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Cruelty as a Ground of Divorce under the Hindu Marriage Act: Supreme Court's Perspective in 2023

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Introduction

Marriage, often viewed as a sacred bond, is a cornerstone of Indian society. However, it is not immune to challenges, and sometimes, the relationship between spouses deteriorates to such an extent that continuing it becomes untenable. In such cases, the Hindu Marriage Act, 1955, provides various grounds for divorce, one of which is 'cruelty'. This article explores the legal framework, historical context, forms of cruelty, landmark Supreme Court cases, and the evolving view of the Supreme Court of India on cruelty as a ground for divorce in 2023.

Cruelty as a Ground for Divorce: Legal Framework

The Hindu Marriage Act, 1955, lays down provisions for Hindus seeking to dissolve their marriage. Section 13(1)(ia) of the Act recognizes cruelty as a valid ground for divorce. Cruelty, in this context, refers to both physical and mental cruelty. Physical cruelty encompasses acts that endanger life, limb, or health. Mental cruelty includes emotional and psychological abuse that endangers the mental health or life of the spouse.

Forms and Manifestations of Cruelty

1. **Physical Cruelty:** This form encompasses a range of abusive behaviors, from physical violence to endangerment of one's life or health. It includes instances of assault, battery, and even threats to commit such acts.
2. **Mental Cruelty:** Emotional and psychological abuse can be equally damaging, if not more so, than physical violence. It includes constant humiliation, verbal abuse, manipulation, and acts that cause severe emotional distress.

3. Economic Cruelty: Financial control and manipulation can constitute a form of cruelty. This includes withholding financial resources necessary for the basic needs and wellbeing of the spouse.

4. Social Cruelty: Acts such as isolation from family and friends, spreading false rumors, or defamation can severely impact the mental and emotional wellbeing of a spouse.

Landmark Supreme Court Cases on Cruelty and Divorce (2023)

Roopa Soni v. Kamalnarayan Soni, 2023 SCC OnLine SC 1127

In a civil appeal against the Chhattisgarh High Court's judgment, affirming the Trial Court's order, whereby a decree of divorce was declined to be granted to the appellant-wife, the Division Bench of Sanjiv Khanna and M.M. Sundresh, JJ. allowed the appeal and granted a decree of divorce and explained the scope of grant of divorce on grounds of 'cruelty' under Hindu Marriage Act.

In the matter at hand, the marriage was solemnized in the year 2002. Disputes started between the parties from 2006 onwards, soon after the birth of the child. The wife registered a complaint under Section 498-A of the Penal Code, 1860 ('IPC') and Sections 3 and 4 of the Dowry Prohibition Act, 1961. The respondent-Husband had questioned the character of the wife and alleged that it was she had fled the matrimonial home and had also demanded a medical examination of the wife, alleging she was living in adultery and gave birth to a child during the period of non-cohabitation.

Cruelty as a ground for divorce under Hindu Marriage Act, 1955

The Court perused Section 13 of the Hindu Marriage Act, 1955 ('the Act'), which provides for various grounds for granting divorce. The Court discussed the Statement of Objects and Reasons for the Marriage Laws (Amendment) Bill, 1976, by which the Amending Act of 1976 was introduced and clauses (ia) and (ib) were added to Section 13 and Section 13A. The Court noted that following are the objects and reasons for the Marriage Laws (Amendment) Bill, 1976:

1. To liberalise the provisions relating to divorce;
2. to enable expeditious disposal of proceedings under the Act;
3. and to remove certain anomalies and handicaps that have come to light after the passing of the Acts.

The Court said that the intention of the Parliament was very clear to liberalize the provision of divorce, while being conscious of the protection required for the estranged wife. The Court said that the word 'cruelty' under Section 13(1)(ia) of the Act, has got no fixed meaning, and therefore, gives a very wide discretion to the Court to apply it liberally and contextually. The Court also said that what is cruelty in one case may not be the same for another, hence, there must be a proper understanding of the position of the spouse opposing the petition for grant of divorce as the consequences and impact may differ from person to person, based upon factors such as social setting, educational qualifications, financial status, employment, caste, community, age and place.

The Court referred to *Vishwanath Agrawal v. Sarla Vishwanath Agrawal*, (2012) 7 SCC 288, wherein it was observed that the expression 'cruelty' has an inseparable nexus with human conduct or human behaviour. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status.

The Court said that what is cruelty for a woman in a given case may not be cruelty for a man, and hence, a relatively more elastic and broad approach is required when we examine a case in which a wife seeks divorce. Further, the Court said that historically, the law of divorce was predominantly built on a conservative canvas on basis of the fault theory, however, with the adoption of a libertarian attitude, the grounds for separation or dissolution of marriage have been construed with latitudinarianism. The Court also said that even with such a liberal construction of matrimonial legislations, the socio-economic stigma and issues attached to a woman due to divorce or separation are raised. The Court stressed on adoption of 'social-context thinking', cognisant of the social and economic realities, as well as the status and background of the parties by the Courts, while applying provisions for divorce.

Further, the Court discussed the question of burden in a petition for divorce and said that burden of proof lies on the petitioner, however, the degree of probability is not one beyond reasonable doubt, but of preponderance. The Court perused Section 23(1) which provides for decree in proceedings and said that it is a word of caution to check cases of abuse and misuse of law to get relief. The Court said that it must be kept in mind that a home, which is meant to be a happy and loveable place to live, becomes a source of misery and agony where the partners fight and children becomes direct victims of the said fights, though they may practically have no role in the breakdown of marriage. They suffer irreparable harm especially when the couple is at loggerheads, remain unmindful and unconcerned about the psychological and mental impact it has on her/him.

The Court also perused Section 23(2) of the Act which postulates that the Court before granting any relief under the Act shall, in the first instance, where it is possible in the nature and circumstances of the case, make every endeavour to bring about reconciliation between the parties. The Court pointed that the object and purpose of these provisions is to check any party taking advantage of social and economic inequalities between both, given the fact that on many occasions a divorce may solve one problem, but create another when the woman is separated both socially and economically.

In the present matter, the Court noted that the parties have been living separately for a decade and half. The Court said that the marriage does not exist any longer, and the relationship was terminated otherwise except by a formal decree of divorce. The Court said that the allegations levelled by the husband against wife were as serious as the allegations made by wife against the husband. Further, the Court said that both the parties had moved away and settled in their respective lives and hence there was no need to continue the agony of a mere status without them living together. The Court also said that the Trial Court and the High Court adopted a hyper-technical and pedantic approach in declining the decree of divorce. Therefore, the Court allowed the appeal and set aside the impugned judgments and granted a decree of divorce.¹

Evolution of the Concept of Cruelty: Comparative Analysis

¹ <https://www.scconline.com/blog/post/2023/09/12/sc-explains-grant-of-divorce-on-grounds-of-cruelty-under-hindu-marriage-act-legal-news/>

The concept of cruelty as a ground for divorce is not unique to India. Various jurisdictions around the world recognize similar grounds. The Indian legal framework has evolved over the years, incorporating international perspectives and best practices.

Challenges in Establishing Cruelty in Divorce Proceedings

1. **Evidentiary Challenges:** Proving cruelty can be challenging, especially in cases of mental cruelty where tangible evidence may be scarce. Courts often rely on testimonies and expert opinions.
2. **Cultural Norms and Societal Expectations:** Indian society often places a high value on the institution of marriage, sometimes leading to societal pressure against seeking divorce, even in cases of genuine cruelty.
3. **Role of Counseling and Alternative Dispute Resolution:** Courts increasingly encourage parties to explore avenues like counseling and mediation before resorting to divorce. While this can be beneficial, it may not always be effective in cases of severe cruelty.

Critique of the Current Legal Framework

While the inclusion of cruelty as a ground for divorce is a significant step towards protecting the rights and wellbeing of spouses, there are areas that warrant scrutiny:

1. **Ambiguity in Definition:** The term 'cruelty' is broad and subjective, leaving room for interpretation. This can sometimes lead to inconsistent rulings.
2. **Need for Speedy Resolution:** Divorce proceedings in India can be lengthy, causing additional emotional and financial strain on the parties involved. Reforms to expedite the process may be warranted.
3. **Emphasis on Rehabilitation:** While divorce is a necessary recourse in cases of severe cruelty, there should also be a focus on rehabilitating individuals and providing them with support.

Future Trends and Prospects

1. Potential Legislative Reforms: Considering the evolving societal dynamics, there may be a need for amendments to the Hindu Marriage Act to provide clearer guidelines on the definition and proof of cruelty.
2. Integration of Technology: The use of technology in legal proceedings, such as video conferencing for hearings, could expedite the process and reduce the emotional strain on the parties involved.

Conclusion

Cruelty as a ground for divorce under the Hindu Marriage Act is a critical provision that serves to protect the rights and wellbeing of spouses. The evolving legal landscape and the nuanced interpretation of cruelty by the Supreme Court in 2023 demonstrate a commitment to ensuring justice in matrimonial cases. While there are challenges and areas that require reform, this provision remains a crucial tool in upholding the principles of justice and fairness in marital relationships.