

# Understanding Cruelty Under Matrimonial and Criminal Laws in India: A Comparative Analysis

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## Abstract

Cruelty has prevailed since ancient times across the world in various brutal forms and has long affected the personal, physical, and mental rights of individuals. Over time, it became necessary for the law to recognise and address cruelty through different legal frameworks. In India, the concept of cruelty plays a significant role in both matrimonial and criminal laws. While personal laws recognise cruelty as a ground for separation or divorce, criminal law identifies cruelty as a punishable offence. The concept of cruelty has evolved into a broader and more interpretative idea under matrimonial law, leading to diverse judicial interpretations depending upon the facts and circumstances of each case. In contrast, criminal law has historically conceptualised cruelty primarily as a protective mechanism for women. However, changing social realities, shifting gender roles, and evolving notions of equality raise the need for a more gender-balanced perspective in understanding cruelty within legal discourse. This article comparatively analyses the concept of cruelty under personal and criminal laws through statutory provisions and judicial interpretations. It further examines the inconsistencies and conflicts arising from the overlapping yet fundamentally different interpretations of cruelty under both legal frameworks, often resulting in judicial ambiguity despite serving distinct legal purposes. The article ultimately argues that, although cruelty under matrimonial and criminal law differs in nature and objective, the broader purpose of both frameworks remains the protection of mutual rights, dignity, and the physical, mental, and personal well-being existing within family relationships.

**Keywords:** Cruelty, Matrimonial Law, Hindu Marriage Act, Criminal Law, Judicial Interpretation.

## 1. Cruelty Under Personal Laws

### 1.1. Concept and Nature of Cruelty

Cruelty under matrimonial law is not a rigid definition but has evolved through judicial interpretations. The statutes are framed in such a way to recognise cruelty as a wrong that would affect the fundamental foundation of marriage. Yet, the scope and understanding of cruelty differ across legal frameworks.

The understanding of cruelty under matrimonial law has gradually moved beyond a strict focus on physical violence. Earlier judicial approaches mainly treated cruelty as conduct causing bodily harm or danger to the life and health of a spouse within marriage. However, with changing social realities and evolving ideas surrounding marital relationships, courts increasingly began recognising that cruelty may also exist in emotional, verbal, and psychological forms.<sup>1</sup> Various writings on matrimonial cruelty point out that mental agony, humiliation, emotional neglect, abusive behaviour, and continuous psychological suffering can

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<sup>1</sup> Mental Cruelty in India Matrimonial Law ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=6238400](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6238400))

seriously affect the dignity and well-being of spouses even without physical injury. At the same time, the absence of a clear and exhaustive definition of cruelty under personal laws has left its interpretation largely dependent upon judicial discretion and the facts of each individual case.<sup>2</sup> This gradual evolution played an important role in developing a broader and more flexible understanding of cruelty under matrimonial law, while also contributing to ambiguity and inconsistency in its interpretation.

The gradual expansion of cruelty under matrimonial law reflects the changing understanding of marriage in modern society. Marriage is no longer viewed merely as a formal or social institution, but also as a relationship built upon emotional compatibility, dignity, trust, and mutual respect between spouses. As a result, courts increasingly began acknowledging that harm within a marriage may not always be physical in nature, but can also arise through sustained emotional suffering and psychological distress. At the same time, the broad and undefined nature of cruelty under personal laws creates significant interpretational difficulties. Since there exists no uniform standard to determine what constitutes cruelty, courts often rely upon the facts and circumstances of each individual case, making the concept highly subjective. While such flexibility allows courts to address the realities of matrimonial relationships, it also leads to ambiguity and inconsistency in matrimonial jurisprudence, where similar acts may be interpreted differently across different cases.

### 1.2. Cruelty under Hindu Law

Under Hindu law, cruelty is recognised as a ground for divorce under Section 13(1) (i-a) of the Hindu Marriage Act 1955.<sup>3</sup> The provision states that a marriage may be dissolved if one spouse has treated the other with cruelty after the solemnisation of marriage. However, the Act does not clearly define what amounts to cruelty or specify the exact acts that would constitute matrimonial cruelty. The absence of a proper statutory definition left the understanding of cruelty largely to judicial interpretation and the facts of individual cases. As matrimonial disputes became more complex with changing social realities, courts gradually expanded the meaning of cruelty beyond physical violence to include mental suffering, emotional abuse, humiliation, and conduct affecting the dignity and well-being of spouses within marriage. Over time, judicial interpretation became the primary source for understanding the nature, scope, and threshold of cruelty under Hindu matrimonial law.

The judiciary played an important role in shaping the understanding of cruelty under matrimonial law due to the absence of a clear statutory definition. One of the earliest landmark decisions in this regard was *N.G. Dastane v. S. Dastane*<sup>4</sup>, where the Supreme Court observed that cruelty need not always be physical in nature and may also arise from conduct causing mental suffering and fear within a marriage. The Court recognised that matrimonial relationships cannot be judged through rigid legal standards alone. This approach was further developed in *Shobha Rani v. Madhukar Reddi*<sup>5</sup>, where the Supreme Court held that cruelty does not have a fixed or universal meaning and must be understood based on the social background, status, and circumstances of the parties involved. Through these decisions, courts gradually accepted that cruelty under matrimonial law is largely subjective and dependent upon the facts of each individual case. Over time, courts also began recognising mental and emotional suffering as serious forms of matrimonial cruelty. In *V. Bhagat v. D. Bhagat*<sup>6</sup>, the Supreme Court observed that mental cruelty includes conduct

<sup>2</sup> Cruelty as a Ground for Divorce in Hindu Society ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3556448](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3556448))

<sup>3</sup> Hindu Marriage Act, 1955 - Act No. 25 of 1955

<sup>4</sup> *N.G. Dastane v. S. Dastane*, AIR 1975 SC 1534

<sup>5</sup> *Shobha Rani v. Madhukar Reddi*, AIR 1988 SC 121

<sup>6</sup> *V. Bhagat v. D. Bhagat*, AIR 1994 SC 710

causing deep mental pain, agony, and suffering that makes it difficult for spouses to continue living together. Similarly, in *A. Jayachandra v. Aneel Kaur*<sup>7</sup>, the Court stated that cruelty cannot be defined with precision, as human behaviour and marital relationships differ from one case to another. The interpretation of mental cruelty was further widened in *Samar Ghosh v. Jaya Ghosh*<sup>8</sup>, where the Supreme Court intentionally avoided giving an exhaustive definition of cruelty and instead provided illustrative situations that may amount to mental cruelty. The judgment recognised emotional neglect, humiliation, continuous mental suffering, and loss of companionship as factors capable of seriously affecting the dignity and well-being of spouses within marriage. These judicial interpretations considerably broadened the understanding of cruelty under matrimonial law, while also making its application more flexible and open to varying interpretations.

The judicial expansion of cruelty under Hindu matrimonial law reflects the changing understanding of marriage in modern society. Courts gradually recognised that cruelty within marriage is not limited to physical violence alone, but may also arise through emotional suffering, humiliation, neglect, and psychological distress affecting the dignity and well-being of spouses. While this broader interpretation allows courts to address the realities of matrimonial relationships in a more practical manner, the absence of a fixed standard for cruelty has also made its interpretation highly subjective. As a result, similar conduct may be viewed differently across cases, often creating uncertainty regarding the exact threshold required to constitute matrimonial cruelty.

### 1.3. Cruelty under Muslim Law

Under Muslim personal law, cruelty is recognised under Section 2(viii) of the Dissolution of Muslim Marriages Act 1939<sup>9</sup>, which allows a Muslim woman to seek dissolution of marriage on the ground of cruelty. Unlike other personal laws, the provision attempts to identify different forms of cruelty within marriage, including habitual assault, unequal treatment, forcing an immoral life, interference with religious practices, and conduct causing suffering to the wife. Although the provision provides specific grounds, the understanding of cruelty under Muslim law still remains broad and dependent upon the facts and circumstances of each case.

Judicial interpretation played an important role in widening the understanding of cruelty under Muslim law. In *Itwari v. Asghari*<sup>10</sup>, the Court observed that cruelty must be understood in light of changing social realities and matrimonial circumstances. Similarly, in *Nazeer v. Shemeema*<sup>11</sup>, the Court recognised that emotional suffering, neglect, and conduct affecting the mental peace of a spouse may also amount to cruelty even without physical violence. These decisions gradually expanded the understanding of cruelty beyond bodily harm to include emotional and psychological suffering within marriage.

Compared to other personal laws, Muslim law provides relatively clearer illustrations of conduct amounting to cruelty. However, the interpretation of cruelty still largely depends upon judicial discretion and the circumstances of each case. Over time, courts increasingly recognised that cruelty within marriage may not always be physical in nature, but can also arise through emotional neglect, humiliation, and mental suffering. While this broader understanding makes the law more responsive to matrimonial realities, it also leaves room for subjective and varying interpretations of cruelty.

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<sup>7</sup> *A. Jayachandra v. Aneel Kaur*, AIR 2005 SC 534

<sup>8</sup> *Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511

<sup>9</sup> Dissolution of Muslim Marriages Act 1939 - Act No. 8 of 1939

<sup>10</sup> *Itwari v. Asghari*, AIR 1960 All 684

<sup>11</sup> *Nazeer v. Shemeema*, 2017 (1) KLT 300

#### 1.4. Cruelty under Christian Law

Under Christian personal law, cruelty is recognised as a ground for divorce under Section 10 of the Indian Divorce Act 1869.<sup>12</sup> However, the Act does not clearly define what amounts to cruelty within a marriage. Because of this absence of a precise definition, the understanding of cruelty under Christian matrimonial law gradually developed through judicial interpretation. Over time, courts moved beyond viewing cruelty only as physical violence and began recognising emotional suffering, humiliation, and mental distress as important forms of matrimonial cruelty.

Courts played an important role in shaping the interpretation of cruelty under Christian law. In *Russell v. Russell*<sup>13</sup>, the Court explained cruelty mainly in the context of conduct affecting the life, health, and safety of a spouse within marriage. As matrimonial jurisprudence evolved, courts gradually adopted a broader understanding of cruelty. In *Parveen Mehta v. Inderjit Mehta*<sup>14</sup>, the Supreme Court observed that mental cruelty may arise from continuous conduct and behaviour causing emotional suffering within marriage. Similarly, in *Vinita Saxena v. Pankaj Pandit*<sup>15</sup>, the Court recognised that prolonged mental agony and emotional distress may seriously affect the dignity and well-being of spouses. These decisions gradually expanded the understanding of cruelty beyond physical harm to include emotional and psychological suffering within matrimonial relationships.

Compared to Muslim law, Christian matrimonial law provides very limited statutory guidance regarding cruelty, leaving greater scope for judicial interpretation. As social realities surrounding marriage evolved, courts increasingly recognised that cruelty may also exist in emotional neglect, humiliation, and sustained mental suffering. While this broader interpretation allows courts to deal with the realities of modern matrimonial relationships, it also makes the concept of cruelty highly subjective and open to varying interpretations across different cases.

## 2. Cruelty Under Criminal Law

Cruelty under criminal law is recognised under Section 85 of the Bharatiya Nyaya Sanhita 2023,<sup>16</sup> which corresponds to the earlier Section 498A of the Indian Penal Code<sup>17</sup>. The provision makes cruelty by the husband or his relatives against a married woman a criminal offence. Unlike matrimonial laws, criminal law explains cruelty in a more direct manner by identifying certain acts that would amount to criminal conduct. It includes wilful acts likely to drive a woman to commit suicide or cause serious harm to her mental or physical health. Harassment relating to unlawful demands for property or dowry is also treated as cruelty under the provision. The law was mainly introduced to protect women from domestic violence and dowry-related harassment within marriage. Although the provision gives a clearer explanation of cruelty compared to personal laws, its interpretation still depends largely upon judicial understanding and the facts of each case.

Courts played an important role in shaping the interpretation of cruelty under criminal law. In *Shobha Rani v. Madhukar Reddi*<sup>18</sup>, the Supreme Court observed that criminal cruelty includes wilful conduct causing serious mental or physical suffering to a woman within marriage. The Court also recognised harassment

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<sup>12</sup> Indian Divorce Act 1869 - Act No. 4 of 1869

<sup>13</sup> *Russell v. Russell*, [1897] AC 395 (HL)

<sup>14</sup> *Parveen Mehta v. Inderjit Mehta*, AIR 2002 SC 2585

<sup>15</sup> *Vinita Saxena v. Pankaj Pandit*, AIR 2006 SC 1662

<sup>16</sup> Bharatiya Nyaya Sanhita, 2023 - Act No. 45 of 2023

<sup>17</sup> Indian Penal Code - Act No. 45 of 1860

<sup>18</sup> *Supra* note 5

connected with unlawful demands for property as a form of cruelty. Similarly, in *Kans Raj v. State of Punjab*<sup>19</sup>, the Supreme Court highlighted the growing issue of dowry-related harassment and the need for legal protection against abuse within marriage. Through these decisions, courts recognised criminal cruelty provisions mainly as protective measures against domestic violence and dowry harassment.

At the same time, courts also acknowledged concerns regarding misuse of criminal cruelty provisions. In *Arnesh Kumar v. State of Bihar*<sup>20</sup>, the Supreme Court cautioned against unnecessary arrests and stressed that the provision should not be applied mechanically in matrimonial disputes. These interpretations attempted to balance the protective object of the law with the need to prevent arbitrary use of criminal proceedings.

### 3. Comparative Analysis of Cruelty under Personal and Criminal Law

Even though matrimonial law and criminal law use the same term “cruelty”, both laws understand and apply the concept differently. Under matrimonial law, cruelty is viewed mainly in relation to the marital relationship and the possibility of continuing the marriage. The idea is broader and focuses upon the emotional and personal impact of conduct between spouses. Mental suffering, humiliation, emotional neglect, and behaviour affecting marital harmony may therefore become grounds for divorce or separation. Criminal law, however, approaches cruelty from a more specific and penal perspective. Section 85 of the *Bharatiya Nyaya Sanhita 2023*<sup>21</sup> identifies certain forms of conduct, such as grave mental or physical harm and harassment connected with unlawful demands, as criminal offences. Various writings on Section 498A IPC also point out that such provisions were mainly introduced to protect married women from domestic violence and dowry-related abuse within marriage.<sup>22</sup> Thus, while matrimonial cruelty mainly concerns the breakdown of marriage and civil remedies, criminal cruelty focuses more on punishment and protection against abuse. In practice, however, the distinction between matrimonial and criminal cruelty often becomes unclear. Courts frequently examine similar acts of harassment, emotional suffering, and abusive conduct under both legal frameworks. This overlap can be seen in *Shobha Rani v. Madhukar Reddi*<sup>23</sup> itself, where the Supreme Court discussed cruelty under both matrimonial and criminal law while interpreting the nature of cruelty within marriage. Since personal laws do not provide a fixed definition of cruelty, courts usually depend upon the facts and circumstances of each case while deciding whether particular conduct amounts to cruelty. As a result, similar acts may sometimes lead to both matrimonial and criminal proceedings, creating uncertainty and inconsistency in the judicial understanding of cruelty.

### 4. Issues Arising out of Overlapping Jurisprudence of Cruelty

One of the major issues surrounding the concept of cruelty is the lack of a clear and uniform understanding of cruelty under matrimonial and criminal laws. Even though both frameworks use the same term, the purpose behind their application is different. Matrimonial law mainly deals with the impact of conduct upon the marital relationship and provides civil remedies such as divorce or separation. Criminal law, on the other hand, treats cruelty as a punishable offence intended to protect individuals from abuse within marriage. However, while interpreting cruelty, courts often deal with similar forms of conduct such as

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<sup>19</sup> *Kans Raj v. State of Punjab*, AIR 2000 SC 2324

<sup>20</sup> *Arnesh Kumar v. State of Bihar*, AIR 2017 SC 2756

<sup>21</sup> *Supra* note 16

<sup>22</sup> Section 498A IPC by Sanjana Santosh (<https://blog.ipleaders.in/section-498a-ipc/>)

<sup>23</sup> *Supra* note 5

mental suffering, emotional abuse, humiliation, and harassment under both frameworks. Because of this, the distinction between matrimonial wrong and criminal offence sometimes becomes unclear in practice. The growing interpretation of mental cruelty has further added to this uncertainty. Since personal laws do not clearly define cruelty, courts mostly depend upon the facts and circumstances of each individual case while deciding whether certain conduct amounts to cruelty. As a result, similar acts may sometimes be interpreted differently in matrimonial and criminal proceedings. This creates uncertainty regarding the exact scope and threshold of cruelty under different legal frameworks. The issue becomes more complicated in cases involving emotional and psychological suffering, where the absence of fixed standards leaves greater room for subjective judicial interpretation.

### **5. Need for Differentiation**

The issues arising from the overlapping interpretation of cruelty under matrimonial and criminal laws highlight the need for clearer judicial and legislative differentiation in cruelty jurisprudence. Matrimonial cruelty focuses on the disintegration of marital relations as well as emotional distress among couples, while criminal cruelty aims at providing remedies to those who engage in cruel acts that call for penal measures. However, the absence of clear conceptual boundaries often leads to subjective and inconsistent interpretation of similar conduct under both frameworks. With the increasing recognition of mental and psychological cruelty in matrimonial disputes, courts are frequently required to balance personal realities, social conditions, and legal standards while interpreting cruelty. Therefore, a more consistent and differentiated approach towards cruelty becomes necessary to reduce ambiguity while preserving the protective purpose underlying cruelty laws within matrimonial relationships.

### **6. Conclusion**

The meaning of the term “cruelty” as per Indian Law is such that it is not an overnight development but rather a process of evolution, especially within the context of the matrimonial law and criminal law. As opposed to the earlier understanding that was mainly physical, the term has over time incorporated a more mental and psychological perspective, owing to changes in social realities. In respect to the matrimonial law, the term “cruelty” is one which affects marriage, whereas in terms of the criminal law, it is regarded as abusive conduct and is therefore punishable in nature.

However, because human relationships do not compartmentalize neatly into civil and criminal boxes, factual overlaps between these legal domains are inevitable. This intersection has historically forced the judiciary into a delicate balancing act, using its structural flexibility to address nuanced matrimonial realities while simultaneously guarding against procedural overreach.

At the end of the day, what the discussion of cruelty under these legal paradigms reveals is the fact that while the law has managed to widen its scope in terms of protecting individuals through their personal dignity, it is also essential for there to be some sort of definitional clarity regarding this issue.