

# **Importance Of Ceremonies In Hindu Marriage Family Law**

**By**

**Siddhant Tiwari**

3<sup>rd</sup> Sem

+91-7974702342

sidiwary@dsnl.ac.in

Damodaram Sanjivayya National Law University

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## ABSTRACT

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The Hindu Marriage Act of 1955 secularized, except for a Hindu marriage statute and repealed, tradition except in certain cases, the Hindu marriage's religious, sacramental and non-secular property is preserved in relation to the ritual legitimacy of a Hindu marriage. Even the ritual validity of Hindu weddings is one of the matters about which tradition is maintained. This means that a Hindu marriage is to be carried out either with the Shastric ceremonies and rites, or in keeping with traditional rituals and ceremonies (with no marriage legitimate unless it is celebrated with proper ceremonies and rites). Customary rituals and ceremonies can only be done, it must be clearly understood, with the parties between whom customary rites and ceremonies (either on the bride or on bridegroom sides) is recognised before the Hindu Marriage Act (1955) comes into force. There should be no modern rituals and marriage ceremonies. If traditional ceremonies and rituals are not open to parties, then shastric ceremonies and rites must be used for marriage. No other form of Hindu marriage is feasible, while Hindus are free to make a civil marriage, with all the consequences. So three alternatives are available to the Hindus for the ritual legitimacy of a marriage:

Shastrian rituals and procedures: the rites and ceremonies laid down in the Hindu shastrian law,

(ii) traditional rituals and rituals: religious, secular, elaborate, brief or nominal practices and ceremonies may be such, and

(iii) civil marriages as provided for in the 1954 Special Marriage Act.

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## OBJECTIVE

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- To study and analyze the current legal frame work Hindu Marriage Act,1955 and Special Marriage Act,1954
- To study the importance of ceromonies in Hindu Marriage
- To find out which are the essential ceromonies that is need to be performed

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## SIGNIFICANCE OF STUDY

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To study the importance of ceremonies in Hindu Marriage

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## SHASTRIC CEREMONIES AND RITES

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The Dharmashastras do not set out rituals and practices for Hindu weddings. These are set out in the sutras of Grihya. The Grihya-sutras recommend very complex marriage rituals and ceremonies. Although some of the rituals and rituals are conducted a couple of days before the formal marriage celebrations, both at the place of the bride and the bridegroom, at the home of the bride the necessary ceremonies are held. Here we will quickly review the ceremonies held in the home of the bride<sup>1</sup>.

The ceremonial day begins with the vriddhi sraddha of a marriage ceremony. In his absence, bride's father or the bride's next nearest male relation conducts the vriddhi sraddha on the day of marriage solemnizations to offer his blessings for the departed ancestors in view of his marriage. In the same platform are the mantras chanting, the ceremonial bride is carried.

In the past, a cow was set aside for the wedding festival. Later on, however, as the beef feeding was banned, a cow was bonded and loosed when the bridegroom arrived. This tradition has been found in different areas, but in modern Hindu culture it is not of great value.

The execution of many essential ceremonies starts on the bridegroom's arrival at the location of the bride. The first is the sampradana ritual. This ceremony is provided to the bridegroom by the singing of the mantras and the recitation of prayers, as padya (or water), feet washing, araghya, head washing and madhuparka (a mixture of honeys, curd ghee) as well as other present. This ritual is preceded by the ceremony of the Kanyadana, in which the Bride's father presents the Bridegroom formalizing (the Bride's right hand is bound to the Bridegroom's right hand with durva grass). Then the bride's recitation of this hymn is legally approved by the partner

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<sup>1</sup> *Ralathi v. Selliah*, (1966) 2 MLJ 40. The case has been discussed by G. Sitaram Sastry, in (1967) I Law Review, 86-87

The bride's father then gives the bridegroom a gift with a piece of gold. The skirts of the pair's mantles are then tied, meaning their marriage. The bride's father calls on the bride to prevent the bride from following dharma, artha, kama and moksha.

The holy fire is then enlightened with the vivaha-homa. A mill-stone is positioned to the west of the agni kunda and a water-pot is situated to the north-east. The husband and the bride offer sacred fire sacrifices (the bride participates in the offering of oblations by grasping the hand of the bridegroom). There are sacrifices to god, heaven and earth (the mahavayahritu-homa). In end, the bridegroom performs the laja-homa in which she gives Aryama, Varuna, Pusha, and Agni Oblations so that the gods can be happy to liberate her from their relations<sup>2</sup>. According to Griha-sutras, parinayana are 3 but usually 7 or 5 in practice (in all sacramental marriages they are even now invariably performed). Agni-parinayana is the rite for the nuptial fire and water pot—the pair hold the nuptial fire and water pot on the right. The agni-parinayana

The Saptpadi is the material most important of all marriage rites as the seventh stage takes the marriage to a final and irrevocable end. According to Manu, the bridal contract is a law of the married couple, "The nuptial texts are a certain rule in regard to wed-lock ; and the bridal contract is known by the learned to be complete and irrevocable on the seventh step of the married pair, hand in hand, after those texts have been pronounced." the other sages are of the same impact.

The last ceremony that is performed at the bride's place is known as *uttara-vivaha*. After the completion of this ceremony the bride is conducted in solemn procession to her husband's home where several texts are recited.

in most of the Hindu marriages performed in average Hindu homes, these ceremonies—or at least most of them—are performed at the time of the solemnization of marriage, though only in a

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<sup>2</sup> Medhatithi quoted in NIRNAYA SINDHU, III, 1; see for other texts, COLEBROOKE'S DIGEST, IV. Kulluka Bhatt says that wifhood is not constituted without *saptpadi* and the nuptial texts.

few marriages the sacred hymns and verses are recited by the bride and the bridegroom. The function of recitation of hymns and sacred texts is performed by the *pandit* or the priest officiating at the marriage. it seems to be clear that the chanting of the hymns, *mantras*, verses and sacred texts is not essential in modern Hindu law for the validity of a Hindu marriage.

The question is : of the above ceremonies which are absolutely essential for the valid<sup>3</sup>solemnization of a Hindu marriage under the modern Hindu law?

It is not easy to answer this question. The judicial declarations do not explicitly indicate the ceremonies are vital for a legal Hindu marriage. However, one ritual, the *saptpadi* that is completely important to the practice of the Hindu Marriage through the Shastric rituals does not have to be brought into question. Sub-section (2) of Section 7, Hindu Marriage Act says: "Where such rites and ceremonies include the *saptpadi* . . . the marriage becomes complete and binding when the seventh step is taken" The High Court in Madras, after reviewing the various texts involved, came to the conclusion that, in fact, two ceremonies are necessary for the ritual validity of the Hindu marriage, one consists of the secular aspect, namely the girl's girl gift (*sampradana* and *Kanyadana* are included in this).. In *Rampiayar against Deva Roma*, the Court claimed that while *vivaha homa* is a regular Hindu marriage ritual, its failure to execute does not make marriage empty when the *saptpadi* has been performed. It seems also settled that the ceremony of *kanyadana* is not expected in the *Gandharva* marriage form available to any Hindus which is marriage to a bride and bridegroom with mutual consent. Though *sudras* also conduct all the Shastric rites performed among the twice-born hindus, the success of *vivaha-homa* among them is not crucial. The presence of a priest to office in the wedding rites also seems to be known.

Furthermore, the authors of textbooks do not add clarification in terms of this state of judicial authority.

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<sup>3</sup> *Brindaban v. Chandra*, 12 Cal 140 ; *Bulli Appana v. Subamal*, 1938 Rang 111 ; *Devani v. Chindavaram*, AIR 1954 Mad 65 ; *Kanta Devi v. Sri Ram*, AIR 1963 Punj 235 ; *Venkata v. Tangutaru*, AIR 1968 AP107.

Mayne said, "The work of the Homam, panigrahana or the hand of the bride and the fire of Vedic Mantra is the most important rites listed by it, as well as the treading on the rock and the seven steps or saptpadi, the seventh step. When the saptpadi or the seven step ritual is complete and irrevocable, the wife passes on to her from that moment on.

(I) the reference to a holy light, and

(ii) the only two important marriage ceremonies are the saptpadi. However, he doesn't quote any force.

Which means that the question of Hindu marriage under modern Hindu law remains unanswered.

The answer in this submission can lie in exploring in modern Hindu law the character and essence of Hindu marriage. Although many Hindus still tend to call their marriage a sacrament, it remains very little to do with the sacramental nature of Hindu marriage. Even a wife, widower and divorcee is free to remarry and inviolate marriage is not an everlasting union (a marriage for all time, as an old indus held), since the Hindus marriage Act accepts a divorce, as Hindu, a Hindu marriage. The sacramental feature of a Hindu marriage is that for its solemnization certain Shastric rituals remain necessary. Having regard to this, the only ritual mandatory for Hindu marriage to be performed appears to be the saptpadi.

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### **CUSTOMARY CEREMONIES AND RITES**

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Interestingly enough, though all complex ceremonies and rituals are prescribed, the Grihya-Sutras also stipulate that marriages should be celebrated in accordance with "the customs of the different countries and villages." It was the existing rule, even before the Hindu Marriage Act came into force, that when one culture does not accept any of the shastric ceremonies and rites The courts have acknowledged various customary rituals and rites. The only change introduced by the Hindu Marriage Act is that if a marriage takes place on the side of one party (it cannot be recognised on the other side), such a marriage is legal, according to traditional rituals and ceremonies. It is important to ensure for the execution of customary ceremonies and rituals that the caste or community has consistently performed certain ancient rites and ceremonies and that

the caste or community is obliged to do so, given that such a customary ceremony or ceremony is not contrary to morality, legislation or public policy.

Nobody is free to change, alter, or even to hold a ritual, or a band, organization or campaign. The Arya Samaj movement streamlined the rituals and practices in compliance with the Arya Samajists Act and brought to one side all concerns regarding the legality of these marriages. A law was also required to create for the validity of marriages by ananda karaj between the Sikhs. Interestingly, the topic of creativity in western practices and rites was presented before the High Court in Madras. Tamilnadu has an organisation known for at least half a century as Anti-Purohi.

The main aim of this organisation is to eradicate the conventional rituals and ceremonies among the Hindus. Some very basic rituals and marriage ceremonies have also been revolutionary. Such marriages are called suyamariyathai marriages or seerthitha marriages. For this union, the family and friends of the bride and bride are invited and the extraordinary people of the village are invited and someone is asked to preside over the event among the invited people. The bride and the bridegroom are presented to the guest, and the simple wedding between the bride and the bridegroom is celebrated in their presence. There may also be two alternate ceremonies: (a) a simple ritual of binding the thali; and (b) a bride and bridegroom, in any language that they understand, may announce that each takes his wife and his or her husband as the case may be. Satyanarayana Rao, J., stated that it would be very commendable to simplify the process for marriages as set out by the shastras and by customs, if the legitimacy of such a marriage was challenged before the high court, but it would be risky to determine that the group would have the freedom to recommend the requisites of a legitimate marriage without a lawful author. Personal laws cannot be modified by anybody. It was void of marriage. This decision led to the approval of these rituals and rites by law. As such the constitutional amendment consists in the mere enforcement, in the presence of friends and other individuals, of a declaration by partners who are husband and wife, conferring on the parties the title of husband and wife.

Similarly, as nobody is free to conduct marriage rituals, even though the desire to be a man and a woman will be present.

In bigamy cases, this issue is before our courts. Unless the solemnisation of the second marriage is formed by the required rituals and ceremonies, it is difficult to sue bigamy. It was a very important topic before the High Court of Allahabad. Three separate Marriage Rituals have been held by one Dr. N. A. Mukerji with one Smt at three times. Kaur's Harbans (who was a married woman and whose husband was living). After reciting a few Sanskrit verses, Dr. Mukerji welcomed Smt during an opening moonlit evening. "Moon you are my witness. I am marrying Harbans and she is my wife and I am her husband" he screamed. Aight years back, the second ritual was conducted in a Kali Temple, where girls exchanged girls and walked seven steps together. A day later, before Guru Granth Sahib, the third ritual took place: the imitation of karaj ananda. The court held that the <sup>4</sup>performance of such mock ceremonies of marriage does not constitute a valid solemnization of marriage.

Not only should the service and rituals not be mocking, but the proper ceremony should be conducted on either the bride's side or the bride's side. it is important. Therefore the wedding ceremony would not be legitimate if the Buddhist and a Jain solemnize their marital ties by the ananda karaj (the actual Sikh ceremony), because the karaj is neither accepted on the bride's side nor the bride's side. But when a Sikh and a jain are married by ananda karaj, it is clear that marriage is true.

Therefore, neither ritual invention is tolerated nor weddings may be conducted by ceremonies of any kind. Marriage would be null in any case. Derrett claims the criteria is the goal. The ceremonies should be, however complicated they are, not to make the ceremony a direction against her will. It's said that it's not so under Hindu laws. "Did they intend to become man and wife? if they did so, the choice of ceremony is irrelevant . . . if on the other hand she aimed to be no more than a permanent concubine, the ceremonies, no matter how elaborate, should not have the effect of turning her into a patni against her intention !" Whether they did, the choosing of a ceremony is irrelevant. Under Hindu laws, weddings are null and invalid, unless customary marriage allows them; the solemnization of required ceremonies and rituals confers the dignity of the husband and wife and, if necessary, ceremonies are not held.

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<sup>4</sup> AIR 1923 Rang 202

The law of assumption of marriage seems to be the only redemptive characteristic of this jumble of ceremonial rites and rituals where there is a duty of evidence on the party who argues custom ceremonies and rites.

Section 144 of the Proof Act allows for the legitimacy of a marriage through constant co-existence between the parties until independent evidence of a marriage solemnization is available, unless contradictory evidence has been demonstrated. It was held early that the law framework should be leaned against marriage validity. Continuous and prolonged coexistence has often been held to establish a presumption for marriage and for coexistence. The solemnization of marriage must, in any case, be established after it has been shown. Any ceremony needs not to be seen. It does not reveal. It is impossible to be presumed that the necessary ceremonies are conducted if all ceremonies, but there is no indication that the brides performed ceremonies and rituals such as kanyadan or saptpadan and that there was no guardian for marriage (a girl under 18) of the bride at the time of marriage. Thus, the rule of presumption in favour of solemnization of marriage helps only to an extent.

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### **CIVIC CEROMONIES**

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If two Hindus are going to marry under the Hindu law, they have to be either by shastry or customary ceremonies. In the background of the 1954 Special Marriage Act, two Hindus would like to conduct their Marriage through a civilian ceremony. A matrimony would be subject to the 1954 Special Marriage Act, not the Hindu statute. Furthermore, if a Hindu wishes to marry a non-Hindu, but he does not have the option of civil marriage, without turned into a non-Hindu faith. The Special Marriage Act of 1954 is a law allowing two people—any two people—to make their marriage solemn by virtue of the Act, but they can. But the fact is that in the above mentioned two cases a Hindu has no choice but to marry under the Special Marriage Act (unless he wishes to stay celibate). In fact, interreligious or intercommunal marriages must be exercised under the Act (e.g., where the two individuals do not belong to the Hindus, Muslims, Christians, Parsis or Jeves).

Apart from the effect that marriage power, marriage ceremonies, marriage reliefs and ancillary reliefs all come under the Special Marriage Act, there are other implications, if a person is

involved in carrying out civil marriage (commonly called court marriage). Any of this applies to all people who are married under the constitution. The following are:

(a) the succession to the property of any person who is solemnized for marriage under the Act and of that person shall be 'regulated' by, and not by personal statute, the terms of the 1925 Succession Act, and

(b) any person who is married under the Act shall have the same rights and be subject to the same discapacity as the person to whom the Caste Disabi applies in the sense of their right of succession to any land<sup>5</sup>.

In the event where the two married parties are Hindus, the Marriage Act (Amendment) 1976 has now altered these results for the Hindus. Hindú legislation shall regulate both the succession in such a case to their property and the possession of their issue. But if only one group is a Hindu, then it would pursue the same conclusion. This amendment would not happen if Muslims, Christians, Jews or Parsis are both groups. The 1976 act amends the second effect by setting down that it would not extend to the degree that it "creates a disability" Again, this move can only take place if it is Hindus, all parties. It would not be acceptable to non-Hindus even though the two parties are adherents of the same faith or religion.

The 1954 Separate Marriage Act extended only to the Hindus, one of the implications of marry. Prior to the 1976 Amendment, it was stated that when a Hindu was married, the "shall be deemed to effect his severance" whose members he was at the time of the marriage, was assumed to have paid his severance. The Marriage Laws Act, 1976 modifies this effect in the same way as the other two consequences, so that, if both parties to the civil marriage are Hindus, their severance shall not be impaired, but if only one party is Hindu, then their division of status will still exist.

The three effects of a Hindu civil marriage is clearly dissuasive (and possibly meant) for the success of a civil marriage by a Hindu and hence could only be seen by a Hindu rebelling (i.e. when a marriage was to be performed against the wishes of the parents even if both the parties were Hindus, or when only one of the parties was a Hindu) So, even though a person married under the Act does not have to "abjure his religion" his personal rule must be abjured.

Hinduses (i.e., when both sides are Hindus) have been granted a civilian marriage form via a circuitous route and quite rudely in the present submission.

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### CONCLUSION

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Then, this is the code of law of Hindu marriage's ritual validity. This is not a satisfactory condition of law. A number of cases of bigamy prosecution fail because the second marriage is not proven to be solemnized by rituals and ceremonies required. This author would like to argue that the Hindu Marriage Act should be amended with the following proposals as regards the ritual validity of Hindu marriages:

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### BIBLIOGRAPHY

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- *Authikeshavalu v. Ramanujan*, (1909) 32 Mad 512 ; *Kameshwara v. Veeracharlu*, (1911) 34 Mad 422. According to the VYAVAHARA MAYUKHA (IV, 5, 12-14) the performance of *homan* may be done through a Brahaman.
- Mayne, HINDU LAW AND USAGE (11th ed.) 161.
- Mulla, HINDU LAW (13th ed.) para 437.
- The only case which takes this view is *Appibai v. Khimji*, AIR 1936 Bom 138.
- Hindu Marriage Act, 1955, Sections 13 and 13-B.
- The marginal note to Section 7 runs, "Ceremonies of Hindu Marriage". It may be recalled that the Hindu Code Bill called Hindu marriage as a "sacramental marriage", See Part II, Chapter I.
- See the ASVALAYANA GRIHYASUTRA, 1, 7, 3-22 ; APASTAMBA GRIHYASUTRA, IV, V, VI, VIII.

- *Authikesavalu v. Ramanujan*, (1909) 32 Mad 512 ; *Muthusami v. Masilmni*, (1910) 33 Mad 342.
- bride : *Tirumalai v. Ethirajammah*, (1946) I MLJ 438. Among the Jati Vaishnavas the only necessary ceremony is the exchange of garlands between the bride and the bridegroom, called *Kanti-badal* : *Bonodeberharry v. Sashy Bhushan*, (1919) 24 CWN 968.