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

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