

Thompson Vs. Thompson

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Court : US Supreme Court

Decided On : 1791

Appeal No. : 2 U.S. 128

Appellant : Thompson

Respondent : Thompson

Judgement :

THOMPSON v. THOMPSON - 2 U.S. 128 (1791)

U.S. Supreme Court THOMPSON v. THOMPSON, 2 U.S. 128 (1791)

2 U.S. 128 (Dall.)

Thompson

v.

Thompson

Supreme Court of Pennsylvania

September Term, 1791

Libel for a divorce a mensa et thoro, charging the defendant with various acts of cruelty, and indignities, that rendered the Libellant's situation insupportable. Defendant, protestando, &c.; pleaded, that before the filing of the said libel, his wife (the libellant) had separated herself from him, and that 'he had offered to

receive and cohabit with her again, and use her as a good husband ought to do.' To this plea the defendant demurred. Tilghman, in support of it, contended, that by the act of Assembly 'concerning Divorces and Alimony' (2 Vol. Dall. Edit. p. 381.) the Court were obliged either to suspend, or to discharge, any sentence, separating husband and wife, from bed and board, whenever the husband should make the offer, that was stated in the answer: And that if this was a good reason to annul a sentence, a fortiori it is a sufficient answer to the complaint of this libel. This too, he added, was agreeable to the practice of the spiritual Court in England. Preced. Chanc. 495. Angier v. Angier: Where, it is said, that Alimony continued no longer than till the parties became reconciled, and consented to cohabit.

Serjeant, for the libellant, insisted, that the Court had a discretion to suspend, or annul, the sentence, as the circumstances, under which the offer should be made, required; or to refuse to do either: And that, at all events, such an offer as was stated in the libel, made before sentence, could not prevent the jurisdiction of the Court, or a separation, where such extreme cruelty was stated to have been used by the husband.

The Court inclined to think, that even after sentence, the mere offer of the husband would not, in all cases, be a cause for suspending it; and that the act left them a discretion, upon the offer being made, to hear the wife, and to continue the sentence

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in full force, if the circumstances of the case required it: * But they were clearly of opinion, that the defendant's answer was insufficient, and thereupon decreed a divorce from bed and board. As to Alimony, the defendant not being prepared up- that point,

Curia advisare vult Footnotes

[[Footnote *](#)] Vide 3 Atk. 295. Head versus Head.

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