CHAPTER - I

THE SOCIAL BACKGROUND OF SPOUSES IN DIVORCE
MARITAL RELATION AND ADJUSTMENT

In this opening chapter, certain information concerning the socio-economic and family cultural backgrounds of the spouses is important in as much as it could be related to their behaviour pertaining to marital dissolution. In view of the researcher in identifying the backgrounds, the following aspects of the conjugal life of the couples are significant. The creator has created male and female in the universe bestowing with same nature, same instinct, same psychological thought and expression in all communities and in every personal laws. In every community the marriage is preferred either in arranged marriage form or love marriage. Let it be, any form of marriage the social background is very pivot factor in the marriage tie. The social background also reflects complete data of family status of the spouses which will lead to cause of divorce. The social background of the spouses give certain information of the socio-economic condition of the spouses and which sometimes reflect on happy marital relation of the spouses. In this eternal earth, the sweet marital relation makes the wedding life happier and matrimonial home becomes heaven, on other hand, the bitter marital relation may leads to divorce and ends of the marriage tie. In view of the present researcher for the couples of the following grounds are necessary.
1.1 TYPE AND NATURE OF FAMILY OF THE COUPLES:

In case of Mitakshara School of Hindu law there is presumption of having joint family, unless contrary is proved and these types of joint family are found throughout India except in Bengal and some part of Assam. Living in joint family, sometimes leads to tensions, inter-personal conflicts. Thus at present mostly in the joint family several kinds of problems arise which led to dissatisfaction found in modern couples. Independent life cannot be led out. Certain needs are to be fulfilled in the joint family system.

The nature and manner get revealed accordingly. The rest those who have nuclear family either by separation from the parents or being transferred due to job and in this way they have been detached from the joint family. It has been found that in traditional Hindu joint family, liberty of the spouses are sometimes restricted as well as conjugal relationship of the spouses hampered causing mental disruption. Unbearable, jealousies, less tolerance etc are also found among the members of the Hindu joint family. It is also psychological tendency of mother who economically depends on son(s) but when their son(s) leave their wives, the mother cannot tolerate it. Thus, the quarrel happens off and on for trivial matters. The daughter (husband’s Sister) of the matrimonial home starts losing her dominance power in home after the arrival of the bride and the love and affection of the brother with sister would
The modern educated girls when come to Hindu joint family after marriage, then they cannot cope and adjust with the husband's family but on contrary their liberty are restricted. On slightest protest they were severally tortured members of the Hindu joint family and, in consequence, unwanted situation found. The Hindu joint family has its own merits and demerits. In this type of family according to Kapadia it is not possible to ascertain whether education play the part of restraining or corrective in the way of divorce.2

1.2 CASTE, COMMUNITY AND TRIBE:

Caste, community, tribe are important and essential for the background of the spouses. Every caste, community sub-tribe of Sikh, Jains, Lingayat, Buddhist, Virashaiva all are Hindus. The social structure in India is much that the marriage is preferable within the caste group and community. Every tribe have also own customary ways of marriage and ways of divorce. Migrated families sometimes stick with their own past custom. Women education and women's employment are also criteria for divorce in certain families. In higher caste like Brahmin (a) the equality of women in the family (b) higher education (c) following the modern ways of life are also crucial factors which sometimes lead to divorce. Even today the conservative families in higher caste also create a situation for divorce.
Further there are certain conditions and small reasons such as not able to adjust and some wives hesitate to stay in matrimonial house and spouses suspect to each other character and frequent quarrel for trivial matters. In inter-caste marriage between higher caste and lower caste are not accepted by the conservative parents.

The social structure of business also class is very complex and these classes are mainly rich classes and for them consideration of money even after marriage are also crucial reasons. The high educated employed women have their own way of life style. To different religion group of different communities have their respective social custom and they are under their own social boundary and none liked to detach from their own traditional culture. Inter-religious marriage may occur either by situation and circumstances for them if there is not compromise in the matrimonial home, it may bring dissatisfaction which ultimately leads to divorce.

1.3 ECONOMICS BACKGROUND OF THE COUPLES:

In present days, irrespective of caste and community, economics is essential consideration of the couples. It has seen that couples having the lower earning have more divorce cases as compared to higher income couple have less divorce cases. In view of the researcher, although marriage instability exist at all socio-economic levels, the general trend is for marriage breakup to be more profound at the lower economics status lesser in India. In India mostly in slum area almost all families have their economic hardship and
the wives frequently moves for another husband who is little financially sound and for them legal divorce through court or divorce according to local customs is not necessary. In view of the researcher, the economical background of a couple generally calculated by consideration of (a) husband’s income (b) wife’s income, if any in case of lower caste.

1.4 OCCUPATION AND PROFESSION SPOUSES AFTER MARRIAGE:

In this industrial age, adopting an occupation/profession for earning to maintain family is very important. Now-a-days money in marital life has a vital role to bring happiness or sadness in life. In view of the researcher, the rate of divorce; where the wife engaged in any occupations or professions. Frequent absence from home, in involving intimate contacts with the opposite sex at work place are main causative factors of divorce.

It has been seen that commercial travelers, Actors, musician, physician etc have generally highest rate of divorce where as bankers, lawyers, professor, servant and businessmen have little proportion of divorce. In past, women employment was very rare where as at present the employment of women is increasing.

1.5 FAMILY BACKGROUND OF COUPLES:

Age old custom and traditions are main factors of culture. In India there are different types of cultures in different areas like caste culture and
family culture etc. It is submitted here that recent developed due to the direct
effects of urbanization, industrialization, westernization, secularization etc. In
modern times the people of different communities the institution of
marriage / divorce are getting changed from customary divorce to judicial
divorce. Added to this the mentality of the husband and wife are also
changing. In our Indian culture the wedding girl is always advised by her
parents as far as practicable to adjust in the husband’s house. Thus
sometimes, the newly wedded wife faces enormous difficulties in the
matrimonial home.

Before joining the matrimonial home almost all girls have some
cherished desire to lead a happy wedding life but in some cases she is
mentally shocked finding the husband’s financial responsibilities towards old
parents, unmarried sisters and brothers for their education and maintenance
and it so happens that the wife was asked to sacrifice many things to save
money and her happy wishes turns to ashes. As a result of which
unnecessary quarrels very often occurs between couples and if not amicably
settle leads to divorce.

During last fifth years the rate of divorce has increased tripled but
the remarriage after divorce has not increased. In view of the researcher, at
present so many virgin girls are plenty available in the marriage market, no
one thinks of marrying a divorce lady.
1.6 MARITAL RELATIONS OF COUPLES:

Adjustment with other spouse as well as with other adult members in the matrimonial home is very important factor of happy marital life. In the matrimonial home the newly married wife leads a life of social responsibility. Any mal-adjustments of the spouses if occurs brings tension and conflict in the matrimonial home may leads to divorce. Now-a-days there are many personal reasons for not maintaining the marital adjustment, as the newly wedded wife claim more right and liberty. In the opinion of the present researcher, adjustment in the marital life is the golden key for long lasting wedding life. To go a step further keeping up good marital relation is possible by possessing good personalities, cultural family background, economic status, sex desire. Thus, there are several crucial factors for keeping good marital relations.

1.7 METHOD OF MARRIAGE OF THE DIVORCED COUPLES:

At present marriage broadly divided into two types such as arranged marriage and love marriage. In arrange marriage generally the parents of both spouse pre-planned the marriage. This type of marriage occurs on customary basis. In arranged marriage all the qualities of the prospective bride and bridegroom are inspected by senior family members. Since, there is pre-consent of both the family members arranged marriage in long run found perpetual in nature.
As referred early, love marriage is also another sort of marriage. In this type of marriage the matured boy ad girls fall in love either through electronic devices such as cell-phone or internet or direct contact. In love marriage sometimes quick and hasty decisions are taken which subsequently leads to far reaching bad consequences.

In present context, re-marriage of the divorcee couple generally occurs in case of employed women. The sole reason behind this subsequent marriage is the wider people's contact at workplace and earning capability. Whereas, in case of economically depended divorcee; re-marriage rarely occurs. For these categories marriage-market is totally shut down.

1.8 MARITAL RELATION ALSO DEPENDS ON AGE-GAP FACTOR:

Age gap factor of the spouses play a vital role in marital adjustment. Where marriage occurs at an early age due to immature mind many difficulties for marital adjustment occurs. It is submitted here by the researcher that marital adjustment is a lifelong process for both the spouses. In course of time, apart from other spouse many family pressures come from children and aged parents. Apart from above, sometimes age differences in between the couple’s leads to biological difficulties.

1.9 EFFECTS OF DOWRY DEMAND ON MARITAL RELATION:

An approved marriage among Hindus has always been considered a Kanyadan. As such dowry in ancient time had its sanctity and parents of
bride thinking it to be holy matters bestow a payment gifts to the groom during the time of marriage. In course of time dowry became a widespread evil, and it has now assumed menacing proportions. Now it has spread to other non-Hindu communities, which were traditionally non-dowry taking communities.

In many cases where brides, on account of their failure to bring the promised or expected dowry have been beaten up, kept without food for days together, locked up in rooms, tortured physically and mentally, strangulated or burnt alive or led to commit suicide.

In 1961, Parliament passed the Dowry Prohibition Act with a view to eradicating the rampant social evil of dowry from the Indian society. This Act applies not merely to Hindus but all people, Muslims, Christians, Parsi's and Jews. The Dowry prohibition Act 1961 defines "Dowry means any property or valuable security given or agreed to be given either directly or indirectly".

(1) By one party to the marriage to the other party to the marriage.
(2) By parents of either party to a marriage or by any other persons at or before or after the marriage as consideration for the marriage.

In marital life the issue of dowry creates heavy tense and even some families get financially ruined and if demand dowry is not paid then either death of bride is caused or on grounds of cruelty divorce occurs.
Now-a-days heavy demands of cash payments, furniture, freeze, colour T.V., Computer, gold ornaments, motor car etc are claimed by the groom's family to the bride's family before, during and after marriage.

As referred earlier the demand of dowry is being paid in every community of India either in cash or in kind. The dowry is a Socio-economic problems and it creates major obstacles in marital happiness.

Furthermore, in modern days even the spread of education has also not helped in curbing the social evil of dowry, rather the educated youth has became more demanding, as he along with his parents want to recover every amount spent on the education of Youngman. Again in fact, in some communities marriage is becoming a big source of exploitation and of getting rich over-night. The prospective groom's family members think that marriage is a source of fulfilling all their unfulfilled and unsatisfied material needs.

Under the aforesaid circumstances, the Dowry Prohibition Act of 1961 did not prove to be effective in the society. This Act has become a paper tiger without real teeth and claw.

It is submitted here that, any legislation cannot by itself normally solve deep rooted social problems. Anyhow, legislation is necessary and essential, so that it may give some push and have those educative factors as well as the legal sanctions behind it which help the public opinion to give a certain shape.
In summing up, the question of dowry is a deep rooted social evil and alone cannot eradicate it. This social legislation is no more than half-hearted efforts and should not merely bark, but should be able to bite. It does not appear that this Act is biting law.

1.10 OCCUPATION AT DIFFERENT PLACE LEADS TO DIVORCE:

Occupation at different places of husband and wife sometimes leads to divorce. In modern industrial age, highly educated girls prefer some employment for independent life and comfort living in India. The aforesaid girls even after marriage are compelled to continue in their former occupation due to the insufficient income of the husband. In between husband and wife where the situation is compelled to live separately, due to occupation gradually close attachment is declined day by day and very often it leads to divorce. The women who are working outside of the matrimonial home and there is forced separation from the husband sometime makes here attachment with other male conjugal person and vice-versa. It causes major obstacles in prior marital relation. Thus, it is a good cause for divorce.

1.11 JOINT FAMILY MEMBERS ALSO AFFECTS THE MARITAL RELATION

It is believed that in Hindu community, most of the couples lived in Joint family unless contrary is proved. In joint family, senior members, also bring marital disruption on various trivial grounds provoking the husband to
break the marriage tie. That depends upon prolonged matrimonial life. It is submitted by the researcher, for effective matrimonial relations both have a great contribution. In this chapter certain general characteristics of the husband and wife in divorce are stated. At the outset of this thesis it is believed that this will acquaint us with subsequent in-depth study. Having said this researcher proposed to discuss in the next chapter about the question of divorce in Hindu Law and Non-Hindu law.

Notes and References

2. K.M. Kapadia marriage and family in India, New Delhi, 1972, P.298.
3. Manu Smriti, Ch III, 27.
4. The D.P. Act, 1961, Sec.1 and 2.