



HINDU LAW OF MARRIAGE. By S.V. Gupte. 1976. N.M. Tripathi Private Ltd., Bombay. Pp xxii+468. Rs. 55.

THE LAWS relating to marriage are of perennial interest and concern to all sections of society. Marriage laws are bound to change in order to fit into the current norms of society and social attitudes and this has been true of the Hindu marriage laws too.

The book under review is the second edition which has come out fifteen years after the first edition was published. The author seems to have spared no efforts in updating the book by adding and inserting the latest materials, both English and Indian. Unfortunately, however, after completion of the text of the book, the Marriage Laws (Amendment) Act, 1976 was passed which has brought about vital changes in the concept of marriage. Nevertheless, the value of the book is not undermined on that basis

The book has been divided into three parts. The first part which is introductory gives a historical sketch of the Hindu law relating to marriage from ancient law to Hindu Marriage Act of 1955. The second part discusses the law of marriage as prevailing before the Act of 1955. The final and third part is a detailed commentary on the Hindu Marriage Act, 1955. Besides, there is an appendix dealing with the English matrimonial law and cases, and two supplements, one containing the latest Indian decisions which came to the notice of the author too late for inclusion or were inadvertently omitted from the main body of the book and the other containing the Marriage Laws (Amendment) Act, 1976. This is followed by an exhaustive subject index.

In the chapter containing the law prior to the Hindu Marriage Act, the author has elaborately discussed the essential conditions for a valid marriage, the various forms of marriage and the legal consequences. The various forms of marriage have especially been discussed in great detail with repetition at some places.

The main portion of the book, *i.e.*, the third part, which runs into about three hundred pages, is a section-wise commentary on the Hindu Marriage Act, 1955. Latest Indian cases along with English cases have been analysed and discussed. The author has clearly and lucidly brought out some of the retrograde provisions and weaknesses existing in the Act. For instance, section 5 (iii) and (vi) require that the bridegroom should have completed the age of eighteen years, and the bride, the age of fifteen years at the time of marriage and again, if the bride has not completed the age of eighteen the consent of her guardian in marriage, if any, should be obtained. However, neither section 11 nor section 12 which deal with void and voidable marriages



mention the consequences of contravention of these conditions. This leads to the inference that the Act does not render invalid the marriage of a boy who is under eighteen or a girl who is under fifteen, or if she is over fifteen but under eighteen, and has failed to get the consent of the guardian who is available.¹ Under section 18 of the Hindu Marriage Act, 1955, however, the parties are made liable to punishment for contravention of these provisions.

Another weakness in the draftsmanship of the Act exposed by the author is regarding legitimacy of children of void and voidable marriages. Under section 16, before the amendment, of 1976, if a decree of nullity was granted in respect of any void or voidable marriage, any child begotten or conceived before such decree, who would have been the legitimate child of the parties if the marriage had been dissolved instead of having been declared null and void or annulled, would be deemed to be their legitimate child. Thus, implying that children of void marriages which had not been declared void by a decree of nullity would remain illegitimate. Since such a suit for nullity could be brought only by one of the parties to the marriage, if one of the parties had died before such a decree was passed, the children would remain illegitimate. Fortunately, however, the Marriage Laws (Amendment) Act, 1976 has amended the section.

From the point of view of elegance of writing there are, of course, a few minor drawbacks, although they do not effect the substance of the matter or undermine the quality of analysis or the deep learning and scholarship contained in the book. The grouping of paragraphs is not happy and headings and sub-headings have been given somewhat haphazardly. While some paragraphs start with sub-headings others are simply numbered. This can be seen throughout the second part of the book. Besides, there is no uniformity in the matter of using capital or small letters, or italics² Thus, the words *gotra* and *pravara* have been put in italics at some places and in non-italics at others.³ At a few places there are inverted commas put only at one end of the quotation.⁴ The spelling of the same case has been differently given in some cases.⁵ References to periodical literature is almost nil. Except for references of Manu, Mayne, and Banerjee in the earlier portion, and

1 S.V. Gupte. *Hindu Law of Marriage* 142-43 (1976, hereinafter referred to as Gupte).

2. See Gupte, p. 35 *Asura* p. 37, and p. 42 *asura* (italics).

3. For instance see p. 25 of the book.

4. For instance see p. 47 and p. 54 of the book.

5. See Gupte p. 221 f.n (u1) *Sachinder Sen v. Nilima*; and p. 225, f.n (w) *Sachhindernath v. Nilma*, and again at p 226, f.n. (z) *Sachhindernath v. Nilma*, (the citation is the same in all, A.I.R 1970 Cal, 38); see also p. 58 *Moonshee Buzloor Rahhem v. Shumsoonnissa* and p. 59 f.n. (h) *Moonshee Buzloor v. Shumsoon* (1867) 11 M.I.A. 551.



passing references to the author's own works, there is no mention of the modern writings.

However, as stated earlier, the book is a standard work of high order on the subject. The very fact that many of the loopholes and weaknesses mentioned by the author in the text of the book have been amended by the Marriage Laws (Amendment) Act, 1976, speaks of the author's deep and critical insight into the subject

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