

MARRIAGE, SEPARATION AND DIVORCE (2nd ed. 1991). By Asutosh Mookerjee. S.C. Sarkar and Sons Pvt. Ltd., Calcutta. Pp. 32+803. Price Rs. 260.

OFTEN A judge, lawyer and a scholar requires a dependable work to serve as a guide and a source book. Even classic works edited by eminent men of law, sometimes fail to fulfil the need as they are rigidly tuned to the case law and statutes. The book<sup>1</sup> under review seeks to fulfil the need to have such a work which goes beyond the conventional treatment of case law and enactments. The author who combines in him the experience of a practicing lawyer, a university teacher, a judge and an administrator has beyond doubt credentials to the task.

The book is to be commended for its analytical approach, under different heads like void and voidable marriages, age of marriage, prohibited degrees, restitution of conjugal rights, *etc.*, The relevant provisions under different enactments applicable to the diverse religious groups, *viz.*, the Hindus, Muslims, Parsis, Christians and Jews have been dealt with, with brief but sufficient references to case law. Apart from its treatment under the specific heads, the work gives notes separately to the Hindu Marriage Act 1955, Indian Divorce Act 1869, Parsi Marriage and Divorce Act 1936, Dowry Prohibition Act 1963 and Dissolution of Muslim Marriages 1939. In all twenty five statutes including three enactments of Pakistan which pertain to the area of marriage and divorce have been appended and also the relevant provisions of the Civil Procedure Code 1908, Code of Criminal Procedure 1973 and Indian Evidence Act 1872. The book provides the rules framed by different High Courts with respect to the Hindu Marriage Act 1955 and Indian Divorce Act 1869.

Some aspects of the book where it scores over other works on the subject may be noted:

- (i) It refers to the law in Goa and Pondicherry.<sup>2</sup>
- (ii) A section dealing with Jew marriage and marriage in Britain has been included.
- (iii) When dealing with the Muslim law, the relevant position under the law of Pakistan has been noted.
- (iv) In a nutshell the author gives the names of Islamic countries, and the

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1. Asutosh Mookerjee, *Marriage, Separation and Divorce* (2nd ed 1991).

2. *Id.* at 13-14.

topics on which they modified the traditional Islamic law by legislation.<sup>3</sup>

- (v) Problems relating to artificial insemination donor (AID) and surrogate motherhood have been noticed.<sup>4</sup>

The above list is only illustrative and not exhaustive. The author states :<sup>4a</sup>

The legal philosophers now owe greater responsibilities towards the society to give a sound guidance to the institution of family. It is fondly hoped that this monograph will supply some data and information to such social thinkers. And for the judges, lawyers and legal-scholars, the treatise has been designed to serve as a 'one-book law' — if you have a problem, this book has its solution. (The author would like to whisper humbly — 'Amen').

In the view of the reviewer, the author in a large measure succeeded in his attempt to produce a 'one-book law'. However, as is the case in all human ventures, there is scope for improvement.

In the view of the reviewer the following aspects need attention or correction:

- (i) The Hindu Marriage (Madras Amendment) Act 1967 otherwise known as the Self-Respect (Suyamariyathai) Marriage Act 1967 has not been noticed. An account of it as well as the text of the Act should be included.
- (ii) The treatment of fraud under the Hindu Marriage Act 1955 does not sharply distinguish cases that arose before 1976 and after 1976 when the Marriage Laws Amendment Act 1976 introduced the words 'or to any material fact or circumstance concerning the respondent'.
- (iii) The statement<sup>4b</sup> that "In India there is one statute Indian Lunacy Act 1912 amended in 1922, by which persons whether suffering from mental disease or mental defect are governed" needs correction in view of the passing of the Mental Health Act 1987 which repeals the Act of 1912.
- (iv) When dealing with blood tests as evidence<sup>5</sup> a comparison with the existing position in UK would have been useful.
- (v) The account of condonation of matrimonial offence<sup>6</sup> does not refer to the Supreme Court decision in *Dastane v. Dastane*.<sup>7</sup>

3. *Id.* at 35.

4. *Id.* at 135-8.

4a. *Id.*, preface.

4b. *Id.* at 141.

5. *Id.* at 105.

6. *Id.* at 157.

7. A.I.R. 1975 S C 1594.

The book is a product of deep study and learning. It is a mine of relevant information on the subject and is moderately priced. Broadly speaking, it is not marred by printing errors. The work is a very commendable effort on the part of the author and will prove to be of great use to a judge, scholar and lawyer.

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