



# What are the factors for Mental cruelty which is a immediate cause for Divorce



After the solemnization of the marriage when any of the spouse either the husband or the wife is treated with cruelty, they are eligible for divorce. Section 13 (i) (a) of the Hindu marriage has not

defined the term cruelty. But the courts has interpreted that cruelty falls under Physical and mental cruelty. And the cruelty may be intentional or unintentional.

If it is physical, the court will have no problem to determine it . It is a question of fact and degree . If it is mental, the problem presents difficulty.

The Supreme court at various circumstances has summed up the situations which are fall under mental cruelty.

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

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the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status.

The conception of legal cruelty undergoes changes according to the changes and advancement of social concept and standards of living. To establish legal cruelty, it is not necessary that physical violence should be used.

A set of facts stigmatized as cruelty in one case may not be so in another case.

The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions.

Each case may be different. New type of cruelty may crop up in any case depending upon the human behaviour, capacity or incapability to tolerate the conduct complained of.

Mental Cruelty in Section 13(1)(ia) of Hindu Marriage Act can broadly be defined as that conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for that party to live with the other.

**What is cruelty in one case may not amount to cruelty in the other case :-  
How to fix Mental cruelty.**

1. The concept of cruelty differs from person to person depending upon his upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious belief, human values and their value system.

2. Mental cruelty cannot be established by direct evidence and it is necessarily a matter of inference to be drawn from the facts and circumstances of the case.

3. Question of mental cruelty has to be considered in the light of the norms of marital ties of the particular society to which the parties belong, their social values, status and environment in which they live.



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### **Guidelines for Mental cruelty :**

1. Mental cruelty may consist of verbal abuses and insults by using filthy and abusive language leading to constant disturbance of mental peace of the other party. It may be words, gestures or by mere silence, violent or non-violent
2. Cruelty should be wilful unjustifiable conduct of such character as to cause danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such danger.
3. Proof beyond doubt, as in criminal trials is not required to prove cruelty.
4. In physical cruelty, there can be tangible and direct evidence, but in the case of mental cruelty there may not at the same time be direct evidence - For proof of mental cruelty Court has to find out nature of cruel treatment, impact of such treatment in the mind of the spouse, whether it caused reasonable apprehension that it would be harmful or injurious to live with the other.
5. There may be a case where the conduct complained of itself is bad enough and per se unlawful or illegal - Then the impact or injurious effect on the other spouse need not be enquired into or considered.
6. Whether the conduct of a spouse amounted to cruelty has to be considered in the background of several factors such as social status of parties, their education, physical and mental conditions, customs and traditions.
7. Mere trivial irritations, quarrels between spouses, which happen in day- to-day married life, may also not amount to cruelty.
8. The Courts do not have to deal with ideal husbands and ideal wives. It has to deal with particular man and woman before it. The ideal couple or a mere ideal one will probably have no occasion to go to Matrimonial Court.

### **Circumstances to Mental cruelty :-**

- Business Law
- Civil Law
- Constitutional Law
- Criminal Law
- Family Law
- Labour & Service Law
- Legal Documents
- Intellectual Property Rights
- Property Law
- Taxation
- Students
- Others



1. Wife publishing a notice in newspaper that her husband was womaniser, drunkard and a man of bad habits. It was mala fide and the motive was to demolish the reputation of the husband in the society. It created a dent in his reputation which is not only the salt of life, but also the purest treasure and the most precious perfume of life.
2. Husband getting ready to go to factory, the wife sometimes used to crumple the ironed clothes.
3. The wife who hides the keys of the motorcycle when the husband goes to job.
4. The wife closes the main gate when the husband goes to job.
5. Wife launched prosecution under Section 498-A against husband and other relatives while ended in acquittal.
6. Wife made baseless allegation in written statement that her husband had extra marital relations with another woman.
7. Husband and wife both professional doctors. Wife advised her husband not to ask certain female staff members to come and work on off-duty hours when nobody else was available in the hospital. Not to work behind the closed doors with certain members of the staff. There were clear manifestations of her suspecting the husband's fidelity, character and reputation. Constant nagging on those aspects, certainly amounted to causing indelible mental agony and amounts to cruelty.



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on 17 May 2019



Published in Family Law

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