



RESEARCH QUESTION

"How does court marriage under the Special Marriage Act, 1954 work in India including notice and objection periods, how is marriage registration done under personal laws, and what protections exist for inter-faith and inter-caste couples?"

Procedures and Protections in Court Marriages and Personal Law Registrations in India

TL;DR

The Supreme Court in *Shakti Vahini v. Union of India* (2018) affirmed that when two consenting adults choose each other as life partners, their choice is a fundamental right protected under Articles 19 and 21 of the Constitution, which the State has a duty to safeguard. Court marriages under the Special Marriage Act, 1954 require strict adherence to a 30-day notice and objection period that cannot be judicially waived, while registration under personal laws (such as the Hindu Marriage Act, 1955) serves merely as evidentiary proof and does not validate a marriage if the mandatory customary rites were not actually performed.

VERIFIED CASES	STATUTES	LATEST RULING
25	5	2024
20 High Courts · 5 SC		Supreme Court of India

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I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 Strict Compliance with Statutory Notice Timelines

The statutory 30-day notice and objection period under the Special Marriage Act, 1954 (SMA) is mandatory and cannot be waived or relaxed by the courts to accommodate study, employment, or travel constraints, as affirmed in *Ajmal Asharaf M. v. State of Kerala* (2021).

02 Physical Presence is Mandatory for Solemnization

Court marriages under the SMA require the physical presence of both parties, three witnesses, and the Marriage Officer at the registrar's office, making digital or virtual solemnization legally impermissible without statutory amendments, as established in *Shitha V.K. v. The District Registrar (General)* (2021).

03 Right to Privacy Restricts Residential Notice Dispatches

The SMA only authorizes the publication of the marriage notice on the conspicuous board of the registrar's office. Actively dispatching notices to the applicants' residences or involving local police stations is completely unauthorized and constitutes an illegal violation of the couples' fundamental right to privacy, as ruled in *Pranav Kumar Mishra & Anr. v. Govt. of NCT. of Delhi & Anr.* (2009).

04 Personal Law Registration Merely Facilitates Proof

Registration under Section 8 of the Hindu Marriage Act, 1955 (HMA) is purely evidentiary and cannot validate a union where customary religious rites, such as the *Saptapadi* under Section 7, were never performed, as held by the Supreme Court in *Dolly Rani v. Manish Kumar Chanchal* (2024).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT POSITION

The apex court has repeatedly held that a registered marriage agreement or certificate is legally meaningless under the HMA if the underlying religious rites were skipped. In *Rathnamma v. Sujathamma* (2019), the Supreme Court ruled that a registered "agreement of marriage" was insufficient to prove a Hindu marriage in the absence of customary rites. Although the Supreme Court in *Seema v. Ashwani Kumar* (2006) directed all states to frame rules making marriage registration compulsory to prevent disputes and safeguard the rights of women and children, it emphasized that registration serves as valuable evidence rather than a source of substantive marital status.

HIGH COURT VARIATIONS

High Courts strictly enforce the 30-day territorial residency and notice provisions of the SMA. For instance, the Madras High Court in *J. Shaik Mohammed v. The Inspector General of Registration* (2018) directed parties to strictly submit to the 30-day notice under Section 5 before registering their inter-faith union, while the Kerala High Court in *Sharon Francis v. State of Kerala* (2022) held that courts have no power to waive the 30-day residency threshold. However, once local residency is confirmed through local inquiry, the Kerala High Court in *Priya Lo J. v. State of Kerala* (2018) held that transmitting duplicate notices to the couple's native state under Section 6(3) is unnecessary. In dealing with formal objections, the Telangana High Court in *Prakash Kumar Jain v. The Sub-Registrar* (2023) held that the registrar must conclude a formal inquiry within 30 days under Section 8 before proceeding. Conversely, once a certificate is entered under Section 13, the Karnataka High Court in *Bestha Rajashekhar v. M. Uma Devi* (2024) held that it constitutes conclusive proof of solemnization and compliance with formalities. For personal law registrations, the Delhi High Court in *Deepraj v. Vijay Laxmi* (2010) and Madras High Court in *V.D. Grahalakshmi v. T. Prashanth* (2011) have held that marriage registration certificates are of no value if one party repudiates the marriage and the performance of rites remains unproven. Administratively, the Andhra Pradesh High Court in *T. Sasikala v. State of Andhra Pradesh* (2022) corrected a clerical error where a registrar erroneously used a solemnization form (Fourth Schedule) instead of a registration form (Fifth Schedule) for a marriage already celebrated under personal law. Under other personal laws, the Supreme Court in *Lakshmi Sanyal v. Sachit Kumar Dhar* (1972) evaluated the self-contained categories of minor consent and consanguinity under the Indian Christian Marriage Act, 1872, while the Madras High Court in *Surya Vetrakondan v. State of Tamilnadu* (2018) declined to judicially mandate a compulsory universal registration scheme, citing the exclusive domain of the legislature.

RECENT EVOLUTION

High Courts have consistently expanded protective measures for consenting adult couples facing familial hostility. The Jammu and Kashmir High Court in *Rimpy Mala v. State* (2019) directed the police to guarantee the safety of consensual inter-caste and inter-religious couples, while the Rajasthan High Court in *Purnima Vyas v. State of Rajasthan* (2024) verified state security measures and safe housing for an adult couple awaiting their SMA solemnization. Crucially, the Rajasthan High Court in *Sawrup Kumar v. State of Rajasthan* (2024) held that the fundamental right to life and liberty under Article 21 applies unconditionally to couples regardless of their marital status, extending the protective umbrella to consenting partners in live-in relationships—a rule reinforced in *Manisha v. State of Rajasthan* (2024), *Kumkum v. State of Rajasthan* (2024), and *Suman Devi v. State of Rajasthan* (2024). To counter parallel or unauthorized religious authorities, the Madhya Pradesh High Court in *Shalu Sharma and Anr. v. State of MP and Ors.* (2020) ordered Arya Samaj governing bodies to incorporate SMA-like notice and objection procedures into their guidelines to prevent forced or fraudulent marriages. Finally, the J&K High Court in *Nasreen Akhter v. State* (2018) reiterated that society has no role in determining partner choice once individuals reach the age of majority.

II. Statutory Provisions 5 PROVISIONS

SECTION 6, SPECIAL MARRIAGE ACT, 1954 — MARRIAGE NOTICE BOOK AND PUBLICATION

This section mandates the Marriage Officer to keep records of marriage notices in a Marriage Notice Book and publish them in a conspicuous place in their office, including transmitting the notice to other districts if a party is not a permanent resident.

"6. Marriage Notice Book and publication .—(1) The Marriage Officer shall keep all notices given under section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same. (2) The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office. (3) Where either of the parties to an intended marriage is not permanently residing within the local limits of the district of the Marriage Officer to whom the notice has been given under section 5, the Marriage Officer shall also cause a copy of such notice to be transmitted to the Marriage Officer of the district within whose limits such party is permanently residing, and that Marriage Officer shall thereupon cause a copy thereof to be affixed to some conspicuous place in his office." *Cited in: J. Shaik Mohammed v. The Inspector General of Registration, Priya Lo J. v. State of Kerala, Shalu Sharma and Anr. v. State of MP and Ors., Purnima Vyas v. State of Rajasthan*

SECTION 5, SPECIAL MARRIAGE ACT, 1954 — NOTICE OF INTENDED MARRIAGE

Parties intending to marry under this Act must submit a written notice to the Marriage Officer of the district where at least one party has resided for the last thirty days.

"Section 5. Notice of intended marriage\n\nWhen a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the form specified in the Second Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given." *Cited in: Shalu Sharma and Anr. v. State of MP and Ors., Purnima Vyas v. State of Rajasthan*

SECTION 7, SPECIAL MARRIAGE ACT, 1954 — OBJECTION TO MARRIAGE

Any person may object to an intended marriage within thirty days of its notice publication on the grounds that it violates one of the statutory conditions.

"Section 7. Objection to marriage\n\n(1) Any person may, before the expiration of thirty days from the date on which any such notice has been published under sub-section (2) of section 6, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.\n\n(2) After the expiration of thirty days from the date on which notice of an intended marriage has been published under sub-section (2) of section 6, the marriage may be solemnized, unless it has been previously objected to under sub-section (1).\n\n(3) The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained if necessary, to the person making the objection and shall be signed by him or on his behalf." *Cited in: raised in the research question*

SECTION 8, SPECIAL MARRIAGE ACT, 1954 — PROCEDURE ON RECEIPT OF OBJECTION

This section details the inquiry procedure of a Marriage Officer when an objection is raised, including the timeline of thirty days to decide and the right of appeal to the district court.

"Section 8. Procedure on receipt of objection\n\n(1) If an objection is made under section 7 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied that it ought not to prevent the solemnization of the marriage or the objection is withdrawn by the person making it; but the Marriage Officer shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.\n\n(2) If the Marriage Officer upholds the objection and refuses to solemnize the marriage, either party to the intended marriage may, within a period of thirty days from the date of such refusal, prefer an appeal to the district court within the local limits of whose jurisdiction the Marriage Officer has his office, and the decision of the district court on such appeal shall be final, and the Marriage Officer shall act in conformity with the decision of the court." *Cited in: Shalu Sharma and Anr. v. State of MP and Ors.*

SECTION 15, SPECIAL MARRIAGE ACT, 1954 — REGISTRATION OF MARRIAGES CELEBRATED IN OTHER FORMS

This section outlines the requirements and conditions under which marriages celebrated under other forms or personal laws can be formally registered under the Special Marriage Act.

"Section 15. Registration of marriages celebrated in other forms\n\nAny marriage celebrated, whether before or after the commencement of this Act, other than a marriage solemnized under the Special Marriage Act, 1872 (3 of 1872), or under this Act, may be registered under this Chapter by a Marriage Officer in the territories to which this Act extends if the following conditions are fulfilled, namely:--\n\n(a) a ceremony of marriage has been performed between the parties and they have .been living together as husband and wife ever since;\n\n(b) neither party has at the time of registration more than one spouse living;\n\n(c) neither party is an idiot or a lunatic at the time of registration;\n\n(d) the parties have completed the age of twenty-one years at the time of registration;\n\n(e) the parties are not within the degrees of prohibited relationship;\n\nProvided that in the case of a marriage celebrated before the commencement of this Act, this condition shall be subject to any law, custom or usage having the force of law governing each of them which permits of a marriage between the two; and\n\n(f) the parties have been residing within the district of the Marriage Officer for a period of not less than thirty days immediately preceding the date on which the application is made to him for registration of the marriage." *Cited in: raised in the research question*

III. Cases Discussed

25 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	<i>Shalu Sharma and Anr. v. State of MP and Ors.</i> MPHC030009962020	HIGH COURT OF MADHYA PRADESH	2020	Orders Arya Samaj to integrate SMA notice procedures to prevent fraudulent and unauthorized marriages.
02	<i>J. Shaik Mohammed v. The Inspector General of Registration</i> HCMA011170892018	MADRAS HIGH COURT	2018	Directs parties to comply with Section 5's notice period for registering inter-faith marriages.
03	<i>Dolly Rani v. Manish Kumar Chanchal</i> ESCR010002612024	SUPREME COURT OF INDIA	2024	Holds HMA registration void without actual performance of customary ceremonies like Saptapadi.
04	<i>Priya Lo J. v. State of Kerala</i> KLHC010867932018	HIGH COURT OF KERALA	2018	Dispenses with notice transmission under SMA once local residency is confirmed via inquiry.
05	<i>T. Sasikala v. State of Andhra Pradesh</i> APHC010489662021	HIGH COURT OF ANDHRA PRADESH	2022	Distinguishes between SMA marriage solemnization and registration of an already celebrated marriage.
06	<i>Deepraj v. Vijay Laxmi</i> DLHC010001862009	HIGH COURT OF DELHI	2010	Rejects registration as proof of Hindu marriage where customary rites are not proved.
07	<i>Purnima Vyas v. State of Rajasthan</i> RJHC020547722024	HIGH COURT OF RAJASTHAN	2024	Affirms state duty to provide police protection to couples awaiting SMA marriage solemnization.
08	<i>Pranav Kumar Mishra & Anr. v. Govt. of NCT. of Delhi & Anr.</i> DLHC010064102009	HIGH COURT OF DELHI	2009	Restricts marriage officers from sending notices to residences as it violates privacy.
09	<i>Bestha Rajashekhar v. M. Uma Devi</i> KAHC010505282017	HIGH COURT OF KARNATAKA	2024	Affirms Section 13 marriage certificate is conclusive evidence of compliance with SMA formalities.
10	<i>Shitha V.K. v. The District Registrar (General)</i> KLHC010096462021	HIGH COURT OF KERALA	2021	Rejects virtual solemnization under SMA, holding physical presence of parties is mandatory.
11	<i>Sharon Francis v. State of Kerala</i> KLHC010611002022	HIGH COURT OF KERALA	2022	Refuses to waive the mandatory 30-day residency requirement under Section 5 of SMA.
12	<i>Prakash Kumar Jain v. The Sub-Registrar</i> HBHC010244232023	HIGH COURT FOR STATE OF TELANGANA	2023	Mandates Marriage Officer to conduct Section 8 inquiry within 30 days of objection.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
13	<i>Lakshmi Sanyal v. Sachit Kumar Dhar</i> ESCR010001181973	SUPREME COURT OF INDIA	1972	Evaluates parental consent and canon law dispensations under the Indian Christian Marriage Act.
14	<i>Surya Vetrikondan v. State of Tamilnadu</i> HCMA010887942018	MADRAS HIGH COURT	2018	Declines to judicially mandate universal marriage registration, leaving it to the legislature.
15	<i>Seema v. Ashwani Kumar</i> ESCR010000892006	SUPREME COURT OF INDIA	2006	Directs states to frame rules making marriage registration compulsory for all citizens.
16	<i>Rathnamma v. Sujathamma</i> ESCR010003102019	SUPREME COURT OF INDIA	2019	Holds that a registered marriage agreement is insufficient to prove a Hindu marriage.
17	<i>Ajmal Asharaf M. v. State of Kerala</i> KLHC010081102021	HIGH COURT OF KERALA	2021	Holds statutory notice periods under SMA are mandatory and cannot be waived.
18	<i>Rimpy Mala v. State</i> JKHC020042262019	HIGH COURT OF JAMMU AND KASHMIR	2019	Commands police protection for major couples who undergo inter-caste or inter-religious marriage.
19	<i>Sawrup Kumar v. State of Rajasthan</i> RJHC010553542024	HIGH COURT OF RAJASTHAN	2024	Extends Article 21 safety protections to consenting adults in live-in relationships.
20	<i>Manisha v. State of Rajasthan</i> RJHC010619292024	HIGH COURT OF RAJASTHAN	2024	Mandates police to protect live-in couples from threats by objecting family members.
21	<i>Kumkum v. State of Rajasthan</i> RJHC010614322024	HIGH COURT OF RAJASTHAN	2024	Extends safety protections to young couples under Article 21 regardless of marriageable age.
22	<i>Suman Devi v. State of Rajasthan</i> RJHC010624392024	HIGH COURT OF RAJASTHAN	2024	Directs police verification and protection for live-in couples facing parental opposition and violence.
23	<i>Shakti Vahini v. Union of India</i> ESCR010005372018	SUPREME COURT OF INDIA	2018	Rules that adult consensual partnership is protected under Articles 19 and 21.
24	<i>Nasreen Akhter v. State</i> JKHC020056582018	HIGH COURT OF JAMMU AND KASHMIR	2018	Affirms adults have the absolute right to marry without family or societal interference.
25	<i>V.D. Grahalakshmi v. T. Prashanth</i> HCMA010624822009	MADRAS HIGH COURT	2011	Rules that a marriage registration extract is not substantial proof of actual solemnization.

IV. Case Details 25 CASE FILES

01 Shalu Sharma and Anr. v. State of MP and Ors.

HIGH COURT OF MADHYA PRADESH • 2020-12-09 • WP/762/2020

This writ petition sought police protection for the petitioners, who claimed to have married. During proceedings, the first petitioner denied the validity of the marriage and stated that her signatures were obtained under duress on blank papers, leading to a criminal investigation against the second petitioner. The court found that the Arya Samaj institution involved in performing the marriage was not affiliated with the authorized governing body and was operating without proper authority. Consequently, the court restrained this institution from solemnizing further marriages. Additionally, the court directed the authorized Arya Samaj Pratinidhi Sabha to incorporate procedural safeguards regarding marriage notices and objections, mirroring the Special Marriage Act, to prevent unauthorized marriages.

HELD The High Court restrained an unauthorized Arya Samaj institution from performing marriages and directed the authorized governing body to amend its guidelines to incorporate the notice and objection provisions of Sections 5, 6, 7, and 8 of the Special Marriage Act, 1954, to ensure valid consent.

“Section 5 of the Special Marriage Act, 1954 provides that when a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the Form specified in the Second Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given. Section 6 of the Special Marriage Act, 1954 deals with mode of publication of notice, Section 7 deals with the objection to the marriage and Section 8 provides for deciding the objection.”

HIGH COURT OF MADHYA PRADESH • 2020

SOURCE MPH030009962020

02 J. Shaik Mohammed v. The Inspector General of Registration

MADRAS HIGH COURT • 2018-07-06 • WP/16578/2018

The petitioner sought a writ of mandamus to compel the marriage registrar to register his marriage to a woman of a different religion, which had already been solemnized under religious rites. The registrar had previously refused the request because the statutory notice procedures mandated by the Special Marriage Act, 1954, were not followed prior to the ceremony. Upon the court's intervention, the petitioner agreed to comply with the mandatory 30-day notice period required by Section 5 of the Act. Consequently, the court directed the petitioner to submit the proper application and instructed the registrar to process the marriage registration in accordance with the law once the formal requirements are satisfied.

HELD The High Court held that the 30-day notice procedure under Section 5 of the Special Marriage Act, 1954 is mandatory and cannot be skipped when seeking to register an inter-faith marriage.

“Notice of intended marriage – When a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the Form specified in the Second Schedule to the Marriage Officer of the District in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.”

MADRAS HIGH COURT • 2018

SOURCE HCMA011170892018

03 Dolly Rani v. Manish Kumar Chanchal

SUPREME COURT OF INDIA • 2024-04-19 • 2024 INSC 355

The parties in this case obtained a marriage certificate from an organization and subsequently registered their marriage under state rules, despite never having performed the requisite rites and ceremonies required by Section 7 of the Hindu Marriage Act, 1955. The Supreme Court emphasized that a valid Hindu marriage requires the actual performance of customary ceremonies, and a marriage certificate issued without such proof is insufficient to establish marital status. Registration under Section 8 of the Act cannot confer legitimacy upon a union that was never solemnized according to law. Consequently, the Court exercised its powers under Article 142 of the Constitution to declare the marriage and the associated registration certificates null and void, acknowledging that no legal marriage existed between the parties.

HELD The Supreme Court held that registration of a Hindu marriage under Section 8 of the Hindu Marriage Act, 1955 does not validate a marriage unless proper customary ceremonies, such as the saptapadi under Section 7, have actually been performed.

“The registration of a marriage under Section 8 of the Act is only to confirm that the parties have undergone a valid marriage ceremony in accordance with Section 7 of the Act. In other words, a certificate of marriage is a proof of validity of Hindu marriage only when such a marriage has taken place and not in a case where there is no marriage ceremony performed at all.”

SUPREME COURT OF INDIA • 2024

SOURCE ESCR010002612024

04 Priya Lo J. v. State of Kerala

HIGH COURT OF KERALA • 2018-12-04 • WP(C)/37514/2018

The petitioners sought a writ of mandamus to compel the marriage officer to solemnize their marriage under the Special Marriage Act, 1954. The marriage officer had delayed the process, insisting on serving notice in the second petitioner's native state of West Bengal, claiming he was not a permanent resident of Kerala. The court directed a local revenue official to conduct an inquiry, which confirmed that the second petitioner had been residing and working in Kerala for six years. Consequently, the court held that the requirement to transmit notice to another state was unnecessary. The marriage officer was ordered to process the marriage application expeditiously, provided all other statutory conditions were met.

HELD The High Court directed the Marriage Officer to expeditiously process the marriage under the Special Marriage Act, 1954, holding that transmitting notices to a native state under Section 6(3) is unnecessary once local residency is verified.

“Whenever a marriage is not solemnized within three calendar months from the date on which notice thereof has been given to the Marriage Officer as required by section 5... the notice and all other proceedings arising therefrom shall be deemed to have lapsed, and no Marriage Officer shall solemnize the marriage until a new notice has been given in the manner laid down in this Act.”

HIGH COURT OF KERALA • 2018

SOURCE KLHC010867932018

05 T. Sasikala v. State of Andhra Pradesh

HIGH COURT OF ANDHRA PRADESH • 2022-03-15 • WP/29485/2021

The petitioner sought to correct a clerical error in her son's marriage certificate, which incorrectly listed the date of registration as the date of marriage. The son and his wife had married previously under customary rites and subsequently applied for registration under the Special Marriage Act, 1954. The Marriage Officer had erroneously used the form for marriage solemnization (Fourth Schedule) rather than the form for registration of existing marriages (Fifth Schedule). The Court allowed the petition, directing the authorities to cancel the incorrect certificate and issue a new one in the appropriate format, explicitly reflecting the original date of marriage.

HELD The High Court highlighted the subtle distinction between solemnizing a marriage under Chapter II (Sections 4-14) of the Special Marriage Act, 1954 and registering an already celebrated marriage under Chapter III (Sections 15-16), ordering the rectification of an incorrectly issued solemnization certificate.

“The first method is, solemnization of a marriage under the Act, 1954 and second method is though the marriage was solemnized in any other form, getting registration of such marriage under the provisions of the Act, 1954. Chapter-II of the Act, 1954 containing Sections-4 to 14 deals with the first method i.e., solemnization of special marriages and Chapter-III of the Act, 1954 under Sections 15 and 16 deals with second method i.e., the registration of marriages which were already celebrated in other forms.”

HIGH COURT OF ANDHRA PRADESH • 2022

SOURCE APHC010489662021

06 Deepraj v. Vijay Laxmi

HIGH COURT OF DELHI • 2010-08-13 • MAT.APP./7/2009

This case involved an appeal against a trial court's dismissal of a petition for restitution of conjugal rights filed under Section 9 of the Hindu Marriage Act. The appellant claimed a valid marriage performed through Hindu rites and ceremonies, while the respondent disputed the marriage's existence and legality, asserting she was a minor at the time and that the marriage was never properly solemnized. The trial court rejected the appellant's evidence, finding he failed to prove the essential rites of 'Homa' and 'Saptapadi' or the validity of the marriage.

registration. The Delhi High Court upheld this decision, noting the lack of proof regarding performance of necessary ceremonies and the failure to examine key witnesses, concluding the marriage was not valid under the Act.

HELD The High Court held that marriage registration under Section 8 of the Hindu Marriage Act, 1955 is not sole proof of a valid marriage, as validity depends on the performance of customary rites such as 'Homa' and 'Saptapadi' under Section 7.

"Under the Hindu Marriage Act 'HOMA' and 'Saptapadi' are essential attributes of a valid marriage. Marriage becomes complete and binding when the seventh step is taken... traditional meaning of the word 'solemnisation' is 'to celebrate the marriage with proper ceremonies and in due form'"

HIGH COURT OF DELHI • 2010

SOURCE DLHC010001862009

07 Purnima Vyas v. State of Rajasthan

HIGH COURT OF RAJASTHAN • 2024-07-08 • CRLW/1388/2024

The petitioners, both adults, filed a writ petition seeking police protection due to threats from family members regarding their intent to marry under the Special Marriage Act, 1954. The petitioners expressed apprehension for their safety while their marriage application remained pending before the competent authority. The High Court observed that the state authorities had already provided adequate protection, including housing the first petitioner in a safe facility and deploying police personnel to monitor their safety. Given that the petitioners were satisfied with the existing protective measures and no further immediate directions were required, the court disposed of the petition.

HELD The High Court approved the security and housing measures provided by the state to protect a couple awaiting the solemnization of their marriage under Section 5 of the Special Marriage Act, 1954.

"It is also submitted that as per the scheme of Special Marriage Act of 1954, there is a procedure to file objection and consideration of the same by the Competent Authority... the only impediment, which can be imposed to put a barrier upon marriage between two persons is the provisions of Section 4 of the said Act."

HIGH COURT OF RAJASTHAN • 2024

SOURCE RJHC020547722024

08 Pranav Kumar Mishra & Anr. v. Govt. of NCT. of Delhi & Anr.

HIGH COURT OF DELHI • 2009-04-08 • W.P.(C)/748/2009

The petitioners challenged the procedure adopted by the marriage authorities under the Special Marriage Act, 1954, which involved sending notices of intended marriage to the residential addresses of applicants and involving police verification. The petitioners argued this practice was not supported by the Act and violated their right to privacy. The court found that the Special Marriage Act only requires the publication of the notice on the office notice board of the Marriage Officer. Consequently, the court ruled that the practice of sending notices to

residences is without legal authority, noting it could jeopardize the safety and privacy of the parties. The court directed authorities to cease this practice.

HELD The High Court held that sending marriage notices to the residential addresses of applicants or conducting police verifications is without legal authority under the Special Marriage Act, 1954 and constitutes a breach of the fundamental right to privacy.

“Absent any legal compulsion – as is the position –for sending notices to residential addresses in case of solemnization of the marriage, in terms of Sections 4 and 5, their dispatch can well amount to breach of the right to privacy, which every individual is entitled to”

HIGH COURT OF DELHI • 2009

SOURCE DLHC010064102009

09 Bestha Rajashekhar v. M. Uma Devi

HIGH COURT OF KARNATAKA • 2024-03-07 • MFA/8418/2017

This case involved two appeals filed by a husband against his wife. In the first instance, the husband sought a decree of nullity of marriage under Section 25(iii) of the Special Marriage Act, 1954, alleging that his consent was obtained through coercion and fraud and that procedural requirements for marriage registration were not followed. The trial court dismissed his petition, finding no evidence of coercion or procedural irregularities. Subsequently, the wife filed for restitution of conjugal rights under Section 22 of the Act, which was granted by the family court. On appeal, the High Court upheld the decisions of the lower courts, finding that the husband failed to substantiate his claims of invalidity and that the marriage was legally valid.

HELD The High Court held that once a marriage certificate is entered in the Marriage Certificate Book under Section 13, it serves as conclusive evidence of the solemnization of marriage and compliance with all statutory formalities.

“On a certificate being entered in the Marriage Certificate Book by the Marriage Officer, the Certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized and that all formalities respecting the signatures of witnesses have been complied with.”

HIGH COURT OF KARNATAKA • 2024

SOURCE KAHC010505282017

10 Shitha V.K. v. The District Registrar (General)

HIGH COURT OF KERALA • 2021-02-18 • WP(C)/3421/2021

The petitioner sought a court direction to permit the solemnization and registration of her marriage under the Special Marriage Act, 1954, via a digital platform. She requested this accommodation because she was required to travel abroad for her studies before the expiration of the statutory 30-day notice period. The court examined the relevant provisions of the Special Marriage Act, which mandate the physical presence of the parties, the marriage officer, and witnesses for the declaration and signing of the marriage certificate. The court held that these statutory requirements are mandatory and not subject to judicial relaxation or digital facilitation.

Consequently, the court dismissed the petition, ruling that it lacks the authority to permit digital solemnization without legislative amendment.

HELD The High Court held that the provisions of Sections 11, 12, and 13 of the Special Marriage Act, 1954 strictly mandate the physical presence of the parties, the Marriage Officer, and witnesses, and cannot be relaxed to permit digital or virtual solemnization.

“It would not be possible to observe these procedures online, in the absence of the physical presence of both the parties near the Registering Officer and the witnesses. The expression “shall” employed in Section 13 i.e., “The Marriage Officer shall ----” would further show that there cannot be any relaxation for the procedures to be followed in the matter of solemnization as well as the period of notice preceding marriage prescribed under Section 5 of the Act.”

HIGH COURT OF KERALA • 2021

SOURCE KLHC010096462021

11 Sharon Francis v. State of Kerala

HIGH COURT OF KERALA • 2022-10-26 • WP(C)/28964/2022

The petitioners sought a direction for their marriage to be solemnized under the Special Marriage Act, 1954, through virtual mode, as one petitioner resides abroad. The Court observed that the petitioners failed to meet the mandatory requirement under Section 5 of the Act, which requires at least one party to have resided within the jurisdiction of the Marriage Officer for at least 30 days prior to filing the notice. The Court clarified that it cannot waive this statutory residency requirement. The Court noted that the petitioners may comply with the law by submitting their notice to the Marriage Officer in the jurisdiction where one of them resides, and subsequently seek permission to solemnize the marriage via virtual mode.

HELD The High Court ruled that the requirement under Section 5 of the Special Marriage Act, 1954, mandating that at least one party must have resided within the Marriage Officer's jurisdiction for 30 days prior to notice, is statutory and cannot be waived by the court.

“The purpose of giving notice of intended marriage is to provide an opportunity to raise objections in the event of the proposed marriage being in contravention of prohibitions enumerated in Section 4. It is submitted that, since Section 4 has no application to the instant case, the requirement of one of the parties residing within the jurisdiction of the Marriage Officer for 30 days can be waived.”

HIGH COURT OF KERALA • 2022

SOURCE KLHC010611002022

12 Prakash Kumar Jain v. The Sub-Registrar

HIGH COURT FOR STATE OF TELANGANA • 2023-05-11 • WP/13282/2023

The petitioners sought a writ of mandamus to prevent the Sub-Registrar from registering the marriage of their daughter, the fourth respondent, and her partner, arguing that the marriage should not proceed without parental consent. The couple, both adults, had applied to register their marriage under the Special Marriage Act,

1954, and the petitioners had filed formal objections under Section 7 of the Act. The High Court observed that since the petitioners had filed formal objections, the marriage registrar is statutorily obligated to conduct an inquiry under Section 8 of the Special Marriage Act within 30 days. The Court disposed of the petition by directing the Sub-Registrar to inquire into the objections and issue a reasoned order before proceeding further with the marriage registration.

HELD The High Court directed that when formal objections are filed under Section 7 of the Special Marriage Act, 1954, the Marriage Officer is statutorily bound under Section 8 to inquire into the objections and pass a reasoned decision within 30 days before proceeding with solemnization.

"Since the petitioners herein have filed their objections in compliance with Section 7 of the Special Marriage Act, 1954, the Marriage Officer is statutorily bound under Section 8 to inquire into the objections and pass a reasoned decision within 30 days before proceeding with solemnization."

HIGH COURT FOR STATE OF TELANGANA • 2023

SOURCE HBHC010244232023

13 Lakshmi Sanyal v. Sachit Kumar Dhar

SUPREME COURT OF INDIA • 1972-09-08 • 1972 INSC 211

This case involved a petition to declare a marriage null and void on the grounds that the petitioner was a minor at the time of marriage without parental consent, and that the parties were within prohibited degrees of consanguinity. The court ruled that the Indian Christian Marriage Act, 1872, does not require parental consent for marriages solemnized under section 5(1) by a competent minister following the rites and customs of the church. Regarding consanguinity, the court held that while the relationship was an impediment under Roman Catholic Canon Law, it was validly removed through a dispensation granted by church authorities, rendering the marriage valid.

HELD The Supreme Court held that under the Indian Christian Marriage Act, 1872, there is no uniform requirement of parental consent for individuals between 18 and 21 years of age across all church categories, and that canon law impediments can be validly removed by church dispensations.

"Moreover as demonstrated by s. 60 there seems to be no uniform provision that consent must be obtained of the parents or the guardian when a person is above 18 years of age but below 21. Section 60 clearly recognises the fact that if a marriage is to be certified under Part VI the consent would be required only if either of the parties has not completed his or her 18th year."

SUPREME COURT OF INDIA • 1972

SOURCE ESCR010001181973

14 Surya Vetrikondan v. State of Tamilnadu

MADRAS HIGH COURT • 2018-09-07 • WP/2839/2018

The petitioner sought a writ of mandamus to compel the State to establish a mandatory scheme for registering all marriages, regardless of personal law, and to mandate medical fitness certificates as a prerequisite for marriage registration. The petitioner argued that such measures would prevent fraud and protect spouses from undisclosed health conditions. The Madras High Court dismissed the petition, observing that the regulation of marriage is governed by various religious personal laws and specific statutes, none of which currently mandate universal registration. The Court held that it lacks the authority to issue a mandamus to the government to create new legislation or to implement a registration scheme. The Court reiterated that law-making is the exclusive domain of the legislature, not the judiciary.

HELD The High Court dismissed a writ petition seeking to mandate universal registration of all marriages and health certificates, holding that the judiciary cannot issue a mandamus to the government to enact legislation.

“There is no provision under the Indian Christian Marriage Act, 1872, which makes it obligatory that the party to such marriage, should have the particulars relating to the marriage entered into, in a register maintained by a authority specified in the Act. The Act does not give power to the State Government to make rules providing that the parties to such marriage should have the particulars / details of the marriage to be entered in the marriage register to be maintained by the State”

MADRAS HIGH COURT • 2018

SOURCE HCMA010887942018

15 Seema v. Ashwani Kumar

SUPREME COURT OF INDIA • 2006-02-14 • 2006 INSC 83

This case addressed the lack of uniformity in marriage registration laws across India, noting that the absence of official records often leads to disputes where parties deny the existence of a marriage. The Supreme Court observed that such gaps disproportionately affect women in matters of maintenance, custody, and inheritance. Recognizing the importance of evidence in establishing marital status, the Court directed the Central and State Governments to enact laws making the registration of marriages compulsory for all citizens, regardless of their religion. The Court clarified that while registration is not conclusive proof of a valid marriage, it serves as valuable evidence to protect the rights of spouses and children.

HELD The Supreme Court directed all State and Central governments to make the registration of marriages compulsory for citizens of all religions to ensure reliable proof of marriage and protect the rights of spouses.

“Accordingly, we are of the view that marriages of all persons who are citizens of India belonging to various religions should be made compulsorily registrable in their respective States, where the marriage is solemnized.”

SUPREME COURT OF INDIA • 2006

SOURCE ESCR010000892006

Rathnamma v. Sujathamma

SUPREME COURT OF INDIA • 2019-11-15 • 2019 INSC 1255

The plaintiff claimed a share in the estate of her alleged father-in-law, asserting she was married to his deceased son, Hanumanthappa. The claim relied on a registered 'agreement of marriage' rather than proof of traditional Hindu marriage ceremonies. The trial court dismissed the suit, finding the marriage was not proven and lacked essential rites. While the appellate courts initially ruled in favor of the plaintiff, the Supreme Court reversed this decision. The Court held that the plaintiff failed to discharge the burden of proving a valid marriage, noting that the mere registration of an agreement does not constitute a legal marriage under the Hindu Marriage Act without evidence of customary rites like Saptapadi.

HELD The Supreme Court held that a mere registration of an agreement of marriage, without any assertion or proof of customary rites like Saptapadi under Section 7 of the Hindu Marriage Act, 1955, is legally insufficient to establish the status of marriage.

"In the agreement of marriage (E x.P/ 1), it is only stated that both parties are of same caste and with the permission and consent of both of their fathers , they have entered into this agreement of marriage. This type of marriage is not recognized in law as Section 7 of the Act contemplates that the marriage can be solemnized in accordance with customary rites and ceremonies"

SUPREME COURT OF INDIA • 2019

SOURCE ESCR010003102019

17 Ajmal Asharaf M. v. State of Kerala

HIGH COURT OF KERALA • 2021-02-04 • WP(C)/2844/2021

The petitioners, who were employed abroad, sought to solemnize their marriage under the Special Marriage Act, 1954. Due to pandemic-related constraints, they were unable to complete the marriage within the three-month period following their initial notice and had submitted a second notice. They requested the court to expedite the process by waiving the mandatory 30-day notice period and to allow the marriage to be solemnized via video conferencing. The court rejected these requests, holding that the procedural requirements, including the notice period and the physical presence of the parties and witnesses, are mandatory under the Act. Failure to adhere to these provisions attracts penal consequences for the Marriage Officer, and the court maintained that it cannot relax these statutory mandates.

HELD The High Court held that the 30-day notice period preceding marriage under Section 5 is mandatory and cannot be relaxed by the court, as non-compliance carries penal consequences for the Marriage Officer under Section 46.

"That writ petition was dismissed rejecting the relaxation of the minimum period of notice as well as the request for conducting the marriage on video conferencing."

HIGH COURT OF KERALA • 2021

SOURCE KLHC010081102021

Rimpy Mala v. State

HIGH COURT OF JAMMU AND KASHMIR • 2019-06-07 • WP(C)/2128/2019

The petitioners, both major, sought protection from the court after marrying against the wishes of their families. They expressed fear of harassment and potential false complaints from relatives who disapproved of their marriage. The court, citing established Supreme Court precedents on personal liberty and the right to choose one's life partner, recognized the petitioners' legal right to marry of their own free will. The court disposed of the petition by directing the official respondents to ensure the safety, lives, and liberty of the petitioners. Authorities were instructed to provide protection against any threats or violence by the private respondents or any other individuals, ensuring the couple is not harassed for exercising their fundamental right to marriage.

HELD The High Court held that once individuals reach majority, they are free to marry of their own choice under Article 21, and directed the police and administration to protect such couples from familial threats and harassment.

"If the parents of the boy or girl do not approve of such inter caste or inter religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter caste or inter-religious marriage."

HIGH COURT OF JAMMU AND KASHMIR • 2019

SOURCE JKHC020042262019

19 Sawrup Kumar v. State of Rajasthan

HIGH COURT OF RAJASTHAN • 2024-07-22 • CRLW/1544/2024

The petitioners, a young couple in a live-in relationship, filed a writ petition seeking police protection due to threats from their families, who opposed their relationship and intended to marry the female petitioner to another individual. The petitioners argued they faced a constant danger to their lives. The High Court held that the fundamental right to life and liberty under Article 21 of the Constitution of India is sacrosanct and applies regardless of marital status or age. The court ruled that the State has a constitutional obligation to protect citizens from threats of violence. Consequently, the court directed the local police authorities in Barmer and Deogarh to verify the threat perception and provide necessary security to the couple.

HELD The High Court held that the fundamental right to life and personal liberty under Article 21 of the Constitution of India protects individuals in consensual live-in relationships, imposing a duty on the State to ensure their safety.

"Honour killing is a result of people marrying without their family's acceptance, and sometimes for marrying outside their caste or religion. Once an individual, who is a major, has chosen his/her partner, it is not for any other person, be it a family member, to object and cause a hindrance to their peaceful existence. It is for the State at this juncture, to ensure their protection and their personal liberty."

HIGH COURT OF RAJASTHAN • 2024

SOURCE RJHC010553542024

20 Manisha v. State of Rajasthan

HIGH COURT OF RAJASTHAN • 2024-08-13 • CRLW/1710/2024

The petitioners, a young couple in a live-in relationship, sought police protection alleging threats from the family of the first petitioner due to disapproval of their relationship. The court held that the right to life and liberty under Article 21 of the Constitution of India is paramount and must be protected regardless of the marital status or age of the individuals involved. Relying on established precedents regarding the rights of couples in live-in relationships to be free from harassment, the court directed the Superintendent of Police, Jodhpur, to assess the threat perception and provide necessary protection to the petitioners to ensure their safety.

HELD The High Court ordered the Superintendent of Police to evaluate the threats faced by a couple in a consensual relationship and provide necessary security, affirming that Article 21 protections operate independently of marriage.

“The right to exercise Assertion of choice is an insegregable facet of liberty and dignity... It is for the State at this juncture, to en sure their protection and their personal liberty. It would be a travesty of justice in case protection is denied to persons who have opted to reside together without the sanctity of marriage”

HIGH COURT OF RAJASTHAN • 2024

SOURCE RJHC010619292024

21 Kumkum v. State of Rajasthan

HIGH COURT OF RAJASTHAN • 2024-08-23 • CRLW/1702/2024

The petitioners, a young couple, sought police protection fearing for their lives and liberty due to opposition from their families regarding their relationship. The petitioners alleged that they were being threatened with dire consequences for choosing to be together. The High Court, while noting that the individuals were not yet of legal marriageable age, held that the constitutional right to life and liberty under Article 21 is paramount and applies regardless of marital status. The court directed the Superintendent of Police, Sriganganagar, to verify the threat perception and provide necessary protection to ensure the safety of the petitioners.

HELD The High Court ruled that the right to life and liberty under Article 21 applies unconditionally, directing police protection for a young couple facing threats even if they had not reached marriageable age.

“In case such a course is adopted and protection denied, the courts would also be failing in their duty to provide its citizens a right to their life and liberty as enshrined under Article 21 of the Constitution of India and to uphold to the Rule of law”

HIGH COURT OF RAJASTHAN • 2024

SOURCE RJHC010614322024

22 Suman Devi v. State of Rajasthan

HIGH COURT OF RAJASTHAN • 2024-08-21 • CRLW/1735/2024

The petitioners, a couple in a live-in relationship, filed a writ petition seeking police protection due to threats from the first petitioner's family, who opposed their relationship. The petitioners claimed their families were threatening them with violence for choosing to be together. The Rajasthan High Court held that the right to life and personal liberty under Article 21 of the Constitution of India is paramount and applies regardless of a couple's marital status or age. The court directed the Superintendent of Police, Pali, to verify the petitioners' threat perception and provide necessary protection for their safety and liberty.

HELD The High Court directed local police authorities to safeguard a live-in couple from parental violence, reiterating that any impediment or threat to a consensual adult partnership violates the rule of law.

"Once an individual, who is a major, has chosen his/her partner, it is not for any other person, be it a family member, to object and cause a hindrance to their peaceful existence. It is for the State at this juncture, to ensure their protection and their personal liberty."

HIGH COURT OF RAJASTHAN • 2024

SOURCE RJHC010624392024

23 Shakti Vahini v. Union of India

SUPREME COURT OF INDIA • 2018-03-27 • 2018 INSC 266

This case addressed the prevalence of honour crimes and the interference of informal village councils, known as Khap Panchayats, in the matrimonial choices of consenting adults. The Supreme Court of India declared that such interference—often involving torture or violence—is illegal and a violation of the constitutional rights to liberty and dignity under Articles 19 and 21. The Court held that the consent of family or community is not required for adults to marry and that these private assemblies cannot act as law enforcement agencies. Consequently, the Court issued preventive, remedial, and punitive directives to state and central governments to curb honour crimes and protect individual autonomy, while recommending that the legislature enact specific laws to combat honour killings.

HELD The Supreme Court held that when two consenting adults choose to marry or associate, their right to do so is a protected facet of liberty and dignity under Articles 19 and 21, and informal groups or family members have no authority to object or commit acts of violence.

"Honour killing guillotines individual liberty, freedom of choice and one's own perception of choice. It has to be sublimely borne in mind that when two adults consensually choose each other as life partners, it is a manifestation of their choice which is recognized under Articles 19 and 21 of the Constitution."

SUPREME COURT OF INDIA • 2018

SOURCE ESCR010005372018

24 Nasreen Akhter v. State

HIGH COURT OF JAMMU AND KASHMIR • 2018-07-11 • OWP/1293/2018

The petitioners, both of legal age, sought police protection due to threats received after their marriage. Citing established legal principles regarding an individual's fundamental right to choose their life partner, the court affirmed that major individuals are free to marry of their own volition without interference from family or third parties. Consequently, the court disposed of the petition by directing the official respondents to ensure the safety of the petitioners and take appropriate legal action against any persons harassing or threatening them, in line with established constitutional protections for personal liberty.

HELD The High Court ruled that consenting adults who choose their own partner are entitled to complete state protection of life and liberty, and objecting relatives cannot lawfully harass them or threaten violence.

"We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence"

HIGH COURT OF JAMMU AND KASHMIR • 2018

SOURCE JKHC020056582018

25 V.D. Grahalakshmi v. T. Prashanth

MADRAS HIGH COURT • 2011-11-21 • CMA/1305/2009

The husband sought an annulment of his marriage, alleging that his wife committed fraud by suppressing the fact of a prior registered marriage. The Family Court granted the annulment, finding that the suppression of this material fact rendered the consent obtained for the marriage voidable under the Hindu Marriage Act. The wife appealed, arguing that the alleged prior marriage was never legally proven and that the registration certificate relied upon by the husband was not sufficiently established as evidence. The High Court reviewed whether the mere registration of a prior marriage constituted sufficient proof to satisfy the threshold of fraud required to void a marriage under section 12(1)(c) of the Act.

HELD The High Court held that the registration of a Hindu marriage is only for facilitating proof and does not constitute substantial evidence of solemnization if a party subsequently repudiates the marriage and no independent proof of ceremonies exists.

"Therefore, the registration of marriage is not a substantial proof of a Hindu marriage, if one party repudiates the same. The effect of production of a certificate is only to the extent that the parties have made such statements before a public authority."

MADRAS HIGH COURT • 2011

SOURCE HCMA010624822009

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