
CRUELTY ON THE GROUND OF DIVORCE ACROSS RELIGIONS AND THE VARIOUS INTERPRETATIONS OF THE TERM CRUELTY GIVEN BY THE SUPREME COURT

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INTRODUCTION:

The word *marriage* appeared around 1300 and is borrowed from Old French *marriage* (12th century), ultimately tracing to the Latin *maritātus* 'married', past participle of *maritāre* 'to marry'. Marriage establishes rights and obligations between them, as well as between them and their children (if any), and between them and their in-laws. Marriage classified into following types, such as: monogamy, serial monogamy, polygamy, polygyny, polyandry, plural marriage, child marriage, same-sex marriages, temporary marriages, cohabitation, and third- gender marriages.

Divorce is a legal ending of the marriage between two individuals. Cruelty is a valid legal ground for divorce. Both husbands and wives can file divorce on this basis. Divorce also known as dissolution of marriage, it is the process of terminating a marriage between legally wedded husband and wife. Divorce usually ends or cancels the legal duties and responsibilities of the marriage according to the law.

DIVORCE LAWS ACROSS RELIGIONS:

Divorce puts the marriage to an end, and the parties revert to their unmarried status. The same also recognized under the Personal laws, which govern marriage, and these personal laws are in most cases codified under an act of the legislature.

In India, the law in relation to marriage and divorce for a Hindu, Sikh, Jain or Buddhist is codified and governed under the *Hindu Marriage Act, 1955*; in case of a Muslim by their Personal laws recognized under the *Muslim Personal Law (Shariat) Application Act, 1937* as well as *Muslim Dissolution of Marriage Act, 1939*. For the Christians, the marriage and divorce are governed under the *Indian Christian Marriage Act, 1872* and the *Divorce Act, 1869* respectively. Apart from personal laws, the *Special Marriage Act, 1954* which is a secular law

and allows parties of different religion & castes to be married, governs these matters in relation to those parties.

CRUELTY:

Cruelty means behaviour that causes physical or mental pain to people or animals on purpose. Cruelty can be classified into two, such as, physical cruelty (direct bodily harm or threats to life) and mental cruelty (severe emotional, verbal, or psychological distress that makes living together unbearable). It may include the physical violence, constant insults or humiliation, false allegations which affects dignity and threats or abusive behaviour. One person's behaviour that causes such mental or physical suffering that the other person cannot reasonably be expected to stay together (i.e. husband and wife).

CRUELTY ON THE GROUND OF DIVORCE ACROSS RELIGIONS:

A married couple would file divorce either by mutual consent or as a contested divorce. Divorce is a legal process that requires the sanction of a court or other authority, which may involve issues of distribution of property, child custody, alimony (spousal support), child visitation / access, parenting time, child support, and division of debt. In most countries, monogamy is required by law, so divorce allows each former partner to marry another person.

The expression "cruelty", however, does not have one fixed meaning. It is a concept, which changes according to the circumstances of the case, the nature of the relationship between the parties and the prevailing social conditions. The same conduct may be considered cruelty in one matrimonial relationship but may not necessarily amount to cruelty in another. Therefore, the courts have consistently avoided giving an exhaustive definition of the expression.

Under Section 13(1)(ia) of the Hindu Marriage Act, 1955 ("HMA"), either spouse may seek divorce where the other spouse has, after solemnisation of the marriage, treated the petitioner with cruelty.¹ The statute does not specifically define what constitutes cruelty.

Similarly, Section 27(1)(d) of the Special Marriage Act, 1954 ("SMA") recognises cruelty as a ground for divorce.² The Parsi Marriage and Divorce Act, 1936 also recognises cruelty as a ground for dissolution of marriage.³

The Dissolution of Muslim Marriages Act, 1939 ("DMMA"), however, adopts a comparatively

detailed approach. Section 2(viii) provides several circumstances in which the conduct of a Muslim husband may amount to cruelty towards his wife.⁴

Christian matrimonial law has also undergone significant development. The Divorce Act, 1869 was amended in 2001 so that cruelty could operate as an independent ground for divorce for Christian spouses.⁵

Thus, although the statutory provisions differ, a common principle can be identified: the law is concerned with conduct which makes the continuation of matrimonial life unreasonable, harmful or oppressive.

The Supreme Court has been central to this development. Beginning with cases such as *Shobha Rani*, the Court recognised that cruelty could be physical or mental. Later decisions expanded the concept to include persistent humiliation, false allegations, denial of companionship, abusive litigation and other conduct capable of causing serious mental suffering.

EVOLUTION OF CRUELTY THROUGH SUPREME COURT JURISDICTION:

The Supreme Court has repeatedly stated that cruelty cannot be confined within a rigid definition.

The Hindu Marriage Act, 1955 contains several grounds for divorce. According to section 13(1)(ia), Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party has, after the solemnization of the marriage, treated the petitioner with cruelty.

The Act does not define the term "cruelty." It was defined for the first time in the English case of *Russel v. Russel* (1897), where the court stated that to constitute cruelty, there must be a danger to life or injury to health, bodily or mental, or a reasonable apprehension of it.

In the case of *Narayan Ganesh Dastane v. Suchete Narayan Dastane* (1975), is the foundational ruling on cruelty under Hindu matrimonial law in India. It paved the way for the formal legislative amendment in 1976 that added cruelty as a statutory ground for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955.

One of the foundational decisions is *Shobha Rani v. Madhukar Reddi*, (1988) 1 SCC 105. The

Supreme Court recognised that cruelty under the HMA had not been defined and therefore had to be understood in the context of human conduct and matrimonial relationships. The Court recognised both physical and mental cruelty. One of the most important principles emerging from the decision was that intention to cause suffering is not always necessary. The court has to examine the nature of the conduct and its impact upon the matrimonial relationship. The decision is particularly important in cases involving unlawful dowry demands. Persistent demands for property or money may amount to cruelty even if there is no physical assault. Thus, Shobha Rani helped shift matrimonial cruelty away from the requirement of physical violence and deliberate intention.

A. DEVELOPMENT OF MENTAL CRUELTY:

In *V. Bhagat v. D. Bhagat*, (1994) 1 SCC 337, the Supreme Court significantly developed the concept of mental cruelty. The Court broadly understood mental cruelty as conduct, which causes such mental pain, and suffering that the parties cannot reasonably be expected to live together. The significance of the decision lies in recognising that cruelty may exist entirely within the psychological sphere. False and serious allegations concerning the character, morality or mental condition of a spouse may cause substantial mental suffering. When such allegations are persistent, unfounded and destructive of the matrimonial relationship, they may amount to mental cruelty. The case therefore established an important principle that cruelty does not require physical injury. Psychological injury can also form the basis of matrimonial relief.

In *Savitri Pandey v. Prem Chandra Pandey*, (2002) 2 SCC 73, the Supreme Court further explained the concept of cruelty. The Court recognised that cruelty may be physical or mental and that conduct which causes mental suffering or fear affecting matrimonial life may constitute cruelty. The decision demonstrates the gradual movement of matrimonial law from a purely physical understanding of cruelty towards an inquiry into whether the conduct has made matrimonial life oppressive or unreasonable. The focus is therefore not merely on the existence of an unpleasant act but on the consequences of that act within the matrimonial relationship.

B. PRESISTENT HOSTALITY:

Naveen Kohli v. Neelu Kohli, (2006) 4 SCC 558, is one of the important decisions dealing with prolonged matrimonial conflict. The marriage in the case was characterised by prolonged

hostility, allegations, litigation and the absence of meaningful matrimonial relations. The case demonstrated that cruelty may not always arise from one dramatic incident. It can develop through a continuous course of conduct. The Court also recommended that irretrievable breakdown of marriage should be recognised as an independent ground for divorce. However, irretrievable breakdown and statutory cruelty remain conceptually different. The decision therefore shows the connection between cruelty and the complete breakdown of matrimonial relationships without treating the two concepts as automatically identical.

C. LANDMARK GUIDELINES:

The most important discussion of mental cruelty appears in *Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511. A three-judge Bench examined the development of the concept of mental cruelty and provided several illustrative circumstances. The Court made it clear that there can be no exhaustive definition of mental cruelty because matrimonial relationships differ from one another. The Court recognised that sustained abusive conduct, humiliation, unjustifiable conduct, denial of companionship, unilateral decisions concerning children, prolonged separation, public humiliation and repeated false allegations may, depending upon the facts, constitute mental cruelty. At the same time, the Court imposed an important limitation. Ordinary disagreements, trivial irritations, normal quarrels and the ordinary wear and tear of married life cannot automatically be treated as cruelty. This principle is extremely important because marriage necessarily involves differences between spouses. If every disagreement were treated as cruelty, the ground of cruelty would lose its legal meaning. Therefore, the Court adopted a qualitative and contextual approach.

D. THE ENTIRE MATRIMONIAL RELATIONSHIP TEST:

One of the most important principles emerging from *Samar Ghosh* is that cruelty should ordinarily be assessed by considering the matrimonial relationship as a whole.

The court should consider: the nature of the relationship between the parties; the nature of the conduct complained of; whether the conduct was isolated or continuous; the effect of the conduct upon the complaining spouse; the seriousness and gravity of the conduct; whether the conduct was objectively unreasonable; whether continued cohabitation has become practically or emotionally impossible; and whether the conduct is merely part of the ordinary wear and tear of matrimonial life. Therefore, cruelty cannot be determined through a mechanical

checklist. The court must examine the complete matrimonial background.

E. CRUELTY AS A QUESTION OF FACT AND DECREE:

The Supreme Court has repeatedly emphasised that cruelty is a question of fact and degree. There is no universal formula which can be applied to every matrimonial dispute. The same conduct may have different consequences depending upon the nature of the marriage, the duration of the conduct, the circumstances in which it occurred and its effect upon the spouse. For example, an isolated argument between spouses ordinarily cannot be equated with years of humiliation or systematic emotional abuse. Similarly, incompatibility alone does not automatically constitute cruelty. The court must therefore consider the nature, gravity, frequency, duration and effect of the conduct. This flexible approach is necessary because matrimonial relationships are personal relationships and cannot always be reduced to fixed legal categories.

F. INTENTIONS IS NOT AN ESSENTIAL ELEMENT:

Another important principle developed by the Supreme Court is that intention is not always necessary for establishing matrimonial cruelty. The question is not simply whether one spouse deliberately intended to hurt the other.

Instead, the court must determine whether the conduct, viewed objectively and in the context of the matrimonial relationship, caused or was likely to cause such physical or mental suffering that continued matrimonial life became unreasonable. This principle distinguishes matrimonial cruelty from certain criminal offences where intention or mens rea may be an essential requirement. In matrimonial law, the effect and nature of conduct may be more important than the subjective intention behind it.

G. CRUELTY THROUGH LITIGATION AND FALSE COMPLAINTS:

With the increasing use of legal proceedings in matrimonial disputes, another important form of alleged cruelty has emerged through litigation. In *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226, the Supreme Court considered the effect of repeated allegations and litigation between spouses. The Court recognised that false or reckless allegations and prolonged litigation may, in appropriate circumstances, contribute to mental cruelty. However, an important distinction must be maintained. The mere filing of a criminal complaint or

matrimonial proceeding cannot automatically be considered cruelty. A spouse has a legitimate right to approach the police, courts and other legal authorities where a genuine grievance exists.

Therefore, courts must consider the nature of the allegations, whether they were false, the manner in which the proceedings were conducted and their overall effect on the matrimonial relationship. This approach attempts to balance two competing interests: protection from abusive litigation and protection of a genuine right to seek legal remedies.

H. SUBSEQUENT CONDUCT AS MATRIMONIAL CRUELTY:

Cruelty is not necessarily limited to conduct that occurred before the filing of a matrimonial petition. In *Sivasankaran v. Santhimeenal*, (2021) 13 SCC 75, the Supreme Court considered subsequent conduct during prolonged matrimonial litigation. The Court recognised that subsequent conduct could be relevant in determining whether cruelty existed. The case is significant because matrimonial relationships continue to develop even after litigation begins. Later events may reveal the true nature of the relationship and may demonstrate that the relationship has deteriorated further. The Supreme Court also exercised its powers under Article 142 of the Constitution in granting divorce in the circumstances of the case. Therefore, matrimonial cruelty cannot always be treated as frozen at the exact date when the original petition was filed.

I. GENDER- SENSITIVITY APPROACH TO CRUELTY:

Although cruelty is available as a ground for divorce to both spouses under several matrimonial statutes, the actual experience of cruelty may differ depending upon the social and personal circumstances of the parties. The courts therefore have to remain sensitive to the context in which the conduct occurred. At the same time, cruelty should not be treated as a concept that is inherently applicable only against one gender. A husband can suffer mental cruelty just as a wife can. The correct approach is therefore to examine the conduct itself and its impact rather than mechanically assuming that cruelty can arise only in one direction.

J. CRUELTY AND IRRETRIEVABLE BREAKDOWN OF MARRIAGE:

Cruelty and irretrievable breakdown are related but distinct concepts. Cruelty is a statutory ground for divorce under several matrimonial laws. Irretrievable breakdown, on the other hand, has generally not been enacted as an ordinary independent ground of divorce under the HMA.

The Supreme Court has nevertheless exercised its constitutional powers under Article 142 in exceptional cases.

In *Shilpa Sailesh v. Varun Sreenivasan*, (2023) 3 SCC 1, a Constitution Bench clarified the power of the Supreme Court under Article 142 to dissolve marriages on the ground of irretrievable breakdown in appropriate circumstances. Similarly, in *Rakesh Raman v. Kavita*, (2023) 3 SCC 1, the Court considered the relationship between a completely broken matrimonial relationship and cruelty and, on the facts of the case, treated continuation of the marriage as amounting to cruelty.

However, it would be incorrect to conclude that every broken marriage automatically amounts to cruelty. The factual circumstances remain important.

K. PRINCIPLES EMERGING FROM SUPREME COURT JURISPRUDENCE:

The decisions of the Supreme Court collectively establish several important principles.

- 1) First, cruelty may be physical or mental. Physical violence is not necessary.
- 2) Second, cruelty cannot be exhaustively defined. Its meaning develops with changing social and matrimonial conditions.
- 3) Third, intention is not always essential. The nature and effect of conduct may be sufficient.
- 4) Fourth, the entire matrimonial relationship should ordinarily be considered.
- 5) Fifth, cruelty is a question of fact and degree.
- 6) Sixth, ordinary disagreements, trivial quarrels and normal wear and tear of married life should not automatically be treated as cruelty.
- 7) Seventh, persistent conduct is particularly relevant. A continuous course of humiliating or abusive behaviour may amount to mental cruelty.
- 8) Eighth, false and serious allegations relating to character, fidelity or morality may amount to cruelty.

- 9) Ninth, abusive litigation may become relevant where the circumstances establish that the legal process has been used in a manner destructive of the matrimonial relationship.
- 10) Tenth, subsequent conduct may also be considered.
- 11) Eleventh, the social and personal circumstances of the parties must be taken into account.
- 12) Twelfth, cruelty must remain distinct from mere incompatibility.

These principles show that the Supreme Court has attempted to maintain flexibility without making the concept of cruelty completely subjective.

CONSTITUTIONAL VALUES AND MATRIMONIAL CRUELTY:

Many matrimonial offences are described under law. Under most of the law cruelty is also considered as a ground of matrimonial relief. Domestic violence now days are also considered as the matrimonial cruelty.

The development of matrimonial cruelty cannot be separated from constitutional values. The decision in *Mary Sonia Zachariah* demonstrates how personal laws may be examined against constitutional guarantees, particularly Articles 14, 15 and 21 of the Constitution. The modern understanding of marriage increasingly recognises the dignity and autonomy of the individual spouse. Marriage cannot be understood as an institution which requires a person to remain indefinitely in an oppressive relationship merely for the purpose of preserving the formal status of marriage. At the same time, constitutional values do not mean that every unhappy marriage should be dissolved. The law has to maintain a balance between preserving marriage as a social institution and protecting the dignity and well-being of individuals within marriage.

CRITICAL ANALYSIS:

The flexibility of matrimonial cruelty is both its greatest strength and its greatest weakness.

Its greatest strength is that it enables matrimonial law to respond to changing social realities. A rigid statutory definition enacted decades ago could not possibly anticipate every form of psychological abuse, humiliation, manipulation, coercive conduct or litigation-related harassment that may occur in modern marriages.

At the same time, excessive flexibility may create uncertainty.

Since cruelty is largely dependent upon facts and circumstances, two courts may potentially reach different conclusions in cases involving apparently similar conduct. What one court considers serious mental cruelty may be considered ordinary matrimonial disagreement by another.

The Supreme Court's emphasis on the totality of circumstances therefore becomes important. It prevents the courts from creating an excessively rigid definition while also ensuring that every matrimonial disagreement is not converted into a legal ground for divorce.

Another important concern is the relationship between cruelty and irretrievable breakdown.

If courts increasingly treat the existence of a completely dead marriage as cruelty, there is a possibility that cruelty may gradually become a substitute for a statutory no-fault ground of divorce.

Such a development may promote individual autonomy in appropriate cases. However, it also raises questions concerning the role of Parliament because irretrievable breakdown has not generally been enacted as a universal statutory ground of divorce.

Therefore, courts must maintain a distinction between a marriage which has merely become unhappy and a marriage where the conduct of one spouse has crossed the legal threshold of cruelty.

CONCLUSION:

The law relating to matrimonial cruelty in India reflects the gradual transformation of family law from a narrow and fault-oriented system towards a more contextual and rights-sensitive approach.

The matrimonial laws applicable to Hindus, Muslims, Christians, Parsis and persons married under the Special Marriage Act contain different formulations of cruelty. However, the underlying purpose is broadly similar: to provide relief where the conduct of one spouse seriously affects the dignity, physical or mental well-being, or reasonable possibility of continuing matrimonial life.

The Supreme Court has played the central role in shaping this development.

From *Shobha Rani*, which recognised physical and mental cruelty and rejected intention as an absolute requirement, to *V. Bhagat*, which developed the concept of mental cruelty; from *Savitri Pandey* and *Naveen Kohli* to the comprehensive guidelines in *Samar Ghosh*; and from *K. Srinivas Rao* to *Sivasankaran*, the Court has continuously expanded the understanding of matrimonial cruelty.

At the same time, the Court has consistently warned that every disagreement, irritation, incompatibility or ordinary matrimonial quarrel cannot be characterised as cruelty.

The present legal position can therefore be understood through one central principle:

Cruelty is not determined merely by the existence of unpleasant conduct. It is determined by whether the nature, gravity, persistence and effect of that conduct, viewed in the context of the entire matrimonial relationship, make continued marital life unreasonable or intolerable.

The future development of matrimonial cruelty will depend upon maintaining a balance between two important values: preservation of marriage as a social institution and protection of individual dignity within marriage. The Supreme Court's jurisprudence demonstrates that neither value can be pursued at the complete expense of the other.

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