

(18)

18. Place and form of solemnization.—(1) The marriage may be solemnized,—

(a) at the office of the Registrar, or

(b) at such other place within reasonable distance therefrom as the parties may desire, upon such conditions and on the payment of such additional fees as may be prescribed.

(2) The marriage may be solemnized in any form:

Provided that it shall not be complete and binding on the parties unless each party says to the other in the presence of the Registrar and the three witnesses, I (A) take thee, (B), to be my lawful wife (or husband).

(3) The marriage shall be solemnized in the presence of the Registrar and the three witnesses.

(19)

19. Certificate of marriage—(1) When the marriage has been solemnized, the Registrar shall enter a certificate thereof, in the form specified in the Sixth Schedule in a book to be kept by him for that purpose and to be called the “Hindu Civil Marriage Certificate Book” and such certificate shall be signed by the parties to the marriage and the three witnesses.

(2) On a certificate being entered in the Hindu Civil Marriage Certificate Book by the Registrar, the certificate shall be deemed to be conclusive evidence of the fact that a civil marriage has been solemnized and that all formalities as respects the signatures of witnesses to the marriage have been complied with.*

(20)

20 When marriage not solemnized within three months after notice, new notice required.—Whenever a marriage is not solemnized within three calendar months after notice thereof has been given to the Registrar, as required by section 12 or where the person objecting to the intended marriage has filed a suit in a court of competent jurisdiction and the decision of such court has been given, within three calendar months of the date on which the period allowed by law for appeal from such decision expires, or if there is an appeal from such decision, within three calendar months from the date of decision of the appellate court, the notice and all other proceedings thereon shall be deemed to have lapsed and no Registrar shall allow the marriage to be solemnized until a new notice has been given in the manner prescribed in this Chapter.

**(Under this section 19 Dr. Ambedkar's remarks in pencil in his personal copy are as under, 'It is not enough to say that formalities have been gone through. It carries us nowhere, conclusive evidence must be of solemnization and not of formalities.'—Ed.)*

18. Place and form of solemnization.—(1) The marriage may be solemnized,— **Part IV, sec. 15, page 17.**

(a) at the office of the Registrar, or

(b) at such other place within reasonable distance therefrom as the parties may desire, upon such conditions and on the payment of such additional fees as may be prescribed.

(2) The marriage may be solemnized in any form:

Provided that it shall not be complete and binding on the parties unless each party says to the other in the presence of the Registrar and the three witnesses, I (A) take thee, (B), to be my lawful wife (or husband).

(3) The marriage shall be solemnized in the presence of the Registrar and the three witnesses.

(18)

19. Certificate of marriage.—(1) When the Marriage has been solemnized, the Registrar shall enter a certificate thereof, in the form specified in the Fifth Schedule in a book to be kept by him for that purpose and to be called the “Hindu Civil Marriage Certificate Book” and such certificate shall be signed by the parties to the marriage and the three witnesses. **Part IV, sec. 17, page 18.**

(2) On a certificate being entered in the Hindu Civil Marriage Certificate Book by the Registrar, the certificate shall be deemed to be conclusive evidence of the fact that all formalities as respects the signatures of witnesses to a Civil marriage have been complied with.

(19)

20 When marriage not solemnized within three months after notice, new notice required.—(New)
Whenever a marriage is not solemnized within three calendar months after notice thereof has been given to the Registrar, as required by section 12 or where the person objecting to the intended marriage has filed a suit in a court of competent jurisdiction and the decision of such court has been given, within three calendar months of the date on which the period allowed by law for appeal from such decision expires, or if there is an appeal from such decision, within three calendar months from the date of decision of the appellate court, the notice and all other proceedings thereon shall be deemed to have lapsed and no Registrar shall allow the marriage to be solemnized until a new notice has been given in the manner prescribed in this Chapter.

(20)

(21)

*Registration of Dharmik marriages as civil marriages***21. Procedure for registration of certain Dharmik Marriages.—(1)**Where any two Hindus have gone through a *Dharmik* form of marriage,—

(a) before the commencement of this Code, and doubts are entertained as respects the validity of any such marriage by reason of the provisions of any text, rule or interpretation of Hindu Law or any usage or custom in force at the time of the marriage, or

(b) after the commencement of this Code and such marriage is invalid by reason of the fact that it is in contravention of the provisions contained in clause (v) of section 7.

such persons may, at any time apply to the Registrar of the district in which either of them has resided for not less than thirty days immediately preceding the application to have their marriage registered as if it were a civil marriage solemnized before the Registrar.

(2) Upon receipt of any such application, the Registrar shall give public notice thereof in such manner as may be prescribed and after allowing a period of thirty days for objection and after hearing any objections received within that period the Registrar, if he is satisfied—

(a) that the ceremony of marriage was performed on the date mentioned in the application and that the parties have been living together as husband and wife ever since;

(b) that the conditions specified in clauses (i), (ii), (iii) and (iv) of section 8 are satisfied as between the parties to the marriage on the date of the application; and

(c) that, where either party not being a widow at the time of the marriage has not on the date of the application completed the age of twenty one years, the consent of his or her guardian in marriage has been obtained to the registration of the marriage as a civil marriage.

shall enter a certificate of the marriage in the Hindu *Dharmik* Marriage Register in the form specified in the Seventh Schedule and such certificate shall be signed by the parties to the marriage as well as by three witnesses.

(3) Upon the entry of any such certificate as is specified in sub-section (2), the marriage shall be deemed to have been valid for all purposes and all children born after the date on which the parties went through the *Dharmik* form of marriage (whose names shall also be entered in the Certificate and the Hindu *Dharmik* Marriage Register) shall, in all respects, be deemed to be and always to have been the legitimate children of their parents.

(4) Any party to such marriage aggrieved by any order passed under this section may appeal against that order to the district court as defined in section 3 within the local limits of whose jurisdiction the Registrar exercises jurisdiction and the decision of the district court on such appeal shall be final.

21. Procedure for registration of certain Sacramental Marriages.—(1) Where any two Hindus have gone through a sacramental form of marriage,—

**Part IV,
sec. 18,
page 18.**

(a) before the commencement of this Code and doubts are entertained as respects the validity of any such marriage by reason of the provisions of any text, rule or interpretation of Hindu Law or any usage or custom in force at the time of the marriage, or

(b) after the commencement of this Code and such marriage is invalid by reason of the fact that it is in contravention of the provisions contained in clause (5) of section 7.

such persons may, at any time apply to the Registrar of the district in which either of them has resided for not less than thirty days immediately preceding the application, to have their marriage registered as if it were a civil marriage solemnized before the Registrar.

(2) Upon receipt of any such application, the Registrar shall give public notice thereof in such manner as may be prescribed and after allowing a period of thirty days for objection and after hearing any objections received within that period the Registrar, if he is satisfied—

(a) that the ceremony of marriage was performed on the date mentioned in the application and that the parties have been living together as husband and wife ever since;

(b) that the conditions in clauses (1) to (4) of section 10 are satisfied as between the parties to the marriage on the date of the application; and

(c) that, where either party not being a widow at the time of the marriage has not on the date of the application completed the age of twenty one years, the consent of his or her guardian in marriage has been obtained to the registration of the marriage as a civil marriage;

shall enter a certificate of the marriage in the Hindu Sacramental Marriage Register in the form specified in the Sixth Schedule and such certificate shall be signed by the parties to the marriage as well as by three witnesses.

(3) Upon the entry of any such certificate as is specified in subsection (2) the marriage shall be deemed to have been valid for all purposes and all children born after the date on which the parties went through the Sacramental form of marriage (whose names shall also be entered in the Certificate and the Hindu Sacramental Marriage Register) shall, in all respects, be deemed to be, and always to have been, the legitimate children of their parents.

(4) Any party to such marriage aggrieved by any order passed under this section may appeal against that order to the district court within the local limits of whose jurisdiction the Registrar exercises jurisdiction, and the decision of the district court on such appeal shall be final.

(22)

Use of marriage records

22. Marriage records to be open to inspection etc.—The Hindu *Dharmik* Marriage Register and the Hindu Civil Marriage Certificate Book shall, at all reasonable times, be open for inspection and shall be admissible as evidence of the truth of the statements therein contained.

Certified extracts therefrom shall, on application be given by the Registrar on payment to him of the prescribed fee.

(23)

23. Transmission of copies of entries in marriage records to the Registrar General of Births, Deaths and Marriages.—The Registrar shall send to the Registrar General of Births, Deaths and Marriages for the State within which his district is situate at such intervals as may be prescribed, a true copy in the prescribed form and certified by him of all entries made by him in the Hindu *Dharmik* Marriage Register and the Hindu Civil Marriage Certificate Book since the last of such intervals.

22. Marriage records to be open to inspection etc.—The Hindu Sacramental Marriage Register and the Hindu Civil Marriage Certificate Book shall, at all reasonable times, be open for inspection and shall be admissible as evidence of the truth of the statements therein contained.

**Part IV,
sec. 19,
page 18.**

Certified extracts therefrom shall, on application be given by the Registrar on payment to him of the prescribed fee.

(22)

23. Transmission of copies of entries in marriage records to the Registrar General of Births, Deaths and Marriages.—The Registrar shall send to the Registrar General of Births, Deaths and Marriages for the Province within which his district is situate, at such intervals as may be prescribed, a true copy in the prescribed form and certified by him of all entries made by him in the Hindu Sacramental Marriage Register and the Hindu Civil Marriage Certificate Book since the last of such intervals.

(23)

(24)

Guardianship in marriage

24. Priority among guardians in marriage.—(1) Subject to the provisions of Part IV, wherever the consent of a guardian in marriage is necessary under this Part the persons entitled to give such consent shall be the following in the order specified hereunder, namely,—

- (1) the father,
- (2) the mother,
- (3) the brother,

* * * * *

- (4) any other relative, the nearer being preferred to the more remote.

* * * * *

Explanation.—In determining which of the two relatives is nearer for the purposes of entry (4) above, the test shall be, which of them is first entitled to inherit to the ward's heritable property according to the rules of intestate succession in Part VII.

(2) No person shall be entitled to act as a guardian in marriage under the provisions of this section unless such person has himself completed his or her twenty first year.

(3) Whether any person entitled to be the guardian in marriage under the foregoing provisions refuses or is by reason of absence, disability or other cause, unable or unfit, to act as such, the person next in order shall be entitled to be the guardian in marriage.

(4) Nothing in this Part shall affect the jurisdiction of a court to prohibit by injunction and intended marriage arranged by the guardian in marriage, if in the interests of the minor, the court thinks it necessary to do so.

24. Guardianship in marriage.—(1) Subject to the provisions of Part IV, wherever the consent of a guardian in marriage is necessary under this Part the persons entitled to give such consent shall be the following in the order specified hereunder, namely,—

**Part IV
sec. 22,
page 19.**

- (1) the father;
- (2) the mother,
- (3) the paternal grandfather.

(4) The brother by full or half blood, a brother by full blood being preferred to one by half blood and as between brothers both by full or half blood, the elder being preferred;

(5) the paternal uncle by full or half blood, subject to the like rules of preference as are set out in entry (4) above;

(6) the maternal grandfather;

(7) the maternal uncle, subject to the like rules of preference as are set out in entry (4) above.

(8) any other relative, the nearer being preferred to the more remote and as between relatives related in the same way, subject to the like rules of preference as are set out in entry (4) above.

Explanation.—In determining which of the two relatives is nearer for the purposes of entry (8) above the test shall be, which of them is first entitled to inherit to the ward's heritable property according to the rules of intestate succession in Part VII.

(2) No person shall be entitled to act as a guardian in marriage under the provisions of this section unless such person has himself completed his or her twenty-first year.

(3) Where any person entitled to be guardian in marriage under the foregoing provisions refuses or is by reason of absence, disability or other cause, unable or unfit, to act as such, the person next in order shall be entitled to be the guardian.

(4) Nothing in this Part shall affect the jurisdiction of a court to prohibit by injunction an intended marriage arranged by the guardian, if in the interests of the minor, the court thinks it necessary to do so.

(25)

Special provisions for a valid marriage between Marumakkattayees, etc.

24A. Conditions relating to marriage of Marumakkattayam or Aliyasantana female.—(1) A marriage solemnized after the commencement of this Code between a female who, if this Code had not been passed, would have been governed by the Marumakkattayam or Aliyasantana law and a male Hindu, shall be a valid marriage if the conditions specified in section 7 are fulfilled;

Provided that the condition specified in clause (v)* of the said section shall not apply to any such marriage.

(2) Every marriage under this section shall be openly solemnized in accordance with the customary rites and ceremonies, if any, prevailing in the community to which the parties belong or either of them belongs;

Provided that no such marriage shall be deemed to be invalid merely by reason of any irregularity in the performance of any of the rites and ceremonies aforesaid.

(3) Notice of every marriage under this section shall be given by such person to such authority in such form and within such time as may be prescribed.

(4) Where a marriage is solemnized under the provisions of this section between a female who, if this Code had not been passed, would have been governed by the Marumakkattayam or Aliyasantana law, and a male Hindu who would not have been governed by such law, it shall be lawful for the parties to make a declaration in the notice given under sub-section (3) that they desire to be governed by the special provisions contained in this Part with respect to annulment of Marumakkattayam or Aliyasantana marriages, and unless any such declaration is made,—

(a) nothing contained in any such special provision (except this section) shall apply to either of the parties; and

(b) Chapters II and III of this Part shall apply to, or in relation to, such marriage as they apply to, or in relation to, a *Dharmik marriage*.

(5) If any person fails to give notice of a marriage as required by sub-section (3), he shall be punishable with fine, which may extend to fifty rupees;

Provided that the failure to give any such notice shall not invalidate the marriage or affect the legal rights of the parties to, or of the issue of, such marriage.

(26)

Penalties, etc.

***25. Bigamous marriage and punishment therefor.**—Any person who during the lifetime of his or her spouse, if the marriage of such person with such spouse has not been annulled in accordance with the provisions of this Code, or, at any time before the commencement of this Code, in accordance with the law, custom or usage in force at the time, contracts any other marriage after the commencement of this Code, shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code (Act XLV of 1860) for the offence of marrying again during the lifetime of a husband or wife.

(27)

26. Penalty for signing false declaration or certificate.—Every person making, signing or attesting any declaration or certificate required under this Part, containing a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be * * * * guilty of the offence described in section 199 of the Indian Penal Code (Act XLV of 1860).

* * * * *

* Dr. Ambedkar's note in pencil on his personal copy, 'Recognises custom also to make matter clear'—Ed.

25. Bigamous marriage and punishment therefor.—**Part V,
sec. 24,
page 19.**

Any person who during the lifetime of his or her spouse, if the marriage of such person with such spouse has not been dissolved by a Court of competent jurisdiction, contracts any other marriage after the commencement of this Code, shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code 1860 (XLV of 1860) for the offence of marrying again during the lifetime of a husband or wife.

(26)

26. Penalty for signing false declaration or certificate.—Every person making, signing or attesting any declaration or certificate required under this Part, containing a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to be guilty of the offence described in section 199 of the Indian Penal Code 1860 (XLV of 1860).

**Part IV
sec. 22,
page 18.**

(27)

(27)

CHAPTER IIRestitution of conjugal rights and judicial separation

27. Petition for restitution of conjugal rights.—When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

(29)

28. Answer to petition for restitution of conjugal rights.—Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which would not be a ground for judicial separation or for a decree of annulment of marriage.

(29)

29. Judicial separation.—Either party to a marriage, whether solemnized before or after the commencement of this Code, may present a petition to the district court praying for a decree for judicial separation on the ground that the other party—

(a) has deserted the petitioner without cause for a period of not less than two years immediately preceding the presentation of the petition;

(b) has been guilty of such cruelty as to render it unsafe for the petitioner to live with the other party; or

(c) has, for a period of not less than one year immediately preceding the presentation of the petition, been suffering from venereal disease in a communicable form and not contracted from the petitioner;

(d) is suffering from a virulent form of leprosy; or

(e) has been habitually of unsound mind since the date of the marriage; or

(f) has committed adultery during the marriage.

Explanation.—In this section, the expression “to desert” with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent or against the wish of such party.

31. Petition for restitution of conjugal rights.— (New)

When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

(28)

32. Answer to petition for restitution of conjugal rights.— (New) Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which would not be a ground for judicial separation or for a decree of dissolution of marriage.

(29)

Judicial Separation

33. Judicial separation.—Either party to a marriage, whether solemnized before or alter the commencement of this Code, may present a petition to the District Court praying for a decree for judicial separation on the ground that the other party—

**Part IV,
sec. 30,
page 21.**

(a) has deserted the petitioner for a period of not less than two years; or

(b) has been guilty of such cruelty as to render it unsafe for the petitioner to live with the other party; or

(c) has been suffering from incurable venereal disease in a communicable form, not contracted from the petitioner for a period of not less than one year immediately preceding the presentation of the petition; or

(d) is suffering from a virulent form of leprosy; or

(e) has been habitually of unsound mind since the date of marriage; or

(f) has committed adultery during the marriage.

Explanation.—In this section, the expression “to desert” with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent or against the wish of such party.

(30)

(31)

CHAPTER III*General provisions relating to annulment of marriage*

30. No marriage to be annulled except by order of court.—Notwithstanding anything contained in this Part, no marriage solemnized, whether before or after the commencement of this Code, shall be deemed to have been lawfully annulled except by a decree of a competent court passed in that behalf.

(32)

30A. Modes of annulment of marriage.—A marriage may be annulled by a decree of nullity, if it is void for any of the reasons set out in section 31, or by a decree of dissolution, if it is voidable for any of the reasons set out in section 32, or by a decree of divorce for any of the reasons set out in section 33, as the case may be.

Nullity of Marriages

31. Grounds for a decree of nullity.—(1) Any marriage solemnized before the commencement of this Code may be annulled by a decree of nullity—

(a) if by reason of the provisions of any law in force at the time of the marriage such marriage was invalid on the ground that either party had a spouse living at the time of the marriage or

(b) if the parties at the time of the marriage were within the degrees of prohibited relationship as defined by clause (c) of section 5 :

Provided that no such marriage shall be annulled under the provisions of clause (b) of this sub-section if it was valid under the provisions of any law in force at the time of the marriage.

(2) Any marriage solemnized after the commencement of this Code may be annulled by a decree of nullity—

(a) if, purporting to be a Dharmik marriage, it contravenes any of the conditions specified in clauses (i), (iv) and (v) of section 7.

(b) if, purporting to be a civil marriage, it contravenes any of the conditions specified in clauses (i) and (iv) of section 8:

Provided that nothing contained in this section shall apply to any case falling within the prohibition contained in clause (v) of section 7, if, before the institution of any proceeding for the annulment of marriage, the marriage is registered as a civil marriage under section 21.

34. No marriage to be avoided except by order of court.— Notwithstanding anything contained in this Part, no marriage solemnized, whether before or after the commencement of this Code, and whether such marriage is void or voidable, shall be deemed to have been lawfully dissolved unless a decree has been pronounced by a Competent Court declaring that the marriage is dissolved either on a petition for dissolution or in any other proceeding in which the validity of the marriage is in issue.

(31)

(32)

28. Void marriage.—(1) Any marriage solemnized before the commencement of this Code shall be void— **Part IV, sec. 29(2)(ii) page 2.**

(a) if by reason of the provisions of any law in force at the time of the marriage such marriage was invalid on the ground that either party had a spouse living at the time of the marriage; or

(b) if the parties at the time of the marriage were within the degrees of prohibited relationship as defined by clause (b) of section 5;

Provided that no such marriage shall be deemed to be void under the provisions of clause (b) of sub-section (1) if it was valid under the provisions of any law in force at the time of the marriage.

(2) Any marriage solemnized after the commencement of this Code shall be void—

(a) if, purporting to be a sacramental marriage, it contravenes one or more of the conditions specified in clauses (1), (4) and (5) of section 7;

(b) if, purporting to be a civil marriage, it contravenes any of the conditions specified in clauses (1) and (4) of section 10:

Provided that in the case mentioned in clause (a) of sub-section (2) the condition specified in clause (5) of section 7 shall not apply when the marriage is subsequently registered at any time as a civil marriage under section 21, before any petition for dissolution is presented to any Court.

(33)

(34)

Dissolution of Marriage

32. Grounds for a decree of dissolution.—(1) Any marriage solemnized before the commencement of this Code may be annulled by a decree of dissolution on the ground that either party to the marriage was an idiot or a lunatic at the time of the marriage.

(2) Any marriage solemnized after the commencement of this Code may be annulled by a decree of dissolution—

(a) if, purporting to be a *Dharmik* marriage, it contravenes any of the conditions specified in clauses (ii), (iii) and (vi) of section 7;

(b) if, purporting to be a civil marriage, it contravenes any of the conditions specified in clauses (ii), (iii) and (v) of section 8:

Provided that, unless there was force or fraud, a *Dharmik* marriage shall not, after it has been completed, be deemed to be invalid or even to have been invalid merely on the ground that the consent of the bride's guardian in marriage to the marriage was not or had not been obtained.

* * * * *

29. Voidable marriages.—(1) Any marriage solemnized before the commencement of this Code shall be voidable if either party to the marriage was an idiot or lunatic at the time of the marriage. **Part IV, sec. 5, page 15.**

(2) Any marriage solemnized after the commencement of this Code shall be voidable—

(a) if, purporting to be sacramental marriage, it contravenes any of the conditions specified in clauses (2), (3) and (6) of section 7;

(b) if, purporting to be a civil marriage, it contravenes any of the conditions specified in clauses (2), (3) and (5) of section 10:

Provided that unless there was force or fraud, a sacramental marriage shall not, after it has been completed, be deemed to be invalid or ever to have been invalid merely on the ground that the consent of the bride's guardian to the marriage was not or had not been obtained.

(3) Any marriage, whether solemnized before or after the commencement of this Code, shall be voidable on any of the grounds specified in section 30.

(4) Where a period of limitation is prescribed for the presentation of any petition under this Part and no petition is presented within the time prescribed, the marriage shall be deemed to be valid and always to have been valid for all purposes.

36. Dissolution of marriage.—(1) Subject to the provisions of section 35, either party to a marriage may at any time present a petition for dissolution of marriage to the District Court on any of the grounds which makes a marriage void or voidable.

(2) Nothing in sub-section (1) shall be deemed to authorise a Court to pass a decree—

(i) in the case of marriage solemnized before the commencement of this Code which was valid at the time of solemnization, on the ground—

(a) that a former wife of the male party was living at the time of the marriage; or

(b) that the parties are within the degrees of prohibited relationship as defined by clause (b) of section 5;

(ii) in the case of a voidable marriage, whether solemnized before or after the commencement of this Code, on the ground that either party was an idiot or lunatic at the time of the marriage or that the respondent was impotent at the time of the marriage and continued to be so until the institution of the proceeding, unless the petition for dissolution is

(35)

Divorce

33. Grounds for a decree of divorce.—Any marriage, solemnized whether before or after the commencement of this Code, may be annulled by a decree of divorce on any of the following grounds namely:—

(i) either party to the marriage was impotent at the time of the marriage and continued to be so until the institution of the proceeding;

(ii) the husband is keeping a * * * concubine or the wife has become the concubine of any other man or leads the life of a prostitute;

(iii) either party to the marriage has ceased to be a Hindu by conversion to another religion;

(iv) either party is incurably of unsound mind and has been continuously under treatment for a period of not less than five years preceding the petition; and

(v) either party is suffering from a virulent * * * form of leprosy..

(vi) either party has not resumed marital intercourse for a period of two years or upwards after a decree or order for judicial separation had been passed against the other party;

(vii) either party has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards.

presented within three years after the solemnization of the marriage, or in the case of a marriage solemnized before the commencement of this Code, within two years of such commencement; or

(iii) in the case of a voidable marriage, whether solemnized before or after the commencement of this Code, on the ground that the consent of the petitioner or where the consent of his or her guardian is requisite, the consent of such guardian was obtained by force or fraud, unless the petition for dissolution is presented within one year after the force had ceased to operate or the fraud had been discovered:

Provided that the Court shall dismiss such petition if—

(a) in the case of a voidable marriage solemnized before the commencement of this Code the force had ceased to operate or the fraud had been discovered before such commencement and the petition for dissolution is presented more than one year after the commencement of this Code; or

(b) the petitioner has, with his or her free consent, lived with the other party to the marriage as husband and wife after the force had ceased to operate or the fraud had been discovered, as the case may be.

(34)

30. Other grounds for dissolution of marriage.—

**Part IV
sect's 29 &
30, page 2.**

A marriage, whether solemnized before or after the commencement of this Code, may be dissolved on any of the following grounds, namely, that—

(i) either party to the marriage was impotent at the time of the marriage and continued to be so until the institution of the proceeding;

(ii) the husband is keeping a woman as a concubine or the wife has become the concubine of any other man or leads the life of a prostitute;

(iii) either party to the marriage has ceased to be a Hindu by conversion to another religion;

(iv) either party is incurably of unsound mind and has been continuously under treatment for a period of not less than five years preceding the petition; and

(v) either party is suffering from a virulent and incurable form of leprosy.

38 Further grounds for dissolution.— (New)

Either party to a marriage whether solemnized before or after the commencement of this Code, may present a petition to the District Court praying that his or her marriage may be dissolved on the ground that the other party—

(a) has not resumed marital intercourse for a period of two years or upwards after a decree or order for judicial separation had been passed against the respondent; or

(b) that the respondent has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards.

(35)

(36)

34. Right to have marriage annulled.—(1) A decree of nullity of marriage may be obtained either by a party to the marriage or by a Proctor or by any person affected by, or having an interest in, the marriage either on a petition for annulment by a decree of nullity or on a plea raised in any other proceeding.

(2) A petition for a decree of dissolution or for divorce shall lie only at the instance of a party to the marriage:

Provided that no party shall be entitled to take advantage of his or her own default or disability for the purpose of relief.

(37)

35. Appointment of Proctors.—(1) The State Government may appoint one or more Proctors for the State or any part thereof who shall have the right—

(i) to appear or intervene either *suo moto* in any proceeding for the annulment of any marriage, where in the opinion of the Proctor it is expedient in the public interest so to do or at the instance of any court;

(ii) to initiate any proceeding for the annulment of any marriage where the appropriate remedy for annulment is by a decree of nullity.

(2) The State Government may make rules regulating the manner in which the right of the Proctor shall be exercised and all matter incidental to or consequential on any exercise of the right.

35. Persons entitled to present petition for dissolution.—(1) Where a marriage, whether solemnized before or after the commencement of this Code, is impugned on the ground that it is a void marriage, the plea may be entertained by the Court either—

(i) on a petition for dissolution presented by either party to the marriage; or

(ii) on an issue being raised in any proceeding by any person affected by or having an interest in the marriage.

(2) Where a marriage, whether solemnized before or after the commencement of this Code, is impugned on the ground that it is a voidable marriage, no such plea shall be entertained by the Court except at the instance of either party to the marriage:

Provided that no party shall be entitled to take advantage of his or her own default or disability for the purpose of relief.

(36)

(37)

(38)

36. No petition for divorce to be presented within three years of marriage.—(1) notwithstanding anything contained in this Part, it shall not be competent for any court to entertain any petition for a decree for divorce, unless at the date of the presentation of the petition three years have elapsed since the date of the marriage:

Provided that the court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented before three years have elapsed since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but, if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree, do so subject to the condition that the decree shall not have effect until after the expiry of three years from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after the expiration of the said three years upon the same or substantially the same facts as those proved in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of three years from the date of the marriage, the court shall have regard to the interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said three years.

(39)

Effect of annulment of marriage

37. Liberty to parties to marry again.—When a marriage has been annulled by a decree of a competent court and no appeal has been presented against such decree or when any such appeal has been dismissed, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been annulled by death.