



Advantage and Disadvantage of Irretrievable Breakdown of Marriage-A Ground for Divorce

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ABSTRACT

The ground of irretrievable breakdown of marriage is the need of the modern society, culture and ethos. It takes into consideration many factors like individual sensitivity, his mental and emotional makeup, social norms and values, the importance and sanctity of marriage both for the individual and for the society and last but not the least the protection of individual dignity and respect of the parties concerned even though they may be in the middle of a matrimonial dispute. Thus, it is highly recommended that irretrievable of breakdown of marriage should be fully accepted as a ground for divorce by the legislature.

KEYWORDS

Marriage, Divorce, Irretrievable Breakdown of Marriage.

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In Hindu Law, Marriage was sacrament, a union, and indissoluble union of flesh with flesh, bone with bone-to be continued even in the next world. According to Hindu texts, a man cannot be said to have a material existence until he took a wife. A man is the only half of his self. Therefore, he is not fully borne until he takes a wife and after marriage alone he becomes complete. That is why the Brahmin declares thus: the person known as the husband is verily known as the wife.

In Vedic period, the sacredness of the marriage was repeatedly emphasized. The wife on her marriage was at once given an honoured position in the house. She exercised authority over her husband's brothers and his unmarried sisters. She was associated in religious offerings and rituals with her husband. Manu asked men to honour and respect women by saying: "Women must be honoured and adorned by their fathers, brothers, husband's brothers-in-law, who desire their own welfare. Where women are honoured, there the God are pleased; but where they are not honoured, no sacred rite yields rewards."

According to vedic Hindu tradition, a Hindu marriage is an indissoluble union till eternity. Marriage is conceived as a union where the husband and wife fuse into one-where two bodies and two souls merge into one and become one. The ancient holy concept of Ardhnarishwar is an embodiment of this ideal marriage of mind and soul.

Marriage has not been defined in any parliamentary statute. Personal laws are however, clear on the point. Marriage is known as a process or an event signifying the assumption of the roles of husband and wife in accordance with the juristic tenets prevalent in the society or stratum of society to which the parties belong. In contemporary societies, marriages are by and large contracts which have the legal sanction of the State. In most parts of the modern world, marriage may be contracted without religious ceremonies; historically marriage was the concern of religious institutions.

The institution of marriage has social, legal and religious dimensions. These are the three major aspects inherently attached to the concept of marriage. Therefore, marriage is kaleidoscopic in nature because of the vast diversity of social customs and varied religious rights related to marriage among various religious groups like Hindus, Christians, Sikhs, Jews

and Parsi etc.

Marriage as a concept is the most essential part of any society or religion. It is the institution of marriage which puts life into cultural paradigms of society and community. It is the concept and the act of marriage which is at the base of development of civilization in history and politics. Although marriages, as it were, are made in heaven not only among Hindus, but also in other religions, they also become the basis for the formation of law in a society.

The concept of marriage as it stands today has undergone numerous changes. There have been many changes in various legal forms of marriage and conditions of marriage. Old Hindu law allows polygamous marriages but the Hindu Marriage Act, 1955 enforces monogamy. The purpose of marriage is not to get legal offspring. In the present world both men and women are treated equally. Both have the right to marry and the right to divorce. There was no provision for divorce in old Hindu law. Once the marriage was performed it continued forever. In modern India, the need for irretrievable breakdown of marriage has emerged due to many changes in the social, economic, educational setup of Indians.

The relation of a husband and a wife is unique in many ways. There is no other relationship of this type in the world. This is the most important and intimate relation between two persons. If for whatever reason, mutual mistrust enters into the intimacy of husband and wife then a very tragic and undesirable situation can emerge. Life can become a living hell for the people who are trapped in an unhappy or dysfunctional marriage. Consequently, the concerned parties may decide to submit a petition for divorce in a court of law on the existing grounds in the Hindu Marriage Act, 1955. The grounds in this Act are such that both parties have to bring to the court of law even the most intimate details of their mutual relationship in view of their divorce petition. Lawyers will have to ask questions about the most private and intimate relations between them. This becomes unavoidable because the fault ground or the irretrievable breakdown of marriage has to be proved in the court with supporting evidences to strengthen the claim of divorce by the concerned party.

In modern times the mindset of both bride and the bridegroom has changed due to various socio-economic, psychological reasons. Girls are getting more educated and financially independent today. There are many changes in the society

too. As a result the dissolution of marriage is not considered in a proscribed context now. When two people who have been married have a reason for not staying together, they can appeal to the court for divorce. Divorce is the termination of marital union. After divorce the legal duties and responsibilities of the parties towards each other are cancelled. They no longer have the relation of husband and wife. Divorce is granted on various grounds.

A comprehensive law applicable to all the Hindus in the country providing divorce was passed in 1955. The grounds were primarily on fault or guilt theory of divorce and the courts insisted on the strict proof of the grounds while granting divorce putting emphasis on the sacramental concept of Hindu Marriage.

Theories of divorce were apparently far away from the mental frame of society law and politics till 1856. The general concept of indissolubility of marriage continued till the middle of 19th century. In India this conception of indissolubility continued till the middle of 20th Century i.e. up to the promulgation of the act i.e. The Hindu Marriage Act, 1955. Although the Indian Divorce Act, 1869 was there however this divorce act was adopted from the English law. Section 7 of the Act still permits courts to apply principles and rules of English matrimonial law to Indian divorce cases as nearly as possible. The grounds of divorce were and are still the same as existed in 1869 England. A marriage may be dissolved on the petition of husband on the ground of wife's adultery, and on wife's petition on the ground that the husband has changed his religion and has married again, or has been guilty of incestuous adultery, or bigamy with adultery, or marriage with another woman with adultery or adultery coupled with cruelty, or adultery coupled with desertion without reasonable cause for a period of at least two years, or of rape, sodomy or bestiality.

These developments in divorce law led to the renaming of the guilt theory of divorce as the fault theory of divorce. If one of the parties has some fault, the marriage could be dissolved, immaterial of the fact that whether that fault is his or her conscious act or a providential one. Some of these grounds of divorce are: imprisonment for a said period of time, not knowing the whereabouts of a party for a specified time by the other party. In many systems of law, several grounds of divorce exist, like willful refusal to consummate the marriage, leprosy, venereal disease, rape, sodomy, bestiality and incompatibility of temperament.

The Hindu Marriage Act, 1955 came into force on 18th May 1955. The Act advocates and sanctifies monogamy as the ideal Hindu marriage. Bigamy and polygamy are punishable under law. A Hindu marriage may be solemnized between any two persons who are Hindu by faith and religion.

Indian law considers marriage and divorce as a part of the personal law of the parties concerned. Many legislations, amendments in the Hindu Marriage Act, 1955 have been brought forth to make the law more progressive, just, fair and in tandem with the changing needs of the modern day Indian society. The marriage and divorce law in India are based on the Hindu Marriage Act, 1955, the Special Marriage Act, 1954, The dissolution of Muslim Marriage act, 1939, The Indian Divorce Act, 1869, The Parsi Marriage and Divorce Act, 1936, The Foreign Marriage Act, 1969.

All the existing Indian Personal laws for divorces are based on the determination of guilt or fault. They are based upon the fault theory of dissolution of marriage. The Hindu Marriage Act, 1955 recognize nine fault grounds for divorce which are available to both the spouses. They are adultery, cruelty, conversion to other religion, unsound of mind, leprosy, venereal disease, renounced the world by entering into religious order, not been heard for seven years or presumption of death, non resumption of cohabitation for a period of one year and no restitution of conjugal rights for a period of one year. There are four grounds which are available only to wife. Likewise if

the husband is guilty of sodomy, rape, bestiality after the solemnization of marriage, divorce can be granted.

In 1964, on a private member's bill the grounds of divorce were converted into the ground of irretrievable breakdown of marriage theory of divorce. In doing so, the law lay aside the guilt or fault theory of divorce and moved towards irretrievable breakdown of marriage theory of divorce. Non-compliance with a decree for restitution of conjugal rights and non resumption of cohabitation after a decree of judicial separation for a period of one year is treated as a conclusive evidence of breakdown of marriage. As per the statement of Objects and Reasons, the right to seek divorce on any one of grounds should be available to both husband and wife as in such case it is clear that the marriage has proved a complete failure.

The court observed that a marriage which has actually broken down and merely exists, as a namesake is not worth preserving as it can secure no useful purpose either for the parties concerned or for society in general. In such a complete breakdown of marriage it serves no purpose to ascertain who is at fault the husband, the wife or both for the irretrievable breakdown of marriage. It will suffice to say that the marriage has broken down due to incompatibility between the parties.

The Constitution of India provides a lot of unlimited, inherent powers of the Supreme Court of India under the provisions of Article 142. This exclusive power of the Supreme Court extends over Irretrievable Breakdown of Marriage as a ground of divorce in all its legal and other dimensions.

The importance of irretrievable breakdown of marriage as a ground for divorce has been laid down by Supreme Court of India in 21st March, 2006 in Naveen Kohli v. Neelu Kohli, AIR 2006 SC 1675. In this case Supreme Court has also recommended to the Union of India to seriously consider bringing an Amendment Act 1955, to incorporate irretrievable breakdown of marriage as a ground for the grant of divorce.

The High Court does not have the jurisdiction to try its power on the doctrine of irretrievable breakdown of marriage. Although the Supreme Court can exercise its power under Article 14 of Constitution of India. In other context it was also clearly stated a bench of Supreme Court comprising former Chief Justice Altamas Kabir and Justice Cyrus Joseph that no court in the country except the Supreme Court can grant divorce on the ground of irretrievable breakdown of marriage in matrimonial relationship.

There is a dearth of laws in India relating to irretrievable breakdown of marriage as a ground for divorce. There have been many positive developments regarding irretrievable breakdown of marriage in Constitutional Bills, Suggestions of Law Commission Reports, and Supreme Court of India's jurisdiction relating to Article 142 of Constitution of India. A healthy precedent has been established for providing better avenues and opportunities to both husband and wife if they find it difficult to continue their marriage. They can resort to divorce on the ground of irretrievable breakdown of marriage.

Law Commission of India, in its 71st Report on The Hindu Marriage Act, 1955- Irretrievable Breakdown of Marriage as a Ground of Divorce, 1978 has also extended numerous suggestions in favour of constitutional establishment of irretrievable breakdown of marriage as a ground for divorce in the law of the land. The suggestions in the form of questionnaire are as follows:

Question No-1: Do you agree with the suggestion that the Hindu Marriage Act be amended with a view to making irretrievable breakdown marriage as a good ground for grant of a decree of divorce?

Question No-2: If the reply to the question No.1 be in affirmative, what circumstances, in your opinion, should be considered to be sufficient to prove irretrievable breakdown of mar-

riage?

Question No-3: How long should the parties have lived separately before the court can come to the conclusion that there has been an irretrievable breakdown of marriage?

Question No-4: Should the presence of children operate as a bar to the grant of decree of divorce on the ground of irretrievable breakdown of marriage? If so, should the bar be absolute or partial?

Question No-5: Are there any special circumstances in which, in your opinion, a decree of divorce should not be granted even if irretrievable breakdown of the marriage is established? If so, please specify the circumstances.

Laws in favour of irretrievable breakdown of marriage as a ground for divorce are evolving over the years very strongly especially in favour of emergent Indian Women. There is Article-142 of Constitution of India, case laws and Law Commission's suggestions. Divorce on ground of irretrievable breakdown of marriage is still a rare phenomena in India despite Article-142 of Constitution of India, related case laws and the Law Commission suggestions. In United Kingdom divorce is possible only on this ground. New Zealand is also one of the first few countries to accept irretrievable breakdown of marriage as a ground in 1920 specially in the Divorce and Matrimonial Causes Amendment Act, 1920.

In the context of irretrievable breakdown of marriage as a ground for divorce, the Article-142 of the Constitution of India, helped judicial activism in making new humanitarian grounds in society for justifiable divorce.

Article-142 of the Constitution of India helped the Supreme Court of India to meaningfully provide justice to several married couples. This could be done even in the absence of relevant laws in Hindu Marriage Act, 1955. The Law Commission of India in its 71st Report titled "The Hindu Marriage Act, 1955 – Irretrievable breakdown of marriage as a new ground for granting divorce among the Hindus.

Earlier, in another case *Ms. Jorden Diengdeh v. S.S. Chopra*, AIR 1985 SC 935 the Supreme Court had observed:

"it appears to be necessary to introduce irretrievable breakdown of marriage and mutual consent as ground of divorce in all cases. We suggest that the time has come for the intervention of the legislature in those matters to provide for a uniform civil code of marriage and divorce and to provide by law for a way out of the unhappy situation in which couples like the present have found themselves."

The Supreme Court also noted that the Law Commission had submitted a very comprehensive report on irretrievable breakdown of marriage in its 71st Report on irretrievable breakdown of marriage as a ground of divorce. The matter had been taken up by the Commission as a result of a reference made by the Government of India. The Law Commission under the Chairmanship of Shri Justice H.R. Khanna presented its Report on April 7, 1978. The Report considered the suggestion and analyzed the same in extenso. The Law Commission invited views on the matter by issuing a brief questionnaire on the subject before making the final recommendation on irretrievable breakdown of marriage as a ground for divorce. The Commission in its 71st Report has accepted in principle, irretrievable breakdown of marriage as a ground of divorce.

The commission has further examined the question as to how to exactly incorporate it into the Hindu Marriage Act, 1955. It has also examined the question whether the introduction of such a ground should be coupled with any safe guards to ensure that the ground is not misused by any of the parties.

In *Kanchan Devi v. Pramod Kumar Mittal*, AIR 1996 SC 3192, however, the Supreme Court held that "the marriage between

the appellant and the respondent has irretrievably broken down and that there was no possibility of reconciliation, we in exercise of our powers under Art. 142 of the Constitution of India hereby direct that the marriage between the appellant and the respondent shall stand dissolved by a decree of divorce."

Where wedlock has become a deadlock, since parties are living separately, and after marriage the wife has lived only for a few months in the matrimonial home, wife having made allegations of cruelty and desertion against the husband and husband having made counter-allegations against her, the court in *Krishna v. Som Nath* 1996 DMC 667 P&H held that in view of all these circumstances the court notes that the marriage has broken down irretrievably and the court granted divorce to the parties.

The most important contribution of 71st report of Law Commission appears that the report has recommended and presents a rough draft of amendments to the existing Hindu Marriage Act, 1955. This report of Law Commission explains in the very first line of its introduction that it is dealing with an important matter relating to the Hindu Marriage Act 1955, The main concern here is the question that should irretrievable breakdown of marriage be made a ground for divorce under this Act or not. The second question is, if irretrievable breakdown of marriage is made a ground for divorce under this Act, then what will be the extent and conditions of its applicability.

Today legal experts, jurists and judges have encountered the need for the inclusion of irretrievable breakdown of marriage as a ground of divorce-in their routine work in the court. Numerous cases come which are fairly indicative of the fact that we need to introduce this ground into the existing framework of marriage and divorce laws in India.

The Delhi High Court in a full bench decision in *Ram Kali v. Gopal Das*, ILR 1971(1) del 10 took note of the modern trend of not insisting on the maintenance of a union which has utterly broken down, and observed;

"It would not be practical and realistic approach, indeed it would be unreasonable and inhumane, to compel the parties to keep up the facade of marriage even though the rift between them is complete and there are no prospects of their ever living together as husband and wife."

In keeping with the changing times, the Hindu marriage should be allowed to be dissolved when the husband and wife have lived apart for a period of three or five or ten years or so and the marriage is irretrievably broken due to incompatibility, continuous clash of personality or other similar reasons as is permissible under many systems of laws under advanced countries.

It is difficult to understand that why Hindu Marriage Act, 1955 has not yet been duly and fully amended. It appears as if even the Law Commission might not have given its 71st report had there not been a "Note" to this effect to the commission by the Ministry of Law.

The Law Commission also studied the relevant laws, precedents and case laws of other countries. The Indian traditions and case laws were also considered. The Law Commission prepared a questionnaire in order to obtain views on the matter of the larger population and of various experts. The law Commission considered in depth the following matters:

1. The already existing grounds for divorce under Hindu Marriage Act, 1955.
2. The theory of irretrievable breakdown of marriage.
3. Merits and Demerits of the theory of irretrievable breakdown of marriage.
4. Whether other grounds of divorce should be retained along with irretrievable breakdown of marriage.

5. Should all other grounds of divorce be replaced by this all exclusive category of irretrievable breakdown?
6. Should other grounds of divorce along with irretrievable breakdown both be retained?
7. If irretrievable breakdown of marriage as a ground for divorce is adopted in Hindu Marriage Act, 1955 then how exactly to incorporate into the Act.
8. What should be the safeguards following the introduction of irretrievable breakdown of marriage as ground for divorce.

In view of these developments, the Law Commission of India suo motu took up a systematic and detailed study of the need for inclusion of irretrievable breakdown of marriage as a ground for divorce in the Hindu Marriage Act, 1955. The commission studied the existing laws and many judgments of the Supreme Court and High Court on cases related to cases on this ground as a basis for divorce. The Commission put forth the recommendation that irretrievable breakdown of marriage should be made a ground for divorce and that it should be added into both the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954. It was suggested that the court should take adequate measures to ensure that adequate arrangements have been done to alleviate the financial hardship endured by the parties and the children.

Many legal experts and jurists are of the opinion that divorce by mutual consent covers the ground of irretrievable breakdown of marriage and there is no need for the separate introduction of this ground in the existing marriage and divorce laws.

A lot of sensitivity and maturity of mind is needed on the behalf of the court to analyse and examine such matrimonial conflicts in a just and fair manner.

Every case has to be viewed in the light of its particulars facts and circumstances and judged accordingly. Divorce based on fault grounds mandate that the parties have to prove the guilt or fault of the other party and present evidence of the same in court to substantiate their claim.

If a marriage has broken down completely public interest lays in the recognition of this fact. Law must adequately redress and provide relief to couples in such a situation.

The irretrievable breakdown of marriage theory is the answer to the changing needs of modern society today. It adequately considers and gives weight age to the fact that whatever may be the reason, the marriage has broken down completely and there is no scope of reconciliation or of making the marriage workable again.

In the modern world today, the irretrievable breakdown of marriage theory is recognized by the marriage and divorce laws of many countries. In the nineteen fifties, cases began to emerge which indicated the irretrievable breakdown of marriage which were beyond the scope of fault theory to adjudge properly. To address the changing needs of the time and in order to give fair trail to matrimonial disputes the number of grounds for divorce were increased e.g. incompatibility of temperament was added as a ground. The Swedish Marriage Law, 1920 provided that if both parties presented a joint petition that there was lasting and profound disruption in their marriage then the court would grant divorce without looking into the matter. If such a petition was presented only by one partner then the court would examine the facts of the case and then if it found that there was lasting and profound disruption the marriage, then the court would grant divorce.

The second way adopted to adequately adverse the nature of matrimonial cases was to give the most wide interpretation to the existing fault grounds. Cruelty was one such ground which was most frequently cited in matrimonial disputes. In *Gollins v. Gollins*, All 1963(3) ER 966 the husband's failure to take up a job, his inability to maintain his wife and his de-

pendence on his wife to pay off his pressing debts was held to be a conduct amounting to cruelty. In *Williams v. Williams*, All 1963(2) ER 994 husband's persistent accusations of adultery against the wife were considered to amount to cruelty, despite the fact that husband was found to be insane. In *Masarati v. Masarati*, 1969(1) WLR 392 the Court of Appeal said "Today we are perhaps faced with a new situation as regards the weight to be attached to one particular factor that is the breakdown of marriage."

A matrimonial suit creates very disturbing and highly stressful, unbearable moments for husband and wife both as they are compelled to reveal the unpleasant, embarrassing or hurtful details of their disrupted relationship publicly. It leads to a lot of mental, emotional and psychological stress and strain for both parties. However, if divorce can be granted without bringing such delicate and intimate matters in public, then it will be a great contribution of Indian courts to a public and human cause.

This however is not possible under The Hindu Marriage Act, 1955 and The Special Marriage Act, 1954. Therefore, it is necessary that irretrievable breakdown of marriage as ground of divorce must be immediately recognised by the Indian law makers as it is the need of modern emergent Indian society. The Law Commission Reports of 1978 and 2009 have already supported the introduction of such a law in the country which can respectfully grant divorce to the husband and wife provided the court of law is satisfied about the incompatibility of the husband and the wife living together. Hence, the Hindu Marriage Act, 1955 must be amended in view of changing requirements of Hindu families and modern Indian Society.

In the 1978 and 2009 reports of the Law Commission another most significant aspect of granting divorce on ground of irretrievable breakdown divorce on ground of irretrievable breakdown of marriage is pointed out. This is in reference to the duty of the Supreme Court of India to see that the children out of the marriage do not suffer in any way with grant of divorce on this ground and adequate provisions are made for their upkeep and maintenance.

Many criticisms are leveled against including irretrievable breakdown of marriage as a ground of divorce in The Hindu Marriage Act, 1955. It is alleged that divorce on such a ground can become easy to obtain and it may destroy the social, familial cohesiveness in Indian Hindu society. Some sections of society fear that the sanctity of the institution of marriage will also be threatened with the introduction of this ground of divorce. These objections appear to be genuine and relevant. However, adequate safeguards can always be added through objective judgment and determination of each case by the Supreme Court of India. Safeguards will have to be provided under The Hindu Marriage Act, 1955 also to ensure that the act is not misused or abused in any way and adequate provisions are made for the maintenance of the wife and children. Whenever divorce is granted on the ground of irretrievable breakdown of marriage, the concerned court has to take proper consideration of objective factors to determine that the ground of breakdown is not being opted for divorce on some impulsive whims and wishes of the parties concerned.

If the parties have continued living separately for a sufficient period of time, it is evident that the marriage has broken down and there is irretrievable breakdown of marriage. The court should make sincere efforts to bring about reconciliation among the parties but if reconciliation cannot be brought about-then it is best to grant divorce rather than prolonging the agony of the parties concerned. The consequences of preservation in law of the unworkable marriage which has long ceased to be effective are bound to be a source of greater misery for the parties.

The irretrievable breakdown of marriage as a ground for divorce is a century old phenomena in many countries like New

Zealand and United Kingdom. This ground for divorce started taking shape in India in *Blunt v. Blunt*, 1943 (2) All E.R. 76 & 78 in 1943. Now the Constitution of India has a very crucial Article 142 two relevant reports of Law Commission, quite a few Bills, Acts and suggestions which support irretrievable breakdown of marriage as an important ground for divorce. There are several objections for not including irretrievable breakdown of marriage as a ground under The Hindu Marriage Act, 1955 these objections are that:

Irretrievable breakdown as a ground of divorce is vague and is included in other grounds of divorce. i.e. there is no need for its introduction as a separate ground for divorce.

Irretrievable breakdown allows the spouses or even one spouse; to terminate the marriage at will, thus transforming marriage from a union for life into one which can be ended at pleasure. It can be misused or abused by anyone party according to its whim and wishes.

This ground is contrary to the basic principle that no one should be allowed to take advantage of his own wrong. Here, a spouse who was responsible for the breakdown in the marriage can obtain a divorce against his or her partner's will. This ground authorises one spouse to divorce the other against the latter's will after separation for a specific period of time. If this ground is introduced then the law will have to give statutory recognition to the principle that a person may take advantage of his or her own wrong, for the first time.

These objections to the introduction of irretrievable breakdown of marriage as a ground for divorce do have a grain of truth in them but still they cannot be called totally right or correct.

All these dangers inherent in the ground can be satisfactorily remedied with the introduction of certain checks and balances while introducing this ground in the law and by providing adequate safe grounds so that the ground remains just and fair. Indeed, such inappropriate possibilities do not occur in the professional and socially aware constitutional and judicial practices intended to meet some of the objections and to allay some of the apprehensions.

Some judges belonging to a certain High Court have objected to the introduction of irretrievable breakdown of marriage as a ground of divorce as they feel that it is very difficult to ascertain and determine that a husband and wife have exhausted all possibilities of living together and the marriage has broken down irretrievably. There is also a very pertinent and moot point that what may seem irretrievable breakdown may not seem so to the other party. But this kind of fluid situation cannot be allowed to continue indefinitely in a court of law. The court has to pronounce a clear judgment in clear terms. In clear terms-whether the marriage has broken down irretrievably or not.

Thus, the task before the court is very challenging. Human life is limited and a situation which is causing misery to the parties cannot be allowed to perpetuate indefinitely. Law has to adequately address and provide proper redress to such a problem.

Social interest and justice both demand the due recognition of the fact that if two people are not living together then their marriage has broken down in actuality, and they are retaining the outer shell just for name sake or from fear of society. Ignoring such a factual reality and not providing adequate remedy for it will only increase the negativity coming out of such a situation and will create only bitterness and acrimony for the parties concerned and also for the society at large. Law should see how to best deal with such a situation at hand and how to remedy it in the best possible manner.

Thus, if we examine and analyse the ground of irretrievable breakdown of marriage in the present contemporary scenario

we see that the time is ripe of its inclusion as an exclusive and comprehensive ground for granting divorce.

The ground of irretrievable breakdown of marriage is the need of the modern society, culture and ethos. It takes into consideration many factors like individual sensitivity, his mental and emotional makeup, social norms and values, the importance and sanctity of marriage both for the individual and for the society and last but not the least the protection of individual dignity and respect of the parties concerned even though they may be in the middle of a matrimonial dispute. Thus, it is highly recommended that irretrievable of breakdown of marriage should be fully accepted as a ground for divorce by the legislature.

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