SUKHDEV SINGH V. SUKHBIR KAUR

By Navneet Pal[1]

ABSTARCT

Marriage is not merely a contract between two individuals, but also a sacred commitment, mutual respect and true companionship, which is committed to the seven lives as per Hinduism, inclusive of moral, social and spiritual obligations towards each other; however, recognition of individuals' rights such as dignity, equality and justice in this modern culture has shifted the ancient ideology into modern framework. Although these sacred unions are protected under the Hindu Marriage Act 1955, the definition of Hindu, essential conditions, mandatory ceremonial rights, and provision of dissolution with monetary relief have been codified in a specified manner. Section 125 of the Code of Criminal Procedure and Article 15(3) of the Constitution of India empower special provisions for women and adequate maintenance for women irrespective of their religion. In a landmark ruling, such as Joseph Shine v. Union of India[2] *, Ramesh Chandra Daga v. Rameshwari Daga, Chanmuniya v. Virendra Kumar Singh Kushwaha, and most recently, Sukhdev Singh v. Sukhbir Kaur, where issues like maintenance on void marriage, discrimination of Adultery and concept of any decree were addressed effectively with proper rationale of provision and their interpretation.*

KEYWORDS

Void Marriage, Permanent alimony, Interim maintenance, Hindu Marriage Act 1955, financial status and Judicial interpretation.

INTRODUCTION

In Hinduism, marriage is viewed as a divine union of two individuals who come together for mutual obligations and lifetime commitments. According to Hindu mythology, Hindu marriages are more akin to a sacrament than a contractual agreement, which ought to be performed by the

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[2] Joseph Shine vs Union of India, (2019) (3) SCC 39

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spouses to the very end. These souls are bound by the dharma (duty), Artha(wealth), Kama(desire), and moksha (liberation) and guided by the rituals such as *Satpapadi* (the seven steps), *kanyadaan*, and *mangalsutra,* which help individuals fulfil religious duties and attain spiritual growth.[3]. Section 2 of the Hindu Marriage Act, 1955 defines -

- A Hindu is any person who is a Hindu by religion, including Virashaiva, Lingayat, or a follower of the Brahmo, Prathama, or Arya Samaj.
- Any person who is Buddhist, Jain, or Sikh by religion.
- Any person who is not Muslim, Christian, Parsi or Jewish.[4]

Section 5 of the Hindu Marriage Act, 1955 stipulates the essential conditions of a valid Hindu marriage:

- Neither spouse should have a living spouse at the time of marriage.
- Capable of giving consent at the time of marriage.
- The bridegroom and bride must be at least 21 and 18 years old at the time of marriage, respectively.
- Parties should not belong to the prohibited degree and sapinda relationship.[5]

Section 7 of the Hindu Marriage Act, 1955 deals with the ceremonies of Hindu marriage, where *saptapadi*(seven steps *)* must be performed before the sacred fire and garland exchange in some cases, as per their customary rites.[6] Contravention of the conditions specified in the clause of section 5 declares marriage null and void, as said in section 11 of the Hindu Marriage Act, 1955.[7] Hindu mythology considers divorce as the disruption of the moral order, social stability, the value of family and harmony; however, this modernization lacks the concept of spiritual bonds and fails to uphold the sacred vows. In the case of ***Surla Mudgal vs Union of India***[8], the Supreme Court addressed the principle of embracing religion and the practice of bigamy, converting to Islam solely to get married without divorcing the first wife, with all the lawful means. The court held that these conversions are practiced just to bypass monogamy and without having a genuine faith

[3] PRAGYATA , https://share.google/nSLKNhPOLt2MqBVpT (Last visited 29 July 2025)
[4] Hindu Marriage Act, 1955,§ 2, No. 25, Act of Parliament, 1955
[5] Hindu Marriage Act, 1955,§ 5, No. 25, Act of Parliament, 1955
[6] Hindu Marriage Act, 1955,§ 7, No. 25, Act of Parliament, 1955
[7] Hindu Marriage Act, 1955,§ 11, No. 25, Act of Parliament, 1955
[8] Surla Mudgal vs Union of India, (1995) SCC (3) 635

in the religion, which is fraudulent and invalid under the Hindu Marriage Act,1955. The dignity of women should be protected from these deceptive practices and the misuse of personal laws. The legal sanctity of ceremonial rites and marriage had been laid down in the case of ***Bhaurao Shankar Lokhande v. State of Maharashtra.***[9] Where the court observed that a second marriage is still not valid until it adheres to ceremonial rites given under section 7 of the Hindu Marriage Act, 1955; otherwise, marriage is not legally recognized, and bigamy cannot be established, which is punishable under section 494 of the Indian Penal Code.[10] ***Ramesh Chandra Daga v. Rameshwari Daga,*** where the court dealt with the rights of women in void marriages and protected women from social injustice by providing adequate maintenance to the second wife who has been subjected to the cruelty due to the man's wrongdoing.[11]

FACTS OF THE CASE

- The marriage between Sukhdev Singh and Sukhbir Kaur was solemnized on June 11th, 2012, at the Gurudwara Singh Sabha, Amritsar, by performing all the necessary ceremonial rites according to the Hindu-Sikh Religion customs and rituals. This matrimonial union was presumed to be valid, enforceable and legally binding.
- Later, this marriage was declared void under section 11 of the Hindu Marriage Act 1955, the court which had jurisdiction over the said matter. It was found that wife Sukhbir Kaur had already been married and concealed all the material facts which needed to be disclosed during the union. This active deception made the second marriage void or legally invalid from the very beginning.
- Following the decree of nullity, both parties were confused about their rights and obligations towards each other, especially concerning the maintenance or alimony. Void marriage raises complex questions about whether a spouse can claim maintenance or not under deceptive solemnization.
- This inconsistency in the judicial interpretation and different views of the parties need proper adjudication on the matter by the competent bench of Judges. [12]

[9] Bhaurao Shankar Lokhande v. State of Maharashtra, (1965) SCR (2) 837
[10] Indian Penal Code,1860,§ 494, No. 45, 1860
[11] Ramesh Chandra Daga v. Rameshwari Daga, (2005) (2) SCC 33
[12] Amikus Qriae, https://share.google/o5gKXAOGTiZsLYNY0 (Last visited 29 July 2025)

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ISSUES RAISED

- Whether a spouse can seek permanent maintenance or alimony in void marriages under Section 25 of the Hindu Marriage Act 1955[13]?
- Can interim maintenance be claimed by the spouse under section 24[14] Under the Hindu Marriage Act 1955, even if the marriage is void?
- Does the phrase "any decree" cover only a valid marriage or also include void marriages in section 25?
- Can maintenance be granted at the discretion of the court in case of a void marriage?

CONTENTION OF APPELLANT

The Learned Counsel of the Appellant argued that some marriages, such as a father and daughter, brother and sister, or grandfather and granddaughter, which have been solemnized, are completely invalid. Even if these marriages were declared void but still court can give maintenance under Section 25 of the Hindu Marriage Act, 1955. He said that sometimes a spouse knowingly enters into the matrimonial union despite being married, termed as bigamy, and hides the material facts from the other spouse to get married. The lawyer said it does not make any sense to treat the court order in void marriages as a "**decree**" under section 25. Ruling in certain cases, namely ***Chand Dhawan v. Jawaharlal Dhawan[15] and Ramesh Chandra Daga v. Rameshwari Daga,*** which allowed maintenance in void marriage, was incorrect, said the counsel. He also took the point that marriage never existed between the two parties, and no husband-and-wife relationship subsists from the very beginning. So, a woman cannot claim herself as a spouse, and maintenance should not be granted. He also referred to the decision of the Bombay High Court in the case ***Bhausaheb v. Leelabhai[16],*** which said a woman from a void marriage cannot be treated as same as a divorced wife. The woman has married a man who had a living spouse at the time of marriage, which is null and void, and she cannot claim

[13] Hindu Marriage Act, 1955,§ 25, No. 25, Act of Parliament, 1955
[14] Hindu Marriage Act, 1955,§ 24, No. 25, Act of Parliament, 1955
[15] Chand Dhawan v. Jawaharlal Dhawan, (1993) SCC (3) 40
[16] Bhausaheb v. Leelabhai ,(2003)(4)MHLJ1019

maintenance under Section 125 of the Code of Criminal Procedure, 1973[17], said the Supreme Court in the case ***Yamunabai Anatrao Adhav v. Anantrao Shivram Adhav & another***[18]

CONTENTION OF RESPONDENT

The learned counsel of the respondent argued and referred to the case ***Chand Dhawan v. Jawaharlal Dhawan.*** Where the Supreme Court said that permanent alimony can only be offered when marriage is completely dissolved, but maintenance pendente can be given to a woman if court proceedings in still going on under section 24 of the Hindu Marriage Act,1955. In another case named ***Rameshchandra Rampratapji Daga v. Rameshwari Rameshchandra Daga,*** the court held that marriage was not solemnized as per the condition stipulated under section 5 of the Hindu Marriage Act, 1955, so no marriage subsists between the appellant and respondent and disregards the document called "Chhor Chithhi" as a legal document for the divorce. The court granted permanent maintenance to the wife under Section 25, even if the marriage was not valid, and gave a wide interpretation of Section 25, stating that it allows maintenance whenever a marital relationship ends through any order, including an order for a void marriage. Additionally, counsel emphasized ***Article 15(3) of the Constitution of India***[19], which allows the government to enact special laws for the benefit of women and children.

RELATED PROVISION

1. **SECTION 2 –** Definition of Hindu under the Hindu Marriage Act, 1955.
2. **SECTION 5-** Essential conditions for Hindu Marriage.
3. **SECTION 7 –** The ceremonial rites that must be performed during marriage.
4. **SECTION 11 –** Void Marriage.
5. **SECTION 24 –** Interim Maintenance during pendency of proceeding.
6. **SECTION 25 -**Permanent Maintenance after dissolution of marriage.
7. **ARTICLE 15(3),** Constitution of India **-** Allows the government to make special provisions for women and children.
8. **SECTION 494,** Indian Penal Code 1860 – Prohibit Bigamy

[17] Code of Criminal Procedure, 1973, § 125, No. 2, Act of Parliament, 1973
[18] Yamunabai Anatrao Adhav v. Anantrao Shivram Adhav & another,(1988) SCR (2) 809
[19] INDIA CONST. art. 15(3)

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9. **SECTION 125,** Code of Criminal Procedure 1973 – Maintenance to women irrespective of Religion.

RATIONALE AND VERDICT

The Supreme Court has closely examined the interpretation of sections 24 and 25 of the Hindu Marriage Act,1955, where the focus was shifted to the two cases: Chand Dhawan and Rameshchandra Daga, which deal with the interim and permanent maintenance. However, in the case of ***Sukhdev Singh v. Sukhbir Kaur*** court highlighted the concept of "any degree" which is not only limited to the valid marriage but also inclusive of void marriages, voidable marriages, judicial separation, divorce and restitution of conjugal rights. A clear distinction was made in section 125 of the Code of Criminal Procedure and section 25 of the Hindu Marriage Act, 1955, in which section 125 of CRPC offers quick financial support to the dependents, whereas section 25 of HMA provides the right of maintenance in a matrimonial relationship. In old Hindu customs, including Mohammedan law, the practice of bigamy was very prominent, especially in the royal family, which used to marry more than one wife. After passing a specific provision Hindu Marriage Act 1955, which prohibits the practice of Bigamy and makes it illegal for a union. However, the court clarified that even if bigamy is illegal, it is not immoral, and spouses from such a union can claim maintenance to sustain their lives. Moreover, the Court referred to and criticized the ruling of the Bombay High Court – ***Bhausaheb @ Sandhu v. Leelabhai,*** where the term "illegitimate wife" was used to address the woman who came from a void marriage and said this is very disrespectful and harms the dignity of a woman which is protected under the ***Article 21 of the constitution of India***.[20] Finally, the Court said that it depends on the discretion of the Judges whether the interim maintenance can be given to a person based on their honesty and behaviour also fair amount should be granted.

A three-judge bench of the Supreme Court – Justice Abhay S. Oka, Justice Ahsanuddin Amanullah, and Justice Augustine George Masih gave the judgment on 12 February 2025. The court said that even if marriage is null and void as per section 11 of the Hindu Marriage Act 1955 but still, interim maintenance and permanent maintenance can be granted to a person

[20] INDIA CONST. art. 21

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under sections 24 and 25 of the Hindu Marriage Act 1955. Additionally, it is necessary to ensure that a person is financially secure and can provide sufficient support to their dependents.[21]

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[21] Indian Kanoon, https://indiankanoon.org/doc/138104701/ (Last visited 31 July 2025)