

c

✓ 127

1984 No. 25 M

THE HIGH COURT
(MATRIMONIAL)

BETWEEN:

P.C. (OTHERWISE O'B)

Petitioner

and

D.O'B.

Respondent

Judgment of Miss Justice Carroll delivered the 2nd day of October 1985

This is a petition for nullity.

The chronological facts, about which there is no contest, are as follows:-

The Petitioner was born in August 1960 and lived at home with her mother and father. She was the second eldest of five children. She went to secondary school but left after intermediate certificate in June 1975. She was then almost 15. At that stage she had been taking barbiturates and smoking pot. She took an overdose and was hospitalised in Jervis Street.

After school she went for training to Templehill for three months, then got a temporary job with a chemist for a couple of months. She then attended commercial college for five or six months and completed the course, after which she got a temporary job. Then she attended a secretarial course in Ballsbridge. She got another temporary job and after that got a job with a printing company. During the two year period after she left school she was (as she put it) hanging around with junkies and took drugs in the form of cough mixture and smoking pot.

In January 1977 the Respondent's family moved in next door. He was then aged 19 and a trainee accountant. His mother was a widow and his sister was a nurse in one of the larger Dublin hospitals. The Petitioner and Respondent started going out

together around August 1977. In September 1977 the Petitioner with the help of the Respondent and his sister, was referred for treatment for her drug addiction to Dr. P. in the hospital where the Respondent's sister worked. She was in the Psychiatric Unit for one and a half to two weeks at that time. In December 1977 the couple got engaged. In May 1978 the Petitioner was again hospitalised in a Psychiatric Hospital under the same doctor. At the end of May/beginning of June 1978 the Petitioner became pregnant. Neither the Petitioner nor the Respondent told their parents of the pregnancy until October 1978. On the 9th December 1978 the couple got married and their first child, a boy, was born on the 2nd March 1979 and their second child, a girl, was born on the 28th February 1980. The marriage has since broken up.

In her petition the Petitioner alleges that she suffered severe drug addiction from the age of 14; that she began treatment at the age of 17½ to cure herself, assisted by the Respondent; that she became totally dependent on him and under his control; that she suffered from an immature personality and was not in a position to make a mature consent to marriage or to form and sustain a normal marriage relationship; that she became pregnant and on the instructions of the Respondent did not inform her parents until she was six months pregnant; that their reaction was of a very extreme nature; that they and the Respondent's mother organised the marriage without much consultation with her; that by reason of her mental disability and state of mind at the time of the marriage she was unable fully to understand the nature, purpose and consequences of a marriage contract and was incapable of forming and sustaining a normal marriage relationship; that she married the Respondent because she was in fear of her parents and completely

under the control of the Respondent and that her consent to the marriage was given under duress.

The Respondent in his answer denies the allegation.

By order of the Master dated the 18th January 1985 the questions to be tried are:

1. Is the marriage void due to lack of consent due to duress or
2. Is the marriage void through the incapacity of the Petitioner to form and sustain a normal marriage relationship on account of her mental illness at the time of the marriage?

A lot of evidence was given which related to the marriage. It showed clearly that the marriage has broken down but was not of assistance to me in reaching a conclusion concerning nullity except to the extent that it threw light on the circumstances before the marriage. The Petitioner appeared to me to be well able to express herself verbally. She has all the vocabulary of psychiatric analysis, no doubt due to her treatment over a number of years. From the evidence, she seemed to be headstrong in wanting her own way, e.g. she persuaded her parents in December 1977 to allow her to get engaged although they did not want her to. She described herself as wild and outgoing and said she did not get on with her mother and was picked on in school. She got in with a hippy crowd and she was on drugs when she met the Respondent. She said the drugs were not serious but were pot and cough mixture. She said that she relied on the Respondent a lot and that she lost contact with the junkies and also with friends who were not on drugs. She blamed the Respondent for this, particularly in relation to one of her friends M.- but she also said that the Respondent never told her not to contact

her. She said the Respondent was trying to help her but in the end it smothered her. During the courtship they saw each other every night but stayed in mostly in his house. They went out once a week to the pub.

When she became pregnant she was working in the printing company which was a mile away from the house. She said he wanted her to walk home to lunch and questioned her about who was in the office and was possessive. But she said in cross-examination that he did not say she was to come home and said she just knew by his reaction.

She said when they told the two mothers, they (the mothers) asked what they wanted to do, and they decided to get married. She said "I knew the pressure was on - I couldn't stay at home - the only escape was marriage."

In relation to not telling her parents about the pregnancy, she did not say the Respondent told her not to; she said no one said anything to her. She said the Respondent never put pressure on her to get married and that no one put pressure on her.

Dr. P. who gave evidence, treated her for about three years from September 1977 (which was shortly after the time she started going out with the Respondent) until he emigrated in 1980. So his treatment covered almost the entire courtship and the first year or so of marriage.

His assessment was that she presented originally with a variety of behavioural problems, drug abuse, impulse control with men, and impulse control in coping with stress. He said the diagnostic label for her was an immature personality or in other words an inadequate personality. He said she reacted impulsively to situations. Her two periods as an in-patient in hospital were relatively brief admissions during crisis

periods. By the time he saw her he understood that the drug abuse had ceased but he said he could not be sure that she was not using them. He said it was soft drug abuse and the treatment was talking.

She told Dr. P. about her pregnancy before telling her parents. He referred her to a social worker in the hospital. When she discussed her intention of getting married the doctor was against her getting married impulsively and advised her against it. He was concerned that her decision was impulsive and that she had not weighed up the consequences. When he advised her against getting married, she did not go back to him until after she was married.

When asked about the prognosis for inadequate personalities in marriage, he said that some do well as they get support and others do poorly.

The Petitioner was diagnosed during her second pregnancy as having diabetes which would have dated back to her early teenage years. But Dr. P. did not attribute any difficulty concerning decision-making to the diabetes.

The social worker to whom she was referred, said that the petitioner was quite unrealistic. She asked her about her relationship with the Respondent but her parents were her focus at the time, her attitude being that she had put them through hell before and now she was going to announce a pregnancy. The social worker said that she was definite about getting married when the deposit for the home was ready. The social worker only saw her once before her marriage.

The Respondent who gave evidence, seemed to me to be a quiet, serious young man not given to exaggeration. Where there is a conflict between his evidence and that of the

Petitioner's, I preferred his evidence. The description of his behaviour coming up to the marriage seemed to me to be referable to being in love rather than to a possessive personality who had enmeshed the Petitioner in emotional bondage. He said he was prepared to acknowledge that he was a lot less mature then and that he was protective and that he might be possessive to a certain extent.

The Petitioner's mother's estimate of the Respondent's behaviour was that she thought he loved her and was trying to help her.

The Petitioner's mother said that she did not want them to get engaged in December 1977 and that she and the Petitioner's father had to be persuaded by the Petitioner to allow it. She described the Petitioner as outgoing and lively and she said "she'd generally wear you down to her way of thinking". When she was on drugs her mother did not know it and she put down her moodiness to a difficult adolescence.

She said that when the Petitioner told her that she was pregnant she was shocked and disappointed, which she described as a natural reaction. She then went in with the Petitioner to see the Respondent's mother whom she said was just as upset. She said they left it for a few days. Nothing was said to put any pressure on the Petitioner. There were no scenes. The decision to marry came from the Petitioner and the Respondent. The Petitioner's mother said "they knew that was what we wanted. She was pleasing us by getting married - that is what she felt. She asked me would we be pleased if they got married."

She said that the Petitioner and Respondent went to the Priest and he was not keen on them getting married. She said that she, the Petitioner, went ahead and made the arrangements. She

said the Petitioner did not discuss with her the Respondent or her state of mind, and the Petitioner's mother did not get the impression that she did not want to marry.

The Petitioner's father who was away from home during the week was only concerned in making arrangements for a party at home. He said no scenes or arguments took place in his presence.

I am satisfied that there is no evidence to establish that the Petitioner's will was overborne so as to destroy the reality of her consent to marriage.

In my opinion she was a self-willed girl who did what she wanted. The evidence did not establish that she was in fear of her parents or that the two mothers organised the marriage without much consultation with her or that any pressure was put on her to marry. While she was concerned for her parents and the worry and upset she was going to cause when she told them of her pregnancy, there was no evidence of any harrowing scenes or pressure being brought to bear. In fact there was remarkably little interference (if any) from the parents and they let the decision to marry come from the Petitioner and the Respondent.

The Respondent himself did not put pressure on her to marry and the Petitioner acknowledged this in her evidence. I do not believe that the Petitioner was completely under the control of the Respondent as she alleges or that she was in any kind of emotional bondage to him.

It was also argued that the duress was a kind of self-imposed duress. While I accept that the Petitioner may well have got married when she did because she could not see any other solution to her problems, and in that sense she was forced to marry because of her pregnancy, it is relevant that she had already made a

commitment to the Respondent by becoming engaged to him in December 1977. Her "self-imposed duress" comes down to the fact of pregnancy. On the state of the law at present, marriage because of pregnancy per se is not a ground for annulment.

The Petitioner at the time of the marriage did have an inadequate or immature personality, which to me is a mental condition rather than a mental illness. On one view, anyone who is immature is unsuited for marriage. But as long as the law permits people as young as the Petitioner to marry it cannot be a ground for nullity unless it exists to an abnormal degree. In my opinion the Petitioner's immaturity was not of a sufficient degree to warrant holding that her consent to marriage was vitiated. The Petitioner notwithstanding her immaturity was capable of contracting and did contract a valid marriage. Therefore the marriage was not void due to lack of consent, due to duress and the marriage was not void through the incapacity of the Petitioner to form and sustain a normal marriage relationship.

Mella Causel.

Approved.

4-10-85