

Validity of Marriage

- i) Hindu Marriage Act, 1955- Sections 2,5,7,11,12(1)©- Nullity of Marriage – Marriage entered into by a Hindu with Christian in a temple and registered under Section 8 of Hindu Marriage Act- Validity of marriage – Preamble itself indicates that the act was enacted to codify the law relating to marriage amongst Hindus- Section 2 of Act reinforces said preposition – Section 5 of the Act thereafter also makes it clear that a marriage may be solemnized between any two Hindus if the conditions contained in the said section were fulfilled – Section 7 of the 1955 Act is to be read along with section 5 in that a Hindu Marriage, as understood under section 5 – Could be solemnized according to the ceremonies indicated therein – Marriage solemnized in accordance with Hindu customs was a nullity and its registration could not validate the same – Order of High court confirmed.
- ii) Hindu marriage Act, 1955 – Section 5 – Expression – “May”- Discussed.

Citation – Gullipilli Sowria Raj Vs. Bandaru Pavani @ Gullipili Pavani

Civil Appeal No. 2446/2005

Maintenance

- i) Criminal Procedure Code, 1973- Section 125- Muslim Women’s(Protection of Right on Divorce) Act, 1986- Section 3 –Maintenance – Divorced Muslim women can not claim maintenance from her former husband under Section 125, Cr.P.C.- Divorced woman shall be entitled to reasonable and fair provision and maintenance to be made and paid to her within iddat period by her former husband.
- ii) Criminal Procedure Code, 1973 – Section 125 and 126 Proviso – Maintenance – Interim Maintenance – Setting aside ex-parte order for good cause being shown on an application made within 3 months – No illegality committed by Court below in granting Interim maintenance under proviso to section 126, Cr.P.C. – Revisionist has not made payment of amount of fair provision and maintenance to appellants beyond iddat period, although he has set up the plea of giving divorce to applicant prior to filling of application under section 125, Cr.P.C – Amount of interim maintenance to be paid to wife in pursuance of impugned order may be adjusted in amount of fair provision and maintenance, etc., which would be payable by revisionist under 1986 Act in case plea of ‘Talak’ set up by him in written statement is accepted – Interference by this Court in impugned order unwarranted.

**Citation : Shahid Jamal Ansari Vs. State of U.P & Anr.
Criminal Revision No. 1687/2008**

Cruelty With Women

Criminal Procedure Code, 1973 – Section 125 and 407 – Indian penal Code, 1860 – Section 498 A – Transfer of petition – Maintenance, Cruelty – Wife has no independent source of Income – She is living with her Parents at Sitamarhi, after her father retirement- Maintenance Case at Sitamarhi filed giving address of her parents – Convenience of lady to be case to be seen when she has no independent source of income – Case filed by wife under section 498 A, IPC at Patna against her Husband fir to be transferred to Sitamarhi where she is living with her retired father.

**Citation :- Dinesh Kumar Chaudhari Vs. State of Bihar & Ors.
Cr. Misc No. 44287/2007**

Divorce Case

Hindu Marriage Act, 1955 – Section 13 – Ex-parte Divorce decree – Setting aside of – No evidence by respondent (husband) nor any reason recorded by court that petitioner fraudulently, deliberately and intentionally avoided to receive notice- It would cause great injustice and hardship to wife if husband is allowed to obtain ex parte decree of divorce behind back of wife – Ex parte decree set aside.

**Citation – Soma Roy V/s Uttam Kumar Ray
W.P. (C) No. 544 / 2008**

Permanent Alimony

i) Hindu Marriage Act, 1955 – Section 25 – Permanent alimony and Maintenance – Enhancement – Changed circumstances – Claim for enhanced maintenance can not be rejected merely on ground that there was settlement between parties under which applicant agreed not to make any further claim for maintenance – such an interpretation would defeat very object of Section 25 of Act – While considering application under section 25 (2) of Act only criteria should be whether there is any change in circumstances justifying enhancement of circumstances – Agreement defeating right of maintenance provided under a statute being contrary to Public Policy is not a valid contract and can not operate as a bar to exercise jurisdiction conferred under section 25(2) of the Act.

ii) Hindu Marriage Act, 1955 – Section 25(1), 25(2) – Permanent Alimony and maintenance - - Scope and ambit provision – discussed.

**Citation : P. Archana @ Atchamamba Vs. Varada Siva Rama Krishna F.C.A
No. 11 / 2008**