

## Cruelty as Ground for Divorce

### Why in news?

In India, the courts are seeing mental cruelty as grounds for divorce.

### What is the Bombay HC judgment?

- The Bombay High Court observed cruelty as a ground while granting a divorce.
- In this case, it held that a wife writing to the employer of her spouse with unfounded allegations about him constitute actionable cruelty under the Hindu Marriage Act, 1955.
- It observed that there was both physical and mental cruelty.
- It said that if allegations are made in writing and if they are baseless, it may cause mental pain to other spouse.
- It will be considered as an instance of cruelty.

### What are the grounds for divorce under Hindu law?

- The Hindu Marriage Act, 1955, lays down the law for divorce that applies to Hindus, Buddhists, Jains, and Sikhs.
- Under Section 13 of the Act, the grounds for divorce include:
  1. Voluntary sexual intercourse with any person other than spouse;
  2. Cruelty (both mental and physical);
  3. Desertion for a continuous period of not less than 2 years immediately preceding the presentation of the petition;
  4. Ceasing to be a Hindu by conversion to another religion; and
  5. Being incurably of unsound mind.
- In addition, Section 13B provides for divorce by mutual consent.
- Section 27 of The Special Marriage Act, 1954 provides the grounds for grant of divorce in the case of marriages solemnised under that Act.

### When was mental cruelty added as ground for divorce?

- When it was first passed, the Hindu Marriage Act did not have 'cruelty' as a ground for divorce.
- It was after an **amendment in 1976** that this basis became available for seeking both divorce and judicial separation.
- While Parliament did insert the term 'cruelty' in the Act, it did not supply an

exhaustive definition.

- As a result, the term has been understood according to its interpretation by the judiciary over the years.
- The courts have evolved grounds for providing relief in cases of both physical and mental cruelty.

### **What are the cases?**

- **Dastane v Dastane Case (1975)** - The Supreme Court had examined the concept of legal cruelty while granted divorce to the husband.
- The SC held that the wife threatening to end her life, and verbally abusing the husband, among other acts, amounted to mental cruelty.
- It observed that the inquiry has to be whether the conduct charged as cruelty is of such a character as to cause in the mind of the petitioner a reasonable worry that it will be harmful to live with the respondent.
- **Shobha Rani v Madhukar Reddi (1988)** - The SC held that repeated demands for dowry by the husband or his relatives was a form of cruelty.
- The courts have also given similar relief in other cases, including those of persistent drunkenness and repeatedly making unfounded allegations.

**Source: The Indian Express**

