

MENTAL CRUELTY AS A GROUND FOR DIVORCE IN INDIA

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Mental Cruelty

Mental cruelty is a course of conduct that is on behalf of a spouse that can endanger the mental health and cause trauma in the mind of the other spouse to such an extent that it is injurious to the future of their marital relationship. It has the same weight as compared to physical cruelty. Establishing mental cruelty is more difficult than establishing physical cruelty. Apart from physical harm, if the wife has been subjected to any kind of mental pressure or has to negotiate her mental peace for her spouse or repeatedly go through mental agony, then that counts as mental cruelty. But we will not understand the psychology of an individual and people can be hypersensitive. Hence if someone accuses anyone of exhibiting cruelty, then it cannot be fully genuine, and the person will not be permitted to a *divorce on grounds of mental cruelty*. Mental stress can occur in multiple ways and hence there are no specific conditions which would amount to mental cruelty. For instance, the husband is forcing his wife to do something without her consent. Anything that is not expressed or is concealed by the spouse which creates a sense of doubt also amounts to mental cruelty.

Mental cruelty is a subjective matter, i.e., what is considered tolerable to one person may not be the same to another. Hence the categories of mental cruelty are not

closed. Each case presents a new category. Judicial interpretations also play a major role in determining the severity of the cases. It is dealt with according to the scenario and facts of each individual case. In the case of ***Samar Ghosh v. Jaya Ghosh, 2007***, the Supreme Court has stated down some of the illustrations of mental cruelty:

- Serious mental pain, frustration and disappointment that is making it impossible for the spouse to continue a matrimonial relationship that would constitute mental cruelty.
- The complainant must be subjected to mental stress continuously for a prolonged period.
- The behaviour of the opposite spouse must cause uneasiness to the complainant.
- Mere annoyance does not amount to cruelty.
- Conducting abortion without the consent of the petitioner and sterilisation without any valid medical reason amounts to cruelty.
- Denying sexual intercourse after matrimony for quite a long period even though there is no physical inefficiency proved, amounts to mental cruelty.
- Separation for a considerably long period of time.

It is to be noted that the intention of the party causing the stress, is irrelevant.

Mental Cruelty by Wife Against Husband

Some of the scenarios where the husband is subjected to mental cruelty are as follows- degrading the husband in front of his family and friends, accepting the termination of pregnancy or abortion without the willingness of the husband, creating false allegations against him, denying sexual intercourse after marriage for a considerably long period of time without a valid reason, the wife has an affair or is living an immoral

life, constantly demanding money, unbearable and aggressive character of the wife, ill-treatment of the family and friends of the husband. A wife working against the consent of her husband is not considered to be mental cruelty.

In the case of [Balram Prajapati vs Susheela Bai](#) , the husband filed for divorce on the grounds of mental cruelty. He stated that the behaviour of the opposite party with him and his parents was unbearable she has filed false complaints against the complainant. The Court accepted the petition and granted divorce on the grounds of mental cruelty.

Mental Cruelty by Husband Against Wife

Common cases produced in court are that of mental cruelty against the wife by the husband. It includes a false accusation of adultery, dowry demands, impotency of Husband, forcing for abortion, the drunkenness of husband, husband having affairs or is leading an immoral life, unbearable behaviour of the husband, humiliating the wife in front of her family and friends, etc.

Provisions

Under *Hindu Marriage Act, 1955*, Section 13 discusses cruelty. Cruelty was never included as a reason for divorce and was applicable only to cases of judicial separation. The case of [Narayan Ganesh Dastane Vs. Sucheta Narayan Dastane](#) led to an Amendment where cruelty as a ground for divorce was included in the Act along with adding a legal definition to the term 'cruelty' in 1976. But it was stated that the courts should decide the case on grounds of cruelty based on the matter of the case. After the amendment, there was not much division between the grounds of cruelty causing judicial separation and grounds of cruelty resulting in divorce except for adding the

words “persistently or repeatedly”. After this, establishing cruelty as a ground for divorce was given more importance rather than proving it as a ground for judicial separation. It was added under Section 10 (1) of the Hindu Marriage Act, 1955 and now “Cruelty” has a self-contained definition.

How to prove mental cruelty in Court?

Proving a case of mental cruelty highly depends on the facts and scenarios of the particular case. Generally, the following ways can be used to prove it in court. An oral statement or in writing is an adequate ground for proving mental cruelty. By providing instances of such cruelty, strengthen the oral or written evidence, for example, denial of physical relationships, verbal and physical abuses, condescending behaviour, and incompatible difference of opinion that adversely affects their marital and domestic relationship. Obviously, audio and video evidence is the best and is generally admissible in court. The testimonies of witnesses can be also used.

Conclusion

Although cruelty is a severe traumatic offence, it is still less talked about, especially in Indian society. The women in India rarely bring up complaints about their domestic and marital issues, largely due to a lack of legal awareness and fear of family and society. They silently suffer the violence they face and hence be a victim of domestic violence.

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