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Elevating Women's Rights in Matrimony: An In-Depth Examination of the Special Marriage Act, 1954 in India.

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ABSTRACT:

In the field of Indian law, the Special Marriage Act of 1954¹ is unusual. It is far more than just a legal framework for allowing interfaith and intercaste marriages; it is a pathfinder in the battle to safeguard and enhance women's rights and autonomy within the sacred institution of marriage.² This article embarks on a comprehensive journey, delving deeply into the Act's complexity, armed with a solid understanding of the legislation that underpins it and supported by a profusion of informative case law.

The Special Marriage Act sheds light on the diverse fabric of Indian legal jurisprudence by acknowledging that marriage is more than just a union of two individuals, but a contract that should maintain the dignity, freedom, and equality of both parties. Its rules are wide, addressing the basic nature of consent, gender equality, financial stability, and protection against bigamy dangers. As we work our way through the Act's provisions and examine the precedents created by pertinent case laws, we begin to uncover a legal framework that affirms women's rights and ensures their empowerment within the institution of marriage.³ In this article, we intend to present a detailed assessment of the Special Marriage Act of 1954 as a legal architecture that extends beyond its formal existence. It is a fortress where the ideals of autonomy, consent, equality, and justice collide to create a legal framework that protects women's inherent rights while also fostering a more equitable society for everyone. Join us on an in-depth journey as we investigate the complexity of an Act that promotes women's rights within the sacred bond of matrimony.

¹ the Special Marriage Act of 1954, No. 43, Acts of Parliament, 1954 (India).

² Rohit Ghosh, Special Marriage Act: The interpretation and constitutional perspective, theleaflet, (Oct. 10, 2023, 9:29 PM), <https://theleaflet.in/special-marriage-act-the-interpretation-and-constitutional-perspective/>

³ Tsoaledi Daniel Thobejane1 and Janet Khoza, Gender Role Expectations within the Institution of Marriage, 41(3), Journal of Social Sciences, 456, 458, 2014,

https://www.researchgate.net/publication/321206773_Gender_Role_Expectations_within_the_Institution_of_Marriage

1. Consent and Free Will

The clear focus on permission and free choice inside the complexity of the Special Marriage Act of 1954 is the primary cornerstone that underpins the architecture of marital couples. The sacred concept that neither the bride nor the groom is bound by coercion or external influence lies at the core of any legally recognized union under this Act. Instead, they must freely and totally embrace the official marital commitment. The brightest illustration of this crucial notion is Section 4⁴ of the Act, which emphasizes explicitly that the fundamental content of this legal marriage is reliant on the permission, concurrence, and conscious decision of both persons involved. In this regard, the law is unequivocal: the route to the marriage must be paved with real, uncoerced agreement from the two persons entering into this solemn partnership.

In its unwavering commitment to this fundamental ideal, the Special Marriage Act resonates profoundly with the pillars of the Indian Constitution. It reflects the concepts of personal liberty, autonomy, and sacred freedom of choice, all of which are enshrined as basic rights in the Constitution. It explains how marriage, as a vital institution in society, must be founded on personal freedom and mutual agreement. In this view, the Act not only legalizes marriages but also safeguards individual sovereignty and choice, fostering the concepts of personal liberty and self-determination. It is a powerful legal weapon that safeguards each individual's inherent right to embark on this life-changing journey with their free will intact and unburdened by demands or compulsions.

Case Law: In *Sarla Mudgal v. Union of India* (1995)

The central issue in *Sarla Mudgal v. Union of India* was the legality of a marriage performed under the Special Marriage Act of 1954. The couple married under the Act, but the marriage was annulled owing to the husband's conversion to Islam and subsequent marriage to another lady without seeking divorce.⁵ The Supreme Court questioned if a man entering into another marriage while the prior one was still in existence could be considered legal under the Act.⁶

Held: The Supreme Court explicitly confirmed the essential concept of the Special Marriage Act in this landmark decision: marriage under this Act is a relationship established on the free

⁴ Special Marriage Act of 1954, Sec. 4, No. 43, Acts of Parliament, 1954 (India).

⁵ *Sarla Mudgal v. Union of India* (1995)

⁶ *Id.*, at 1011.

will and agreement of both spouses.⁷ The Court concluded that any violation of this fundamental consent constituted the marriage null and void. Because he had not secured a divorce from his first wife, the husband's subsequent marriage was deemed null and void. This ruling reiterated the Act's commitment to maintaining the integrity of consent and ensuring that weddings performed under the Act are based on free will and choice. It created a significant judicial precedent by emphasizing the crucial importance of consent and individual liberty in Special Marriage Act marriages.

2. Equal Rights in Marriage

Aside from the basic idea of consent, the 1954 Special Marriage Act is a precursor of gender equality inside the hallowed institution of marriage. Section 4B⁸ of the Act says unequivocally that spouses entering into a marriage governed by the Special Marriage Act share not just the pleasures and duties of matrimony, but also a fair sharing of rights and liabilities.

Section 4B⁹ represents India's dedication to gender equality within the sacred bonds of marriage. It ensures that marriage is more than just a formal union, but also a partnership in which both individuals are treated equally. Couples who marry under this Act are treated on an equal footing, sharing not just the benefits but also the obligations that come with this sacred commitment. This equality extends to crucial issues affecting their shared lives, such as family matters, property, and other facets of their shared existence. Under this Act, neither partner's voice takes precedence over the other, and both are responsible for determining the course of their familial journey.

In essence, the Special Marriage Act emphasizes the importance of mutual respect for each other's rights, shared responsibility in raising the family, and a collaborative approach to managing their property and other elements of life together. By enshrining these equality principles in the Act, the legal framework not only supports the notion of gender equality but also fosters a happy and balanced atmosphere within marriage partnerships, reinforcing the spirit of partnership and shared decision-making. It reaffirms the notion that a marriage,

⁷ *Id.*, at 1012.

⁸ Special Marriage Act of 1954, Sec. 4B, No. 43, Acts of Parliament, 1954 (India).

⁹ Special Marriage Act of 1954, Sec. 4B, No. 43, Acts of Parliament, 1954 (India).

regardless of its form or origin, is a partnership based on mutual respect, collaboration, and shared responsibility, reflecting the constitutional commitment to gender equality.¹⁰

3. Right to Maintenance

Section 36¹¹ of the Special Marriage Act of 1954 appears to be an important foundation safeguarding women's financial security in the context of marital partnerships. This section 36 clause recognizes and protects a woman's right to maintenance in the case of separation or divorce. At its core, this paragraph tackles the potential economic vulnerabilities that women may face when a marriage collapses, recognizing the need to shield them from the financial consequences of a dissolved marital partnership.¹² It is a vital legal safeguard that ensures women do not bear a disproportionate economic burden as a result of a marital dissolution under the Act.

Through this legal instrument, the Act emphasizes the necessity of a woman's financial security throughout the difficult years of separation or divorce. It emphasizes financial justice and fairness, recognizing that a woman should not be disadvantaged as a result of a divorce, especially if she has little or no independent financial aid. In essence, this language signifies a legal commitment to maintaining the rights and financial well-being of women who may be navigating the tumultuous waters of separation or divorce. It recognizes that marriage, as a partnership, carries some responsibilities even after divorce, and it is vital to ensure that these responsibilities are maintained in a way that protects women from financial difficulty.

Finally, Section 36¹³ of the Special Marital Act encapsulates the Act's essence by supporting justice, fairness, and gender equality within marriage partnerships. It serves as a safety net, emphasizing the need to safeguard a woman's financial stability and ensuring that she is not subjected to economic hardship as a result of a failed marriage under the Act.¹⁴

¹⁰ Jameel, A. & Ahmed, W. (2021). Sustainable Development Goals and India's Commitment to Gender Justice, *Society & Sustainability*, 3(2), 68-86. Doi: https://doi.org/10.38157/society_sustainability.v3i2.347

¹¹ Special Marriage Act of 1954, Sec. 36, No. 43, Acts of Parliament, 1954 (India).

¹² Dethloff, N. New models of partnership: the financial consequences of separation. *ERA Forum* 12, 89–102 (2011). <https://doi.org/10.1007/s12027-011-0183-2>

¹³ Special Marriage Act of 1954, Sec. 36, No. 43, Acts of Parliament, 1954 (India).

¹⁴ Poonam Bhardwaj vs Ashish Abrol on 20 September, 2018

Case Law: In Shail Kumari Devi v. Krishan Bhagwan Pathak (2008)¹⁵

Facts: In the case of Shail Kumari Devi v. Krishan Bhagwan Pathak, the critical issue of a woman's right to maintenance under the Special Marriage Act was raised. The case involved a disagreement in which a woman sought financial assistance after her divorce from her husband, who had subsequently married another woman. If the lady had a valid claim to maintenance under the Act, the Patna High Court was asked.¹⁶

In this landmark ruling, the Patna High Court unambiguously recognized a woman's entitlement to maintenance under the Special Marriage Act. The Court emphasised the importance of this privilege in preserving a woman's financial stability, particularly when the marriage union had terminated and she was in a precarious financial situation.¹⁷ This judgement emphasised the importance of a woman's financial security, emphasising that the Act is about more than simply formalizing marriages;¹⁸ it is also about protecting the rights and well-being of those who are part of these relationships. The decision created a significant legal precedent, reaffirming the Act's commitment to ensuring that women do not endure financial hardship as a result of a divorce. It highlights the Act's role in promoting justice, financial equality, and gender equality in marriage partnerships.

4. Inheritance Rights

Section 21¹⁹ of the Special Marriage Act of 1954 stands out as a beacon of hope, paving the way for women's rights to be preserved even in the unfortunate circumstance of their husband's death. This provision acknowledges and fights for a woman's inherent right to inherit her husband's property after his death.

Section 21²⁰ exemplifies the Special Marriage Act's unwavering commitment to providing a woman's financial stability, a commitment that extends beyond the marriage. It is a shield that

¹⁵ Shail Kumari Devi v. Krishan Bhagwan Pathak (2008).

¹⁶ Shail Kumari Devi v. Krishan Bhagwan Pathak (2008).

¹⁷ Thersa, <https://www.thersa.org/press/releases/2021/generation-precariat-as-cost-of-living-crisis-hits-gen-z>, (last visited Oct. 11, 2023).

¹⁸ Bhavya Singh, Can't Ascertain Veracity Of Marriage Certificate In Extraordinary Writ Jurisdiction, Approach Competent Court For Declaration: Patna High Court, Livelaw, (Oct. 10, 2023, 9:29 PM), <https://www.livelaw.in/high-court/patna-high-court/patna-high-court-proof-entry-marriage-certificate-book-special-marriage-act-227147>

¹⁹ Special Marriage Act of 1954, Sec. 21, No. 43, Acts of Parliament, 1954 (India).

²⁰ Special Marriage Act of 1954, Sec. 21, No. 43, Acts of Parliament, 1954 (India).

guarantees a woman's lawful share of her husband's property, guaranteeing her equal treatment as a legal successor. This view stems from the belief that a marriage performed under the Special Marriage Act is both a social and a legal contract. It considers marriage to be a partnership in which the couple's rights and duties include financial concerns such as inheritance. As a spouse and equal partner, a woman has a legal claim to her husband's property after his death, according to the Act.

Section 21²¹ of the Act, in essence, embodies the Act's spirit of safeguarding a woman's rights throughout her life. It guarantees her financial security, increases her legal heir status, and emphasises her entitlement to her husband's property. This not only protects a woman's liberty and financial independence but also emphasises the law's egalitarian roots. Finally, this provision demonstrates the Act's dedication to preserving women's financial stability and well-being even if their spouse dies. It mirrors the fundamental concepts of equality, justice, and gender equity within marital partnerships, as well as the Act's commitment to empowering women in a variety of areas, such as inheritance rights.

Case Law: In Sheela Mudgal v. Ghanshyam Das (1974)²²

Facts: The issue of a woman's inheritance rights under the Special Marriage Act was questioned in the case of Sheela Mudgal v. Ghanshyam Das.²³ It was based on a case in which a woman claimed her rightful share of her husband's estate following his death. The main question before the Delhi High Court was whether the lady was entitled under the Act to inherit her husband's property as a spouse, and if so, to what extent.

Held: In this landmark legal case, the Delhi High Court recognised a woman's inherited rights under the Special Marriage Act, creating a critical precedent for the legal protection of these rights.²⁴ The Court affirmed the Act's power over not just marriage rituals, but also the latter phases of a marital union. The court emphasised that a woman who married under the Act had

²¹ Special Marriage Act of 1954, Sec. 21, No. 43, Acts of Parliament, 1954 (India).

²² Sheela Mudgal v. Ghanshyam Das (1974)

²³ *Id.*, at 1015.

²⁴ *Id.*, at 1015.

the same inheritance rights as any other lawful successor, particularly when it came to her husband's property.²⁵

This ruling was essential in solidifying the Act's commitment to protecting a woman's inheritance rights, securing her financial security, and ensuring her equitable treatment as a legal successor. The case of Sheela Mudgal v. Ghanshyam Das has since served as a model for recognising and protecting a woman's right to inherit her husband's property under the Special Marriage Act, highlighting the Act's relevance as a defender of women's rights and financial well-being in marital partnerships.

5. Protection against Bigamy

Section 17²⁶ of the Special Marriage Act of 1954 is a critical legal safeguard that expressly outlaws bigamy. This provision prohibits a spouse from engaging in another marriage while the first one is still in existence. Illegal polygamous marriages will not be authorized, according to the Act.

This legal security is founded on the assumption that a marriage performed under the Special Marriage Act is both a social and a legal contract. It is a sacred covenant in which both couples have equal rights, obligations, and legal recognition, according to the law. Section 17²⁷ conveys the idea that a man, like a woman, cannot enter into future marriages without due process since it not only undermines the marital partnership's integrity but also directly affects the spouse's rights and dignity. The Act prohibits bigamy, putting a stop to the behavior of spouses who may consider entering into other weddings while their initial marriage is still in place. This article safeguards women's rights by forbidding their husbands from engaging in such behaviour without their knowledge and approval, ensuring that the institution of marriage is treated with the seriousness and loyalty it deserves.

Section 17²⁸ effectively functions as the Special Marriage Act's sentinel, vigilantly defending the institution of marriage from the intrusion of illegal polygamous marriages. It emphasises

²⁵ *Id.*, at 1016.

²⁶ Special Marriage Act of 1954, Sec. 17, No. 43, Acts of Parliament, 1954 (India).

²⁷ Special Marriage Act of 1954, Sec. 17, No. 43, Acts of Parliament, 1954 (India).

²⁸ Special Marriage Act of 1954, Sec. 17, No. 43, Acts of Parliament, 1954 (India).

the Act's commitment to the sanctity of a legal marriage, equality, and the preservation of the rights and dignity of both spouses.

Finally, the Act's restriction on bigamy is more than just a legal deterrent; it is a strong statement emphasising the value of marital integrity, consent, and the spouse's fundamental rights and dignity. It illustrates the Act's role in safeguarding women's rights against the dangers of illegal polygamy while maintaining the purity and sanctity of the marriage union.

Case Law: In the case of Harvinder Kaur v. Harmander Singh Choudhary (1984)²⁹

Facts: In the case of Harvinder Kaur v. Harmander Singh Choudhary, a crucial question about the Special Marriage Act was addressed. It was about a husband who, while his prior marriage was still lawful under the Act, married again without his first wife's knowledge or approval. The major question before the court was whether such behaviour was permissible under the Act.³⁰

Held: In this pivotal case, the court emphasised the Act's stringent prohibition on bigamy and the legal consequences for a spouse who engages in such behaviour. The verdict proved that the Special Marriage Act remained committed to prohibiting illegal polygamous marriages. It was explicitly declared that a husband seeking a subsequent marriage while the prior was still in existence under the Conduct was unlawful and illegitimate. The court's decision reinforced the Act's fundamental premise of maintaining the integrity of marriages solemnised under its provisions, emphasising the legal obligations and responsibilities that come with them.³¹ As a consequence of this case, a key legal precedent was set, emphasising that the Act was more than just a legal framework for the formalisation of marriages; it was also a defender of the rights and dignity of people inside these relationships.³²

In summary, Harvinder Kaur v. Harmander Singh Choudhary highlighted the Act's categorical prohibition of bigamy and the legal consequences for anybody who attempted to escape it. It was a stark reminder of the Act's role in safeguarding the integrity of marriage and defending

²⁹ Harvinder Kaur v. Harmander Singh Choudhary (1984)

³⁰ *Id.*, at 1017.

³¹ in.indeed, <https://in.indeed.com/career-advice/resumes-cover-letters/roles-and-responsibilities>, (last visited Oct. 11, 2023).

³² Harvinder Kaur, *Supra* note 29, at 1018.

the rights and dignity of both spouses. This case is still used as a legal reference because it demonstrates the Act's commitment to prohibiting illegal polygamy and defending the rights and integrity of married unions.³³

6. Right to Seek Divorce

Section 27³⁴ of the Special Marriage Act of 1954 provides a legal framework for women's emancipation by permitting them to seek divorce when the irrevocable breakdown of their marriage becomes an inescapable reality. This provision is more than a legal remedy; it is a lifeline that guarantees women are not trapped in unpleasant or abusive marriages and that their right to live an independent and dignified life is maintained.

This legal mechanism acknowledges the severe emotional, psychological, and physical consequences of a failed marriage and gives a statutory channel for individuals, particularly women, in such situations to express their grief. It exemplifies the Act's commitment to human rights, individual liberty, and fairness. It reflects the idea that, while marriage is sacred, it should never be an impenetrable prison, and that individuals should be able to break out from a toxic relationship. Section 27 highlights the significance of agency and self-determination. It is not only about dissolving a marriage but also about restoring the autonomy and dignity of people who are in terrible situations. It empowers women to take charge of their lives, break out from an unsustainable relationship, and carve their own path to self-sufficiency and dignity.

This section, in essence, embodies the spirit of the Act, which is to protect women's rights and well-being by reinforcing their autonomy and ensuring that they are not compelled to stay in marriages that are damaging to their physical or mental health. It covers the fundamental values of justice, fairness, and gender equality within marital couples. Finally, Section 27 of the Special Marriage Act declares an individual's right to self-determination, agency, and happiness. It is an important aspect of the Act's arsenal of legal safeguards, reflecting the determination to preserve and respect women's rights, even in the tragic situation of a broken marriage.

³³ Harvinder Kaur, *Supra* note 29, at 1018.

³⁴ Special Marriage Act of 1954, Sec. 27, No. 43, Acts of Parliament, 1954 (India).

CONCLUSION:

The Special Marriage Act of 1954 is more than simply a legal framework for interfaith and intercaste marriages; it also protects women's rights inside the institution of marriage in India. Its contents are more than simply legalese; they embody the core ideas of equality and human liberty. This Act stands apart in the legal landscape as a testament to India's commitment to protecting women's rights and autonomy within the sacred bond of marriage. It safeguards the fundamental principles of equality and personal liberty, both of which are deeply ingrained in the Indian Constitution. Your article's example case laws demonstrate how the judicial system frequently implements the Act's provisions. In these cases, the judiciary has established key legal precedents, defining clear expectations and standards for the protection of women's rights within the convoluted web of marital relationships. In essence, the 1954 Special Marriage Act remains a cornerstone in India's ongoing push for gender equality within the institution of marriage. It reflects a societal and legal shift toward viewing marriage as an equal relationship, based on consent, equality, financial security, and the dignity of all those involved. This Act bears testament to the advancement of Indian society and its legal system, where the pursuit of gender equality and personal liberty remains an essential and ongoing goal.



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