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Case Commentary – Narendra v. K. Meena

(2016) 9 SCC 455: (2016) 4 SCC (Civ) 519: 2016 SCC Online SC 1114: MANU/SC/1180/2016

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Abstract

Marriage in Hindu law is a holy ceremony that is supposed to bind two individuals into the sacred relationship consensually both having certain rights and duties towards the other party. It cannot be broken away in normal circumstances until it entails certain things which are prohibited under the Hindu Marriage Act 1955.

The Case Commentary focuses on Section 13(1) (1) of the Hindu Marriage Act, 1955 i.e., Cruelty as a ground of Divorce in Hindu marriages. The commentary aims to interpret this particular section by analysing the landmark judgment of *Narendra vs Meena* given by the Supreme Court in the year 2016 after the appeal goes from the High court of Karnataka. The main questions discussed are whether the suspicious nature of one partner and allegation of extra-marital affairs on another partner amounts to cruelty and can it be grounds for divorce. The second question discussed is whether a partner's continuous threat to commit suicide to another partner amounts to torture and can he/she be cruel on his part. The third and the most important question which was raised was whether a wife continuously torturing her husband to get separated from his father amounts to cruelty.

Furthermore, it has been discussed the previous precedents and cases given by courts have inspired the decision of *Narendra vs Meena*. As well as it is being discussed the effect of this judgment on any subsequent judgment in upcoming years.

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Facts of the Case

The Appellant Husband Respondent and wife married on 26th Feb 1992 and had a daughter. Appellant filed for divorce in 2001 at family court on the ground she did not live happily with appellant even for a month after being married. Divorce was filed on the ground for –

- Respondent wife is cruel because of highly suspicious nature blames the character of the husband for having extra-marital affair with maid Kamla.
- Respondent wife continuously tortures husband to get separated from his parents and other family members and it is difficult for him to live with her.
- The respondent's wife often threatens to commit suicide after locking herself in the bathroom and putting kerosene oil on her. So, it is being cruel on her part.

After considering the evidence produced by both party the family court granted a decree for divorce in 2001. However, the respondent unsatisfied with the decision filed a petition in Karnataka HC who set aside the petition, and didn't grant a divorce.

The appeal has been filed by the appellant, husband in the Supreme Court after his decree for grant of divorce has been set aside by the high court of Karnataka as an irrelevant appeal on 8th March 2006.

In the case, the Supreme Court had given the most importance and broadened the concept of "Cruelty as a ground for divorce, particularly the Mental Cruelty which is more difficult to prove as compared to physical cruelty but has the same weightage as that of physical cruelty.

Analysis

Extra-Marital Relationship

The family court emphasized on allegation of an extramarital affair and found out that that there is no maid named Kamla and even if there are some relatives or women with the name Kamla then there is no proof of the appellant having affair with her. But the Karnataka high court has set aside this evidence as it doesn't appear to be correct. Supreme Court however

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called HC decisions to be a grave error and give due importance to it and found out there is no direct relationship of extramarital relation established.

Court has given duly importance to character assassination of either of the spouse irrelevant of gender. Court has taken into account how the allegation of an extra marital relationship without any proof can be cruel. The Supreme Court took the help of its precedents by giving importance to *Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate*² case to see how an allegation of affair amounts to cruelty.

There is always a dilemma which is prevalent in our society that character assassination can take place always with respect to women, but in this case, the court has ordered that no matter what's the gender of spouse if there is an allegation against one character without any proof or evidence and he/she can't prove in a court of law then it can be a ground for cruelty. The Supreme Court observed that it is quite torturous to handle the pain or agony one has to go through when the fake allegation of an affair is made and it amounts to mental pain.

Supreme court told that Marriage in Hinduism is based on trust between 2 partners and it over lasts till lifetime and if there is any sort of damage to character, honour, or reputation that it is a grave assault on respondents' part, and marriage can be dissolved under section 13(1) (1a).³

Threat to commit Suicide

Another important allegation made up by the husband is that wife often threatened to commit suicide and once she was prevented from doing so after she locked herself in the bathroom and put kerosene oil on her body but being rescued on time my husband's elder brother and neighbours. The family court took into consideration for granting of divorce but again Karnataka HC set it aside. The Supreme Court cross-examined all the witnesses who were present at that time and conclude there has been a suicide threat on the wife's part.

² *Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate*, (2003) 6 SCC 334; (16.04.2003 – SC) MANU/SC/0316/2003

³ Hindu Marriage Act 1955, § 13(1) (1a)

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The Supreme Court observed that Suicide is the worst form of threat that can be used by anyone. It is prohibited under section 309 of IPC⁴ and even the attempt to commit suicide is punishable as it put a bad example on not only the family members but to society at large. There has been cruelty on the respondent part as a threat to commit suicide amounts to unwanted pressure on the appellant and if the wife would have succeeded in committing suicide then it would have destroyed the husband's life fully as it would be difficult for him to come out of clutches of law and would have ruined his life, career, sanity, mental peace. *Pankaj vs Dimple*⁵ being a landmark judgment on suicide as a ground for cruelty. So Supreme Court rightfully quashes the HC order and granted a decree of divorce to the appellant to come out of disastrous marriage.

Separation from Family

Appellant has argued that there has been continuous persuasion on the wife's part to get the husband separated from his family. She has done everything to get him separated from his parents even once she tried to commit suicide by putting kerosene oil after locking herself in the bathroom. Appellant has been under constant distress for a longer period, which is totally against the idea of marriage according to Hindu marriage law. The family court has taken this into account and granted a decree of divorce on grounds of cruelty however Karnataka high court was unsatisfied with the family court decision and quashed the decree of granting of a divorce.

The Supreme Court while dealing with this matter went to the root of basic customs and principles that lead to the foundation of law in our country. The Supreme Court observed that the wife's demand for living separately with husband and husband his parents & relatives is too vague and unreasonable. It has been observed in this case that parents are solely dependent on their son for daily survival as he is the only breadwinner of the family. It's a culture that exists in our country that son lives with his parents at the time of their old age to give them the support

⁴ India Penal Code 1872, § 309

⁵ (2011) 12 SCC 1; (2012) 1 SCC (Civ) 685; (2012) 1 SCC (Cri) 345; MANU/SC/1145/2011

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they need. Justice said it moral and legal objection on son part to help parents who provide him childhood care and provide him schooling.

In India unlike western thought son don't get separate from our parents after standing on our own feet or attaining majority as it's the culture we have inherited from our forefathers. Parents of the husband are normal they don't have something which is not normal so the wife is expected to live together with them. The only reason why the wife wants the husband to separate is to enjoy solely his all monetary and wealth which is against the ethics and values.

No son would like to get separated from his parents and family as they are dependent on him. So constant persuasion by wife to get separate has affected appellant mentality, mental health and there is a total chance of him going through the agony which is the strong decree for divorce on grounds of cruelty.

This case has been set up as a landmark judgment that separating husband from family amounts to cruelty and can lead to divorce. In *Samar Ghosh vs Jaya Ghosh*⁶, it was held there is no yardstick for cruelty. Mere trivial fights, disputes, normal wear tear of marriage life doesn't amount to cruelty.

Judicial approach in previous judgments

The extramarital allegation is cruelty and a ground of divorce

Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate

A petition has been filed by the petitioner's wife for divorce before the trial court that she has been subjected to cruelty as her character has been challenged by her husband of having an extra marital affair with a boy. A decree of divorce has been granted both by trial and high court. Aggrieved with the decision of courts Appellant filed a case in the Supreme Court.

The Supreme Court observed that challenging the wife's character of having extra affair is sufficient to constitute cruelty and too in written form which however was amended by the

⁶ (2007) 4 SCC 511

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husband later on. The court observed that levelling of unchastity an affair with a person out of wedlock is a grave assault on the honour and reputation of women. The Supreme Court observed that allegations are not made out of sudden outbursts but have been persisting for a long period of time and it has wounded the feeling of wife and she is being subjected to mental cruelty and agony. It propounded that what constitutes cruelty is not the number of times allegations have been made but the nature and grievousness of it. If it is of ordinary nature which could have been stopped with time then that it could have been ignored but it has been continuous and persisting for a longer period and are of derogatory nature that too in written form constitutes cruelty on the part of the husband. It takes into account that written allegation has been amended by the husband and removed but it cannot merely be ignored and set aside as it doesn't change the fact that the wife has been subjected to mental cruelty which has totally against the concept of marriage in the Hindu marriage act.

This judgment has a direct impact on the *Narendra vs K. Meena* case where the husband's allegation of an extra marital affair with maid Kamla has been made against the husband by wife. Court has granted divorce in both cases considering the mental harm which is inflicted upon. The court observed that no matter the sex of the person is, if he is subjected to such allegation of having an extra marital affair on a continuous basis then it harms the honour and reputation of the spouse and it's a ground for divorce on basis of mental cruelty.

Threat to commit suicide and unsoundness of mind as cruelty

Pankaj Mahajan v. Dimple

Aggrieved with the decision of both Punjab and Haryana high court after his appeal has been set aside husband Pankaj moved to the supreme court for a decree of divorce on the ground of cruelty under section 13(1) (1a) of Hindu marriage Act 1955 as he is going through mental trauma because of his wife mental unsoundness, continuous threat to commit suicide and being ashamed in front of public due to her acts.

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After going through all the shreds of evidence, decisions by lower courts, Supreme Court confirmed that there has been cruelty on part of the respondent and called HC decision dealing with the matter to be wrong. Court has confirmed and is satisfied with the evidence produced indirectly by the husband after taking the testimony of various doctors of hospitals of Amritsar that the wife suffers from a mental disorder called schizophrenia. Respondent nature becomes suspicious with time after nature and she has shown the constant effect of her disease after trying to jump from building, fracturing the arm of husband after pushing him from stairs, shaming him in front of landlords, etc.

Later with time came into notice, she has been suffering from the disease before marriage and this has been kept hidden. But it got worse with time instead of curing. Not only suicide threat and hostility wife has also filed cases against her husband under various IPC sections. Hence there remains no doubt in the kind of anyone that what husband is going through and it amounts to cruelty as it is practically impossible for a husband to live with wife with this kind of disorder. The onus of proving the unsoundness of mind of spouse falls on the spouse who is the petitioner on the case, evidence must be such that it is beyond any reasonable doubt. Cruelty must be of such a kind that it causes a direct effect on the mind and makes it totally impossible to live with the spouse.

Supreme court granted the decree of divorce under cruelty as it includes a threat to commit suicide, slapping husband, causing the husband to get separate from parents, misbehaving with the colleagues and relatives of the Appellant causing humiliation and embarrassment to him, not attending to household chores and not even making food for the Appellant, leaving him to fend for himself, not taking care of the baby, etc.

This judgment has been used as precedent in the *Narendra vs Meena* case where facts of the cases are moreover same and divorce has been granted to both the parties due to continuous threat by wife to commit suicide and unreasonable behaviour which amounted to cruelty under section 13(1) (1a). Court rightfully takes into account the heinous offense of suicide which inflicts direct mental harm on the other spouse.

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Judgment subsequent to Narendra Meena Case

Separating parents from Husband amounts to torture

Prabir Kumar Das v. Papiya Das⁷

Chhattisgarh High court makes it clear in *Narendra vs Meena* that separating husband from parents, who is their only source of income in old age amounts to cruelty on the wife part and is ground for divorce. This case has been set as a precedent for future cases and being followed in the *Prabir vs Papiya Ghosh* case, where the respondent was making a constant demand and doing a cruel form of acts to make her husband leaving his 68 years old widowed mother who is dependent on him. The trial court rejected the divorce appeal on the ground that the appellant has failed to prove a case of cruelty.

By going through the Case report, it has been observed that it is very similar to the previous 2016 *Narendra vs Meena* case judgment. There is no reason for a wife wanting to separate a mother from her son other than being sole enjoyment of husband income. Respondent's wife wants to live alone by sending her mother to an old age home. The court observed in the former case in our country culture prevail of a son living with parents all life, unlike western thoughts where son leave parents as soon as they attain the age of majority.

Chhattisgarh High Court judgment stands at par with a supreme court judgment in *Narendra vs Meena* as well with Indian custom of a son living with parents at the time of old age as it is an inherent part of our culture and any curtailment of it falls under the purview of cruelty. This way the high court and Supreme Court had upheld the customs and the culture of the country and set the precedents for upcoming cases of divorce-related to cruelty.

⁷ (2018) 183 AIC 760; MANU/CG/0014/2018