

A Women Grounds of divorce in cruelty under Hindu Law and Its Impact of Society

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1. Introduction :-

Women have the legal right to divorce their partners on the basis of cruelty under Hindu law. Cruelty is a legitimate justification for divorce if it is of a character that makes the petitioner reasonably fear living with the other party will be detrimental or damaging. Both physical and mental abuse are recognised as grounds for divorce under the Hindu Marriage Act of 1955.

Physical cruelty may include any act that causes bodily harm or injury to the petitioner. Mental cruelty, on the other hand, may include any conduct that causes emotional or mental distress to the petitioner. This may include verbal abuse, humiliation, harassment, or any other behavior that creates an atmosphere of tension and anxiety.

The impact of women seeking divorce on the grounds of cruelty can be significant in Indian society. Historically, there has been a stigma attached to divorce, particularly for women. Women who seek divorce are often seen as going against traditional norms and values. However, in recent years, there has been a growing acceptance of divorce in India, and women are increasingly seeking divorce on grounds of cruelty.

The impact of divorce on society can be both positive and negative. On the positive side, divorce can give women the opportunity to escape from abusive or unhappy marriages and to build new lives for themselves. It can also help to break down traditional gender roles and empower women to take control of their lives.

On the negative side, divorce can be seen as a threat to the traditional family structure, which is highly valued in Indian society. It can also create social and economic problems, particularly for women who may face discrimination and difficulties in finding employment and housing..

2. Meaning of Cruelty :-

When we talk about cruelty to a person it can be physical, mental, financial or emotional. Cruelty is defined as any act that inflicts physical or emotional pain on a person or animal without a legitimate purpose, or causes concern for such harm. Current research addresses the issue of violence against women in all occupations, anti-violence laws, their implementation, reasons for their failure, and recommendations for creating a women-friendly society. So, it will be appropriate to quickly review how the term "cruelty" is understood in various statutes before moving on, but not those that protect women from cruelty. Violence as the abuse that women endure physically, sexually, or psychologically, including threats of such behaviour, pressure, or arbitrary decisions made in public or private life.

It further states that states have a duty to take reasonable precautions, conduct investigations, and punish violators in accordance with applicable law. Discrimination against women is defined by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as any "distinction", exclusion or restriction based on sex, the effect or purpose of which is to prevent or prevent recognition or enjoyment of to disable it. Practice by women on the basis of equality for both, regardless of marital status.

3. Divorce

Divorce is the legal process by which a marriage is dissolved or terminated. It is a legal action that is typically initiated by one or both spouses who wish to end their marriage. Divorce laws and procedures vary by country and jurisdiction, but generally, the process involves the division of property and assets, the determination of child custody and support, and the finalization of the termination of the marriage.

Divorce can be a difficult and emotionally challenging experience for both spouses and any children involved. It can often involve feelings of anger, sadness, and confusion. However, divorce can also provide an opportunity for a fresh start and the ability to build a new life.

In many jurisdictions, divorce laws require that the parties involved must have grounds for divorce, such as adultery, abandonment, or irreconcilable differences. Some jurisdictions also require that the parties involved must live apart for a certain amount of time before a divorce can be granted.

The impact of divorce on individuals and families can be significant. It can cause financial, emotional, and social upheaval, particularly for children who may experience difficulties adjusting to the new family structure. However, with the help of counseling, support groups, and other resources, individuals and families can learn to cope with the challenges of divorce and move forward with their lives.

Overall, divorce is a legal process that can provide an opportunity for individuals to move on from an unhappy or unhealthy marriage. It is important to seek legal and emotional support during the process to help navigate the challenges and move forward in a positive direction.

4. Cruelty as a ground of divorce under Hindu law

Cruelty is the most difficult marital crime to define. Legislators and judges have deliberately avoided defining the term because there are no established criteria for what constitutes cruelty. The court ruled in the Sukumar v. Tripathi case that "an attempt to establish a complete list of what constitutes atrocities will never succeed." Also, because the facts and circumstances of each case are different, what is judged to be cruel in one case may not be so in another. In the Sheldon v. Sheldon case, Lord Denning said:

“The categories of cruelty are not closed. Each case may be different. We deal with the conduct of human beings who are not generally similar. Among the human beings there is no limit to the kind of conduct which may constitute cruelty. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of. Such is the wonderful (sic) realm of cruelty.” Yet, an attempt was made to

define it in the well-known English case of Russell v. Russell, which features the earliest formulation of cruelty. “Cruelty was held to be a conduct of such character as to have caused danger to life or health, bodily or mentally, gives rise to reasonable apprehension of such danger. The definition includes both physical and mental cruelty within its scope but it also emphasizes on the typical nineteenth century belief that no act can amount to cruelty unless it creates an apprehension or actually causes injury to the petitioner”. In a recent ruling, the Supreme Court ruled that "cruelty becomes more difficult to define the more it is applied in relation to human behavior or human behaviour. It is conduct that concerns or relates to marital obligations and It is the actions of one that adversely affect the other. While cruelty was the only ground for divorce before the 1976 revision of the Hindu Marriage Act, in view of changing social conventions of 1976 , which became grounds for divorce due to legislative changes enacted¹⁸. The amendment also clarified that the danger to life or injury in cohabitation need not be foreseeable in order to constitute cruelty.

Section 10(1)(b) of the Act was amended to remove the phrase "causes the applicant to have a reasonable concern that living with another party would be harmful or dangerous". rice field. Marriages may be dissolved "...by a decree of divorce on the premise that the applicant has been atrociously treated after the marriage has been celebrated," according to Article 19 of the Hindu Marriage Law. Therefore, if one of the spouses commits atrocities against the other after marriage, both her husband and wife are entitled to obtain a divorce decree. Nevertheless, the general consensus is that it is usually the husband who abuses the spouse. But it's not. Under the Indian Divorce Act of 1869, cruelty as a ground for divorce was available only to the wife, but under the Special Marriage Act of 1954, it is now available to both husband and wife. Either party may petition on the grounds that the other has treated them cruelly since the marriage was celebrated. It is also important to remember that it can even refer to .It was decided that a husband was guilty of cruelty if he failed to protect his wife from unsavory parents.

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Divorce in cruelty under Hindu Law refers to the dissolution of a marriage due to one spouse's cruelty towards the other. Cruelty is broadly defined under the Hindu Marriage Act, 1955 as

conduct that is likely to cause physical or mental harm to the spouse or render the spouse's life miserable.

The impact of divorce in cruelty under Hindu Law on society can be both positive and negative. On the positive side, it provides relief to spouses who have been subjected to cruelty, abuse, or violence in their marriage. It empowers them to leave an unhappy and toxic relationship and seek a fresh start in life. Divorce in cruelty also has the potential to act as a deterrent against domestic violence and cruelty, as it sends a message that such behavior will not be tolerated in society.

On the negative side, divorce in cruelty can have a negative impact on the children of the divorced couple. Children often become innocent victims of divorce, and their emotional and psychological well-being can be affected by the dissolution of their parents' marriage. In addition, the social stigma associated with divorce can lead to ostracization and discrimination against the divorced couple in some communities.

Overall, divorce in cruelty under Hindu Law can be seen as a step towards empowering individuals and safeguarding their rights, particularly in cases where they are victims of domestic violence or cruelty. However, it is important to ensure that the interests of the children are protected and that steps are taken to reduce the social stigma associated with divorce.

5. Physical cruelty included mental cruelty

Mental cruelty is also a form of cruelty, not just physical cruelty. In the instance of physical cruelty, harm or injury is directly caused to the body, whereas in the case of mental cruelty, hurt or injury is nonetheless caused through the mind. It is a mental injury, but it is still a mental injury. It is an injury or harm brought about to the human body. The definition of mental cruelty should be determined in accordance with the social values and marital ties norms of the particular section of society to which the parties belong. The cruelty may take many different forms, but it must result in the other spouse's concern that it is dangerous to cohabit with the offending spouse. Rough or domineering behavior, unnatural sexual conduct, heinous

accusations of infidelity or adultery, and sometimes even judgment, verbal abuse, and persistent nagging may be considered cruelty in certain cases. Other people's lives are a kind of atrocity. In this case, petitioner was unsuccessful in establishing allegations of physical or emotional abuse of the defendant's wife. Any act that inflicts emotional distress on the victim is considered cruelty and is included in the definition of cruelty.

Suman Kapoor v. Sudhir Kapoor

When the wife had her pregnancies terminated twice without the husband's knowledge or consent, and when it was discovered that she was unwilling to fulfil her matrimonial obligations and had a history of trying to avoid him, the situation was deemed to be one of mental cruelty on the part of the wife towards the husband, who was entitled to a divorce on those grounds.

Merely because the husband after making wild and reckless allegations regarding the chastity of the wife tried to resile from the same by deposing on oath that he did not suspect the fidelity of his wife, he cannot be exonerated from the charge of mental cruelty to allege that the wife was unchaste by itself would amount to gravest of mental cruelty which would entitle the wife to get the marriage dissolved.

Impact of Physical and Mental Cruelty in Matrimonial Matters;

The Hindu Marriage Act of 1955 did not recognise cruelty as a basis for divorce prior to its revision in 1976. It served only as a basis for judicial separation claims under Section 10 of the Act. Cruelty was made a basis for divorce by the 1976 Amendment. "as to cause a reasonable apprehension in the mind of the petitioner that it will be hurtful or dangerous for the petitioner to live with the other party," are the words that have been integrated.

Legal Provisions:

The Hindu Marriage Act-1955 has given the legal provision for divorce on basis of cruelty under section – 13(1)(ia) as follows;

“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”.

Based on this section, you can explain the legal basis for divorce as a person who has been physically abused, psychologically tortured, or otherwise harassed by another person and who wishes to file a petition for divorce with the court on that basis. In many circumstances, however, the Court has found that the purpose of being cruel is not a necessary part of being cruel for the purposes of this section.

Conclusion :-

In summary, women who experience domestic abuse or cruel treatment in their marriage may find that Hindu law's provision for divorce in cruel circumstances is a potent remedy. The legal provision for divorce on the basis of cruelty acknowledges the underlying power relations in a marriage and seeks to defend the interests of the less powerful spouse, who is usually the wife. This legal provision empowers women to leave an abusive relationship and seek a fresh start, thereby promoting their physical, emotional, and financial well-being. At the same time, divorce in cruelty can have a significant impact on society, both positive and negative. While it can act as a deterrent against domestic violence and empower women, it can also have negative consequences on the children of the divorced couple and result in social stigma and discrimination. To protect the interests of all parties concerned, it is crucial to make sure that sufficient safeguards are in place. In general, the Hindu Law's provision for divorce in cases of cruelty marks a significant advancement in the cause of gender equality and the defence of the rights of women in marriage. To minimise any unfavourable effects on society, it is crucial to guarantee that this legal provision is executed correctly and that the interests of all parties are safeguarded.

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