



Unsoundness of mind as a ground for divorce in India: a critical study of mental health, gender, and matrimonial jurisprudence

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Received 12 Sep 2024; Accepted 22 Oct 2024; Published 6 Nov 2024

DOI: <https://doi.org/10.64171/JAES.4.4.39-44>

Abstract

Marriage in India has always been considered to be a holy and a socially important institution, but the recent modern matrimonial laws had given various reasons on which a marital relationship can be ended. Of these reasons, a concept of unsoundness of mind is a particularly complicated concept of Indian matrimonial jurisprudence. Section 13(1)(iii) of the Hindu marriage act of 1955 provides that a spouse may demand divorce in case the other spouse is incurably insane or has a mental condition of such a nature and level that the petitioner cannot reasonably live with the respondent. The present research paper is a critical review of legal, medical, and socio-cultural aspects of unsoundness of mind as a basis of divorce in India. The research examines the ways Indian courts perceive the concept of the mental illness in marriage case and whether the law is sufficient enough to balance the rights of marriage and rights and dignity of individuals with mental illness. The provision aims at securing spouses against unbearable marital conditions but it also creates issues of stigma, discrimination, and abuse especially on the part of women. Courts have persistently projected that the actual existence of mental illness is not a compelling element that can qualify divorce; but the mental illness must be such that cohabitation becomes irrational. The paper also examines judicial interpretations using landmark cases and modern-day case law, which demonstrates the burden of evidence required of the petitioners who want their divorce on the basis of mental disorder. It takes considerable medical and factual proofs to prove incurable unsoundness of mind in courts and in this context, minor or controllable mental health issues should not be accepted as adequate reasons to warrant the dissolution of a marriage. The point of intersection between mental health law and gender justice is a critical dimension of this study. Empirical and doctrinal studies have shown that mental illness accusations are occasionally instruments of strategy in matrimonial litigation, especially of wives, thus reaffirming patriarchal bias and enforcing social stigma of mental illness. Simultaneously, it is also necessary that the legislation should also be able to see realistic cases when severe mental illness makes life in marriage impossible. The study uses a doctrinal and analytical approach and analyzes statutory laws, judicial cases, and academic works of 2020-2024. In the current research, the authors will determine whether the current legal framework adequately protects the rights of matrimony and mental health in India. It claims that though Indian courts have tried to follow a moderate stance, the wording of the statute is vague and obsolete compared to the contemporary psychiatric knowledge and the rights-oriented policy used by the Mental Healthcare Act, 2017. The conclusion of the paper will be that there is a need to reform the matrimonial law to align it with the modern mental health jurisprudence. Better clarity of statutory definitions, judicial direction of medical evidence and extended sensitivity to gender and disability rights is necessary in promoting fairness in matrimonial litigation of mental illness.

Keywords: unsoundness of mind, divorce law, Hindu marriage act, mental health law, matrimonial jurisprudence, gender justice, mental disorder, India

Introduction

Marriage has been traditionally considered in India as a social contract and a sacrament relationship which has legal, cultural and moral binding. The Indian matrimonial laws understand that there are situations where continuation of the marriage relations may not be possible or reasonable thus exposing the marriage to be dissolved through divorce. Some of the main statutes used to govern Hindu marriages include the Hindu marriage act of 1955 (HMA) which gives a number of grounds on which one can divorce such as adultery, cruelty, desertion, conversion and unsoundness of mind. Out of these reasons, mental illness poses special legal and ethical problems.

The Hindu marriage act provides in section 13(1) (iii) that a spouse may petition the court to grant him/her a divorce on the ground that the respondent is incurably unsound minded or suffering continuously or intermittently under mental illness or psychopathic disorder or any other mental incapacity such as

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schizophrenia^[1,2]. The legal attempt to balance two conflicting interests in the discussion of the unsoundness of mind as the basis of divorce reflects the legal system that needs to ensure both marital stability on one side and severely ill persons, who may make marital life impossible, on the other. Nonetheless, interpretation of this provision has brought a lot of legal controversy and judicial review. Mental illness is a compound and manifold phenomenon and cannot be easily classified into hard-and-fast legal groups. Types of psychiatric conditions are diverse in their degree of severity, duration and treatment. As a result, the courts are not only required to identify whether a spouse has a mental disorder, but whether this disorder is serious enough to render cohabitation unreasonable. The Supreme Court of India has stressed that the fact of mental abnormality alone does not necessarily warrant dissolution of marriage, but it has to be such that renders the marital life unbearable^[3].

The Indian courts have made it clear that the case of mental illness ought to have plausible medical evidence. The onus of burden of proving in matrimonial disputes is on the petitioner who has to prove that the mental condition of the respondent is incurable or severe to the extent that the respondent cannot live with the partner [4]. This is so as to avoid misuse of the provision and to make sure that mental illness is not used as an easy tool to divorce without substantiating the fact. In spite of these precautions, the provision has a number of socio-legal issues when used. Mental illness remains a very stigmatized factor within Indian society, and being accused of being mentally ill during matrimonial proceedings usually has a significant implication to reputation. It has been stated by scholars that the law might contribute unintentionally to the society biases by equating mental illness to marital inadaptability. The problem is complicated by the issue of gender dynamics. Research indicates that women in marriage cases are unfairly accused of being mentally unstable. In a few instances, these accusations are tactfully employed in order to evade the maintenance payments or evade the marital obligations. The overlap of the mental illness, gender discrimination, and matrimonial law is thus worth critical analysis.

The other significant aspect of the argument is the changing concept of mental health within the modern legal systems. The Mental Healthcare Act, 2017 is a revolutionary move in Indian mental health legislation as it focuses on rights, dignity, and autonomy of a mentally ill individual. The Act has taken a rights-based approach that aligns with the international human rights provisions like the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). However, the terminology used in matrimonial statutes such as the Hindu Marriage Act reflects older medical and legal perspectives. Expressions such as “unsoundness of mind” and “incurable mental disorder” may not align with modern psychiatric knowledge, which recognizes that many mental illnesses are treatable and manageable with appropriate medical care.

Judicial interpretation has thus been very relevant in influencing the use of this ground when it comes to divorce. Courts have tried to reconcile the interests of the two spouses and ensure the provision is not abused. To make an illustration, not all mental illnesses can be considered a basis to divorce; it has to be a serious mental illness to the extent that marital cohabitation is unreasonable [5]. The problem is also complicated by the fact that some of these illnesses are difficult to prove. Mental illness is unlike all other reasons to divorce such as adultery, desertion and other reasons which are all under scrutiny as they need expert medical opinion and close examination by the judiciary. Psychiatric evidence, medical records, and behavioral evidence often have to be referred to as the court tries to ascertain the presence and nature of the disorder. Moreover, the ethical issues concerning privacy, dignity and discrimination are prevalent in matrimonial disputes in which mental illness is a factor. The social stigmatization of such mental health conditions could be made worse by public disclosure during court proceedings, and this consequently affects the person involved negatively.

The research paper will critically examine the legal system that regulates unsoundness of mind as a divorce ground in India. It analyses the law, cases, and existing current literature to determine the extent to which the law is sufficient in balancing rights of spouses and those of the mentally ill. The paper also discusses the gender connotation of this provision and whether the legal framework that is in place is supportive of contemporary mental health jurisprudence. The paper aims at adding to the current discussions about the reform of matrimonial laws in India by reviewing the latest literature and judicial tendencies.

Literature review

Recent research has been keen towards the interaction between matrimonial law and mental health with much tension being between legal doctrine and psychiatric knowledge on one hand and human rights on the other.

Sharma (2020) examined how the Indian matrimonial law of mental illness has been interpreted by the courts and contended that the courts frequently depend on medical evidence to help them in establishing whether mental illness is a good justification to divorce. The research focused on the fact that the courts set the threshold in such a way that it is purposefully high to make sure that the provision is not used with the aim of abuse [6].

Gupta and Mehra (2021) explored the aspect of gender during the process of litigation on matrimonial matters that involve mental illness. Their study revealed that wives are often accused of mental illness and the accusations may represent larger patriarchal views by society [7].

Rao (2021) examined the evidence dilemma in ascertaining mental illness during a divorce. The author claimed that courts had to balance between their spouses and avoid discrimination of the people with psychiatric disorders [8].

The author Kumar (2022) examined the relationship between the Hindu Marriage and Mental Healthcare Acts, 2017. In the study, it was concluded that the matrimonial law system is still yet to receive the full adjustment to the rights-based approach taken by the contemporary mental health laws [9].

Banerjee (2023) carried out a doctrinal study of court cases pertaining to mental illness as a reason to get a divorce. The research observed that the severity of the disorder and its impact is increasingly being considered in court as opposed to its existence [10].

Singh and Chatterjee (2023) considered the importance of psychiatric testimony in a matrimonial litigation. According to the authors, expert evidence is important in the determination of whether the statutory requirements of divorce are met [11].

Patel (2024) has researched the modern case law and found that the courts are still very restraining when giving divorce as a result of mental illness. The paper has outlined some instances in which divorce requests were denied because of a lack of medical proof [12].

Lastly, Das (2024) addressed the larger human rights implication of mental illness to matrimonial law. The author claimed that the legal reform should be conducted to guarantee that the mentally ill individuals are not discriminated in the relationships in marriage [13].

All these studies together indicate the changing face of matrimonial jurisprudence in India and the necessity of a more balanced treatment of mental health in divorce law.

Objectives

- To discuss an analysis of the law on unsoundness of mind as a divorce reason in India.
- To explore judicial construction of mental illness in matrimonial cases.
- To assess gender implications to allegations of mental disorder in a divorce.
- To determine the compatibility of the existing law with present-day mental health jurisprudence.

Methodology

The study is based on a doctrinal and analytical approach. Statutory Laws determining this are the Hindu marriage act, 1955, and judicial rulings by the Supreme court and High courts. Welch and Welch (2009) list academic journals, books, and legal commentaries, which are secondary sources. Comparative analysis is also applied in the study to observe the interpretation of the courts of mental illness in the context of matrimonial disputes. Judicial trends and evidentiary requirements in case of mental conditions that surround divorce cases are illustrated using tables and case analyses.

Discussion

1. Legal framework governing unsoundness of mind as a ground for divorce

Mental illness is one of the issues that the Indian matrimonial law acknowledges as a basis on which one of the marriage partners may seek its dissolution. The main statutory regulation concerning this matter is the Section 13(1) (iii) of the Hindu Marriage Act, 1955 (HMA). The clause permits the divorce in case one of the spouses has a mental illness that renders survival of marital existence irrational or unattainable (Hindu Marriage Act, 1955). Section 13(1) (iii) states that a marriage can be dissolved in case the respondent:

- Has been of unsound mind, and it is not curable, or
- Has been experiencing continuously or periodically a mental illness of such nature and magnitude that the petitioner is unable to reasonably cohabit with the respondent.

The provision further explains that the term mental disorder entails:

- Mental illness
- Arrested or incomplete development of mind
- Psychopathic disorder
- Schizoaffective disorders such as schizophrenia (Hindu Marriage Act, 1955).

The purpose of this provision in the legislature is to offer relief to the spouse in the cases where the other spouse has a severe mental sickness such that living together with them has become intolerable. Nonetheless, the legislation tries to guard against abuse as well, by ensuring there is evidence that the condition is severe, chronic, and interfering with the marriage life.

Evolution of the provision

Unsoundness of mind in matrimonial law concept developed throughout the colonial era where mental illness was misconceived and highly stigmatized. The initial legal systems considered mental illness as more of incapacity rather than a form of medical condition in need of treatment (Kumar, 2022). Hindu marriage act initially had very limited provisions concerning mental illness. Amendments made later enlarged the definition of mental disorder but also provided some safeguards that needed demonstration that the illness has a significant impact on marital life.

This evolution reflects the tension between protecting marital stability and acknowledging the rights of persons with mental illness.

Statutory interpretation

The interpretation of Section 13(1)(iii) in courts has been done with caution so that a divorce is not given on grounds that one spouse has a treatable or mild psychiatric condition. The statutory clause entails two very important requirements:

- Presence of mental disorder, and
- Effects of the disease on the marital life.

The law thus does not put an emphasis on the medical diagnosis but the practical impacts of the disorder in matrimonial life (Rao, 2021).

It is one of the ways that mental illness is recognized as a spectrum. With the support and treatment, many people with mental disorders are able to live normal and productive lives. As such, the courts are required to assess whether the disease is the real reason the couple is unable to continue a marital relationship.

Table 1: Statutory elements of divorce on the ground of mental disorder

Element	Description	Legal Significance
Unsoundness of Mind	Severe mental incapacity rendering normal functioning impossible	Must generally be incurable or long-term
Mental Disorder	Includes schizophrenia, psychopathic disorders, and severe psychiatric illness	Must be medically proven
Severity Test	Illness must make marital life unreasonable	Key judicial criterion
Impact on Marriage	Disorder must affect cohabitation and marital obligations	Courts evaluate practical consequences

The legal system thus puts a very high standard to divorce on mental illness. This will see to it that the marital dissolution is not imposed on the individuals with manageable mental conditions, through unfair means.

2. Judicial interpretation of mental illness in matrimonial law

The Indian courts have been instrumental in defining the scope of the Section 13(1)(iii). Courts have made it clear that mental

illness is not necessarily sufficient to grant divorce. Rather, courts consider the nature, the severity, and the results of the disorder (Sharma, 2020).

The courts have always focused on the fact that matrimonial law should put into balance two conflicting considerations:

- Safety of spouses against intolerable marriage conditions.
- Individuals with mental illness should be guarded against discrimination.

This equilibrium is attained by an intense evidential and interpretative structure.

Table 2: Key judicial principles developed by courts

Principle	Judicial Interpretation	Legal Implication
Severity Requirement	Mental illness must be serious enough to make cohabitation unreasonable	Minor illnesses are insufficient
Burden of Proof	Petitioner must prove the disorder through medical evidence	Prevents false allegations
Mere Abnormality	Emotional instability or occasional abnormal behaviour is insufficient	Protects individuals with mild conditions
Medical Evidence	Psychiatric evaluation often necessary	Courts rely on expert testimony
Marital Impact Test	Disorder must affect marital obligations	Focus on practical consequences

These principles prove that courts are case by case, considering the facts and medical evidences in a particular case.

Importance of medical evidence

Medicine is a key element in divorce due to mental illness. Psychiatric reports, expert testimony, and medical records are commonly used by courts to establish:

- The existence of mental illness
- The severity of the disorder
- The likelihood of recovery

In most instances, the respondent spouse has been ordered to undertake medical examination by the court in order to rule about the state of the mind (Singh and Chatterjee, 2023).

Nevertheless, the use of medical evidence is also an ethical issue in terms of privacy and autonomy. The courts should make sure that medical examinations are done in a way that does not violate the dignity of the concerned individual or his/her rights.

3. Case law analysis

Another source of insight into court interpretation of mental illness in a matrimonial case is the judicial precedents. A number of precedent cases have set some crucial legal standards of divorce on the ground of unsoundness of mind.

Table 3: Selected judicial decisions

Case	Court	Key principle established
<i>Vinita Saxena v. Pankaj Pandit</i>	Supreme Court	Mental disorder must be severe and incurable
<i>Sharda v. Dharmpal</i>	Supreme Court	Courts may order medical examination
<i>Rekha v. Ravindra Kumar</i>	High Court	Mental illness must make cohabitation impossible

Vinita Saxena v. Pankaj Pandit

In the instant instance, the Supreme Court investigated the issue of whether extreme mental illness could be used to justify divorce under Section 13(1)(iii). The Court ruled that the petitioner has to prove that the mental situation of the respondent prevents the couple to live as husband and wife. The Court emphasized that:

- The illness must be serious and long-term
- The illness must affect marital life significantly
- Evidence must be supported by medical testimony

This decision underlined the fact that divorce cannot be ordered with mental illness as the mere diagnosis.

Sharda v. Dharmpal

The legal question that was covered in this case was whether the courts had the power to direct a spouse suspected of having mental illness to seek medical examination.

The Supreme Court concluded that courts have the power to demand medical tests during matrimonial cases where mental illness has been asserted. Nevertheless, these orders should be done with care so that they do not amount to infringing the privacy and dignity of the individual.

The ruling provided a crucial precedential power since it acknowledged how scientific and medical evidence could be used in litigation related to matrimony.

Rekha v. Ravindra Kumar

Here, the High Court pointed out that the level of mental disorder is the key element when it comes to deciding whether the divorce will be granted. The Court held that:

- Occasional abnormal behaviour is insufficient
- Mental illness should make the marital life impossible or very unreasonable

This ruling in support of the judiciary hesitancy in accepting divorce due to mental illness.

4. Gender and Social implications

Mental illness in matrimonial dispute cannot be conceptualized without having an understanding of the entire social and gender background within which matrimonial dispute occurs.

Gender bias in matrimonial litigation

There has been research to suggest that claims of mental illness are usually tactical in a matrimonial litigation. Husbands in most instances claim that wives are mentally ill so that they can divorce or evade financial responsibilities like maintenance (Gupta and Mehra, 2021).

Such a trend indicates the more general patriarchal practices within Indian society, according to which the mental health of women can be examined more strictly than that of men.

Social stigma and mental illness

In India, mental illness still has high social stigma. People having psychiatric disorders are usually discriminated against by their employers, social associates, and family members.

The stigma might also be added when mental illness becomes a litigation issue in the matrimonial disputes. Criminal proceedings in court can reveal confidential medical data, which could ruin the reputation and dignity of the victim.

Table 4: Social and gender dimensions of mental illness in divorce cases

Issue	Impact on Matrimonial Litigation
Gender Bias	Women more frequently accused of mental illness
Social Stigma	Psychiatric conditions viewed negatively
Family Pressure	Families may conceal or exaggerate mental illness
Legal Strategy	Allegations sometimes used to obtain divorce

These social influences indicate how the judicial system needs to be more sensitive and aware of mental illness in a matrimonial dispute.

5. Challenges in the application of the law

Regardless of the safeguards the judicial interpretation offers, there are various challenges that still afflict the application of the Section 13(1)(iii).

5.1 Ambiguity of statutory language

The Hindu Marriage Act gives terminology like unsoundness of mind that is an old concept of medicine. In the contemporary psychiatry, the mental illness is understood as something that has a spectrum and the condition is usually fixable through appropriate medical attention (Banerjee, 2023).

This is because of the continued application of ambiguous and old terms that cause confusion in judicial interpretation.

5.2 Difficulty in psychiatric diagnosis

Psychiatric disorders are usually complicated and cannot be diagnosed with utmost confidence. Contrary to bodily diseases, mental illnesses might exhibit themselves in behavioural

pattern which changes with time. Consequently, the courts might find it difficult to ascertain:

- Whether the disorder exists
- Whether it is severe
- Whether it is curable

5.3 Social stigma

Mental illness has social stigma, which may affect courts and litigants. Mentally ill people are likely to face social isolation and discrimination. Moreover, families can seek to hide mental illness in order to prevent embarrassment by the society.

5.4 Misuse of the provision

The mental illness provision in the cases would be abused in seeking divorce. Miscarriage of justice through false accusations of mental illness can be a major psychological and reputational harm.

Table 5: Key Challenges in Applying Section 13(1)(iii)

Challenge	Description	Consequences
Legal Ambiguity	Outdated terminology in the statute	Inconsistent interpretation
Medical Complexity	Difficulty diagnosing psychiatric disorders	Reliance on expert testimony
Social Stigma	Negative societal attitudes toward mental illness	Discrimination against affected individuals
Litigation Misuse	False allegations of mental illness	Harm to reputation and dignity

6. Need for legal reform

These difficulties, which are faced on the ground of mental illness during divorce, demonstrate the necessity of legal change.

In the contemporary mental health law, specifically the Mental Healthcare Act, 2017, an approach to mental health law is taken up that emphasizes dignity, autonomy, and non-discrimination. This should be the case with matrimonial law. A possible reform can consist of:

- Updating statutory terminology to reflect modern psychiatric understanding
- Establishing clearer evidentiary guidelines
- Providing judicial training on mental health issues
- Ensuring confidentiality of medical information in matrimonial litigation.

These reforms would assist in ensuring the matrimonial law does not go against the current human rights standards and safeguard the legitimate interests of spouses.

7. Conclusion

The issue of unsoundness of mind as a basis to divorce is one of the most complicated angles of law, medicine, and even social policy in Indian matrimonial law. Although the Hindu marriage act acknowledges that severe mental illness can render the marital life untenable, the legal structure has to balance the acknowledgment with the necessity to safeguard the dignity as well as the rights of people with mental illness. The rulings of courts indicate that Indian courts have tried to approach the provision sparingly. The courts have always reiterated that mental illness is not a ground to divorce unless it becomes such that cohabitation is impossible. The need of high medical evidence is a valuable protection against abuse. The legal language of the Hindu Marriage Act is however outdated based on the terms of medicine and is not entirely compatible with modern mental health law. Mental Healthcare Act 2017 propagates rights-based approach in which emphasis has been made on autonomy and non-discrimination. The

harmonization of matrimonial law and this contemporary scheme is still a major problem. Gender factor is also relevant as far as the application of this provision is concerned. Mental illness allegations can be utilized to tactically work against matrimonial conflicts, especially to women, which further cultivates social stigma and inequality.

The matrimonial law needs to be changed accordingly by way of legal reform to make it compliant with current psychiatric knowledge and human rights policies. Amendments to the legislations, more coherent judicial principles, and more dependence on the medical competence might assist in reaching a more reasonable and humane solution. Conclusively, matrimonial law should not just be dissolution of marriages but encourage justice, dignity and fairness to all the involved persons.

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