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CRUELTY A GROUND FOR MARITAL RELIEF **UNDER HINDU LAW: A CRITICAL STUDY**

AUTHORED BY - SUBHAM RAJ PANDA¹

ABSTRACT

Marriage, in Hindu tradition, is revered as a sacred and lifelong commitment. However, with changing societal norms and legal advancements, the Hindu Marriage Act of 1955 introduced provisions for marital dissolution, recognizing cruelty as a valid ground for divorce. This paper critically examines the legal interpretation of cruelty, distinguishing between physical and mental cruelty. While physical cruelty involves tangible harm and is explicitly covered under statutory provisions, mental cruelty remains undefined and is shaped by judicial precedents. Through an analysis of key court rulings, this study explores how Indian courts have expanded the concept of cruelty to include persistent humiliation, emotional distress, and false allegations. The paper highlights the evolving legal landscape, emphasizing the judiciary's role in ensuring a balanced approach that upholds both individual rights and the sanctity of marriage. It concludes by advocating for a clearer legal framework that comprehensively addresses cruelty in marital relationships.

Keywords: Hindu Marriage, Divorce, Cruelty, Judicial precedents, Mental Cruelty.

INTRODUCTION

“Love turned into silent sufferings and heartbreaks.”

marriage is considered as a very important religious and social institution. it keeps much worth in every individual in his or her life. A marriage in simple words can be understood as a bond between two individuals i.e. a man and a woman, the bond is constituted of strong connection with the love, tolerance, support, harmony and backing each other in hard times of each other. It is one of the 16 sacraments (samskaras) in Hinduism and is perceived as a lifelong commitment. Since time immemorial the sacrament of marriage is continued among Hindus through sastric system and marriage is considered to be eternal and made in heaven. Thus, Hindus, wedding is measured by means of a sacred and holy amalgamation of two soul and

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believed to be a sacrament than a social contract. Therefore, there is no scope for divorce. In the modern days, the concept of marriage has been changed and gradually the sacramental philosophy of marriage is transformed into a legal relationship. The authorized aspect of Hindu matrimonies in India are regulated via the HMA, 1955.

Marriages within the framework of Hinduism are traditionally regarded as enduring for seven lifetimes, it is only a sacramental institution and had no space for marital separation. The concept of divorce had come into existence with the impact of Industrial revolution, giving priority to individual freedom. This had given a scope that in case the two persons cannot be compatible in their marital relation they were allowed to be separated. The concept of divorce and matrimonial disputes were introduced to Hindu marriages after the Hindu law got codified.

The relief for matrimonial disputes such as Restitution of Conjugal rights², Judicial separation³ and Divorce⁴ are provided under the HMA, 1955. More specifically causes of legal separation and divorce be located under section 13 of the statute.⁵

Now-a-days the petitions for judicial separation and divorce are growing day by day. The majority of allegations in such petition are the ground of cruelty. Therefore, this present article is to make an in-depth study to understand how far cruelty can be considered as a reason for the marital dispute.

MARIAGE UNDER HINDU PERSONAL LAW

Wedding is not a function of dancing & singing, fining & dining or a process of exchanging gifts & dowry between parties but marriage is one of samskaras of Hindu religion. It is a sacramental institution of two souls who are willing to spent rest of their life happily ever after. Consensually agreed to share a bond of emotional, physical, financial and moreover respect each other and having each other's back and support in ups and downs of their marital life. Marriage is only a custom and a sacramental institution till the Hindu Law got codified. After the year 1955, the HMA of 1955 dealt with marital perception in the Hindus legally. Statute provides grounds for a lawful marriage; section 5⁶ along with section 7⁷ and 8 voluntarily

² Hindu Marriage Act, 1955, § 9, No. 25, Acts of Parliament, 1955 (India).

³ Hindu Marriage Act, 1955, § 10, No. 25, Acts of Parliament, 1955 (India).

⁴ Hindu Marriage Act, 1955, § 13, No. 25, Acts of Parliament, 1955 (India).

⁵ Ibid.

⁶ Hindu Marriage Act, 1955, § 5, No. 25, Acts of Parliament, 1955 (India).

⁷ Hindu Marriage Act, 1955, § 7, No. 25, Acts of Parliament, 1955 (India).

express the essentials for a legal Hindu Nuptial. The essentials are;

- I. The law prohibits bigamy. If a marriage is solemnized in violation of this condition, it can be declared void under the law.⁸ The condition doesn't apply if the previous marriage has been legally dissolved (through divorce) or if the previous spouse is deceased. Under Section 494 of the IPC⁹ bigamy is a punishable offense if performed under a law that prohibits it.¹⁰
- II. In a legal wedding the parties required to give consent. If either party incapable to it while wedding and incompetent to considerate the consequences of such wedding, then consent is deemed invalid.¹¹ The marriage can be annulled¹².
- III. Render a person unfits for marriage, meaning they cannot perform the basic responsibilities and duties expected in a marital relationship, such as biological and social duty in the marriage. The term "mental disorder" includes Severe schizophrenia, bipolar disorders with extreme manic or depressive episodes, Chronic mental illnesses that impair judgment, emotional stability.¹³ Such wedding is voidable.¹⁴
- IV. Recurrent attacks of insanity refer to repeated episodes of severe mental instability or psychiatric illness, characterized by a loss of understanding, judgment, or behaviour control.¹⁵ It is voidable¹⁶.
- V. The husband-to-be bound to 21 years or more. The wife-to-be curtailed to 18 years, while the nuptial.¹⁷ Its purpose is to prevent child marriages, which can lead to physical, emotional, and social harm.
- VI. Couple must not fall inside the defined notches of forbidden bond¹⁸. This refers to a set of relationships, typically close blood relatives, between whom marriage is not allowed due to cultural, legal, or ethical reasons. An exception is provided if the customs governing both individuals allow such a marriage.¹⁹

⁸ Hindu Marriage Act, 1955, § 11, No. 25, Acts of Parliament, 1955 (India).

⁹ The Indian Penal Code, § 494, Act No. 45 of 1860 (India).

¹⁰ Section 5(i) of the Hindu Marriage Act 1955.

¹¹ Section 5(ii)(a) of the Hindu Marriage Act 1955.

¹² Section 12(1)(b) of the Hindu Marriage Act 1955,

The Special Marriage Act, 1954, § 4, Act No. 43, Acts of Parliament, 1954 (India).

¹³ Section 5 (ii) (b), the Hindu Marriage Act 1955.

¹⁴ Section 12(1) (b), of the Hindu Marriage Act 1955

¹⁵ Section 5 (ii) (c), the Hindu Marriage Act 1955.

¹⁶ Section 12, the Hindu Marriage Act 1955.

¹⁷ Section 5 (iii), the Hindu Marriage Act 1955.

The Prohibition of Child Marriage Act, § 2(a), Act No. 6 of 2007 (India).

¹⁸ Hindu Marriage Act, 1955, § 3 (g), No. 25, Acts of Parliament, 1955 (India).

¹⁹ Section 5 (iv), the Hindu Marriage Act 1955.

- VII. Bridal duo must not fall inside the sapinda bond. In traditional Hindu law, a “sapinda relationship”²⁰ refers to individuals who are connected through common ancestry, typically inside five peers on ancestor's side and three peers on mother's side. These links are considered too close for marriage due to concerns about genetic compatibility and social norms. If the customs governing both individuals specifically permit marriage within the sapinda relationship, then the law remains silent and the marriage can take place.²¹
- VIII. A Hindu marriage can be performed according to the traditional rites practiced by any party to the wedding. This allows flexibility, as the customs of either the bride's or groom's family can govern the marriage rituals.²² One of the essential rites mentioned is “saptapadi”, which involves bridal due taking seven steps around a hallowed fire.

While registering a marriage provides an additional form of proof (which can be useful for various legal and administrative purposes), it is not mandatory under the Act. This means that a marriage is legally valid even if it is not registered.²³

Matrimonial causes and reliefs within the framework of Hindu law represent a pivotal area of legal discourse, addressing both the sanctity of marriage as a sacrament and the realities of marital discord. Law provides various grounds in search of judicial separation and divorce, including cruelty, adultery, desertion, and mental unsoundness. Judicial separation under Section 10 temporarily suspends cohabitation obligations, while divorce permanently dissolves the marriage. Notable legal principles include Section 13's provision for divorce on grounds such as mental and physical cruelty. The judiciary has significantly contributed to interpreting these grounds, with cases like *N.G. Dastane V. S. Dastane* (1975) highlighting mental cruelty, which, although undefined statutorily, has been shaped through judicial precedents. The courts have broadened its scope to include persistent humiliation, false accusations, and intentional neglect, as seen in *V Bhagat V. D Bhagat*²⁴, where hon'ble Supreme Court held that mental brutality as a ground for divorce must be grave and substantial, rendering the marital relationship untenable. spouse's persistent baseless allegations of infidelity against another caused severe emotional anguish and were deemed mental cruelty. The Court clarified that repeated false accusations undermine trust and dignity in wedding. Consequently, court granted

²⁰ Hindu Marriage Act, 1955, § 3 (f), No. 25, Acts of Parliament, 1955 (India).

²¹ Section 5 (v), the Hindu Marriage Act 1955.

²² Section 7 (1), the Hindu Marriage Act 1955.

²³ Hindu Marriage Act, 1955, § 8, No. 25, Acts of Parliament, 1955 (India).

²⁴ *V Bhagat v. D Bhagat* (1994) 1 SCC 337.

decree of divorce, emphasizing that mental cruelty involves conduct that makes cohabitation unreasonable. *K. Srinivas Rao V. D.A. Deepa* (2013)²⁵; Court ruled that the wife's deliberate acts of filing false criminal complaints against her partner including his family constituted mental unkindness. Such false allegations caused social and emotional damage, irreparably straining the marital relationship. The Court noted that the hostile environment created by the wife's actions left no room for reconciliation. Based on this, the Court granted a divorce, reiterating that mental cruelty includes acts intended to harm or distress a spouse emotionally.

Matrimonial reliefs aim to provide justice while maintaining a delicate balance between individual rights and the institution of marriage. The judicial recognition of mental cruelty underscores the shift from treating marriage solely as a sacrament to acknowledging it as a legal contract founded on mutual respect. *Samar Ghosh V. Jaya Ghosh*²⁶; Supreme Court articulated illustrative guidelines for identifying mental cruelty, emphasizing its severe emotional impact on the aggrieved spouse. Similarly, *Naveen Kohli V. Neelu Kohli* (2006)²⁷ advocated for the addition of irretrievable breakdown as a reason for divorce, reflecting contemporary societal realities. These cases underscore the evolving interpretation of matrimonial causes, which now encompass a holistic view of physical, emotional, and psychological well-being, ensuring the equitable resolution of marital disputes.

JUDICIAL SEPARATION

Judicial separation is mentioned under Section 10 of the HMA, 1955.²⁸ The section lays that:

- I. Either spouse, regardless of when the marriage took place, can institute a petition for judicial separation on the bases listed in Section 13 (1). Additionally, a wife can seek separation on the grounds mentioned in Section 13(2).²⁹
- II. If a judicial separation decree is granted, the aggrieved party isn't required to be with the partner. However, the court may cancel the decree if either party requests it and the court find the request truthful and reasonable.³⁰

Judicial separation temporarily suspends marital rights, allowing either party to claim maintenance based on circumstances. The spouses remain legally married, and remarriage

²⁵ *K Srinivas Rao vs. D A Deepa* (2013) 5 SCC 226.

²⁶ *Samar Ghosh v. Jaya Ghosh* (2007) 4 SCC 511.

²⁷ *Naveen Kohli v. Neelu Kohli*, (2006) 4 SCC 558.

²⁸ Section 10, the Hindu Marriage Act 1955.

²⁹ Section 10 (1), the Hindu Marriage Act 1955.

³⁰ Section 10 (2), the Hindu Marriage Act 1955.

during this period constitutes bigamy. In the unfortunate event of the demise of one party, the surviving party shall succeed to the estate of the late mate.³¹ It is tolerable in valid marriages only. To resume cohabitation, a court order rescinding the decree is required, which is typically granted upon request by both parties. If cohabitation is not restored within a year, either party can seek divorce beneath sec 13(1-A) (i) of the statute, 1955³².

Formerly divorce required stricter grounds than judicial separation. Later the amendment of the Act in 1976; sec. 10 was revised, removing the earlier grounds for judicial separation now it can be sought on the grounds as of divorce. Additionally, the 1976 amendment introduced Section 13-A, granting statutory recognition to judicial interpretations developed over time.

RESTITUTION OF CONJUGAL RIGHTS

The phrase derived from the English common law. The concept is provisional under Section 9 of the Act.³³ This provision seeks to rehabilitate a disrupted marital relationship by legally mandating a spouse who has disengaged from cohabitation without justifiable cause to recommence marital responsibilities. There is three condition which must be satisfy for the restitution. Those are:

- I. The respondent has left the petitioner's company without a valid reason,
- II. court must be convinced that the petitioner's claims are true, and
- III. There is no legal ground to not to grant the relief.

In sec 23, of the Act³⁴ the first condition has two elements:

- I. The respondent must have withdrawn, and
- II. The withdrawal must be without reasonable justification.

The underlying purpose of this is to uphold the purity and continuity of the conjugal bond. Nevertheless, it has attracted considerable criticism, particularly concerning its potential encroachment upon individual liberties, alongside apprehensions regarding its misuse as a mechanism for exerting control over a separated spouse. Judicial examination frequently scrutinizes the distinct circumstances surrounding each case in order to evaluate the validity of a Restitution of Conjugal Rights claim.

³¹ Narasimha Reddy v. M. Boosamma, A.I.R. 1976 A.P. 77.

³² Section 13(1-A) (i), the Hindu Marriage Act, 1955.

³³ Opsit.

³⁴ Section 23, Hindu Marriage Act 1955.

Sarla Mudgal V. Union of India (1995)³⁵; Supreme Court sustained the constitutionality of sec 9 of the Act. The Court reasoned that Restitution of Conjugal Rights aids by way of a measure for preserving marital agreement, allowing estranged spouses the opportunity to reconcile before pursuing divorce. The judgment stated that Restitution of Conjugal Rights does not violate personal liberties, as it aims to restore cohabitation and foster the continuation of marital relations, rather than coercing one spouse against their will. The Court viewed Restitution of Conjugal Rights as a social mechanism intended to encourage reunion in marriage, provided that the spouse's absence from cohabitation is unjustified³⁶. Thus, Restitution of Conjugal Rights was deemed constitutional and valid as a legal remedy, supporting the societal importance of marriage while balancing individual rights.

DIVORCE UNDER HINDU LAW

The 'Shastric Hindu' legal framework did not encompass provisions for either divorce or judicial separation in a conventional sense. While it was permissible for a husband to renounce (tyaga) his wife under specific circumstances, this action cannot be construed as equivalent to judicial separation; rather, its underlying intention appears to have been punitive, aimed at chastising the wife for what were deemed to be her transgressions.³⁷ The concept, divorce began in the modern era when the Hindu Law got codified i.e. after the year 1955. Divorce in a marital contract rises when either of the parties to a marriage get discomforts in the relationship. Divorce is meant by the separation of spouses with dissolution of marriage. A formal request for the dissolution of a marital union through a judicial declaration of divorce possibly submitted to the district court jointly by parties involved in the nuptial. Under sec 13 any party not satisfied in the marriage can seek for divorce regardless of the datum, either the wedding was solemnized before 1955 or later. Thus, sec 13 is both retrospective as well as prospective function in Hindu Law.

Divorce in general form meant by putting a dot to the marriage by dissolution of marital life. The parties are no longer husband and wife to each other anymore. There laid three theories of divorce.³⁸

³⁵ Sarla Mudgal v. Union of India, (1995) 3 S.C.C. 635 (India).

³⁶ Opsit.

³⁷ 23 HARINDER BOPARAI, THE EXPANSION OF MATRIMONIAL CRUELTY 34 (Indian Law Institute 1981).

³⁸ PROF. G.C.V. SUBBA RAO, HINDU LAW 219-220 (9th ed. 2006).

- I. Offence, Guilt or Fault Theory of Divorce:** The Offence, Guilt, or Fault Theory of Divorce bases marriage dissolution on one spouse's wrongful acts, assuming marriage as a contract violated by such actions. Grounds for divorce include adultery, cruelty, desertion, impotence, substance abuse, and mental illness. The guilty spouse is deemed responsible for the marriage's breakdown, often resulting in advantages for the innocent party in custody, alimony, or property division. This approach fosters hostility, involves lengthy legal battles, and can socially stigmatize the guilty spouse. While many jurisdictions, including India, now recognize no-fault divorce, fault-based grounds under Hindu codified law.
- II. Consent Theory of Divorce:** It is not necessarily the case that one spouse must be deemed culpable in every instance of divorce; there exist certain scenarios in which this is not applicable. The principle of free volition within the context of marriage, when examined to its logical conclusion, suggests that both parties should possess an equivalent liberty to initiate divorce as they do to marriage. If the institution of bridal is construed as a contract founded on the joint consensus of spouses, it follows the dissolution of said marriage should also occur by mutual consent, devoid of the necessity to provide any justification; this is referred to as the consent theory of divorce.³⁹
- III. Breakdown Theory of Divorce:** when the wedding broke down irretrievably and turned out to be a wreck, left zero hope in the bridal excluding the form, the concern parties are free to set a dot to the marital relation.⁴⁰ In 1988, breakdown theory of divorce is legally recognized in Hindu law.⁴¹

GROUNDS OF DIVORCE

When engaging in a discourse regarding the circumstances under which one spouse may be compelled to acknowledge culpability for the dissolution of the marital union with the other spouse, the Act explicitly delineates, legal grounds for separation that are accessible for both the spouses under sec 13.⁴²

The legal reasons for separation are available for both the partner but however wife has certain

³⁹ Section 13-B, Hindu Marriage Act 1955.

⁴⁰ Section 13-C, Hindu Marriage Act 1955.

⁴¹ Opsit.

⁴² Opsit.

more causes for splitting up from her mate. The grounds i.e. available in case of both husband and wife are mentioned under sec. 13(1) of Act. Any wedding celebrated earlier or later the commencement of this Act can be annulment, by a decree of divorce if the other party,

- I. Proves that the other spouse has voluntarily involved in carnal intercourse with a person other than their partner after the nuptial.⁴³ The Supreme Court of India decriminalized adultery in *Joseph Shine versus Union of India*⁴⁴. However, it remains a valid reason for divorce in Hindu law.
- II. A marriage can dissolve if one spouse treats the other with cruelty.⁴⁵ Cruelty must cause rational apprehension in the petitioner's observance that, to be with the respondent is unsafe. It can include both physical harm and mental harm. To ensure justice in changing social contexts, it encompasses a wide range of physical and mental misconduct that makes living together intolerable.
- III. A spouse may seek divorce if his/her mate has abandoned them for a continuous period but not less than two years instantly prior to the presentation of the petition.⁴⁶ The spouses must have been living separately, indicating the physical and emotional separation.
- IV. When one spouse has terminated to be a Hindu through altering to other religion.⁴⁷ The conversion must be voluntary and genuine. The conversion itself does not automatically dissolve the marriage, but however it gave power to the Hindu mate to appeal for divorce. In *Chandra Mohini Srivastava V. Avinash Prasad Srivastava* (1967), the court clarified that the mere change of religious practices does not constitute conversion unless there is formal abandonment of Hinduism.⁴⁸
- V. The mental health of a spouse is an important factor that can affect the marital relationship. If one spouse is of unsound mind, and the condition is incurable, it is recognized as a valid ground for divorce⁴⁹. In the matter of *Ram Narain V. Rameshwari* (1988),⁵⁰ the court clarified that the unsoundness of mind must be serious and incurable to be a valid ground for divorce.
- VI. If one spouse is diagnosed with such a condition, the other mate can file for divorce providing leprosy is drastic enough to impact their marital relationship and is deemed

⁴³ Section 13(1)(i), Hindu Marriage Act, 1955.

⁴⁴ *Joseph Shine v. Union of India*, (2018) 2 SCC 189 (India).

⁴⁵ Section 13(1) (i-a), Hindu Marriage Act, 1955.

⁴⁶ Section 13(1) (i-b), Hindu Marriage Act, 1955.

⁴⁷ Section 13(1) (ii), Hindu Marriage Act, 1955.

⁴⁸ *Srivastava v. Avinash Prasad Srivastava*, AIR 1967 SC 909 (India)

⁴⁹ Section 13(1)(iii) of the Hindu Marriage Act 1955.

⁵⁰ *Ram Narain v. Rameshwari*, (1988) 3 SCC 1 (India).

incurable by medical standards.⁵¹ This provision was included at a time when leprosy was stigmatized and often seen as untreatable. Consequently, the societal view of this ground for divorce is evolving.

- VII. When one spouse is suffering of a venereal illness in a transmissible form, The unaffected spouse has the legal right to file for divorce, citing this.⁵² "Venereal disease" refers to sexually transmitted infections, meaning it can be transmitted to the other spouse especially during sexual intercourse. As the presence of such a disease creates a legitimate concern for the health and safety of the unaffected spouse, it is a valid ground for split-up.
- VIII. When one spouse has "repudiated the world by entering any religious order."⁵³ This refers to a complete renunciation of worldly life, including marital and familial responsibilities. The spouse abandons their secular life, choosing instead to devote themselves to spiritual or religious pursuits. The phrase "religious order" implies becoming part of a recognized religious community or sect where renunciation of worldly life is a formal commitment. In result the law recognizes this as a valid ground for divorce.
- IX. The law presumes a person to be dead if they have been missing and not heard of as being alive by those who would ordinarily hear of them for continuous phrase of seven years.⁵⁴ When a spouse has been missing under the above conditions, the other partner has the right to institute a appeal for separation on the grounds that the marriage cannot continue due to the presumed death of the missing spouse.⁵⁵

These above grounds are available for both husband and wife in the statute, however there is one more ground i.e. available for both husband and wife but not mention in the Act.

- I. A situation where the nuptial has wrecked down to such an level that it ain't possible for the spouses to composed as partners, and there is zero hope for reconciliation. Hon'ble Supreme Court of India has, in certain cases, granted divorce on this situation under its powers provided by Article 142⁵⁶.

Law understands the importance of wife and given certain specific rights, in addition there are certain grounds of marriage i.e. only applicable for the wife when she wills to dissolve the

⁵¹ Section 13(1)(iv) of the Hindu Marriage Act 1955.

⁵² Section 13(1)(v) of the Hindu Marriage Act 1955.

⁵³ Section 13(1)(vi) of the Hindu Marriage Act 1955.

⁵⁴ Section 108 of the Indian Evidence Act, 1872.

⁵⁵ Section 13(1)(vii) of the Hindu Marriage Act 1955.

⁵⁶ INDIA CONST. art. 142.

nuptial. The grounds are mention as under;

- I. when a marriage was performed before the arrival of this Act, it can be argued that the spouse had already married to another woman before the Act came into effect, or that another wife, married before the Act's commencement, was still alive when the petitioner's marriage was ceremonial zed.⁵⁷
- II. If the husband commits sexual assault on a person other than his wife, or engaging in unnatural sexual acts, including anal intercourse, with the wife or any other person, or engaging in sexual activities with animals, it constitutes a ground for the petitioner to pursue divorce.⁵⁸
- III. When a decree has passed presenting maintenance to the wife during she was living separately, and cohabitation between the partners has not resumed for one year or more since the order was issued, the situation remains unchanged legally.⁵⁹
- IV. If a woman's wedding was conducted, earlier she turned into fifteen, whether the marriage was accomplished or not, and she has renounced the nuptial after turning fifteen but previously reaching eighteen, this situation is legally recognized.⁶⁰ The court entertain such petition and grant divorce to the women.

CRUELTY IN MARRIAGE

Cruelty is cruel behaviour or cruel action towards an individual or a group. Cruelty as a reason of divorce can be presented as any behaviour that would elicit a rational sense of trepidation in the petitioner regarding the potential for harm or detriment associated with cohabitation with the respondent.

Cruelty is however not defined in Hindu law, in result judiciary has widened the scope and description of cruelty with each case. Considering that the court may attain more wider scope in case where a bride seeks for divorce under the respective ground. Cruelty is just a reason for judicial separation till 1976. It became an essential reason for annulment after the amendment of 1976⁶¹. In this amendment, legislation recognized the importance of mental cruelty along with physical cruelty.

⁵⁷ Section 13(2)(i) of the Hindu Marriage Act 1955.

⁵⁸ Section 13(2)(ii) of the Hindu Marriage Act 1955.

⁵⁹ Section 13(2)(iii) of the Hindu Marriage Act 1955.

⁶⁰ Section 13(2)(iv) of the Hindu Marriage Act 1955.

⁶¹ Hindu Marriage Amendment Act, 1976

*“Res ipsa loquitur”*⁶², the maxim meant by “the thing speaks for itself.” In the context of divorce this can be understood as cruelty either physical or mental, it is seen in the face of concerned spouse. As far now we analysed the grounds of divorce for the termination of wedding. Cruelty in divorce available for both husband and wife.

In *N.G. Dastane V. S. Dastane*⁶³, Supreme Court of India establish the concept cruelty under the Hindu law. Supreme Court ruled that, the petitioner is tasked with responsibility of establishing the occurrence of cruelty by a preponderance of evidence, rather than by the standard of past a rational doubt. Moreover, the notion of cruelty extends beyond mere physical maltreatment and includes psychological cruelty, which may present itself in various manifestations of emotional distress. The judiciary has also acknowledged the principle of condonation, where ongoing cohabitation following the awareness of cruelty may be interpreted as an act of forgiveness. The ruling further underscores that cruelty is not characterized by an isolated incident, but rather by a consistent pattern of conduct that adversely affects the well-being of the petitioner. Considering the inherently subjective nature of cruelty, it is imperative for courts to evaluate each case on its own merits, taking into account the distinct circumstances and their repercussions on the petitioner.

Later by the amendment in 1976 cruelty under the Hindu Marriage Act, 1955 is classified into two broad categories in respect to ground of divorce. Such as;

I. Physical Cruelty:

- A. In marriage physical cruelty means the application of physical force by the respondent that causes bodily damage to the petitioner is known as physical cruelty.
- B. However, unlike mental cruelty physical cruelty is defined statutorily.
 - i. Section 85 and 86 of the BNS which mirror the section 498A of the IPC⁶⁴ define cruelty, sec 85 of BNS states the spouse or kin of the spouse of a woman who inflicts cruelty upon her. Any individual who, as the spouse or a family member of the spouse of a woman, inflicts cruelty on said woman shall be subject to a term of detention that may extend up to three years, furthermore to being liable for monetary fine.⁶⁵

⁶² <https://www.findlaw.com/injury/accident-injury-law/res-ipsa-loquitur.html>, (Last visited 24 Oct 2024).

⁶³ *N.G. Dastane v. S. Dastane* (1975) 2 SCC 326.

⁶⁴ Indian Penal Code, 1860, § 498A, No. 45, Act of Parliament, 1860 (India).

⁶⁵ Bharatiya Nyaya Sanhita, 2023, § 85, No. 45, Act of Parliament, 2023 (India).

- ii. Section 86 provides an in-depth analysis of the characteristics of harassment and cruelty, guaranteeing thorough exploration and elucidation.⁶⁶
 - iii. Even though assault is not mirror to cruelty but both deals in treating the other person in a harmful way. Means assault between a married party can be termed as cruelty. Cruelty elaborates in section 130 of the BNS.⁶⁷
 - iv. Likewise, battery against person have the same sense with cruelty as of assault. The BNS includes provisions for offences related to assault and using force against women. It describes in chapter V of the BNS from section 74-79.⁶⁸
- C. Physical cruelty is elaborate as a ground for divorce in *Shobha Rani V. Madhukar Reddi*⁶⁹. The Supreme Court held that adjudicated in favour of Shobha Rani, thereby granting her a divorce predicated on the grounds of cruelty stemming from her spouse's harassment and physical violence associated with dowry exigencies. This case delineated a pivotal moment in Indian jurisprudence by affirming that cruelty related to dowry issues could serve as an independent basis for the dissolution of marriage.

II. Mental Cruelty:

- A. Although mental cruelty is not defined in any statute, the dictionary meaning of mental cruelty can be stated like, the attitude of a person towards another that makes the other person suffer emotionally, even though the physical violence is not involved.
- B. Mental unkindness pertains to the deliberate bother of psychological or emotional anguish upon a marital partner by the further mate. It encompasses behaviours or actions that are so detrimental in nature that they render cohabitation with the offending spouse untenable for the victimized partner. Manifestations of mental cruelty may present in diverse forms, including but not limited to, incessant humiliation, verbal maltreatment, harassment, neglect, threats, or a continual state of indifference towards the welfare of the other spouse.⁷⁰
- C. In *Shobha Rani V. Madhukar Reddi*⁷¹; Supreme court stated cruelty includes bodily harm as well as mental agony as valid ground for divorce.
- D. As there is lack of clarity and less provisions in the legislation that support mental cruelty, we have to go through certain judicial precedent in order to understand mental

⁶⁶ Section 86 of the Bharatiya Nyaya Sanhita, 2023.

⁶⁷ Section 130 of the Bharatiya Nyaya Sanhita, 2023.

⁶⁸ Section 74-79 of the Bharatiya Nyaya Sanhita, 2023.

⁶⁹ *Shobha Rani v. Madhukar Reddi*, AIR 1988 SC 121, 1988 SCR (1) 1010.

⁷⁰ JUSTICE SUJEET KUMAR, DIVORCE ON GROUND OF CRUELTY IN HINDU MARRIAGE ACT 5.

⁷¹ Opsit.

cruelty and to gain knowledge about how mental cruelty is wilder than physical cruelty in a marriage, in addition to that how our legal system deals with these very aspects.

JUDICIAL TRENDS

1. **Shri Rakesh Raman V. Smt. Kavita (2013)**⁷²:

The Hon'ble Supreme Court adjudicated that, in our reasoned assessment, a conjugal bond that has progressively deteriorated into bitterness and acrimony over time, serves only to perpetuate mutual cruelty between the parties involved. Preserving the superficial appearance of such a fractured marriage would constitute an injustice to both individuals. A marital union that has irreparably disintegrated, in our view, signifies cruelty to both parties, as each individual is inflicting emotional harm upon the other within this dynamic. Consequently, this serves as a valid basis for the suspension of wedding pursuant to sec 13 (1) (i-a) of relevant legislative framework.

2. **Vijay Kumar Ramachandra Bhate V. Neela Vijay Kumar Bhate (2003)**⁷³:

Hon'ble Supreme Court spoken the issue of unkindness as a reason for separation under sec 13(1) (ia) of the HMA, 1955. The court held that the use of abusive language or making derogatory allegations against a spouse, such as accusing them of immoral behavior or infidelity, constitutes mental cruelty, even if the allegations are made in pleadings during legal proceedings. It emphasized that such behaviour can cause deep emotional distress, justifying the dissolution of marriage. This judgment clarified that mental cruelty is not confined to physical acts but extends to words and insinuations that undermine the dignity or emotional well-being of a spouse.

3. **Jayachandra V. Aneel Kaur (2005)**⁷⁴:

Supreme Court clarified the concept of mental cruelty as a basis for split up under the Hindu law. The Court held that mental unkindness involves conduct that origins such open psychological or distress pain to the aggrieved spouse that it becomes unbearable to continue the marital relationship. In this case, false criminal allegations made by one spouse against the other were deemed sufficient to constitute mental cruelty. The Court granted a divorce, emphasizing that baseless accusations and harassment can irreparably damage the trust and emotional bond between spouses, justifying the dissolution of the marriage.

⁷² Shri Rakesh Raman vs. Smt. Kavita Civil Appeal No. 2012 of 2013.

⁷³ Vijay Kumar Ramachandra Bhate vs. Neela Vijay Kumar Bhate (2003) 6 SCC 334.

⁷⁴ Jayachandra vs. Aneel Kaur (2005) SCC 22.

4. Ravi Kumar V. Julmidevi (2010)⁷⁵:

The Supreme Court adjudicated that the act of submitting fraudulent criminal complaints embodies a form of mental cruelty. Such conduct has the potential to profoundly disrupt the psychological well-being and social standing of the affected spouse. The court noted that Julmidevi's persistent filing of unsubstantiated complaints indicated a distinct intention to perpetrate harassment against Ravi Kumar and his family. The court proceeded to grant the divorce, acknowledging that the unfounded accusations and legal intimidation had inflicted considerable emotional distress and suffering upon Ravi Kumar.

5. Kishore Chand Bhandari V. Smt. Vidya (1978)⁷⁶:

The Rajasthan High Court adjudicated that ongoing disparagement, public degradation, and pejorative commentary by one spouse towards the other and their familial associates constituted a form of mental cruelty. The court underscored that mental cruelty transcends mere physical actions, encapsulating any behaviour that inflicts considerable emotional distress. The court consequently sanctioned the dissolution of marriage, acknowledging that Smt. Vidya's incessant actions had inflicted significant psychological torment upon Kishore Chand Bhandari.

6. Vimla Mehra V. Ramesh Mehra (2008)⁷⁷:

Court approved the decree of separation in favour of petitioner on the cause of cruelty and desertion. The court also directed the other mate to reimbursement maintenance for the children to fulfil his financial responsibilities.

CONCLUSION

The reinterpretation of cruelty under Hindu marriage law signifies a shift from viewing marriage as a sacred and eternal sacrament to recognizing it as a legal relationship cantered on mutual respect and dignity. The Hindu Marriage Act of 1955 introduced cruelty as a ground for divorce, with physical cruelty explicitly defined and mental cruelty left to judicial interpretation. Over time, courts have expanded the understanding of mental cruelty through landmark cases such as Samar Ghosh V. Jaya Ghosh and N.G. Dastane V. S. Dastane, encompassing behaviours like emotional neglect, humiliation, and dowry harassment that undermine marital harmony.

⁷⁵ Ravi Kumar vs. Julmidevi (2010) 4 SCC 476.

⁷⁶ Kishore Chand Bhandari vs. Smt. Vidya (1978) RAJ LW 269.

⁷⁷ Vimla Mehra vs. Ramesh Mehra (2008) DEL.

Through a combination of literal and purposive statutory interpretations, the judiciary has balanced the sanctity of marriage with the protection of individual welfare, adapting the law to changing social realities. This evolving legal framework highlights the importance of addressing both physical and psychological harm in marriage, ensuring equitable remedies that respect individual dignity. By integrating traditional values with contemporary legal standards, the courts have laid the groundwork for a compassionate and rights-oriented approach to matrimonial disputes.

