

Supreme Court On Hindu Marriage Rituals

Why In News

- **Supreme Court has issued** a stern reminder about the sanctity of marriage, criticising the trend of reducing weddings to mere “**song and dance**” and “**wining and dining**”, while adding that such functions should be approached with reverence rather than extravagance.



What's The Case

- A bench of **Justices BV Nagarathna and Augustine George Masih** said a Hindu marriage is a 'samskara' and a sacrament which has to be accorded its status as an institution of great value in Indian society.



- In its recent order passed in the **matter of two trained commercial pilots**, who sought a divorce decree without performing a valid Hindu marriage ceremony, the bench urged young men and women to "think deeply about the institution of marriage even before they enter upon it and as to how sacred the said institution is, in Indian society".



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EXAMS

- The **couple were engaged** to be married on March 7, 2021, and claimed to have 'solemnized' their marriage on July 7, 2021. They obtained a "marriage certificate" from **Vadik Jankalyan Samiti** and based on this certificate, secured a 'Certificate of Registration of Marriage' under the **Uttar Pradesh Marriage Registration Rules, 2017**.



- Their **families fixed the date** for the marriage ceremony as per Hindu rites and customs on October 25, 2022. Meanwhile, they lived separately but differences cropped up between them and cases followed.
- The court was **dealing with a plea by a woman seeking the transfer of a divorce** petition from a court in Muzaffarpur, Bihar to a court in Ranchi, Jharkhand. During the pendency of the petition, she and her former partner, both trained commercial pilots, decided to resolve the dispute by filing a joint application under Article 142 of the Constitution of India.

What Does Bench Said

- Delving into the provisions of **the Hindu Marriage Act**, the bench said that “unless and until the marriage is performed with appropriate ceremonies and in due form, it cannot be said to be ‘solemnised’ as per Section 7(1) of the Act”.
- It pointed out that “**further, sub-section (2) of Section 7** states that where such rites and ceremonies include the saptapadi, i.e., the taking of seven steps by the bridegroom and the bride jointly before the sacred fire, the marriage becomes complete and binding when the seventh step is taken.



CEREMONIES COMPULSORY FOR VALID MARRIAGE UNDER HINDU MARRIAGE ACT: SUPREME COURT



- Therefore, **requisite ceremonies for the solemnisation of the Hindu marriage** must be in accordance with the applicable customs or usage and where saptapadi has been adopted, the marriage becomes complete and binding when the seventh step is taken”.
- The bench said that “**where a Hindu marriage is not performed** in accordance with the applicable rites or ceremonies such as saptapadi when included, the marriage will not be construed as a Hindu marriage. In other words, for a valid marriage under the Act, the requisite ceremonies have to be performed and

there must be proof of performance of the said ceremony when an issue/controversy arises”.

- “Unless the parties have undergone such ceremony, there would be no Hindu marriage **according to Section 7 of the Act** and a mere issuance of a certificate by an entity in the absence of the requisite ceremonies having been performed, would neither confirm any marital status to the parties **nor establish a marriage under Hindu law,**” the court said declaring as null and void the certificate issued by Vadik Jankalyan Samiti and the ‘marriage certificate’ issued under the Uttar Pradesh Registration Rules, 2017, as proof of “Hindu marriage”. In Hindu Law, as already noted, marriage is a sacrament or a samskara. It is the foundation for a new family”.
- Such union provides them with the **status and character of being a husband** and wife in society, the bench said. The court pointed out that any man and woman can acquire the status of husband and wife under the Special Marriage Act, 1954, which is not restricted to Hindus.
- It noted that under the **Special Marriage Act, 1954**, a man and a woman can acquire the status of being a husband and a wife as per the provisions of the said Act.



Salient features of the Hindu Marriage Act, 1955

- (1) A Hindu marriage is now not so much concerned with religion. It is more a result of mutual consent than sacramental [Sections 5(ii), (iii), 11 to 13 and 7].
- (2) Marriages amongst Hindu, Jains, Sikhs and Buddhists are now valid Hindu marriages in the eyes of the law (Section 2).
- (3) As per Section 3 the divergence between the Mitakshara and Dayabhaga schools in connection with the expression “prohibited degrees of relationship” for the purpose of marriage is now removed. The strict rule prohibiting marriages within the limits of Sapinda relationship, as defined in the Smritis, have been considerably relaxed. Some new degrees of relationship have also been added. Thus one cannot now marry a person who was the wife of the brother of the other.
- (4) Monogamy amongst the Hindus is introduced for the first time by the Act. Bigamy is now punished under the Indian Penal Code. The conditions and requirements of a valid marriage are now very much simplified as is evident from the provisions of Sections 5 and 6.

- "The **Special Marriage Act, 1954** is not restricted to Hindus. Any man and woman irrespective of their race, caste or creed can acquire the status of being a husband and a wife under the provisions of the Special Marriage Act, 1954 but under the provisions of the Act (Hindu Marriage Act, 1955), there should not only be compliance of the conditions as prescribed under **Section 5 of the said Act** but also the couple must solemnise a marriage in accordance with Section 7 of the Act," it said.

Conclusion

- Exercising its plenary powers **under Article 142 of the Constitution**, the apex court declared the estranged couple were not married in accordance with the law and held the marriage certificate issued to them in absence of valid ceremony under the Hindu Marriage Act as null and void.
- It also quashed their divorce proceedings and a dowry case was lodged against the husband and his family members.

