

Welcome students to this series of lectures in law. Today I'm going to deal with Family Law -I, and my topic for the day is Divorce, Grounds of Divorce under Family Laws of Goa. The outline of today's lecture is, I will be introducing Marriage, defining Divorce, giving you the meaning of Divorce and then taking you to the grounds of Divorce. From today's lecture you will be able to understand the Law on Marriage, learn laws pertaining to Divorce in Goa, comprehend the meaning of Divorce and analyze the grounds of Divorce.

Taking you to Marriage in Goa we have a Uniform Code for Marriage as well as Divorce. According to the Hindu law, Marriage is a *Sanskara*, the wife is considered to be the *ardhangini* of her husband. She is required to be with him for all religious ceremonies and other requirements. She takes the burden of the family. It is a permanent union and only death could dissolve it.

Muslims considered marriage as a contract cause it was in the form of an offer and an acceptance.

Christian regarded marriage as a sacrament. They truly believe that what God has united no man can divide.

This is all we thought about marriage for time immemorial. However, this line of old thinking wherein there was permanence, an inviolability of marriage which were the main pillars of marriage have now completely eroded. The new laws have introduced divorce.

In Goa, persons of all religions are covered by Uniform Laws, that is the Goa Civil Code nevertheless, people coming from different religions are allowed to perform the ceremonies from their own personal laws. Now we will understand how this Code, the Civil Law or Civil Code came into Goa. Goa used to be a colony of the Portuguese. It has been adopted that is the Goa Civil Code has been adopted from the Portuguese Civil Code of 1867, which was introduced in Goa in the year 1870. After the liberation of Goa and when it was merged with the Indian Union in 1961, the Civil Code was retained. All Indian laws were extended to the State of Goa except the Family Laws that fall under the Portuguese Civil Code. When Goa attained liberation from the Portuguese in 1961, only the Civil Laws were still retained.

When we look at marriage, the new laws introduced vital and dynamic changes in the concept of Marriage and Divorce. Divorce means putting an end to the Marriage by dissolution of marital relationship. It is a legal dissolution of marriage by a Competent Court. Divorce severs the relationship between husband and wife. This is a new term which was never seen in the Hindu religion, neither in the Christian religion. If the spouses cannot live together, they now have the right to Divorce. They have a right to dissolve their marriage. It is said that if a person can freely marry, he should also have the right to freely go for divorce. In Goa, the Law on Marriage and Divorce are governed by the Goa Civil Code. A divorce may be requested by either of the spouse or by both of them jointly. In the first case, where either of the spouses is requesting for divorce, it is called the Contested Divorce. In the second case, where both the parties are filing a petition jointly, it is called a Divorce by Mutual consent. Now the Goa Civil Code is laying down certain legitimate grounds for contested divorce. A few of them being, the wife's adultery, therefore if the wife commits even a single act of adultery, which can be proved in the Court, the husband can file for Divorce. Since the entire basis of marriage is understanding and faith in each other once the faith has collapsed, it is no point living in a marriage like that. Therefore not only the wife's adultery, but even the husband's adultery has been a good ground for Contested Divorce that is if

either of the spouses are caught in an act of adultery, they can file a petition for divorce. The third one being the Definitive conviction. It is very important that either of the spouses are convicted of any of the major penalties under the Criminal Code, so it is very important not that the party is accused of a criminal offence. Therefore if either of the spouses is convicted, they can file a petition for divorce. The fourth one being ill treatment or serious injuries. When we learn the other laws like The Hindu code or the Muslim law, they term this as cruelty. It is truly said cruelty can be physical or mental. Therefore any sort of an ill treatment or a serious injury can be a good ground for Contested divorce. The next one being the complete abandonment of conjugal domicile for at least three years. That means, if the spouse has willfully without any reason completely abandoned the opposite party, for a period of at least three years. If the period is for three years or above, then the party can seek for Divorce. The absence, when nothing has been heard of the absentee for at least four years. The Goa Civil Code gives the benefit that if there is a person, that is either of the spouse is not heard for a period of four years, then there can be a presumption that he is dead and it is a good ground for Divorce. Incurable insanity, if at least three years have elapsed since it has been pronounced by a ruling in the Court. So if either of the spouses is suffering from any sort of an insanity, it is very important that the Court has to pronounce this insanity. A period of three years is given for the recovery of such a person. If the person doesn't recover, that means, it is a good ground for Divorce. The defective separation freely consented for ten consecutive years regardless, for reasons of separation. That means if the husband and wife are living separately for a period of ten consecutive years, which is a pretty long period, then there is no requirement for reasons of separation. It is a good ground for the Divorce. An added feature of the Goa Civil Code, is chronic gambling addiction. If there is gambling addiction and it is chronic, so much so that it makes it difficult to live with the spouse, It can be a good ground for Divorce. A contagious disease known to be incurable and it should be implying a sexual aberration, in that case it will be a good ground for Divorce. Only thing is it has to be a sexual aberration and it has to be a contagious disease.

So to end with the lecture, Marriage and divorce are controlled in a uniform manner for people coming from different religions. In Goa, we're following a Uniform Civil Code for people from different religions.

For today's lecture to explain Marriage and the Concept of Divorce, I have referred to Subba Rao's Family Law and to explain the different grounds of Divorce I have referred to a book on Family and Succession Law in the Portuguese Civil Code of 1867 or 21st Century Approach by Professor Dario Moura Vicente.

Thank you.