

Matrimonial Remedies and Family Court-A Critical Study

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Abstract

In the present day scenario, we notice various issues which are been experienced by various persons in their family lives. Among them some are trivial in nature and some are grave ones. It is witnessed both in arranged marriages and other ones. The reason for the issues varies from person-to-person and situation to situation. People experience these situations in a magnified manner thereby creating turmoil in their lives. It not only has its impact in personal life, but also affects their professional life. The consequences of these issues will lead the persons to ring the bell of Court of Law to seek the redressal.

With the advancement in the lifestyle of the people, the standard of living of the people, their social networks, their food habits, social gatherings, witnessed a drastic change. These changes have its impact directly on the day to day activities and life of individuals. The civilisation has its roots from time immemorial and it has some principles, practical, irrespective of their density and requirement. Among them some are practically proven, some are not in a position to clear the test of practicality. This creates the mutation in the lifestyle of individuals. The impact of western civilisation has its immense effect on individuals. Adopting the practices of western civilization and diminishing the importance of our culture, ethics and morals are the factors for germination of issues in the matrimonial lives of individuals. There is a general saying that "A lock howsoever may be with the weight and density, it doesn't need the key of same proportion", there is no comparison with the weight of the lock and its key, same principle is applicable in the matter of matrimonial issues, howsoever may be the gravity of the problem, the solution will be in the minute part in contrast with the issue.

This is a descriptive study, therefore the qualitative method of study was used to collect the information and analysed. The study revealed that the issues forming the ground for separation of spouses are though trivial form a thick barrier between them, leaving no scope for the spark to the solution.

Keywords: Marriage, matrimonial issues, Court of Law, sanctity, institution of marriage

Introduction

Background of the Study

Marriage is considered as a *samskara* or a *sacrament* in Hindu religion, it is necessary for every Hindu to practice these *samskaras*, it has its influence more over woman in Hindu religion. Since it is considered as *samskara* or *sacrament*, it creates an indissoluble union between the parties^[1]. From the beginning of the civilization, Hindus considered marriage as a *sacrament*, a tie once tied cannot be untied, and it also lent an eternal union. The notion of sacramental marriage in Hindu differs from other religion. It is one of the ten *samskaras* (ceremonies of reformation) which a person has to undergo at the time of entering the *Grihastha Ashram* (life of Householder) one among four *Arsham*'s, accordingly, the other three *ashrams* are namely, *Brahmacharya* (life of celibacy and studentship), *Vanaprastha*, (life of recluse) and *Sanyasa* (life of emancipation). The Hindu marriage is considered as the union not only for the present life, but also for all lives to come. Derrett puts it succinctly; the intention of sacrament in Hindu religion is to make the husband and wife one not only physically but also psychically to perform spiritual practices and secular practices for this life and for lives to come.

The husband and wife are considered as one, the husband cannot separate the wife from his life, neither by sale nor by way of repudiation. Once a maiden is given in marriage^[3], the intention is "May mutual fidelity continues till death"^[4].

In Hindu *samskara*, wife is not just a *patni* (wife) but *dharmapatni*, to perform the duties of spiritual, religious and other. In Hindu culture, there are various religious sacrifices, spiritual sacrifices, rights and ceremonies, which a man cannot perform without wife. For this reason wife is considered as *dharmapatni*. She is termed as *ardhangini*, half of her husband^[5]. As ordained by *Vedas*, *dharma* must be practised by man together with his wife. The wife was also considered as a source of *dharma*, *artha*, *kama* and *moksha*, for this reason, *Vedas* have narrated that marriage is the union of bones with bones, flesh with flesh and skin with skin^[6].

In Hindu religion marriage is obligatory for begetting son to discharge his duties to his ancestors and perform religious and spiritual duties. In all these aspects, the role of wife is pivotal, hence wife is considered as *dharmapatni* and *sahadharmini*.

Marriage is considered as indissoluble union, but in some exceptional cases sages allowed a woman to abandon her husband in the following five cases:

- When he is dead,
- When he is out caste,
- When husband is missing,
- When he has become an ascetic and
- When he is impotent^[7].

Hindu mythology holds that husband is Lord and Master of his wife, he must be adored and obeyed, even if devoid of all

virtues^[8]. Wife should remain faithful during the life of the husband and also even after his death to his memory.

The position of wife in husband's family is of *patrani* or the Chief housekeeper and the superintendent of the female slaves. This gave the pavement to polygamy, concubinage and prostitution. The marriage became monogamous only for women and sacrament to her alone.

In the marriage ceremony, the dominion of damsel transferred from her father to the husband, forming the foundation of peace and order in a civilised society. In the case of *Gopal Krishna v Mithilesh Kumari*, the Allahabad High Court observed, "The institution of Matrimony under the Hindu law is a sacrament, and not a mere socio-legal contract. It is not performed for mere emotional gratification and is not a mere betrothal. Its context is religious. It is regarded as part of the life of the soul. It is holy spiritual union corresponding to *consortium omntum vitoe*, of Rome a process by which the husband and the wife become one".

Statement of the Problem

Problems associated with matrimonial issues are many and in the long run may also have an impact on the children's life. Some of these problems are;

- i) Couples (litigants) may develop ego problems and may neglect each other, which may lead to divorce.
- ii) Litigation between the spouses may lead to socio-economic and psychological problems.
- iii) Due to the increase in domestic work and redistribution of household chores, that leaves children with little or no time for their studies
- iv) Due to neglect by the parents (litigants), Children may not receive proper guidance or care which may directly affect their behavior.
- v) Also, it is observed, children from broken homes suffer from problems such as non-provision of some basic material needs like food, clothing and learning material.
- vi) In the aspect of security, step parent may or may not show love and affection to their step children. Thus, these children become victim of mental retardation, impairment in personality improvement. This may lead to deviant behavior among children.
- vii) With the above part, the researcher is forced to ascertain the matrimonial issues among the couples and to explore the impact of various mechanisms to solve them.

Scope of the Study

To annex the possibilities of recommendations to the Legislature with regard the amendment of the Act to be enacted for easement of safe procedural aspect with regard to the functioning of Family Courts in reducing stress and burden for quick remedies and speedy justice.

Objectives of the Study

1. To understand and examine the problems faced by men and women in their family life and to find out reasons behind disputes between partners.
2. To know as to what is the sanctity of institution of marriage
3. To expound the various practices which were prevalent in India for matrimonial reliefs in olden days.
4. To trace out the causes and consequences of matrimonial issues which are leading to divorce.
5. To critically analyse the law relating to Family Courts Act.

6. To examine the existing legal system in the context of the matrimonial remedies.
7. To ascertain and evaluate the advantages and shortcomings in functioning of Family Courts with reference to Family Court in Hyderabad.
8. Critically analyse the different matrimonial remedies provided under Hindu Marriage Act.
9. To suggest and propose remedial measures to accomplish the shortcoming and propose suggestions for effective and more better implementation of matrimonial remedies and Family Courts.
10. To trace out causes and consequences of matrimonial disputes.
11. To study about impact of divorce on society and children.

Significance of the Study

In the era of globalization and modernization, the family system has undergone changes. The present study will be useful to explore the problems being raised in the family and also helps to understand the role of various institutions in solving the problems. The results of the study may be useful in bringing awareness among the couples as well among unmarried, about the matrimonial issues and help them in preventing or solving the problems smoothly.

Limitations of the Study

The study is confined to Hindu religion and the collection of data for analysis shall be for a period of five years.

Matrimonial Issues-An Overview

1. **Lack of Patience:** Patience means the ability of a person to tolerate the uncomfortable instances like annoyance, difficulties without changing the behaviour of a person. In simple words, patience means accepting the qualities of other person as it is without adding one's personal colour to it for viewing other person without any coloured visible requisites.

Lack of patience means inability of the person to adjust oneself in the society of other and trying to dominate by trying to influence the other person.

This type of behaviour is a common phenomenon, when a person tries to shield one's inability and makes an effort to project one's right thing over other treating them as inefficient.

2. **Lack of Spirituality:** Spirituality means cultivating one's body, mind, emotions and energies to a certain level of maturity. This is a practice which a person needs to make a part of life this is one of the requisites of the person in one's life, lack of spirituality means person not inclined to cultivate oneself and expose oneself to the society and creates a disturbed atmosphere there by welcoming troubles in one's life.

3. **Lack of Purpose:** Every person doing any activity will reflect on the purpose of doing it, sometimes it may be active one or sometimes it may be a passive one. In some instances it may be primary or secondary.

The object of marriage is not a mechanical part but it has its special features, one among them is an egalitarian society. If this feature is not understood by the person then understanding the essence of life is in vain.

- 4. Delineating from our Culture:** The advent of the culture is not from the text but with the practice of mankind in civilization. It has been refined by various developments and experiences, with which it has its own feature and assists humans in living, it is a dynamic one and not universal. It changes from place to place and from society to society. A person respecting the culture, not the obligation of the person but an opportunity to avail its benefits for well-being.
- 5. More Judgmental:** No two persons have the same qualities even though they hail from common parents. Every person has distinct feature, every person has lacunae in one part of the other, it is inappropriate to draw to the conclusion upon other by mere few acts performed by them. This leads to uncomfortable atmosphere, thereby losing one's own harmony.
- 6. Corporate Culture:** Anything on this planet will mould and adjust to the surroundings and gets influenced by society. When a person spends fifty per cent or more of the time in a place, then the person gets moulded to the shape of the atmosphere where the person spends the time. In the present scenario, corporate culture reached every nook and corner of the society. There is a saying, 'Grass on the other side is always green'. People applying the corporate culture in their daily routine and viewing the society with corporate culture, thereby declining the principles of our culture and inviting the problems with red carpet.
- 7. Cultural Destruction:** Every society has its own culture and practice. The cause of development of distinct culture are many and they are imbibed for the betterment of society, with the advent of new system being contrary to the culture, the present generation declining the value of one's own culture and creating uncomfortable atmosphere in society.
- 8. No True Love, Lust, Want of Money and Fame:** Marriage is a sacred bond where love between the spouses becomes a strong force to unite them eternally, with the changes in society, lifestyle, habits, priorities, etc., the thought process of humans changed drastically people started changing their thought process and compromising with sacred bond of marriage, thereby leading to unimaginable results.
- 9. Easy Access to New Company (Temporary Pleasure):-** The supervision of parents upon children is lessened due to various reasons, a few among them are family obligations, personal issues, financial burden, societal issues, change in lifestyle, etc., this has created a gap in supervision by parents. Due to immature mind, adolescent age and other factors, person get an opportunity to easy access to new company without knowing the pros and cons and thereby disturbing their life for temporary pleasure.
- 10. Runs after Pleasure:** With the change in the lifestyle of person there is a change in the social relations, thereby creating a new thought in the minds and causing disturbance in one's personal life.
- 11. Arranged Marriages-Forced Marriages:** Due to change in the lifestyle of humans, the expectations of individuals upon their counterpart is pre-determine and thereby they create a shell in their minds about their future, with the domination of parents and pressure to compromise oneself leads to disturbed mind of the person which is difficult to adjust, thereby leading to unacceptable results in future.
- 12. Men Want Child- Women Want Career:** The education of a person is a key to the career of a person with great opportunities to both men and women every person became conscious about their career, due to various parameters, the challenging attitude of a person paves way to excel in career and the social obligation like marriage and children becomes hurdle to the people for their career, with which they get ready to sacrifice the personal life against their professional life. This becomes a cause for unhealthy atmosphere in personal life.
- 13. Mother's Control over Daughter in Married Lives-opt for Nuclear Set Ups-More Involvement Over Phone Calls:** Before the amendment of 498-A, life of women in matrimonial homes are mostly miserable due to male dominated society and no recognition of human values of women. This created fear in the minds of women. With the fear in the mind, mostly the mother of daughter are more apprehensive over their daughters and their personal life, with the continuous supervision of mother and instructions of mother, personal life of daughter gets disturbed. Every family seeks privacy in some matter, when the said privacy is compromised leads to cropping of differences between couple.
- 14. Interference by Son's Mother (Dressing, Lifestyle, Outings, and Freedom):** There is a saying 'old habits die hard' and other thing is that when a person is subjected to anything, the person wants others to experience the same irrespective of the merits and demerits of the same. This leads to unacceptable behaviour of mother-in-law upon daughter-in-law in her day-to-day life. This becomes a cause of discord among the members of family.
- 15. Abusive Nature of One of the Spouse-Lack of Parental Check:** The bond of marriage is based on the thread of love and care of both the parties against their counterpart. No matter about the behaviour of a person the thread of love and care should be at the priority level. If that is displaced with abusive nature. It leads to anarchy.
- 16. Alcohol Usage:** It is one of the important factor of trouble-maker in the family life of people in society. The person gets addicted to it and loses self-control and behaves wildly over counterpart causing turmoil in family life.
- 17. Suspicion:** With the development in the lifestyle of the people in a society various new innovations were witnessed, thereby, comfort to humans are extreme, this comfort experienced by a person draws a thought of suspicion in the mind of counterpart and construct a web in the mind, there by becomes a root cause of breaking of sacred bond.

18. Freedom: In the present generation, people are not inclined to compromise to Liberty for the sake of anything. This Liberty in the initial stage of life will give good results, but the same when changed to freedom in married life becomes a cause for discord between the couples and leads to unimaginable consequences.

19. Money: Everything on the earth is distinct and has its own place value, it cannot be compared with other, but in present day scenario, people became materialistic and value everything in terms of money, which is inappropriate. This attitude of a person becomes a cause for break in matrimonial ties between the couple.

20. 'Me': The Great Attitude: No person in the world is perfect and no person in the world is imperfect, every person has distinct qualities over other, degrading other person and projecting oneself as great will not adjust in the thread of love and care and leads to discord between the couple.

These are the few instances, where the issues germinate without any specific cause for the separation of the spouses, but have become a strong pillar for divorce, or judicial separation or restitution of conjugal rights in the Court of Law.

Summary and Conclusion

Table 1: The statistical data of the number of cases filed in the Courts under Hyderabad and Secunderabad Jurisdiction from 2016 to 2022 (September).

S. No.	Year	No. of Cases Filed	No. of Cases Disposed of
1	2016	2723	2508
2	2017	2430	3122
3	2018	2420	3870
4	2019	2672	2466
5	2020	1821	1179
6	2021	2877	2267
7	2022	3792	2066

The information in the above table discloses the number of cases been filed every year and the gravity of the issue to be dealt with. As observed from the above analysis, most of the matrimonial issues, though they are trivial in nature, approaching the Court of Law for redressal, needs a counselling with human approach by the third persons to rectify the problem and get into amicable understanding, this will lead the married life of disturbed couples in a blissful and happier manner, but due to the circumstances provoking the issues, increases the gravity and create a thick cloud in the minds of the spouses, needs an urgent remedial measure.

The Act namely the Hindu Marriage Act, 1955 provides solution of divorce, judicial separation and Restitution of Conjugal Rights, but does not provide alternate remedies for amicable solution for the issues outside the court or even before heading the steps of Court of Law. There is an urgent need to make an Amendment in the Act to provide the solution, other than due process of law in the Court of Law, because matrimonial issues are very much sensitive in nature, where a warm hand of solution from matured and intellectual persons not only provide the solution but also become the blessings to the families and their off-springs at large.

The Central Government in consultation with the State Government need to focus on this issue and take appropriate measures to create a separate wing under the supervision of District Collector, with the panel of intellectuals to handle the issues properly before heading the steps of Court of Law and get the amicable solution in a win-win manner.

References

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