

Quadrant II – Notes

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Module Name: Christian Women and Divorce

Module No: 11

Christian Women and Divorce

The Indian Divorce Act 2001 regulates the law relating to Divorce of persons professing the Christian religion and Matrimonial causes. This act has application if one of the party to the proceedings is a Christian. Sec 10 of Indian Divorce Act 2001 deals with grounds on which Husband and Wife may file a petition for dissolution of marriage.

Grounds of dissolution of marriage by Wife

Christian wife may present petition for dissolution of marriage to the District Court or to the High Court on any one of the following grounds

1. Change of Religion and Remarriage
2. Incestuous Adultery
3. Bigamy with adultery
4. Marriage with another woman with adultery
5. Rape, Sodomy and Bestiality
6. Adultery with cruelty and Adultery with Desertion

Change of Religion and Remarriage

Any wife may present a petition to the District Court or to the High Court, praying that her marriage may be dissolved on the ground that, her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman, than the wife is entitled to get her marriage dissolved.

Incestuous Adultery

It means adultery committed by the man with a woman who he could not lawfully marry by reason of her being within the prohibited degree of relationship even his wife was dead. If the Husband is guilty of such incestuous adultery wife can file petition for divorce on this ground.

Bigamy with Adultery

- If the offences of bigamy and Adultery are committed by husband then during the subsistence of first marriage, wife can claim Divorce if they are proved separately.
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Marriage with another woman with adultery

Wife is entitled to divorce on this ground after his marriage if he left his wife and subsequently married another woman.

Rape, Sodomy and Bestiality

This offence is defined under sec 375 and 377 of Indian penal code.

If the husband is found guilty of such offences than wife may claim divorce on this ground

Adultery with cruelty

Act has not defined cruelty. It is generally described as conduct of such a character as to have caused danger to the limb or health (bodily or mental) or as to give rise to reasonable apprehension of such danger

Adultery with Desertion

Desertion alone is not a ground of dissolution of marriage.

It can be invoked as a ground only when adultery is coupled with desertion without reasonable excuse for two years or upwards.

Mutual consent is a ground for dissolution of marriage

Sec 10A

A petition for dissolution of marriage may be presented to the District Court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Indian Divorce (Amendment) Act, 2001, on the ground that they have been living separately for a period of two years or more, that they have not been able to live together and they have mutually agreed that the marriage should be dissolved.

Other matrimonial causes

Apart from Divorce, Christian women can seek judicial separation on the ground of adultery, cruelty and desertion under sec 22. Wife can also claim restitution of conjugal right under sec 32. She is also entitled to Alimony pendent lite and permanent alimony from husband under sec 36 and 37 of the said Act