

Cruelty - Mere filing of a criminal case itself cannot be termed as "cruelty" |  
 Desertion - Having regard to the nature of the allegations made in the complaint  
 cannot be said that the wife had no valid reason to leave the company of the  
 husband. [PLRonline 401605]

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**Hindu [marriage Act, 1955, Section 13\(1\)\(ia\)](#) - Cruelty - Mere [filing](#) of a criminal case itself cannot be termed as "cruelty".**

For the purpose of Section 13(1)(ia) of the Act, "cruelty" could be wilful and 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 a danger. The 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, [environment](#) in which they live. Cruelty need not be physical. If from the conduct of the spouse it is established or an inference can be legitimately drawn that the treatment of the spouse is such that it causes apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty. [Para 10]

**[hindu marriage act, 1955 - Section 10\(1\)\(a\)](#) - Desertion - Having regard to the nature of the allegations made by her in the complaint filed by her for the offences punishable under Sections 498- A, 323, 504, 506 read with Section 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, it cannot be said that the wife had no valid reason to leave the company of the husband - It has been the specific defence of the husband in the criminal case that after filing of the criminal complaint, his wife has been sending him messages conveying her willingness to join him - Cannot be said that the wife had deserted the husband to put an end to the marital relation and cohabitation - Husband has failed to prove that the wife had intention to put an end to the marital relation and cohabitation and on the other hand, the material on record would go to show that she and her family members had made all efforts to join the husband, but they were all in vain. [Para 19]**

**[Hindu Marriage Act, 1955, S. 13\(1\)\(ia\) and \(ib\)](#) - Irretrievable failure of the marriage - Family Court granted decree of divorce observing that the marriage between the parties has been irretrievably broken down and the parties have been living separately for more than 9 years - Decree of divorce on the ground of irretrievable failure of the marriage can be granted only by the Hon'ble Supreme Court in exercise of its powers under Article 142 of the Constitution of India and not by any other courts. [Para 22]**

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