

DIVORCE ON GROUND OF CRUELTY IN HINDU MARRIAGE ACT

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Introduction:

The Hindu Marriage Act, 1955 allows either the husband or wife to seek divorce on the ground of cruelty. Cruelty is broadly defined as any conduct that would cause reasonable apprehension in the mind of the petitioner that it is harmful or injurious to live with the respondent. It can be physical or mental, intentional or unintentional, and is a subjective concept that varies in each case depending on the facts and circumstances.

Concept of Cruelty:

Cruelty is defined as conduct that causes such mental suffering or physical pain that it endangers the life, limb, or health of the petitioner or makes it impossible for the petitioner to carry on living with the respondent.

Physical Cruelty:

Physical cruelty refers to any act or conduct that causes bodily harm or poses a threat to the life, limb, or health of one spouse by the other spouse. It includes physical violence, assault, or any other form of harmful behavior that endangers the physical well-being of the victim. In cases of physical cruelty, a spouse can file for divorce or seek legal protection.

Mental Cruelty:

Mental cruelty refers to the infliction of emotional or psychological distress on one spouse by the other spouse. It includes behavior or conduct that is of such a nature that it makes it impossible for the victim spouse to live with the other spouse. Mental cruelty can take various forms, such as constant humiliation, verbal abuse, harassment, neglect, threats, or persistent indifference towards the well-being of the other spouse.

The concept of mental cruelty is subjective and depends on the facts and circumstances of each case. There is no exhaustive list of acts or behaviors that constitute mental cruelty, as it can vary based on individual experiences and cultural contexts. However, some common examples of mental cruelty recognized in Hindu matrimonial law include:

- 1. Verbal abuse and humiliation:** Persistent use of derogatory language, insults, or constant berating of the spouse.
- 2. Threats and intimidation:** Regularly subjecting the spouse to threats of physical harm, emotional blackmail, or other forms of intimidation.
- 3. Emotional abandonment:** Neglecting the emotional needs of the spouse, showing complete indifference, or engaging in emotional detachment.

4. Harassment and stalking: Stalking, monitoring, or excessive surveillance of the spouse, causing fear and distress.

5. Constant criticism and ridicule: Regularly belittling or mocking the spouse's abilities, appearance, or character.

6. Social isolation: Deliberately isolating the spouse from family, friends, or social support networks, leading to feelings of loneliness and exclusion.

7. Unreasonable demands and control: Exerting excessive control over the spouse's actions, decisions, or freedom, leading to a loss of individuality and autonomy.

8. Denial of basic rights and amenities: Withholding financial support, denying access to basic amenities, or intentionally causing living conditions that are detrimental to the spouse's well-being.

It's important to note that the courts consider the cumulative effect of various acts and behaviors when determining mental cruelty. The severity, frequency, and duration of the conduct are also taken into account. The spouse seeking divorce on grounds of mental cruelty must provide evidence and demonstrate that the cruelty has reached a level where it has made the continuation of the marriage intolerable.

CASE LAWS :

1: Samar Ghosh vs. Jaya Ghosh (2007) 4 SCC 511

The Hon'ble Supreme Court held that, cruelty can be physical as well as mental:-

If it is physical, it is a question of fact and degree. If it is mental, the enquiry must begin as to the nature of the cruel treatment and then as to the impact of such treatment on the mind of the spouse. Whether caused reasonable apprehension that it would be harmful or injurious to live with the other, ultimately, is a matter of inference to be drawn by taking into account the nature of the conduct and its effect on the complaining spouse.

2: Shobha Rani vs Madhukar Reddi (1988) 1 SCC 105

In this case, the Hon'ble Supreme Court held that the test for cruelty is whether the conduct of the respondent is of such a nature that the petitioner cannot reasonably be expected to live with the respondent. It noted that the concept of cruelty is ever-changing and cannot be defined with precision.

3: V Bhagat vs. D Bhagat (1994) 1 SCC 337

The Hon'ble Supreme Court held that the mental cruelty may be caused by a number of factors, including false accusations of adultery or unchastity, unjustified denial of sexual intercourse, unjustified refusal to have children, and excessive demands for dowry.

4: Naveen Kohli vs Neelu Kohli AIR (2006) SCC 1675

In this case, the Hon'ble Supreme Court held that false allegations of adultery, mental illness, and impotence can amount to mental cruelty. It also noted that in cases of mental cruelty, it's not necessary to prove physical injury or danger to life.

5: K. Srinivas Rao vs. D. A. Deepa (2013) 5 SCC 226

In this case, the Hon'ble Supreme Court held that the petitioner must show a consistent pattern of behavior by the respondent to prove cruelty. It noted that occasional outbursts of anger or quarrels do not necessarily amount to cruelty.

6: Shri Rakesh Raman vs Smt. Kavita Civil appeal No. 2012 of 2013

The Hon'ble Supreme Court held that, In our considered opinion, a marital relationship which has only become more bitter and acrimonious over the years, does nothing but inflicts cruelty on both the sides. To keep the façade of this broken marriage alive would be doing injustice to both the parties. A marriage which has broken down irretrievably, in our opinion spells cruelty to both the parties, as in such a relationship each party is treating the other with cruelty. It is therefore a ground for dissolution of marriage under Section 13 (1) (ia) of the Act.

7: Rani Narasimha Sastry vs Rani Suneela Rani (2020) 18 SCC 247

Merely because the respondent has sought for maintenance or has filed a complaint against the petitioner for the offence punishable under Section 498-A of IPC, they cannot be said to be valid grounds for holding that such a recourse adopted by the respondent amounts to cruelty. It is true that it is open for anyone to file complaint or lodge prosecution for redressal for his or her grievances and lodge a first information report for an offence also and mere lodging of complaint or FIR cannot ipso facto be treated as cruelty. But when a person undergoes a trial in which he is acquitted of the allegation of offence under Section 498-A of IPC, levelled by the wife against the husband, it cannot be accepted that no cruelty has meted on the husband.

8: Vijay Kumar Ramchandra Bhate v. Neela Vijay Kumar Bhate (2003) 6 SCC 334

The Hon'ble Supreme Court held that, The question that requires to be answered first is as to whether the averments, accusations and character assassination of the wife by the appellant husband in the written constitutes mental cruelty for sustaining the claim for divorce under Section 13(1)(i-a) of the Act. The position of law in this regard has come to be well settled and declared that leveling disgusting accusations of unchastity and indecent familiarity with a person outside wedlock and allegations of extra marital relationship is a grave assault on the character, honor, reputation, status as well as the health of the wife. Such aspersions of perfidiousness attributed to the wife, viewed in the context of an educated Indian wife and judged by Indian conditions and standards would amount to worst form of insult and cruelty, sufficient by itself to substantiate cruelty in law, warranting the claim of the wife being allowed.

That such allegations made in the written statement or suggested in the course of examination and by way of cross-examination satisfy the requirement of law has also come to be firmly laid by this Court. On going through the relevant portions of such allegations, we find that no exception could be taken to the findings recorded by the Family Court as well as the High Court. We find that they are of such quality, magnitude and consequence as to cause mental pain, agony and suffering amounting to the reformulated concept of cruelty in matrimonial law causing profound and lasting disruption and driving the wife to feel deeply hurt and reasonably apprehend that it would be dangerous for her to live with a husband who was taunting her like that and rendered the maintenance of matrimonial home impossible.

9: Jayachandra v. Aneel Kaur 2005 SCC 22

The Hon'ble Supreme Court held that, To constitute cruelty, the conduct complained of should be "grave and weighty" so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than "ordinary wear and tear of married life. The conduct, taking into consideration the circumstances and background has to be examined to reach the conclusion whether the conduct complained of amounts to cruelty in the matrimonial law. Conduct has to be considered, as noted above, in the background of several factors such as social status of parties, their education, physical and mental conditions, customs and traditions. It is difficult to lay down a precise definition or to give exhaustive description of the circumstances, which would constitute cruelty.

It must be of the type as to satisfy the conscience of the Court that the relationship between the parties had deteriorated to such an extent due to the conduct of the other spouse that it would be impossible for them to live together without mental agony, torture or distress, to entitle the complaining spouse to secure divorce. Physical violence is not absolutely essential to constitute cruelty and a consistent course of conduct inflicting immeasurable mental agony and torture may well constitute cruelty within the meaning of Section 10 of the Act. Mental cruelty may consist of verbal abuses and insults by using filthy and abusive language leading to constant disturbance of mental peace of the other party.

10: Dastane v. Dastane, AIR 1975 SC 1534

The Hon'ble Supreme Court held that, The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences should not be exaggerated and magnified to destroy what is said to have been made in heaven. All quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case and as noted above, always keeping in view the physical and mental conditions of the parties, their character and social status. A too technical and hyper-sensitive approach would be counter-productive to the institution of marriage. The Courts do not have to deal with ideal husbands and ideal wives. It has to deal with particular man and woman before it. The ideal couple or a mere ideal one will probably have no occasion to go to Matrimonial Court.

CONCLUSION:

In conclusion, the concept of cruelty is ever-changing and varies from case to case. The Hon'ble Supreme Court has laid down guidelines that the petitioner must show a consistent pattern of behavior by the respondent to prove cruelty. False allegations, denial of sex, unjustified refusal to have children, and excessive demands for dowry are some of the factors the court has taken into consideration while deciding cases of divorce on the ground of cruelty under the Hindu Marriage Act.

Thank You