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## MATRIMONY AS A CONTRACT: TESTING THE LIMITS OF SECTION 56<sup>1</sup> IN MANOJ KUMAR @ MUNNA V. NITA BHARTI<sup>2</sup>

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### INTRODUCTION

Marriage under the Special Marriage Act, 1954<sup>3</sup>, has always occupied an unusual position in Indian family law, as it's secular in character, civil in form, yet treated by courts with the same approach given to sacramental unions under personal law. This tension came to a head before the Patna High Court in *Manoj Kumar @ Munna v. Nita Bharti*<sup>4</sup>, where the court was confronted with a situation where the current framework of matrimonial law wouldn't do full justice. Due to such a peculiar situation, the court reached for an unlikely tool, the doctrine of frustration, borrowed from Section 56 of the Indian Contract Act, 1872<sup>5</sup>.

But whether the court was right to do this, or whether it crossed a line that only the Supreme Court can cross under Article 142<sup>6</sup>, is the central question this paper looks at.

### FACTS AND PROCEDURAL HISTORY

The parties were married on 4th October, 2007, before the Special Marriage Officer, Teghra, Begusarai, under the Special Marriage Act, 1954<sup>7</sup>. It was a love marriage solemnised without either party's parents' knowledge. According to Nita Bharti (respondent/wife), within days of joining her matrimonial home, she was subjected to physical assault, caste-based abuse and dowry demands. During her MBBS studies, the appellant allegedly visited her and continued

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<sup>1</sup> The Indian Contract Act, 1872, § 56, No. 9, Acts of Parliament, 1872 (India).

<sup>2</sup> *Manoj Kumar @ Munna v. Nita Bharti*, MA No. 151 of 2023 in FA No. 47 of 2018 (Patna HC 2026).

<sup>3</sup> The Special Marriage Act, 1954, No. 43, Acts of Parliament, 1954 (India).

<sup>4</sup> *Manoj Kumar @ Munna v. Nita Bharti*, MA No. 151 of 2023 in FA No. 47 of 2018 (Patna HC 2026).

<sup>5</sup> The Indian Contract Act, 1872, § 56, No. 9, Acts of Parliament, 1872 (India).

<sup>6</sup> INDIA CONST. art. 142.

<sup>7</sup> The Special Marriage Act, 1954, No. 43, Acts of Parliament, 1954 (India).

to harass and torture her. On 20th February, 2013, the appellant allegedly attempted to murder her upon refusal of a demand of Rs. 25,000. A panchayat was convened, during which the appellant and his family again raised dowry demands and humiliated the respondent on caste lines. A criminal complaint (Case No. 530C/2013) was subsequently lodged.

In 2013, the respondent filed for divorce before the Family Court, Begusarai, under Section 27 of the Act<sup>8</sup>, seeking dissolution of marriage and Rs. Five Lakhs as permanent alimony. The Family Court threw out the petition entirely, saying the marriage never legally existed in the first place because the plaint did not show that the parties had declared each other as lawful spouses before the Marriage Officer and three witnesses as required under Section 12 of the Act<sup>9</sup>. Not satisfied with this, the husband went to the Patna High Court. While that appeal was pending, the respondent married Saroj Kumar on 18th December 2021, and they had a child.

### **ISSUES BEFORE THE COURT**

Three questions came up before the court. Was the Family Court wrong to say the marriage never existed for not following Section 12<sup>10</sup>? Was the marriage certificate under Schedule 4 read with Section 13 of the Act<sup>11</sup> itself enough proof that the marriage was valid? And most importantly, could the doctrine of frustration be used to end a marriage that was perfectly valid when it happened, but had no real possibility of continuing given what came after?

### **THE COURT'S REASONING ON SECTION 12 AND SECTION 13**

The Family Court said that because the plaintiff did not mention witnesses being present at the marriage, the marriage never legally existed. The High Court tore this reasoning apart. It pointed to Section 13(2) of the Act<sup>12</sup>, which clearly states that once a marriage certificate is entered in the Marriage Certificate Book, it is conclusive proof that the marriage occurred and that all formalities were complied with. The certificate was on record with three signatures, and no one had challenged it. Two witnesses appeared in court and confirmed that the marriage occurred in person, yet the Family Court ignored them.

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<sup>8</sup> The Special Marriage Act, 1954, § 27, No. 43, Acts of Parliament, 1954 (India).

<sup>9</sup> The Special Marriage Act, 1954, § 12, No. 43, Acts of Parliament, 1954 (India).

<sup>10</sup> The Special Marriage Act, 1954, § 12, No. 43, Acts of Parliament, 1954 (India).

<sup>11</sup> The Special Marriage Act, 1954, § 13, No. 43, Acts of Parliament, 1954 (India).

<sup>12</sup> The Special Marriage Act, 1954, § 13(2), No. 43, Acts of Parliament, 1954 (India).

The court leaned on *Tamali Bhattacharjee v. Samik Baidya*<sup>13</sup> and *Priyanka Tarapad Bannerji v. State of Maharashtra*<sup>14</sup>, both of which had clearly said that once a marriage certificate is issued, it is proof enough that the marriage was valid and that you cannot turn around and say the formalities were not followed.

## THE DOCTRINE OF FRUSTRATION

Having conclusively established that the marriage was valid and subsisting, the court faced a significant difficulty. On the one hand, it had every reason to allow the appeal and remit the matter back to the family court; on the other hand, the court had to consider the practical consequences of such a decision. Remanding the matter would keep both parties in legal limbo for several more years. More critically, allowing the appeal without granting dissolution would disturb the respondent's second marriage, from which a child had been born. The welfare of that child and the settled expectations of a new family unit could not be ignored. The court also could not exercise power under Article 142 of the Constitution<sup>15</sup> since that power is exclusive to the apex court. The court, however, found a way out through the doctrine of frustration.

The court held that a marriage solemnised under the Special Marriage Act has a distinctly contractual character, setting it apart from marriages governed by personal laws. Relying on the Supreme Court's landmark decision in *Supriyo v. Union of India*<sup>16</sup>, the court noted that the Act provides a framework for a non-religious, civil form of marriage, rooted in free consent of parties, statutory declaration, and registration before a Marriage Officer; very similar to the attributes of a civil contract. The essential elements of offer, acceptance, capacity, and formalisation under law are all present. It was this contractual underpinning that permitted limited doctrinal borrowing from contract law.

The court drew an important conceptual distinction between the doctrine of irretrievable breakdown of marriage and the doctrine of frustration. Irretrievable breakdown, as described by the Law Commission of India<sup>17</sup>, is a situation in which there is no reasonable probability of

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<sup>13</sup> *Tamali Bhattacharjee v. Samik Baidya*, 2003 SCC OnLine Cal 558 (India).

<sup>14</sup> *Priyanka Tarapad Bannerji v. State of Maharashtra*, 2025 SCC OnLine Bom 493 (India).

<sup>15</sup> INDIA CONST. art. 142.

<sup>16</sup> *Supriyo v. Union of India*, 2023 SCC OnLine SC 1348 (India).

<sup>17</sup> Law Comm'n of India, *71st Report: The Hindu Marriage Act, 1955 - Irretrievable Breakdown of Marriage as a Ground of Divorce* (1978).

spouses living together. Frustration is a more compelling condition, as it addresses the impossibility of continuation of a marriage rather than the failure of it. Frustration arises from the destruction of the very legal and moral framework upon which the marriage rests, such that no scope for restoration remains whatsoever.

In the present case, the court found that the impossibility operated at multiple levels due to the respondent's lawful remarriage and the birth of a child from that union; the subsequent event created circumstances that affected the very foundation of the original matrimonial relationship. The marital bond between the parties survived only as a legal status, with no substance left.

Justice Bibek Chaudhuri added an important supplementary ground. Relying on the Supreme Court's verdict in *Samar Ghosh v. Jaya Ghosh*<sup>18</sup>, which held that cruelty is not a static concept and must be evaluated on the facts of each case. Justice Chaudhuri held that the parties having lived apart for so long with no real chance of getting back together was itself a form of cruelty on both sides under Section 27(1)(d) of the Act<sup>19</sup>.

## CRITICAL ANALYSIS

The court gets credit for keeping its eyes on what would actually happen to the people involved rather than getting lost in legal technicality. Keeping the first marriage alive on paper when the respondent had already remarried and had a child would have helped nobody. It would have hurt three people, one of them a child who had nothing to do with any of this.

However, the judgment also invites serious critical scrutiny. The court itself acknowledged that it could not exercise the power under Article 142 of the Constitution<sup>20</sup>, which is the Supreme Court's exclusive tool for doing "complete justice" in situations not covered by statute. Yet the practical effect of invoking the doctrine of frustration is strikingly similar to the court dissolving a marriage on a ground not enumerated in Section 27 of the Act<sup>21</sup>. This raises a legitimate concern about judicial overreach. A High Court, however well-intentioned, operates within the boundaries of statute and precedent. Stretching the doctrine of frustration into

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<sup>18</sup> *Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511 (India).

<sup>19</sup> The Special Marriage Act, 1954, § 27(1)(d), No. 43, Acts of Parliament, 1954 (India).

<sup>20</sup> INDIA CONST. art. 142.

<sup>21</sup> The Special Marriage Act, 1954, § 27, No. 43, Acts of Parliament, 1954 (India).

matrimonial law risks unsettling the carefully structured statutory scheme of divorce grounds under the Special Marriage Act<sup>22</sup>.

Further, the doctrine of frustration under Section 56 of the Indian Contract Act<sup>23</sup> requires the frustrating event to be supervening and unforeseen, one that the parties could not have anticipated at the time of contracting. The respondent's remarriage, however, was not an unforeseen external event; it was a direct consequence of the Family Court's decree and the respondent's own decision to act upon it. Whether this constitutes a "supervening" circumstance in the true doctrinal sense is debatable.

That said, Justice Chaudhuri's supplementary reasoning on cruelty is arguably the stronger and more legally sustainable basis for the decision, precisely because it does not require the court to venture outside the statutory framework.

## CONCLUSION

This judgment is significant because the Patna High Court used the doctrine of frustration in a matrimonial case for the first time, choosing to see the situation for what it actually was rather than what the law technically said it was. The court highlighted how Indian Jurisprudence suggests that *"Procedural law is the handmaid of Justice and not its mistress"*, which allows us to take a flexible approach. But the bigger picture is that this case would not have needed such creative reasoning had Parliament done its job. The Law Commission has said again and again that irretrievable breakdown should be added as a ground for divorce, yet the Parliament has not listened. Until that changes, courts will have to keep improvising to deliver full justice.

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<sup>22</sup> The Special Marriage Act, 1954, No. 43, Acts of Parliament, 1954 (India).

<sup>23</sup> The Indian Contract Act, 1872, § 56, No. 9, Acts of Parliament, 1872 (India).