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Case Analysis of Smt. Seema vs. Ashwani Kumar

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ABSTRACT

In contrast to Hindu law, which sees marriage as a profoundly sacred process, Muslims law sees marriage as a straightforward contract. The Hindu Marriage Act of 1955 regulates all aspects of marriage and is applicable to all Hindus (including Jains, Sikhs, and Buddhists), but not to Muslims, Parsis, Christians, or Jews.

The provisions of Section 7 of the Act state that Hindu marriages must be performed and solemnised in line with the traditional and religious rites and ceremonies of the bride and groom. "Saptapadi" is one of these customs. In plainer terms, it can be argued that a marriage between a bride and groom is known as a valid marriage when it is solemnised in accordance with the ceremonies and all of the requirements listed in Section 5 are met.

A lawful marriage confers specific rights and duties on both the husband and wife. Section 8 (1)1 of Hindu Marriage Act 1955 talks about registration of Hindu Marriage as Registration of Hindu marriages. —(1) For the purpose of facilitating the proof of Hindu marriages, the State Government may make rules providing that the parties to any such marriage may have the particulars relating to their marriage entered in such manner and subject to such conditions as may be prescribed in a Hindu Marriage Register kept for the purpose

Marriage registration wasn't necessary before this ruling was handed down in 2006, when it was. Notwithstanding this, the Supreme Court ordered that all husbands and wives register their unions while this case was still in court after learning about the various abuses that women were experiencing as a result of the absence of such documents. This occurred as a result of the fact that few marriages were registered in India until the early 2000s.

Keywords: *Registration of marriage, Hindu Marriage Act.*

I. INTRODUCTION

In contrast to Hindu law, which sees marriage as a profoundly sacred process, Muslims law sees marriage as a straightforward contract. The Hindu Marriage Act of 1955 regulates all aspects of marriage and is applicable to all Hindus (including Jains, Sikhs, and Buddhists), but not to Muslims, Parsis, Christians, or Jews.

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II. FACTS OF THE CASE

The facts of the case can be summarized as thus:

- The first petition was first submitted to the Haryana District Court in 2005 as a result of Seema and Ashwani's ongoing disagreements and fighting.
- When an interim order dated April 15, 2005 was issued, the case was still ongoing in the Court of Additional District Judge of Delhi.
- The Supreme Court received a transfer petition, and one of the first and most important issues was whether the marriage between the petitioner (Seema) and respondent (Ashwani) was valid or not.
- It was noted at the Supreme Court's hearing of this petition that since Section 8 of the Act does not require the registration of marriages, it has become difficult to demonstrate the existence of a marriage between the spouses.
- The absence of official documents of solemnised marriages served as a loophole.
- Due to the fact that Section 8 (1) gives all State governments the authority to enact

² Section 8(1) Of Hindu Marriage Act , 1955

laws controlling the registration of marriages, hence different states have different laws governing marriages

- Additionally, if the State believes that marriage registration should be made compulsory, as per Section 8(2), breaking this rule will result in a fine. Yet, at that time, only 4 Acts in India required the registration of Hindu marriages.
- The learned Solicitor General and Mr. Ranjit Kumar, learned senior counsel, were requested to serve as Amicus Curiae to help the Court create guidelines relating the registration of marriage. Many States and Union Territories were given notice. Every State and Union Territory consistently stated the opinion that marriage registration is highly advised.

III. ISSUES RAISED IN THE CASE

1. Whether the registration of marriage should be a mandatory provision or not?
2. Whether this mandate is constitutional or not?

IV. JUDGEMENT

The Court cited entries 5 and 30 of List III of the Seventh Schedule of the Constitution of India in response to the question of whether or not making marriage registration a mandatory procedure is constitutional.

“Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law. Vital statistics including registration of births and deaths.”³

Entry 5 grants the State and the Central government the authority to enact legislation governing marriage and divorce, which expressly includes the procedures for marriage registration. Moreover, Article 30's definition of "vital statistics" includes information regarding marriages, and as a result, marriage registration is included.

The Apex Court recognised the critical necessity to mandate marriage registration when, while this case was pending, a plethora of other challenges surfaced in which women suffered significantly and negatively from the absence of documentation of marriage solemnization. The Supreme Court made it clear that a marriage's mere registration would not serve as proof of its validity, but it would be a powerful piece of evidence in cases where the rights and obligations

³ The Constitution of India 1950

of the spouses are at issue.

The age of the bride and groom must also be disclosed as part of the registration of the marriage. As a result, this would aid in reducing the risks associated with the social ill of child marriage. As a result, the Supreme Court made the requirement for marriage registration mandatory through this landmark decision. The Court also gave the States and Union Territories the following directives:

- The procedure for registration should be notified by respective States within three months from today. This can be done by amending the existing Rules, if any, or by framing new Rules. However, objections from members of the public shall be invited before bringing the said Rules into force. In this connection, due publicity shall be given by the States and the matter shall be kept open for objections for a period of one month from the date of advertisement inviting objections. On the expiry of the said period, the States shall issue appropriate notification bringing the Rules into force.
- The officer appointed under the said Rules of the States shall be duly authorized to register the marriages. The age, marital status (unmarried, divorcee) shall be clearly stated. The consequence of non-registration of marriages or for filing false declaration shall also be provided for in the said Rules. Needless to add that the object of the said Rules shall be to carry out the directions of this Court.
- As and when the Central Government enacts a comprehensive statute, the same shall be placed before this Court for scrutiny.
- Learned counsel for various States and Union Territories shall ensure that the directions given herein are carried out immediately.”⁴

V. ANALYSIS

In light of the current situation, this landmark decision has been crucial in defending the rights of numerous women and girls across. The Supreme Court has endeavored to close a loophole and, to a certain extent, combat the social ill of underage marriage, which has historically predominated in our nation, by making the act of marriage registration mandatory. In 2012, the Delhi High Court agreed with this ruling and ruled in favor of making marriage registration mandatory. It stated, "Marriage registration would discourage guardians from marrying off their minor children as a written record of their ages would reveal the illegality of such marriages."⁵.

⁴ Seema v. Ashwani Kumar AIR 2006 SC 1158

⁵ Lajja Devi v. State NCT Delhi 2012 SCC OnLine Del 3937

At the beginning of the hearing in this case, it seemed to be a straightforward martial matter involving a husband and wife that resulted from various conflicts between the couple. But, as the hearing went on, it made the Court aware of much more serious issues that the nation was facing as a result of gaps in the current laws.

I believe that by issuing this ruling, the Supreme Court did a very good thing by mandating marriage registration.

VI. SUGGESTIONS

- In spite of registration being a simple process, the vast majority of Indians choose not to register their marriage.
- Marriage registration should be made compulsory in India in all religion and regions whether it be Hindu, Muslim, Sikhs etc. Currently its compulsory in four states Maharashtra, Gujarat, Karnataka and Himachal Pradesh It should be made compulsory irrespective of the rituals and ceremonies performed and there should be strict laws governing marriage registration.
- It will help the society in many ways such as it will provide evident value in matrimonial cases and prevent unnecessary child marriages, unconsented marriages, harassment, and prevent parents/guardians from buying and selling their daughters.
- Evidential value of age of parties and people not accepting marriages on the ground that there is no prove. In all such cases registration of marriage will be of great help. In the case **Narinder Kumar and Ors. vs. State of H.P. and Ors.**⁶ the court said that registration should be compulsory as it will prevent fraudulently enticing of a girl with false promises and exploitation her sexually.
- Making marriages mandatory to register is consequently in the society's best interest. Such registration will be seen as a constructive action of major importance in discussions regarding the custody, rights, and maintenance of a child born outside of marriage between two people. It will help in prohibition of bigamy or polygamy; empowerment of married women to assert their rights in their marital home; and empowerment of widows to assert their rights following the death of their husbands, such as inheritance rights, etc.

⁶ Narinder Kumar and Ors. vs. State of H.P. and Ors MANU/HP/0188/2021

VII. CONCLUSION

According to Hindu law, marriage is a sacrament that is celebrated and solemnised in accordance with the partners' customs, rites, and ceremonies. Sikhs, Jains, and Buddhists are all considered to be Hindus under the Hindu Marriage Act of 1955. There are a few requirements under Section 5 of the Act that must be met by both the bride and the groom in order to solemnize a legitimate marriage. A marriage is only considered legal once those requirements are met and the wedding rites are carried out in accordance with tradition. The necessary registration of marriage was not mentioned among the essential requirements, though. The Act gave state governments the authority to establish the necessary registration regulations, and only the state may mandate registration if it so desired.

This phrase served as an escape plan for many since, in the absence of registration, the validity of marriage was questioned, and because there were no official records to support it, it was more difficult for husbands to deprive their wives of their marital rights. In the case of *Lalan P.R. and Ors. vs. Chief Registrar General of Marriages (Common), (Director of Panchayaths), Thiruvananthapuram and Ors* also registration was made compulsory.⁷

With the announcement of this historic decision, the Supreme Court protected minor girls from atrocities like child marriage, being sold off by their parents under the guise of marriage, forced marriage without the consent, etc. It also gave married women a shield from hardships and the denial of their marital rights, such as the right to live in their matrimonial home and receive maintenance. This ruling is only one of countless instances of the judiciary's steadfast and determined efforts to protect citizens' rights by correctly interpreting the letter and spirit of the law in an effort to tackle social ills.

⁷ *Lalan P.R. and Ors. vs. Chief Registrar General of Marriages (Common), (Director of Panchayaths), Thiruvananthapuram and Ors.* (12.10.2022 - KERHC) : MANU/KE/3022/2022