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**CUSTOMS UNDER MARRIAGE AND ITS LEGAL VALIDITY AND
CONSEQUENCES FOR NON-COMPLIANCE.****ABSTRACT**

A marriage is a sacred bond shared within two individuals. However, for a marriage to be accepted those two individuals need to have it registered in accordance with the law.

This paper would concern about the basic customs of marriage according to the special marriage act ,1954¹. The special marriage act includes Hindu, Muslim, Sikhs, Christians, Jains and Buddhist marriage. It also applies to all the states of India including Jammu and Kashmir. This paper would also go through the legal validity and consequences in case of failure in marriage.

INTRODUCTION

“There is no more lovely, friendly, and charming relationship, communion or company than a good marriage.” – Martin Luther.²

Since Indians put their believes in relationships with appropriate ceremonies, customs, and services that incorporate ceremony and show and lavish festivals, none of them is needed by the Special Marriage Act. The basic prerequisite under this Act for a legitimate marriage is the assent of the two parties to the marriage. On the off chance that the two parties to the marriage

¹ ACT NO. 43 of 1954

² MARTIN LUTHER'S FAMOUS QUOTE.

will wed one another, stop; position, religion, race, and so on can't go about as an obstruction to their association here. For marriage under this Act, the gatherings should document with the locale's Marriage Registrar a notification expressing their aim to wed each other in which somewhere around one of the gatherings to the marriage has lived for something like 30 days preceding the date on which such notification is recorded. After the expiry of 30 days from the date that such notification was distributed, the marriage is then supposed to be solemnized. However, in the event that any individual identified with the gatherings objects to this marriage and the recorder finds that it is a sensible reason for complaint, on such grounds he can drop the marriage³. For a substantial marriage, the gatherings should likewise give their agree to the marriage before the marriage official and three observers. These are the essential necessities for a substantial marriage under the Special Marriage Act that each Indian should think about.

CONDITIONS FOR MARRIAGE

The conditions that are to be followed before the marriage under the special marriage act 1958 are:-

1. The minimum age set up by this act for marriage is 21 years for the groom and 18 for the bride.
2. At the time of marriage it should be clear that both parties are to be monogamous.
3. Both the parties should be mentally fit and sane during the marriage.
4. There should not be any sort of blood relations between both the parties.

JUDICIAL SEPARATION

Under English law, before the Reformation, the congregation considered the marriage as a ceremony which made it difficult to acquire a separation. The clerical courts on account of a marriage truly contracted conceded 'separate from a men's et thoro,' for example separate from bed and board, which didn't permit the gatherings to remarry. This arrangement was not separate, for example it didn't disintegrate the marriage. This arrangement is presently called

³ <https://blog.iPLEaders.in/special-marriage-act/> (LAST VISITED 3rd July)

legal partition, permitting the gatherings to live independently from one another, without dissolving the marriage bond, with the alternative of re-joining together and re-living respectively if conditions change consequently.

Section 23⁴ of the Special Marriage Act accommodates the alleviation of legal partition.

- A petition must be presented in front of the district court by either of the party.
- As according to section 27⁵ sub-section (1) and sub- section (1A) a petition for divorce must be presented.
- On the ground of inability to follow an announcement for compensation of intimate rights; and the Court, on being fulfilled of the reality of the assertions made in such appeal, and that there is no lawful ground why the application ought not be in truth, may proclaim legal division as needs be.
- Where the Court grants a decree for judicial separation, it shall no longer be obligatory for the petitioner to cohabit with the respondent, but the Court may, on the application by petition of either party and on being satisfied of the truth of the statements made in such petition, rescind the decree if it considers it just and reasonable to do so.

GROUNDS FOR SEPARATION

- One has committed adultery
- Is imprisoned for and offence under IPC.
- Has been of unsound mind.
- Has been suffering from a communicable form of disease.
- Impotency.

⁴ SECTION 23 SPECIAL MARRIAGE ACT, 1954.

⁵ SECTION 27 SPECIAL MARRIAGE ACT, 1954.

There are more reasons for separation in a marriage but these are the one's seen most commonly within partners.

NULLITY OF A MARRIAGE

The law of nullity alludes to obstructions to premarriage. The topic of obstacles to marriage is covered under the ability to wed. On the off chance that there are sure hindrances, parties can't wed one another. In the event that they get hitched, in spite of hindrances, their marriage may not be substantial. These hindrances are for the most part parted into two:

Absolute impediments: In case of a marriage if there are Absolute impediments the marriage would be void ab initio.

Relative impediments: If in a case there are relative impediments the marriage is considered voidable.

These impediments classify the marriage under void and voidable.

VOID MARRIAGE

A void marriage isn't marriage, all along, it doesn't exist. It is called marriage on the grounds that there are two individuals who have gone through services of marriage. Since they totally come up short on the ability to wed, they cannot become a couple just by going through wedding functions. All in all, stay away from marriage doesn't lead to any lawful outcomes. No court order is needed in regard of void relationships. In any event, when a declaration is passed by the court, it basically announces the union with be invalid and void. It's anything but the court's announcement that makes such a marriage void. It's undeniably true that the marriage is void and the court is simply offering an authentic legal expression. As per Section 24⁶ of the Special Marriage Act, 1954, either gathering can make an appeal for nullity to marriage.

⁶ SECTION 24 SPECIAL MARRIAGE ACT, 1954.

Grounds for void marriage

A marriage may be considered void on the following grounds: -

- At the time of marriage neither party should have any pre-existing spouse.
- If any of the two parties are unable to give a valid consent.
- Both the parties should adhere terms of age in accordance with the law.
- There should not be any sort of prohibited relation between the two parties.

VOIDABLE MARRIAGE

As long as it is not avoided, a voidable marriage is totally legitimate. Just one of the gatherings to the marriage may demand it to be stayed away from. On the off chance that one of the gatherings won't request the cancellation of the marriage, the marriage will stay substantial. On the off chance that one of the gatherings bites the dust before the abrogation, nobody can challenge the marriage, and it will stay legitimate for eternity. Every one of the lawful ramifications of a substantial marriage stream as long as it's anything but stayed away from. The reason for voidable relationships are set out in Section 25⁷ of the Special Marriage Act.

Grounds for voidable marriage

Non-fulfillment of marriage: Due to the respondent's headstrong dismissal, the marriage has not been culminated. In *Sunil K. Mirchandani v. Reena S Mirchandani*⁸, where the gatherings had lived respectively for around 5 months, and a letter composed by a spouse to wife shows his acceptable sexual relationship with her, there could be no reason for an invalidation of marriage under Section 25(1) of the Act.

Pre marriage pregnancy: The presumption of law is that a youngster brought into the world during the progression of a substantial marriage or inside the development time of 280 days after the disintegration is genuine except if there is solid proof to demonstrate something else.

⁷ SECTION 25 SPECIAL MARRIAGE ACT, 1954.

⁸ AIR 2000 Bom 66, 2000 (1) BomCR 142, I (2000) DMC 79, 2000 (1) MhLj 3

The applicant's right is fairly restricted to start procedures on this ground of the respondent's pregnancy at the hour of marriage by an individual other than the solicitor.

Coercion or fraud: In accordance with section 15 & 17 of Indian contract act 1872, if either party's consent has been obtained through fraud or coercion, the marriage could be considered voidable.

Section 15⁹: Section 15 describes coercion as committing or threatening to commit.

Section 17¹⁰: Section 17 of Indian contract act describes fraud as committing with an intention to deceive the other party.

In *Gitika Bagchi v. Subhabrota Bagchi*¹¹, where the spouse hid the way that she was 3 years more seasoned than her significant other, it added up to extortion as given in Section 25(iii) of the Act. In *Asha Qureshi v. Afaq Qureshi*, AIR 2002 MP 263, covering up of truth by the spouse that she was recently hitched and bereaved at the time marriage is a material reality, and accordingly, it adds up to misrepresentation submitted on her subsequent husband, he is qualified for a declaration of nullity.

The court ought not give a pronouncement of nullity if there should arise an occurrence of pressure or misrepresentation except if procedures were not started inside one year after the intimidation had finished or the extortion had been identified.

The candidate lived with the respondent with their free assent after the pressure been finished or the misrepresentation had been distinguished.

In such cases, the candidate's quiet submission to such a demonstration or exclusion will be expected, and the applicant's all in all correct to such scores will be deferred.

CONCLUSION:

⁹ SECTION 15 INDIAN CONTRACT ACT,1872

¹⁰ SECTION 17 INDIAN CONTRACT ACT,1872

¹¹ AIR 1999 Cal 246

Inter standing marriage portion as for the Special Marriage Act. In India, marriage is considered as a holy, divine, and was known as the blessed association. It's a fundamental piece of our lifestyle. India is an enormous country, and from that point individuals from various religions and societies live here. We know the level of impact that position and religion have in our nation is as yet being considered in various spots in our country as unbelievable. India assumes control over the position system after an uncommonly rigid design. People are needed to wed inside their position, and any individual who weds out of their station and difficulties the standard deterrents in the overall population is kept away from. There are various typical and unfortunately uncovered esteem for killings; they are glad to do also. As needs be, a genuine arrangement for the law came to marry for fondness and to guard the interests of those people who rose above those stations and strict allotments. In this manner the Parliament supported the Special Marriage Act of 1954 for people of India and for each and every Indian public of outside countries, independent of rank or religion. The stand-out part of the Special Marriage Act of 1954 is that any marriage solemnized in some other way under some other law, Indian or nonnative, between any two people might be enrolled under the Act.

Marriage enlistment is obligatory under the Indian Christian Marriages Act, 1872. Parsi Marriage and Divorce Act, 1936 makes critical marriage enrollment without enlistment, and the marriage doesn't end up the void. Under Muslim law, a marriage is treated as a customary agreement, and the Qazi, or minister director, additionally records the conditions of the marriage in a nikahnama given to the wedded couple, for example there is an arrangement for private marriage enrollment. Under Section 8 of the Hindu Marriage Act, 1954 a social association library plan exists. All things considered, it is left to the contracting social affairs either to solemnize the marriage before the sub-recorder or to ultimately enroll it to play out the errand as per Hindu convictions.