

INDIA'S NULLITY OF MARRIAGE UNDER HINDU LAW

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ABSTRACT

Family laws deal with the laws with family-related matters such as marriage, adoption, divorce, and inheritance. India has different religions and different family laws can be applied by the practitioner. There are five types of family laws that are being implemented in India. The Hindu Marriage act is one of the family laws which are applicable to Hindus only with certain structures of rules which are being provided and protected by the law in the Hindu Marriage Act 1955. It is a contract between two persons who are husband and wife and that contract makes it enables them to live together harmoniously. This contract is called Samaskara and the marriage solemnizes two unique individuals so that they can pursue their Dharma (duty), Artha (possession), and Karma (physical desires) and attain Moksha (ultimate spiritual release) together. So marriage is a socially and religiously considered act that has strong roots in Hinduism. This man and woman are then considered as husband and wife. The concepts and practice are based upon the social organization and the foundation of important legal rights and obligations. It is swearing between two people who will live together and uphold the traditional values according to the Dharma which they follow. It is a tradition which brings two families together. Traditional and old forms of the Hindu marriage systems, there won't be a significant role for the state in the affairs of marriage, as marriages live in a private affair within the social realm. This is a sacred relationship but also a complex sacrament. The complexity of the concept and its development in society, the concept of the Nullity of marriage comes in life which comes under section 5, section 5(i), section 5(iv), section (v), section 11, section 12, and section 16. As marriage is an important essential for the progress and development of the people of this country divorce or annulment is highly judged upon its practices that face a lot of stigma and discrimination and is subconsciously considered as a sin in our country.

Keywords: Practitioner, Sacred relation, Complex Sacrament, Annulment, Solemnizes.

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INTRODUCTION

Law is the set of rules that are created and enforceable to the public which is given by the government with precise definitions of matters of longstanding debate. It has been described as a science of the art of justice. Family law encompasses the wide set of rules and regulations that are in practice regarding matters, such as marriage, divorce, and inheritance. There are legal rights and duties which are enforceable when one gives legal validation to the status of interpersonal relationships. The nullity of marriage is that the marriage is legally void in nature. In a marriage, it defines that the legal statement by the family court the marriage mentions that it didn't exist between two people and marriage was not valid. This says there was no such marriage. Nullity of "Hindu Marriage Act has from (Section 1- Section 29)" which deals with valid marriage, void marriage, voidable marriage, maintenance, property rights, evidence, and alimony.

Hindu laws have the concept of sources, two both historical and contemporary materials which are ancient sources and modern sources. The ancient sources are Shruti, Smritis, Digests, Commentaries, and Customs. The modern sources are Equity, Justice, Precedent, Good Conscience, and legislation. According to Smritis, marriage is a necessary sanskar. According to Smriti, doing so is everyone's obligation. An earlier union that couldn't be dissolved required the performance of religious and spiritual duties. Before the parliamentary enactment, there was no concept of nullity of marriage in Hindu laws as it was considered holy wedlock for the whole life of both husband and wife. Since the Hindu Marriage Act of 1955 came into effect, there are no specific grounds for annulling a marriage. The Hindu Marriage Act of 1955 lists these grounds in section 5 clauses (i), (iv), and (v).

The grounds which are considered are: -

- (a) The party has a living spouse at the time of marriage.
- (b) No party should be incapable at the time of the marriage of being unsound of mind, the party should also not suffer from any mental disorders or be unfit to give birth to a child and they shouldn't be subject to recurrent attacks of insanity.
- (c) The groom should complete certain age to be legible for marriage and also the bride should also be legible for marriage.
- (d) Both parties shouldn't fall within the rules and customs of any prohibited relationship under Hindu law unless the custom allows it.

- (e) Both shouldn't belong to the sapindas.
- (f) "Sagotra marriage" is valid under the Hindu Marriage Act 1955.

Few weddings, referred to as void marriages, are nevertheless regarded as valid. A voidable union is regarded as being nullified by section 12 of the Hindu Marriage Act of 1955. It is entirely up to the parties in voidable marriages whether to stay married or have the union declared null and void by a judge's order.

The grounds which are voidable marriage are:

- (a) The respondent is impotent.
- (b) The incapacity to give a child, inability to offer legal permission, coerced consent of parties, and mental instability.
- (c) Child marriage.
- (d) If the respondent was pregnant by someone.

ANALYSIS OF THE TOPIC

A) Reliefs for "Nullity" and Allies per the Dharmashastra

INTRODUCTION

"Sagiskara" typically refers to a purifying deed or ritual that, when performed, confers suitability for a particular goal¹. The "Vivaha-sagiskara" is a blended rite that creates a woman's identity as a wife by requiring her to complete a number of minor tasks in a specific order². This is primarily a psychological than a simple sexual relationship, although it can still be dissolved if several of the requirements for matrimony are not met. Although it is nearly inconceivable to delineate marital relationship in legal terms, the Shastra understanding of marriage appears to have been as follows: "a union that develops between a man and a woman after the divine liturgy has been completely finished, with the bridegroom having the requirements for giving in to marriage and the bride having the requirements for giving in to marriage, and the couple having formally or nominally accepted each other in front of the marriage fire", in which case the wedding is considered to have been valid³

¹ Sushil Kumar Tewari, NULLITY OF MARRIAGE IN MODERN HINDU LAW, 1965

² Ibid.

³ Ibid.

NULLITY OF MARRIAGE IN THE ANCIENT PAST

The ancient Vedic scriptures, which are claimed to date back to the end of 500 B.C., describe the Hindus' marital conditions with a degree of practical regularity. How much the current concept of "nullity" was in favour during the Vedic era is unknown. The sacred institution of matrimony cannot be repudiated, according to certain scriptures⁴. However, the Rigveda has a song that specifically condemns the union of a brother and sister⁵.

(1) "nullity" traceable from engagement to wedding completion:

(A) "Nullity" of betrothal:

Because it can be argued that now the girl belonged to the man after being betrothed, we need to take into account the whether issue of nullity emerges even before matrimony. Although the legislation carefully distinguishes between nuptials and wedding, from a sociological perspective, this could be advocated under Indian circumstances. The writings acknowledge that, under certain conditions, a girl might well be relinquished (i.e., a betrothal may be dissolved) seen between two events, they are:

- A) If she was delivered falsely;
- B) After oral commitment, when a more appropriate suitor steps forward⁶
- C) When there is the real problem⁷ which, in the case of a woman, entails having a debilitating or chronic illness, being physically deformed, losing her chastity, and having had at least one confirmed sexual encounter with a male⁸

1) The result of a girl having multiple marriage proposals made to her:

If a girl has multiple hands in a wedding made with her in sequence but is still single, and all of the potential suitors are interested in her, the first promise's recipient should get her. Some other candidates were subject to repayment of their contributions, if any, in such a case⁹

⁴ Ibid.

⁵ Ibid

⁶ Manu, Manusmriti IX, 72, 73

⁷ Narada, XII,30

⁸ Narada, XII,31

⁹ Kat. quoted in Grihastha Prakesh of Prithwichandra, tras, by J.H.Dave 1953 Bom,I R.pp.25-31 at p. The same sloka (Anekelhyo) appears at Gpihasthakanda of LaksmidhSra, K.KoT, Ed, by K.V. Rangaswami

- The admirer departs for abroad: If a suitor departs for traveling abroad after receiving a girl's wedding invitation, the girl must wait three months before choosing a new suitor¹⁰

In accordance with the scriptures, if she marries again during this time period, the wedding is invalid, and the initial bidder is entitled to her. This is an example of an inferred duration of the agreement. We must determine whether the duration was indeed three months (in those days of protracted travel) or rather three years in order to fully understand the suggested word and its sociological phenomena. The word used is "Ritu," which the thesaurus¹¹ defines as denoting "menstrual evacuation," "any settled point of time," "a period of the year," and "a season" (the frequency of phases is occasionally restricted to three, though to five, however, it is more frequently counted as six)¹²

3) The effect of the suitor's death:

Even though the wedding alliance was performed with a ceremonial beverage of fluid so long as she hasn't been wedded with mantras, a girl whose admirer passes away after publicly approving her but prior to actually performing the rite of matrimony constitutionally remains a Kanya "maiden" under parental jurisdiction.¹³ If she agrees, other connections of the household of the prospective groom (such as his brother) may marry her in the case of a consummation that results in an asura marriage and for which a married woman has been paid¹⁴

(B) "NULLITY" of Unconsummated marriage :

There is a difference between the dissolution of a wedding that has been conducted and one that has not. If a girl is engaged using mantras and later finds out she has serious flaws, she might well be "given up" (i.e., the marriage is ostensibly dissolved) but if it has already been accomplished, she should be supported¹⁵ What would happen if a suitor, the woman's husband, or even the girl themselves, tried to hide a flaw? The conclusion appears to indicate that the marriages may be dissolved and the spouse is subject to fines if the suitor hides his flaws and chooses a Kanya¹⁶, if the girl's father was responsible for refusing to answer questions or

¹⁰Narada, XII,24

¹¹ Quoted in S.B.E. Ed. By F, Max Muller, vol.7 at p.109.

¹² Parasara, VIII, 6; Samvarta V,66

¹³ Yama quoted in G.P. of Prithwichandra, trans. by Dave, 1953 Bom. L.R. pp25-31 at p.

The same sloka (vacha) appears at Grihasthakanda of Lakshmi Dhara: K.K,T. Ed. by K.V. Rangaswami Aiyangar at p.SO.

¹⁴ Vasistha cited in Grihastha Kanda of Lakshmi Dhara K.K.T. eS. "by K.V. Rangaswami Aiyangar, pp 60-61; Manu IX 69

¹⁵ Sumantu quoted in G.P. of Prithwichandra, Trs. by J.H. Dave 1953 Bom. L.R. pp.25-31 at p.30.

¹⁶ Narada and Kat. Quoted in G.P. Of Prithwichandra

misrepresenting the groom in order to conceal faults, he will be penalised¹⁷ and the suitor receives his sulka back¹⁸. In the event of a problem, this regulation will not be applicable¹⁹

(2) "nullity" of the marriage resulting from the violation of a commercial and metaphysical reason for restriction:

We discover that there were some limitations on the girl's choice in Smritis. Relatives were given a great deal of importance throughout this time, and it had been advised that everyone should marry into the finest households²⁰. These limitations were set in place to promote mental welfare and the general welfare of society. It is suggested that a man not wed a sapinda²¹ (to the same bodily constituents) Sagotra²² (A sagotra is a member of the same family, also known as laukika gotra). samanpravara²³ (samanpravara is a brotherless girl who is descended from the same Rishi Vaidika gotra)²⁴. He is advised to stay away from a girl whose family disregards religious observances and Vedic studies.²⁵

This counsel appears to have been based on a number of different factors or repercussions, each of which had a different weight.

(3) "nullity" resulting from unhappiness amongst couples:

We must examine the full spectrum of such separation in order to rule out the possibility that the "nullity" traces we have discovered in the texts can also be compared to other cases of estrangement amongst couples. We now focus on marriages that are resistant to the aforementioned therapies. A wife can be superseded, abandoned, "given up," deserted, expelled, and banned according to the provisions found in the Bible. We even discover provisions for a husband's "abandonment" under conditions that we will look at.

(i) Supersession:

¹⁷ See Sternbach "The Pancatanatra and the Smritis" [1950] Bhartiya Vidya pp.22= 309. See pp.297-301 pp299-300 (where it has been said that if the father or guardian of the girl declares openly all the defects of the girl given in marriage he is not liable to punishment, but if he does not do so, then he will be punished by the King and the suitor may annul the contract with this man and abandon, or repudiate the girl who had some defects",

¹⁸ Narada and Kat. quoted in G.P. of Prithwi Chandra, op.cite, Narada XII; 33, Manu VIII 224; Manu IX 73; Yajñ 1, 66. Narada and Manu quoted in G.P. of Prithwi Chandra. Cited above

¹⁹ Ibid.

²⁰ Ibid.

²¹ Manu III, 5. Yajñ. 1, 53

²² Hir. gr.1, 19,2; Gobhila gr. III, 4-,4-.

²³ Narada XII, 7; Manava gr 1,7,8; Varaha gr. 9

²⁴ Manu Til, 110; see also Yajñ 1, 53; Manava gr. 1,7,8

²⁵ Manu III, 6,7

Rationalisations for replacing a woman that are related to the civil and religious aspects of the wedding can be distinguished from one another. The causes of superficial traits include alcohol misuse, disease, misbehaviour, a foul disposition, and eventual collapse²⁶. These considerations are significantly less serious than the ones related to the relationship's religious basis. A woman who only had daughters, was infertile, lost every one of her offspring, and had reached atiprasava (menopause) before getting pregnant may very well be supplanted²⁷. Due to the belief that the perpetuation of the bloodline from boys is the sole way to bring forth another the liberation of the predecessors from afterlife tribulations, these reasons undermine the marriage's holy intent. However, unless the aforementioned flaws are permanent, a wife cannot be made up for them. The wife must always be given enough time to determine whether the problem is permanent, thus the man must await ten or 11 days²⁸ if the woman was infertile or only gave birth to girls, those numbers would be years.

(ii) abandon:

A woman may be "abandoned" for reasons that, when categorised (as for supersession), relate to both the worldly and the religious facets of the marriage. Inebriation, poor behaviour, illness, psychosis, fornication, an endeavour to murder her husband, and the accomplishment of a serious crime, such as obtaining an abortion, fall under the first category²⁹ the second group includes postmenopausal, solely giving birth to daughters, and infertility.

(iii) Give up:

We discover that a marriage can be dissolved if there are flaws. These flaws include being blameworthy, being from a marginalised community, engaging in poor behaviour, committing crimes, or having a dangerous or infectious sickness. It is referred to as parityajya.³⁰ That is, she needs to be "given up."

(iv) Deserting:

We discover that a wife may be abandoned by her husband for a brief period of time—three months—and stripped of her decorations and furnishings on the various principles: her disdain for the husband, poor behaviour, intoxication, and illness³¹. According to the argument,

²⁶ Manu IX, 80.

²⁷ Manu IX,81.

²⁸ Manu IX,81.

²⁹ Yama quoted in Sm. Chandrika trans. by Gharpure, p.518 Harita quoted in Sm. Chandrika trans. by Gharpure,p.519 Yajn. ibid., at p.519-

³⁰ Sumahtu quoted In Grihastha Prakash of Prithwichandra, trans. by J.H. Dave [1953] Bom. L.R. 25-31 at p.31

³¹ Narada IX, 78

"deserting" refers to a reversible recourse open to the husband that really never dissolves the marriage. In order to maintain a happy family life and to correct the wife, this comes in the form of a prolonged absence.

(v) "Expelling" and "banishing from the town"

We are informed that a husband may kick out a wife if she consistently harbours ill will regarding him, speaks rudely, or eats in front of him³². Additionally, there are provisions for expelling a woman from the community if she spends her husband's whole estate while claiming it as her own, arranges an abortion, or makes an endeavour to murder her husband³³

B) Legislative comparative study of nullity of marriage under Hindu Law

1) "Nullity" of marriage before 1935:

The Hindu Law of Marriage, as outlined by the Smritikaras and the Annotations in antiquity, remained mostly unchanged until the British Empire began to rule India when it was periodically modified and changed by custom and use³⁴. Prior to 1955, the law mandates the legitimacy of a wedding between a moron or a stupid on the grounds that it was a samskara³⁵. Nevertheless, Banerjee asserts³⁶. It was difficult to comprehend how their wedding in such a scenario could be recognised as marriage at all because the stupid or lunatic was incapable of accepting the presence of something like the bride, who was an essential required component of the rite of the wedding (when the loss of reason was total). Similarly to this, a marriage to someone who was infertile at the time of the union was regarded as invalidation.³⁷

According to Norman J., "I believe that the Court must possess competence in such a matter to pronounce the marriage unlawful if acquired by force or fraud, and commemorated lacking the consent of the requisite parties or without the formalities necessary to give it a legitimate marriage under Hindu Law." However, a marriage solemnised between individuals in the degree of a banned relationship was void under dharmasastra³⁸. In 1896, the first endeavour was made to enact a legislative component of nullity. The Malabar Marriage Act of 1896³⁹ was

³² Ibid, XII, 93

³³ Ibid, XII, 92

³⁴ S.V. Gupte, Hindu law of Marriage, p.2.

³⁵ See Venkatacharyulu V. Rangacharyulu [J390]I.L.R. 14 Mad. 316-31&Y Bhagwati V Parmeshwari L1942] All518-589-590 Amrithammal yT Yallimay Ammal L1'942] Mad. 807 B.B.

³⁶ Banerjee, Hindu Law of Marriage and Stridhana (5th edn) Pp 40-43 See also Mayne, 10th edn. 150-3

³⁷ Rakeya bibi V. Anil Kumar [194-8] I.L.R. 2 Cal.119; Ratarmoni Debi V.Nagendra A.I.R. 1949 Cal.404; AV B [1952] 54 Bom. L.R. 725.

³⁸ Aunjona Iasi V. Prahalad Chandra [1870] 6 Bengal Law Reports 24p; VenKatacharyulu V. Rangacharyulu [1890] I.L.R. 14 Mad. 316 at 320 ; mulchand v. Budhia [] I.L.R. Bom. 812.

³⁹ The Malabar Marriage Act of 1896

passed in Madras; it forbade polygamy if the first marriage was recorded and acknowledged divorced between those subject to “Marumakkattayam” or “Alliasantana law”. The Madras Marumakkattayam Act, 1932⁴⁰ which outlawed bigamous unions between Hindu men who were subject to the Marumakkattayam law of inheritance and Hindu women they married, whether they were subject to that code or not, became the expression that replaced it ruled by that rule. Similar to this, the Madras Namboodari Act of 1932⁴¹ prohibited “Namboodaris” from getting remarried while their wives were still alive, with few exceptions.

The Bombay Preventing Hindu Bigamous Marriage Act was adopted in 1946. According to Section A of this Act, “a bigamous marriage” shall be void, -

(a) if it is contracted in this State after the coming into effect of this Act, otherwise than law, tradition, or practise to the contrary.

(b) if it is contracted outside of this State's borders after this Act takes effect and one or both of the contractual spouses to the wedding have their primary residence in this State.

2) Nullity of marriage after HINDU MARRIAGE ACT, 1955.

According to the HINDU MARRIAGE ACT, there are two sets of conditions by which a marriage may be dissolved:

- i. Where there has never been a legal marriage, such as when one or both parties had a spouse who was still alive at the time of the marriage when the parties are related to one another in a forbidden degree, or when the parties are sapindas of one another. The wedding is deemed "null and invalid" in this situation; and⁴²
- ii. Where there was a marriage that was initially valid in every way, but that has since been revealed to be so flawed that it is thought to be in the public interest that it should never have happened, such as when the consent was obtained through coercion or fraud, when the survey participants have hidden away their unwanted pregnancies at the start of the relationship, or because of the respondents' impotence, either party's idiocy or lunacy at the time of the marriage, or both parties' insanity.

⁴⁰ The Madras Marumakkattayam Act, 1932

⁴¹ Madras Namboodari Act of 1932

⁴² [1870] 6 Bengal law reports 243 at p. 254, T. Rangaswami V. T., Arvindammal A.I.R, 1957 Madras 243 at 249

Ross Smith V. Ross Smith [1962] 1 All.E.R. 344- at 381 (H.L.), DeHRenviTle V De Renville [1948] 1 All.E.R.56.

- iii. A void marriage is viewed as never having happened and can be handled as such by the spouses without a court order. A marriage that is defeasible is legitimate up until the Court nullifies it⁴³
- (a) The determination of facts that were immediately demonstrable on the day of the marriage is what determines whether a marriage is valid or invalid. The choice in a voidable marriage is made in light of additional factors⁴⁴
- (b) In the event of a null marriage, the husband and wife are qualified to be summoned as evidence against one another; however, this is not the situation in the event of a nullifiable marriage⁴⁵
- (c) If a ruling on the topic is pertinent to an argument that is legitimately before that Court, a spouse may claim and establish that the marriage is null and invalid in any Court, anywhere. However, it is not permitted to bring up the issue of a marriage's violability accidentally in other procedures⁴⁶
- (d) A void marriage can be challenged by third parties, whereas a voidable marriage can only be declared invalid at the aggrieved party's request⁴⁷
- (e) While a void marriage may be declared null and invalid at any time, it has been determined that a voidable marriage cannot be declared null and void after the passing of the parties, meaning that the passage of time may prevent a decree from being issued⁴⁸
- (f) In the situation of a null marriage, the nature of the grounds—i.e., whether the petitioner was honest or not—is irrelevant; nevertheless, in the case of a null marriage that is eligible for nullification, a decree will not be given if it is requested on grounds that are not genuine⁴⁹
- (g) Transactions made while the marriage was still active or in direct anticipation of a future union (such as prenuptial or postnuptial agreements) can be affected by a

⁴³ Mayne, 11th Ed. 144., Ross Smith V. Ross Smith 11962] 1 All.E.R. 344 at 381.

⁴⁴ kVV. Algar L1953J 2 III.E.R. 1381 at 1383; (criminal case); Wells V Fisher [1831] 174 E.R. 34 (civil case).

⁴⁵ Ross Smith W"Ross'Smith [1962] 1 All.E.R. 344 at p.356 W 7 1 7)

⁴⁶ T. Rangaswami V. T.Arvindammal A.I.R. 1957 Mad.243 at 249", Wells v. Cottam [1863] 3 SW.Tr 364 =164 E.R.1316

⁴⁷ Ross Smith V. Ross Smith [1962] 1 All.E.R. 344 at 356. (H.t.) Dodworth V dale [1936] 2 All.E.R. 440; B V.B [1868] PD.,559; Inverclyde V. Inverclyde [1931] HTTETR. 39.

⁴⁸ Dodworth V. Dale [1936] 2 All.E.R. 440

⁴⁹ See"Re iCaves, Eaves V, Eaves [1939] 4 All.E.R.280; See also Eowke V.~ Eowke L1958] 2 All.E.R. 638.

subsequent declaration of nullity in the event of a void marriage, but not in the event of a voidable marriage⁵⁰

- (h) In general, a void marriage cannot be confirmed or approved, but one that is unenforceable may be⁵¹
- (i) A wife claiming a void wedding may depend on her own citizenship prior to marriage, but she could perhaps do so in the event of a voidable union. Instead, she must acknowledge that her habitation is that of the spouse until the issue has been resolved⁵²
- (j) Lex loci Celebrations is to be used in cases of void marriages to resolve disputes, but it cannot be used in situations when the marriage is allegedly voidable⁵³
- (k) In addition, a void relationship's decree just affects the status and is a judgement in rem, but a voidable marriage as an institution decree alters the status and is a judgement in personam⁵⁴

CASE LAWS RELATED TO THE NULLITY OF MARRIAGE UNDER THE HINDU MARRIAGE ACT

- (1) **Lila v. Lakshman (1978 SCC (3) 258**⁵⁵- “The Allahabad High court had given judgement that the marriage is void and doesn’t exist as it already considered as faux marriage in eyes of law. A decree is passed for a void marriage is only a mere declaration of nullity of marriage. This decides that the court tells that there was no marriage”.
- (2) **Yamunabai Anatrao Adhav vs Anantrao Shivamrao Adhav (1988 AIR 644 1988 SCR (2) 809**⁵⁶- “The marriage which is a conflict with section 11 of Hindu Marriage act 1955 shall be treated as null and void”.
- (3) **C.S Rangabhatter vs C. Choodamani (AIR 1992 AP 103, 1991 (3) ALT 278**⁵⁷- “Andhara Pradesh high court mentioned that when the husband continues to live with

⁵⁰ See Jo Jackson, The Formation and Annulment of Marriage, pp.80-84

⁵¹ Ross Smith V Ross Smith [1962] 1 All.E.R. 344 at 358 (H.L)

⁵² ibid

⁵³ Ibid

⁵⁴ T. Rangaswami V.I. Arvindammal A.I.R. 1957 Mad.243 and 249

⁵⁵ Lila vs Lakshman (1978 SCC (3) 258

⁵⁶ Yamunabai Anatrao Adhav vs Anantrao Shivamrao Adhav (1988 AIR 644 1988 SCR (2) 809

⁵⁷ C.S Rangabhatter vs C. Choodamani (AIR 1992 AP 103, 1991 (3) ALT 278

his wife even after knowing wife's pregnancy at the time of marriage, then he can't file for annulment".

- (4) **Bassappa vs Sidhagamma (II (1992) DMC 167, ILR 1992 KAR 1798,1992(2) KarLJ 357**⁵⁸ - "Karnataka High court says that a wife whose marriage is declared as null or void as it conflicts with section 5(i), 5(iv) and 5(v) of Hindu marriage act then she won't be entitled to maintenance of any form under section 18 of Hindu Marriage act 1956".
- (5) **Moina Khosala vs Amardeep Khosala (AIR 1986 Delhi 399, 1986 (10) DRJ 286**⁵⁹ - "Husband couldn't consummating the marriage of having a number of failed attempts in sexual intercourse is incapable of interacting with any females. So the court had suggested that the wife can go for the decree of nullity of marriage".
- (6) **Dr Shrikant Adya vs Smt. Anurada (AIR 1980 Kant 8, ILR 1979 KAR 2332, 1980 (1) KarLJ 101**⁶⁰- "The Karnataka high court declared that the husband was incapable of producing a sexually healthy life which would give mental instability to the wife so she has nullity as her option".
- (7) **Gayatri Bai vs Pradeep Kumar Chourasai(II (1998) DMC 211)**⁶¹ - "The court had made a term of impotency as a practical impossibility to perform sexual intercourse completely and stated that complete sexual intercourse is important for being husband and wife but the satisfaction and pleasure obtained by the parties is irrelevant to this definition".
- (8) **Smt Sariabai vs Komalsingh(AIR 1991 MP 358, II (1992) DMC 44, 1992 (0) MPLJ 276)**⁶²- "It was held that the petition for an annulment after eight years of marriage is barred by the statute of limitation and cannot be entertained".

CONCLUSION AND SUGGESTIONS

During the Smriti period, special effort was made to ensure that the girl marries before or as soon as she reach adolescence, considering society was sceptical about a woman's purity at the time, and only by wedding at a tender age was indeed a girl's celibacy merited. A girl who was capable of marriage but chose not to marry and remained in her father's home was referred to

⁵⁸ Bassappa vs Sidhagamma (II (1992) DMC 167, ILR 1992 KAR 1798,1992(2) KarLJ 357

⁵⁹ Moina Khosala vs Amardeep Khosala (AIR 1986 Delhi 399, 1986 (10) DRJ 286

⁶⁰ Dr Shrikant Adya vs Smt. Anurada (AIR 1980 Kant 8, ILR 1979 KAR 2332, 1980 (1) KarLJ 101)

⁶¹ Gayatri Bai vs Praddep Kumar Chourasai(II (1998) DMC 211)

⁶² Smt Sariabai vs Komalsingh, AIR 1991 MP 358, II (1992) DMC 44, 1992 (0) MPLJ 276.

as a "Vyigall." Corresponding to this, it was deemed sinful for a parent to not marry his daughter at the appropriate time. If a girl or a suitor has a hidden flaw, such as a physical malformation or a severe theological or physical flaw resulting from impotent or deceit, the consummation may be annulled. In Smritis, a husband had the legal option to keep his woman, forsake her, or have her expelled or banished. A wife may equally abandon her husband. These won't seem to be any examples of "nullity."

We discover that there was a potential for "nullity" when a suitor wed a sapinda, sagotra, or samanapra- vara girl. Additionally, a wedding may be dissolved if either the wife or the husband was infertile, afflicted with an incurable or hazardous ailment, or if it had been forced or fraudulently committed.

