

[HMA](#) S. 13(1)(b)

Held that desertion is a matter of inference to be drawn from the facts and circumstances of the case. The inference may be drawn from certain facts, which may not in another case be capable of leading to the same inference. If, in fact, there has been separation, the essential question always is, whether that act could be attributable to the *animus deserendi* since both the factum and animus should co-exist for a period of at least two years

“For the offence of desertion, so far as the deserting spouse is concerned, two essential conditions must be there, (1) the factum of separation, and (2) the intention of bringing cohabitation permanently to an end (*animus deserendi*). Similarly, two elements are essential so far as the deserted spouse is concerned: (1) the absence of consent, and (2) absence of conduct giving reasonable cause to the spouse leaving the matrimonial home to form the necessary intention aforesaid”.

*Bipinchandra Jaisinghbai Shah v. Prabhavathi* (AIR 1957 SC 176)

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*Lachman Utamchand Kirpalani v. Meena alias Mota* (AIR 1964 SC 40)

*Smt. Rohini Kumari v. Narendra Singh* (AIR 1972 SC 459), the Supreme Court has reaffirmed the principle