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## CRUELTY AGAINST HUSBAND

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### INTRODUCTION

Cruelty is perhaps the most controversial in all of the matrimonial offences. Since ancient time, women were the sole victims of cruelty. At the very first instance, it was simply assumed that women are the one & only sole victims of cruelty.

In India, existing several religions, being a land of diversity, including Hinduism, Jainism, Buddhism and Sikhism. In India, Marriage is a sacrament, representing a union between a man and woman that serves to elevate their social standing.

In modern era of cruelty, perhaps husbands are now facing more cruelty by their wives. The laws pertaining to cruelty committed by wives against their husbands are not as well-defined as those for the reverse scenario.

Section 13(1) (ia) of the Hindu Marriage Act, 1956, allows both the wife and the husband to seek a divorce by alleging that their spouse has subjected them to cruelty after marriage.<sup>1</sup>

### CONCEPT OF CRUELTY

The concept of cruelty has vary from time to time, place to place, from individual to individual depend upon many variables including social status, educational background, false allegations of alcoholism, economical condition, moral turpitude of members of family of the husband and running of their wealth in immortal habit.

The legal concept of cruelty is generally described “as conduct of such character as to have cause danger to life, limb or health (bodily and mental) or give rise to reasonable apprehension of such danger.”<sup>2</sup>

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<sup>1</sup> Section 13 (1) (ia) of Hindu Marriage Act, 1956

Cruelty for the purpose of section 498A of IPC need not be physical. Even mental torture or abnormal behaviour may amount to cruelty and harassment.

### **DEFINITION OF CRUELTY**

The word 'cruelty' has not been defined and it has been used in relation to human conduct and human behaviour. Cruelty may be defined as an inhuman attitude or treatment of one spouse or partner or relatives of one spouse against another spouse or relatives of another spouse.

It may be either physical or mental. If any threat exists to any one of spouse's life, body, property and if they continue to live together, it is considered physical cruelty. And if any cruelty causes mental pain, agony, stress and suffering in any way, it may be considered as mental cruelty. It may break the link between husband and wife, and leads to divorce.

### **KINDS OF CRUELTY**

Cruelty may be either in physical or mental. There are various forms of cruelty given below:

#### **Making false & serious allegations against husband**

For torturing husband, the wife had filed a petition under section 498 IPC, making serious allegations against nature and character of husband. But all allegations were baseless. It was treated as cruelty to husband and divorce will be granted in favour of husband<sup>3</sup>. Also, baseless allegations of wife about illicit relation of husband with other woman amounts to cruelty.

#### **Removal of mangalsutra by wife**

Wearing mangalsutra is the tradition of our culture. When wife causes mental pain, agony, or suffering of such a magnitude that serves the bond between the wife and husband. It is considered as mental cruelty.

#### **Allegation of impotency against husband**

The wife made a false allegation against her husband that he is impotent. She also put fire on the thesis of her husband's false impotency which leads to mental cruelty against husband<sup>4</sup>.

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<sup>2</sup> Vinita Saxena v. Pankaj Pandit, (2006) 3 SCC 778

<sup>3</sup> Subrata Kar v. Moumita Mondal, AIR 2009 Cal 200 (DB).

<sup>4</sup> Shanti Devi v. Raghav Prakash, AIR 1986 Raj 13

### **Adultery by wife**

In many cases where husband is physically or mentally weaker than wife, most probably in those cases wife commits adultery to fulfil her satisfaction, or in many cases commits adultery by voluntarily and leads to cruelty against husband and his societal status. Solitary instance of voluntary sexual intercourse by wife with other person is enough for grant of decree of divorce<sup>5</sup>.

### **Desertion**

Desertion means the intentional permanent forsaking and abandonment of one spouse by other without other's consent and without reasonable cause. It is total repudiation of obligation of marriage and desertion done by wife is the cruelty against the husband.

### **Termination of pregnancy without consent of husband**

Pregnancy is the result of both couple and termination of pregnancy by wife without consent of husband was held as cruelty against husband.

### **Deprivation of conjugal right by wife**

The act of deprivation of conjugal right on part of the wife towards husband is the worst form of cruelty. Even denial of wife for sexual support to husband amounts to cruelty.<sup>6</sup>

### **Abusing husband in public and catching his collar**

Abusing the husband in public, in bus, or in front of parents and catching, hold of his collar, it amounts to cruelty against husband.

### **Wife refusing to do household work and forcing the husband to clean dining table before the guest**

The wife refuses to do household work and in presence of guests forced him to clean table, utensils, crockery, etc. making the husband cook food for her and when he serves the food

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<sup>5</sup> Rajendra Agarwal v. Sharda Devi, AIR 1993 MP 142

<sup>6</sup> Jasminder Singh v. Prabhjinder Kaur, AIR 2008 P&H 13

showing the plate on ground, threatening to burn himself slap the husband, this all amounts to cruelty against husband.<sup>7</sup>

## **CONCLUSION**

No one shall be tortured or subjected to cruel, inhuman, or degrading treatment or punishment. Cruelty is a social evil, whether caused by men or women. When such a law is implemented with legal presumption, it causes a lot of hardship on the part of the husband. The act of cruelty is causing mental anguish and emotional imbalance. However, Cruelty is considered as a ground for divorce in various laws.

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<sup>7</sup> Harbhajan Singh Monga v. Amarjeet Kaur, AIR 1986 MP 41