

The Indian Penal Code 1860

Section 498A - HUSBAND OR RELATIVE OF HUSBAND OF A WOMAN SUBJECTING HER TO CRUELTY Whoever, being the husband or the relative of the

a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. COMMENTS Cruelty means intentional and malicious infliction of physical or mental suffering upon living creatures, particularly human beings. As far as Matrimonial Jurisprudence of India is concerned, the Supreme Court expressly departing from the English rules on the point states that harm of injury to health, reputation, working career or the like would be an important consideration in determining whether the conduct of the respondent amounts to cruelty. It is not necessary, as under the English law, that the cruelty must be of such a character as to cause 'danger' to life, limb or health as to give rise to a reasonable apprehension of such a danger. Therefore, what the courts must determine is not whether the petitioner has proved the charge of cruelty having regard to the principles of English Law, but whether the petitioner proves that the respondent has treated him with such cruelty as to cause a reasonable apprehension in his mind that it will be harmful or injurious for him to live with the respondent.--N.G. Dastane v. S.G. Dastane AIR 1975 SC 1534: (1975)2 SCC 326 Cruelty is not confined to physical cruelty. It includes as well mental cruelty.--Kalpana Srivastava v. Surendra AIR 1985 All 253 Cruelty is one of the grounds for judicial separation and divorce under the Hindu Marriage Act, 1955. It is also a ground for divorce under the Divorce Act, 1869, and the Special Marriage Act, 1954. Wilful conduct means conduct wilfully done may be inferred by direct or indirect evidence which should be construed to be such.--Pawan Kumar & Ors. v. State of Haryana 1998(1) Crimes 164 (SC) The offences committed under s. 498A are antisocial and if a soft view is not taken in respect of such offences it would provide impetus to people to commit such offences--B.A. Waghmare v. State of Maharashtra 1998 (1) Crimes 138 (Bom) The decree of divorce was passed on 25-1-1991 and cognizance of the case under s. 498A was taken on 12-9-1991. Held that on the date of filing of the complaint, no legal and valid marriage subsisted between the parties and it has ceased to exist. The Magistrate cannot take cognizance of the offence under s. 498A IPC on the date when mutual consent divorce decree was in force. It is bad in law.--Durga Prasad Kar and others v. Ranjitarani Satpathy 1998(1) Crimes 391 (Orissa) CHAPTER XXI OF DEFAMATION