

CONTRACT OF AGENCY

Wife as Agent

BY –

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Wife as Agent

- Marriage, by itself, does not create any agency between the husband and the wife. Such agency must either be expressly created, or inferred from the conduct of the parties.



- Thus, if 'A' authorizes his wife 'B' to borrow goods for him, B's agency is express. If without express authority from her husband, 'B' takes goods on credit which are paid for by 'A', A's agency is implied.



- A wife is not the general agent of the husband, nor is a husband a general agent of his wife. But either by a contract or appointment or by holding out or ratification, each may become the agent of the other.



- The liability of a husband for his wife's debt, thus, depends on the principles of agency. There are following conditions necessary for the liability of the husband on pledging his credit or debt taken by his wife –



- ***Co-habitation in domestic establishment*** – When the husband and wife live together in domestic establishment, the wife can pledge the credit of her husband and he becomes liable for the debt taken by her for supplies of necessaries.



- ***Liability for necessaries*** –
The wife can pledge the credit of her husband only for the necessaries. The necessaries are those which are needed for domestic purposes.



- Thus, if a wife in the absence of her husband purchases food-grains or clothes necessary to wear, these are necessaries, but if luxuries such as gold necklace, diamond ring, etc. are purchased, these cannot be termed as necessaries.



- ***No reasonable allowance to the wife*** – Where the husband gives reasonable allowance to his wife by duly paying it, the wife cannot borrow the goods by pledging the credit of her husband.



- **Husband can escape the liability, if he can prove that –**
- He has expressly forbidden his wife from borrowing money or goods on credit.



- The goods purchased are not necessities.
- He has allowed sufficient funds for purchasing the goods she needed.
- The tradesman has been expressly told not to give credit to the wife.





THANK
YOU

