ground that the marriage had broken down irretrievably, in that the Respondent had behaved in such a way that the Petitioner could not reasonably be expected to live with the Respondent.

He particularized the Respondent's behaviour and told the Court that the Respondent intended to harm him by way of witch-craft, and by dangerous weapons such as knives, cutlass and a fork which he found under her bed.

He narrated further incidents which led him to believe that there was a continuing relationship between the said Herelton Celestin and the Respondent which has caused him much pain and suffering.

The Respondent answered the allegations in the petition and Cross petitioned for a dissolution of the said marriage.

She said it was the Petitioner's behaviour which has caused the breakdown of the marriage. She portrayed the Petitioner as a

jealous impotent man, who, because of his impotency, would inflict pain on her by returning home late at nights and throwing himself down on the bed and squeezing her breasts and abdomen very tightly.

She narrated various incidents which showed that the Petitioner had behaved in such a way that she could not reasonably be expected to live with him.

She said that on the 22nd May, 1992 the Petitioner who appeared to be drunk returned home late and after using insulting language to her proceeded to chase the Respondent and her two daughters who lived with her outside the matrimonial home whereupon he inflicted blows on her with the flat side of a cutlass which necessitated her seeking medical attention.

About thirteen months later, he again returned home late, started a quarrel with the Respondent and then proceeded to smash and chop the television set with a cutlass and then threatened the Respondent who had to flee the matrimonial home and seek shelter at a neighbour. She subsequently returned home.

In May of 1994 the Petitioner again caused injury to the Respondent, once more she sought medical attention but this time she was unable to return to the home since the Petitioner had changed all the locks on the doors and employed known thugs to remain in the matrimonial home.

CONCLUSION

Having heard and observed the parties I have unreservedly arrived at the conclusion that the marriage has to be dissolved since it has irretrievably broken down. It is also my view that both parties contributed to the breakdown of the marriage.

My order is therefore as follows:

- (1) **This Court Holds** that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.

That the Petitioner has behaved in such a way that the Respondent cannot reasonably be expected to live with the Petitioner.

That the marriage solemnized on the 3rd day of February, 1987 at La Clery in the State of Saint Lucia between the Petitioner and the Respondent has broken down irretrievably.

- (2) **And this Court Decrees** that the said marriage be dissolved unless sufficient cause be shown to the Court within three months from the making of this decree why such decree should not be made absolute.

- (3) That all ancillary matters be adjourned to Chambers to a date to be fixed upon application of either party.

- (4) That there will be no order as to Costs each party to bear his or her own Costs.



**SUZIE d'AUVERGNE
PUISNE JUDGE**