



CRUELTY AGAINST HUSBAND

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ABSTRACT

Cruelty has become one of the most common grounds for divorce under Section 13(1) (i-a) of the Hindu Marriage Act, 1955. What was earlier confined to judicial separation has now expanded to physical and mental cruelty and has become a stronger ground for divorce. While earlier it was only the wives who were seen as victims, now the courts are recognising that husbands too can be subjected to mental torture, emotional abuse and degrading treatment and can seek matrimonial relief. This paper will critically examine the evolving law on cruelty, look into the leading judgments and highlight the need for a gender-neutral understanding of matrimonial rights in India.

Keywords: Mental Cruelty, Divorce Law in India, Hindu Marriage Act 1955, Gender Neutrality in Matrimonial Relief, Husbands' Rights.

INTRODUCTION

Marriage under Hindu law is not just a contract but a sacred bond that requires mutual trust, respect and affection. Cruelty, being the antithesis of these values, destroys the very foundation of marriage. Section 13(1)(i-a) of the Hindu Marriage Act, 1955, recognises cruelty as a ground for divorce but does not define it, leaving it to judicial interpretation. While the earlier laws were protective of women, today, men too are victims of cruelty. Husbands are now approaching courts citing physical and mental cruelty, false allegations, social humiliation, neglect and emotional harassment. This article discusses the concept of cruelty in general, instances of cruelty against husbands and the judicial approach to such disputes.

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CRUELTY IN GENERAL

The second ground for divorce under section 13 (1) of the Hindu Marriage Act 1955 is cruelty. Section 13 (1) (1-a) of the Act lays down: has, after the solemnization of the marriage, treated the petitioner with cruelty. Before the amendment of the section in 1976, cruelty was one of the grounds for judicial separation and not a ground for divorce.

While recommending cruelty as a ground of Divorce, the Law Commission observed¹ that if destruction of confidence is a basic justification for dissolution of marriage, it cannot be denied that cruel treatment would constitute a strong ground for dissolution. Cruelty is the very antithesis of love and affection. The duration and frequency of the conduct to establish cruelty need not be explicitly spelt out because the very words “treated with cruelty”, in general, imply harsh conduct of a certain intensity and persistence.

The words “such cruelty that the petitioner cannot reasonably be expected to live with the respondent” were deleted as it was expected that the court, even in the absence of such words, would broadly adopt the same approach. It should be left to the court to determine, on the facts of each case, whether the conduct amounts to cruelty or not.²

The term cruelty has neither been defined under English law, from where the ground has been borrowed, nor has the statute given any guidance as to the scope and degree of this phase.

Russell v Russell³ Cruelty is a relative term; it varies from person to person and case to case. The allegation and conduct do not amount to cruelty in every case; it depends on the status of the spouses and the environment in which they live. Allowance will be made for the sensitive as well as for the thick-skinned.

CRUELTY AGAINST HUSBAND

Cruelty has always been perceived through a lens focused on women. However, recent times have shown many cases where men have been on the receiving end. Johnny Depp⁴ garnered headlines when he was granted a divorce and won the defamation case against his wife. Back home in India, many renowned celebrities and stars like chef Kunal Kapur and cricketer Shikhar Dhawan have been granted a divorce on the grounds of cruelty against them by their

¹ Law Commission of India, 59th Report on the Hindu Marriage Act, 1955 (1974) para 2.11.

² Law Commission of India, 59th Report on the Hindu Marriage Act, 1955 (1974) paras 2.14–2.16.

³ Russell v Russell [1897] AC 395 (HL).

⁴ Johnny Depp v Amber Heard (Defamation Trial, Fairfax County Circuit Court, Virginia, 2022, USA).

spouses. Men have stopped shying away from the perceived embarrassment related to openly discussing cruelty and have become vocal about the torments they have faced. In India, cruelty is termed as conduct that may result in mental or physical suffering and pain. This could result in a threat to the life, limb, or health of the petitioner. This can lead to a state where it becomes impossible for the petitioner to continue living with the respondent.

Physical Cruelty: Physical cruelty is where an intentional act causes physical harm or poses a threat to the life of the individual by the spouse. Physical violence, bodily harm, and assault are all part of physical acts of cruelty. In *Asha v Baldev*,⁵ the wife found the husband to be overbearing, harsh, abusive and resorting to violence. When she was sleeping, her husband brought a patila (utensil) from the kitchen and threw it at her, which caused injury to her back. The court held that it amounts to cruelty.

Mental Cruelty: Mental cruelty is the emotional or psychological stress caused to one spouse by the other. This is caused by distressing behaviour, causing mental agony to the receiver. This drives the spouse to the receiving end of stress, affects their mental health and makes it impossible for them to live with the other spouse. Constant acts of humiliation, verbal abuse, harassment, emotional abandonment, constant criticism, ridicule, social isolation, neglect, threats, denial of basic rights, or persistent indifference towards the well-being of the other spouse account for mental cruelty. Mental strain can happen in various ways, so there are no specific criteria which would amount to mental cruelty.

CRUELTY BY WIFE AGAINST HUSBAND

Though there are no separate laws withholding the right to a dignified law for men, the Marriage & Divorce laws stand for the rights of both men and women. Section 13(1) (i-a) of the Hindu Marriage Act, 1955: Under this section, both the wife and the husband can seek a divorce by proving that they have been subjected to cruelty after marriage. This law helps victimised husbands in seeking a divorce. However, this law has particularly come to the rescue of husbands who have faced differential treatment from their wives. Cruelty against the husband may include disrespecting family members, false allegations of dowry demand, the wife quitting her job without contributing to the household, unreasonable demands, physical abuse, and filing false complaints with the police.

⁵ *Asha v Baldev* AIR 2005 SC 2906 (SC).

In the landmark judgement of *Mayadevi v. Jagdish Prasad*,⁶ the Supreme Court held that any kind of mental cruelty faced by either of the spouses, not just the woman, but men as well, can apply for a divorce on grounds of cruelty. In this case, the respondent applied for divorce after a repeated course of cruelty inflicted by his wife and as alleged by the husband (respondent), that the wife did not provide food to him and his children and blamed the husband and his family members instead. Hence, a man is also entitled to divorce if he is inflicted with any kind of cruelty.

WHAT AMOUNTS TO CRUELTY AGAINST A HUSBAND?

In the past the Supreme Court has acted in favor of the husbands for instances involving verbal abuse, threats to commit suicide, false allegations of mental health problems against the husband, deprivation of food, the one-sided decision to not have a child, non-consummation of marriage, humiliation, coaxing husband to separate from his dependent parents, defamation, etc when courts have found the merits in the claims made by the husbands.

The conduct of the spouse must be grave and weighty enough to prove cruelty.⁷

What is cruelty in one case may not amount to cruelty in another case. It is a matter to be determined in each case of accusations and allegations; regard must also be had to the context in which they were made.⁸

ACTS OF CRUELTY BY WIVES

“Family is supposed to be our haven. Very often, it’s the place where we find the deepest heartache.” Though there cannot be a fixed definition of what amounts to cruelty, the following can be considered as acts of cruelty by Wives.

Treated with Cruelty: The words treated with cruelty would mean and imply Harsh conduct of such intensity and persistence that it makes it impossible to operate the marriage. The legislature has left it to the court to determine, on the facts of each case, whether the conduct amounts to cruelty, and while deciding cases under this provision, courts would keep in mind

⁶ *Mayadevi v Jagdish Prasad* (2007) 2 SCC 93 (SC).

⁷ *Keshav Devi Mishra v Pradeep Kumar Mishra* 1991 (2) HLR 403 (MP HC) 406–8.

⁸ *V Bhagwat v Mrs Bhagwat* 1994 (1) HLR 74 (SC) 75.

the principle that relief is granted not only to protect a spouse from physical injury but also from danger to mental health. Words, at times, do cause more damage than physical violence.⁹

Destruction of PhD Thesis by Wife: An unfortunate feud between husband and wife has resulted in this matrimonial dispute. Husband is a lecturer, while wife is illiterate. He alleged in his divorce petition that the wife is illiterate, smokes habitually, commits theft, abuses him and his parents, calls him important and also, she burnt his thesis for a PhD. The divorce petition on the ground of illiteracy of women would be doing great violence to the women of India, as men have supremacy and economic power, and have not been fair to the women in the matter of education and have kept them dependent throughout the ages. A happy married life is not built by literacy or art or Science but the values of human life, culture, human attraction, love and affection. The high court held that no divorce can be granted if a lady smokes, and it would be doing great violence. No discrimination can be made against women by granting a divorce on the grounds of smoking by a lady. The burning of a PhD thesis by the wife cannot be ignored, and it is bound to be an act of great cruelty, as the thesis prepared by the scholar who intended to do a PhD is very valuable and important because of the great research and study for years. The value of the thesis of a student who wants to do a PhD is undoubtedly great, and any damage done to it is bound to upset him and cause irreparable mental agony and torture. Further held that the allegation of the wife that the husband is impotent in the form of abuse in the house cannot be lightly ignored, as in a matrimonial matter, it is a serious stigma on the manhood and is bound to cause great mental agony and pain, resulting in cruelty to the husband.¹⁰

Harassment of Husband by Wife Through FIR: The wife made a complaint against the husband to the employer, i.e, the Central Social Welfare Board. The complaints to the employer also led to the holding of a meeting cum inquiry against the husband. The employer, however, did not take action against the husband because the employer was not satisfied with the nature and gravity of the complaints which have been made and found them to be baseless. The High Court was of the view that, in the normal course, such complaints would be harassment to the person (against whom such complaints are made). She made complaints or got the Complaints

⁹ Kalpana Shrivastava v Surendranath AIR 1985 All 253; 1985 (2) DMC 151 (All HC)

¹⁰ Shanti Devi v Raghav Prakash AIR 1986 Raj 13 (Raj HC)

made to the employer, and the police found it to be baseless on enquiry. The cruelty of the wife being established, the husband would be entitled to divorce. Divorce granted.¹¹

Hurting the husband's feelings, giving repeated threats, desertion and cruelty to the dependents of the husband (children). The parties were married on 09.10.1978 and lived together till 08.04.1982, when she left the matrimonial home for no reason. She left behind two minor children aged about 5 and a half years and 4 and a half years. The petitioner husband contended that she is a short-tempered lady who used to create a fuss on small pretexts and refuse to serve him. It was further stated that threats were held out to the petitioner, and it is not congenial and free from danger for him to live with her.

In evidence, it comes on record that she had never attempted to see her children with her husband, though admittedly it was difficult for the petitioner, being a mechanic, to look after the children. She did not even care to attend the death ceremony of her father-in-law. Her application for maintenance was dismissed, and no attempt was made by her for the custody of the children. The nagging attitude and total neglect of the children by the wife is no less cruel for a man to suffer. Declining the divorce in these circumstances will amount to adopting a draconian law to bring an unjust result. It is her duty to give motherly love to children and to bring them up in their infancy. She, for reasons best known to her, declined to discharge the said duty and inflicted mental agony on her husband. It was held by the High Court that cruelty is nothing but inflicting mental and physical injury to the other spouse in the matrimonial home. It is not something which can be defined in a straitjacket formula. It has to be judged in the facts and circumstances of each case. In this case, it was held that the husband had been able to prove that he had been treated by her wife with cruelty.¹²

Refusal in the Consummation of Marriage:¹³ **Cohabitation-** denial by wife. After the marriage, the wife mostly lived with her mother, and whenever the husband went to bring her to his home, she declined. During her short stay, she was always disobedient and raised disputes on trifling matters. She very often threatened to commit suicide, and on two occasions, she poured kerosene oil over her body and threatened him that she would kill herself. She left home and did not turn up. She remained absent throughout the original appeals, proceedings, inspite of service of summons. It was held by the High Court that the act of the wife not admitting

¹¹ Vinod Kumar Sharma v Nutan Sharma 1986 (1) DMC 484 (Del HC); 1986 Mat LR 310 (Del HC)

¹² Gurjit Singh v Rupinder Kaur 1988 (2) HLR 545 (P&H HC); 1989 (1) DMC 219 (P&H HC)

¹³ Usharani Lenka v Panigrahi Subhash Chandra Dash AIR 2005 Ori 3 (Ori HC)

access to her husband and denying him the opportunity to cohabitation, coupled with an act of pouring kerosene oil over her body as a measure of threat to kill herself to implicate her husband, is nothing short of mental anguish, disturbing his peace of mind and mental happiness. such behaviour, which tends to destroy the legitimate ends and objects of matrimony, can hardly be appreciated. Cruelty need not be physical, but in certain cases, it can be mental cruelty as well, which can give rise to the decree of divorce on grounds of cruelty.¹⁴

Refusing to have Children: Refusing to have children can be considered cruel against a husband in some cases. The Supreme Court of India has ruled in favour of husbands in cases where a wife unilaterally decides not to have children. The court has considered this to be cruelty when the husband has made it clear that he wants to have a child, but the wife refuses. Unilateral decision of refusal to have intercourse for a considerable period without there being any physical incapacity or valid reason may amount to mental cruelty. Unilateral decision of either husband or wife after marriage not to have a child from the marriage may amount to cruelty.¹⁵

Aborting Child Without Husband's Knowledge: The grievance of the husband is that after marriage between them, both lived together during the period 30.3.1975 to 10.1.1977. The husband impregnated her twice, but both times she got herself aborted. These contentions are corroborated by the doctor as well. The husband himself, his sister, and his parents were always crazy to have a child in the family, but the wife always dashed their hopes by resorting to the termination of pregnancy. It was held by the High Court that this conduct of the wife undoubtedly amounts to cruelty. If not physical, mental at least, and the husband is well within weight to claim the degree of divorce on this ground. In this case, the wife deliberately and consistently refused to satisfy the husband's natural and legitimate craving to have a child; the deprivation reduced him to despair, and it naturally affected his health. It is more so in the case at hand, where the parties to the litigation are Hindus. In this sort of case, the court has to attach due weight to the general principle underlying Hindu law of marriage and the importance attached by Hindus to the principle of spiritual benefits of having a son who can offer funeral cake and libation of water to the names of his ancestors. There would be no answer to say that it is now open to a husband to adopt a son.¹⁶

¹⁴ Subhash v Laxmibai 1985 (2) DMC 132 (MP HC)

¹⁵ Govind Chandak v Kiran Chandak (Maheshwari) 2023 (Chh HC)

¹⁶ Satya v Siri Ram AIR 1983 P&H 252 (P&H HC)

Delivery of Illegitimate Child: The marriage solemnised between B and Sikha on 13.06.1978 at K. He shifted to D, and in spite of his demand, she stayed with her parents at B against his wishes and study facility at D in J. She insisted on doing further studies, like a PhD at V U Bengal. In this Divorce petition, he stated that he had come to assert that from November 1979 till the birth of the child on 27.03.1981, he had no access to her. He asserted that as a result of the birth of this child, he suffered mental agony and pain. Also, he had not condoned her said act of cruelty and desertion. The evidence of the husband remains unchallenged. It was held by the High Court that the statement of the husband is true and ought to be believed, as already held in *Antoniswamy v Anna*, AIR 1970 Mad 1917¹⁷ in the ordinary circumstances of society in this country, the man would not like to make a statement against a wife, such as a prolonged desertion and continued illicit intimacy with another man, if such averments have no basis of foundation of truth, it has to be proved.¹⁸

OTHER ACTS OF THE WIFE WHICH AMOUNT TO CRUELTY AGAINST THE HUSBAND

- Giving repeated Threats
- Humiliating husband
- Acts of violence or actions that may endanger the husband's health
- False accusations regarding dowry harassment
- Cruelty to children
- Mistreating in-laws
- Physical assault
- False criminal case against husband by wife

IS THERE ANY PUNITIVE ACTION ON THE WIFE FOR THE ACTS OF CRUELTY AGAINST THE HUSBAND?

Indian law hasn't defined any specific punishment for cruelty against husbands specifically. However, the wife can be penalised for acts of life-endangering assault and granted a divorce from the husband according to relevant sections of the Criminal Law. Cruelty is an intangible term that cannot be confined to definitions. With time, men have unshackled the notion that they have to maintain a macho image and silently face humiliation and cruelty from their wives.

¹⁷ *Antoniswamy v Anna* AIR 1970 Mad 1917 (Mad HC).

¹⁸ *BC Sinha v SS Sinha* 1986 (1) DMC 404 (Del HC)

The recent cases of celebrities coming out in the open have opened conversations regarding the need to be more vocal about cruelty against men. Law stands for the rights of all individuals regardless of gender.

INTENTION TO BE CRUEL - IF MATERIAL OR NOT

The word 'has treated' denotes a conscious action on the part of the respondent where the act of cruelty is established. It is not necessary to establish that the respondent had the requisite intention to commit the act. In *Shobha Rani v. Madhukar Reddy*,¹⁹ the mother-in-law made demands for money, and the husband supported his mother. The defence was that by his conduct, the husband never intended to be cruel to the wife. Thus, intention or motive is not an essential element to prove cruelty. In *Bhagwat v. Bhagawat*,²⁰ the husband tried to strangle the wife's brother and also her younger son. The husband was found to have done the act under the spell of insanity. Insanity was held to be no bar, and it was held that the conduct amounted to cruelty.

PROVOCATION AS A DEFENCE

When cruelty is a ground of relief, a spouse who provoked the conduct which caused an actual or apprehended danger and deprived the other spouse of his or her control would be a good defence in case of cruelty.²¹

PLEADING AND PROOF

The acts of cruelty must be specifically pleaded, and a bald statement without particulars of cruelty would not be sufficient to dissolve the marriage. The degree of violence may vary with the status of the parties. The burden lies on the petitioner to establish his or her own case. The standard of proof is that of civil cases, and cruelty under section 498A of IPC is different, where the proof is beyond a reasonable doubt. A statement made by the husband without corroboration is no proof of cruelty. Allegations based on personal knowledge of a spouse who is represented through power of attorney can't be proved due to cross-examination, so the ground of cruelty is not proved.

The normal rule which governs civil proceedings is that a fact can be said to establish if it is proved by the preponderance of probabilities. This is for the reason that in the Evidence Act

¹⁹ *Shobha Rani v Madhukar Reddy* (1988) 1 SCC 105 (SC).

²⁰ *Bhagwat v Bhagwat* AIR 1987 SC 1346 (SC).

²¹ *King v King* [1952] 2 All ER 584 (UK HL)

section 3, a fact is said to be proved when the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the assumption that it exists. The belief regarding the existence of the fact may thus be found on the balance of probabilities.

Considering that proceedings under the Act are essentially of a civil nature, the word ‘satisfied’ must mean satisfied on a preponderance of probabilities and not satisfied beyond a reasonable doubt. Section 23 of the Hindu Marriage Act does not alter the standard of proof in civil cases.²²

CONCLUSION

Cruelty as a matrimonial offence is not defined rigidly as it varies from case to case based on the conduct, status and circumstances of each case. The Indian judiciary has consistently held that both men and women can be victims of cruelty in marriage, and relief cannot be gender specific. Physical abuse, mental harassment, denial of conjugal rights, false accusations, neglect of children or unilateral decisions on family planning have all been held to be cruelty against husbands. Though there is no separate penal provision to punish wives for cruelty, matrimonial relief under the Hindu Marriage Act ensures that husbands are not left high and dry. The law thus affirms the principle of equality by giving every spouse, be it man or woman, the right to live with dignity free from cruelty in marriage.

²² Dastane v Dastane AIR 1975 SC 1534; 1975 (2) SCC 326; 1975 (3) SCR 967 (SC)