



Review Article

Examining the judicial contours of Sharda vs. Dharmपाल case: A critical analysis of the Indian Supreme Court's ruling and its implications on the institution of marriage in India

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Abstract

Law remains to be a significant instrument regulating the affairs of society. However, since law remains a cohesive instrument in social development, societal factors conjunctionally play a predominant role in legal development in India. Marital relations and constitutional jurisprudence concomitantly come within the subjective ambit of society, culture and development. The case of Sharada v. Dharamपाल is a landmark judgment of the Indian Supreme Court that deals with the inherent power of a matrimonial court to subject a party to undergo medical examination. The objective of the case analysis is to understand the legal and practical significance of this judgment, and its importance in shaping the law and practice relating to matrimonial disputes in India.

Introduction

While, technological advances continue to proliferate in diverse dimensions of the society, administration of justice remains no

exception to it. Sharada vs. Dharamपाल is a landmark ruling of the Supreme Court which has recognised the importance of using scientific technology to resolve marital dispute. In the given case, the husband approached the court to seek divorce decree and medical examination of the unsoundness of his wife. The wife challenged the application of the husband and eventually appealed in the Supreme Court thereby becoming appellant and making her husband as respondent in the given case. Several legal and ethical issues (related to privacy and bodily autonomy) were raised and dealt by the India Supreme Court. The Apex court resolving previous lacuna in law, recognised the inherent

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power of matrimonial courts to direct a person to undergo the medical examination for determining the unsoundness of mind. The case raised important questions about the balance between individual rights and the interests of justice, as well as the role of the court in preserving the institution of marriage and the family. This article attempts to explore the basic intricacies of the case and examine its impact on the Indian legal system and implications for the institution of marriage.

The Hindu Marriage Act, 1955

The Hindu Marriage Act, 1955 (herein referred to as the Act) is a comprehensive legislation providing the legal framework to regulate and preserve the institution of family and marriage among the Hindu community in India. The Act in the contemporary scenario establishes the traditional significance of marriage as a social institution in India. It further preserves and defends both partners' rights in wedlock.

The law being a reflection of social realities; therefore, the Hindu Marriage law was amended multiple times to reflect changing social and cultural conditions in India. Its characteristic features continue to make it an intrinsic legislative enactment fostering the stability of marriage as an institution while simultaneously preserving the rights of parties involved.

Characteristic features of the Act

The Act has several characteristic features that distinguish it from other marriage laws in India, such as-

1. It exclusively governs marriages among Hindus, including Sikhs, Buddhists, and Jains. However, it excludes regulating marriages between Muslims, Christians, Parsis, or Jews, having different marriage laws.^[1]
2. It prohibits bigamy as well as polygamy and recognises monogamy as the sole form of lawfully legitimate marriage.^[2]

3. It provisions for marriage registration, making providing proof of marriage simpler.
4. Section 12 of the Act provides conditions for a legally valid marriage that may make the marriage null and void if not fulfilled at the time of solemnisation. Section 12(1)(b) enacts unsoundness of mind of either partner at the time of marriage as the ground for making marriage null and void. This statutory clause stands critical in preserving both parties' rights in a marital relationship by ensuring both parties remain competent to understand the nature and implications of wedding at the relevant moment of solemnisation. By requiring both parties to be of sound mind, it ensures that the marriage is entered into with full consent and understanding, and strengthens the institution of marriage.
5. It further lays down provisions for divorce and judicial separation, allowing couples to dissolve their marriages legally under certain circumstances. Section 13 of the Act provides for several grounds on which a Hindu marriage can be dissolved by a decree of divorce, Mental Disorder or Unsoundness of Mind being one such ground. Under section 13(1)(iii) of the Act, if either spouse suffers from a mental disorder or mental unsoundness that makes it impossible for them to discharge their matrimonial obligations, the other spouse may file for divorce.
6. It provides for the maintenance and alimony of wives and children in case of divorce or separation. By enacting special provisions benefiting women in marital relationships, the Act helps to address the unequal power dynamics in marriages and provide a legal remedy for women who may otherwise be left financially vulnerable after divorce or face other forms of exploitation, thereby helping to promote gender equality in marital

relationships and contribute to a more equitable society in India.

In contemporary times, when the institution of marriage has come under increasing pressure due to changing social and cultural norms, the Act has gained more significance. The Act's significance stems from its flexible adaptability towards the evolving and dynamic shifts in our diverse society. It enjoys enormous social and cultural significance by preserving the sacrosanct character of marriage among Hindus.

Recognition of monogamy as the sole valid marriage form promotes the notion of stable and committed relationships among spouses. This eventually reinforces fidelity's significance in matrimonial relations, which remains the foundation for a healthy married life. The legislative policy of the Act outlays a framework to facilitate the formation of a strong family unit by safeguarding the rights of both parties in wedlock. For instance, marriage registration provisions intrinsically prevent fraudulent marriages, which can cause social and emotional difficulties to couples and even their families if not prevented.

Likewise, provisions related to maintenance, alimony of wives and children, and others confirming rights and protection of wives and children create a sense of secured stability among parties by ensuring that if the marriage fails, the wife and children do not face financial hardships or other identical challenges. Supplementarily, divorce and judicial separation provisions allow couples to lawfully dissolve their marriages under authorised circumstances or grounds of the Act. This provision recognises the importance of the freedom of choice and the rights of individuals in choosing to stay in a relationship that is no longer fulfilling. The Act ensures that the dissolution of a marriage is done in a fair and just manner, with due consideration given to the rights of both parties.

The Act approbates and defends the social

significance of marriage and the family unit, which is essential for the development of a healthy society. By providing a legal framework that regulates marriages among Hindus, it promotes social harmony by ensuring that marriages are conducted in a lawful and orderly manner. The provisions for divorce and judicial separation are important in preserving the institution of marriage and providing legal mechanisms for the dissolution of a marriage in cases where it is necessary.

While the statutory provisions of the Act continue to be a vital legislative piece protecting the rights of married couples and promoting the stability of the family institution, the significance of Judicial judgements in this regard must be considered. In this relevant context, *Sharada v. Dharampal* case^[3] stands as an important Supreme Court ruling appropriate to be explored in the current research, having far-reaching implications on the institution of marriage, medical examination of the spouse, and legal and social status of marital relations, among others.

Sharada v. Dharampal case: Introduction

Medical examination has evolved as a significant aspect in resolving matrimonial disputes, especially in cases involving physical or mental cruelty, impotence, or other forms of physical and mental ailments today.^[4] In the current scenario of increased awareness of human rights and gender equality, medical examination provides objective evidence to support or refute allegations made by the aggrieved party, making it even more crucial and relevant in matrimonial litigations. It also assists the court in making informed decisions regarding custody and maintenance issues. In cases of mental illness or disability, medical examination can determine the capability of the parties to take care of themselves and their children. Similarly, in cases of physical disability, medical examination can determine the need for support and maintenance.

The *Sharada vs. Dharampal* case, as a

landmark case established the importance of medical examination in resolving matrimonial disputes wherein, the Supreme Court of India addressed the issue of whether the matrimonial court has the power to direct a party to undergo a medical test. However, medical examinations and contemporary technology usage in legal proceedings sometimes raises several ethical and legal issues. The objective of case analysis in this matter is to understand the implications of the decision made by the Supreme Court, the impact it has had on the social, economic, and legal status of marital dispute proceedings in India and how the court dealt with the ethical issues such as privacy and others arising in the litigation.

Legal framework preceding the case: Understanding the legal landscape prior to litigation

Prior to delving into the specifics of the case at hand, it is essential to establish a thorough understanding of the legal framework that served as the foundation for the events that transpired. By exploring the precedents that informed the circumstances leading up to the case, one can gain valuable insight into the broader societal and legal context that influenced the proceedings. Therefore, an examination of the legal framework prior to the case is not only crucial but also provides a comprehensive perspective on the matter at hand.

Before the Supreme Court's landmark ruling in *Sharada v. Dharmapal* case, the position of law concerning medical examination in matrimonial cases was not well-defined. The courts, consequently, were left with no legal provision to compel the person to undergo a medical examination in such cases. This legal lacuna was highlighted in various cases where the issue of impotency of either spouse was raised in matrimonial disputes. The lack of a specific provision in the Indian Evidence Act and other laws dealing with the issue of the

power of the matrimonial court to order a medical examination of a person led to confusion and inconsistency in the approach of various courts in dealing with such issues. This further complicated the already complex process of matrimonial litigation thereby necessitating the need for a definitive Supreme Court ruling on the issue.

The *Sharada vs. Dharampal* case thus stands as the first case where the Supreme Court had to decide on the inherent power of the matrimonial court to direct an individual to undergo the medical examination or draw an adverse inference against the person in case the person refuses such examination. It provides much-needed clarity on the subject of medical examination and lays down a clear framework for its admissibility, which marks a significant step towards modernising the Indian legal system. By providing a precise mechanism for the court to order a medical examination of a party in a matrimonial dispute, the Apex Court certified that medical examination being a specie of scientific advancement cannot be ignored, and that it is in the interest of justice to use this technology to resolve marital disputes.

Facts of the case

The case of *Sharada v. Dharampal* revolves around the dispute between the parties, who were married to each other on 26th June 1991 according to Hindu customs. The respondent husband filed a petition for divorce under section 12(1) (b) and 13(1) (iii) of the Hindu Marriage Act on the ground of unsoundness of mind of the wife (Centre for Communication Governance, 2021).^[5] Pursuant to the divorce application, the respondent husband on May 5, 1999 filed an application seeking the direction of the court to conduct a medical examination of the appellant. The appellant wife contested the allegations and objected to the husband's request for her medical examination.

The appellant contended that a matrimonial court did not have the jurisdiction to pass such an order. Thus the issue for determination before the lower court was whether has the inherent power to direct a party to undergo medical examination for determining the unsoundness of mind, and whether such direction would infringe upon the right to privacy and bodily integrity of the party. Despite the objections, the court granted the application on 8th October 1999, thereby directing the appellant wife to submit herself for a medical examination. The appellant aggrieved by the decision of the lower court ultimately approached the Indian Supreme Court through route of appeal. The Supreme Court took note of the following facts of the case and adjudicated the case,

- ◆ The parties were married on June, 26 1991 as per the Hindu rites and rituals.
- ◆ The respondent in the given case filed for divorce against the appellant under the statutory provisions of section 12(1)(b) and 13(1)(iii) of the Hindu Marriage Act, 1955.
- ◆ Pursuant to the filing of the case, courts of respective jurisdictions (lower court and Rajasthan High Court) directed the appellant wife in the present discussed petition to undergo a medical test for ascertainment of the mental unsoundness as provisioned in the Hindu Marriage Act, 1955.
- ◆ Aggrieved by such order the appellant wife approached the Supreme Court to quash the above discussed direction of the court.

Issues raised in the case

While, determining the dynamics of the case, following issued were raised and advanced in this case-

1. Whether a matrimonial court has the power to direct a party to undergo a medical examination;

2. Whether passing of such an order would violate the Article 21 rights of the party against whom such an order is sought to be enforced.

Arguments advanced

The Appellant in the above-referred petition contended before the Supreme Court that Article 21 of the Indian Constitution which guarantees the Right to life and personal liberty within every person also includes, the Right to Privacy.^[6] Thus, the High Court and lower court directive compelling the Wife to undergo the medical test would violate the Right to Privacy and also the bodily integrity of the appellant. The appellant wife contented that the medical examination could be invasive and resultantly violate her bodily integrity consequently, such direction must be struck down by the Supreme Court. The appellant further argued that under the current statutory scheme, no provision authorises or empowers the matrimonial court to direct any person to undergo a medical test compulsorily.

The respondent husband however, countering the appellant’s arguments argued that the medical examination of the appellant wife was necessary to establish her mental capacity to discharge the duties of a married woman. He submitted that the appellant wife’s behaviour was erratic and inconsistent thus, she was not fit to discharge her marital obligations. Since, sections 12(1)(b) and 13(1)(iii) of the Act provides for divorces on the ground of mental unsoundness thus, the court was bound to determine the mental state as appellant’s mental condition being relevant for divorce proceedings, needed to be ascertained before the court could pass a judgment in the case. The respondent emphasised under the statutory scheme of the Act, a court established for due adjudication of matrimonial disputes is bound to conclude, if the Appellant of the current writ petition has unsoundness of mind, mental disorder or insanity, since, if determined, it would make the marriage voidable.

The Respondent husband, therefore, contended that the compulsory medical examination of the appellant wife was necessary to determine her mental state and that the court had the duty to determine the mental unsoundness of a party before granting a decree of divorce under the Hindu Marriage Act.

The husband also argued that the court had the power to order medical examination under section 151 of the Code of Civil Procedure, 1908. Section 151 of the Code of Civil Procedure (CPC) empowers courts to make orders necessary for the ends of justice, even if such orders are not specifically provided for under the CPC or any other law. The section enables courts to exercise their inherent powers to pass orders to ensure that justice is done in a particular case. Thus, the respondent husband contended that inherent powers of the court to order medical examination in matrimonial disputes are essential for a fair trial and such powers were necessary to ensure that the rights of the parties were protected, and the truth was arrived at in the best possible manner. He also submitted that the appellant wife's refusal to undergo the medical examination amounted to non-cooperation and that such refusal could be viewed adversely against her.

Decision of the court

The Case dealt with several critical issues of socio-legal relevance which attracted the wisdomous competence of the Indian Judiciary to establish a due balance between the individual rights and interests of the parties involved in the marital dispute. The Supreme Court while, adjudicating the given case, ruled that a matrimonial court has the power to order an individual to undergo a medical test. The court held that even though no statutory enactments expressly authorise or empower the matrimonial courts to direct the party in the case to undergo the medical examination yet, it cannot be construed that

the courts do not enjoy this power. The Supreme Court, held that the power to order a medical examination is inherent in the trial court's power under Section 151 of Code of Civil Procedure (CPC) to dispense complete justice (that is for due ascertainment of truth and administration of complete justice) in the case as manifested by the legislative policy of the code. It noted that power of a civil court under the relevant section is not limited to the production of documents or things specified in the CPC rather the power to order medical examination is implicit in this provision and can be exercised by the court in appropriate cases. The court in this regard ruled:

“Yet again the primary duty of a Court is to see that truth is arrived at. A party to a civil litigation, it is axiomatic, is not entitled to constitutional protection under Article 20 of the Constitution of India. Thus, the Civil Court although may not have any specific provisions in the Code of Civil Procedure and the Evidence Act, has an inherent power in terms of Section 151 of the Code of Civil Procedure to pass all orders for doing complete justice to the parties to the suit”.^[7]

Article 20 of the Indian Constitution provides protection against self-incrimination, which means that no person can be compelled to be a witness against himself. In the present case, the appellant wife argued that she could not be compelled to undergo a medical examination as it would violate her right against self-incrimination under Article 20(3) of the Indian Constitution. However, the Supreme Court held that Article 20 could not be attracted in the present case since, the relevant constitutional protection is for an accused in criminal case and therefore, party to a civil dispute was not entitled to such constitutional protection. It further, noted that the medical examination was not being conducted to obtain evidence against the appellant wife, but to ascertain her mental soundness, which was a relevant issue for determining the validity of the divorce petition. Resultantly, Article 20

could not deter the compulsory medical examination.

Taking this ruling further, the Supreme court went on to say that the court enjoys the liberty to draw adverse inferences against the individual who refuses to undergo medical examination pursuant to the order of the court. The Supreme Court of India noted in its judgment:

“If despite an order passed by the Court, a person refuses to submit himself to such medical examination, a strong case for drawing an adverse inference would be made out Section 114 of the Indian Evidence Act also enables a Court to draw an adverse inference if the party does not produce the relevant evidences in his power and possession”.^[8]

Section 114 of the Indian Evidence Act, 1872 provides the “presumption of facts that is the court may presume the existence of any fact which it thinks likely to have happened”. Referring to the above statutory provision, the court ruled that if a party refuses to undergo a medical examination despite a court order, it may lead to an adverse inference being drawn against them under section 114 of the Evidence Act. Consequently, this highlights the importance of compliance with court orders and the parties’ duty to produce all relevant evidence to ensure a fair and just marital dispute resolution.

The Court ruling accentuated the materiality of medical examination in a divorce case. It noted that the law obliges the matrimonial court to determine the unsoundness of mind through medical examination for the grant of the divorce decree as provisioned under section 13(1)(iii) of the Act. The Supreme Court took note of its previous judgments like, *Goutam Kundu vs. State of West Bengal* ((1993) 3 SCC 418), *B.R.B. vs. B.* ((1968) 2 All. E.R. 1023), among other similarly identical cases over the issues of law and noted that the fundamental objective of the court was to

ascertain the truth. Thus, even in the absence of any specific provision, the inherent power authorises the matrimonial court to direct the medical examination of a party for determining the unsoundness of mind, to ensure proper and complete administration of justice in matrimonial disputes, and ascertainment of the truth.

Article 21 of the Indian Constitution guarantees the right to life and personal liberty. The appellant wife contended that the direction to undergo a medical examination violated her right to privacy and personal liberty under Article 21. The Supreme Court however, ruled that such direction does not violate the right to privacy and bodily integrity of the party, as it is only a limited intrusion upon the personal autonomy of the party and is justified by the need to ensure the fairness and truthfulness of the proceedings. Referring to cases, namely *M.P. Sharma & Ors. vs. Satish Chandra* (1954 SCR 1077) and *Kharak Singh vs. State of UP & Ors.* (1964 SCR (1) 332, *Govind vs. State of Madhya Pradesh & Anr.* ((1975) 3 SCR 946) the court held that the fundamental right to privacy was not an absolute right, and in case of compelling public interests, public morality was to be upheld. Though the Apex Court recognised the ethical and legal issues related to privacy and bodily autonomy of the Wife but held that the Wife’s right to privacy was not absolute and had to be balanced against the husband’s right to divorce; thereby, the appellant wife’s privacy right had to be curtailed. The court ruled that the right to privacy, not being absolute,^[9] was limited by certain designated restrictions, so it was necessary to uphold the idea of complete justice and issue direction to the appellant wife.

The importance of this judgment, therefore, lies in its contribution to the development of the law and practice relating to matrimonial disputes in India. The judgment has clarified the scope and extent of the inherent power of the matrimonial court and has guided the

lower courts in exercising their discretion in such matters. It has also emphasised the importance of ensuring the fairness and truthfulness of the proceedings and has recognised the need for a balanced approach that respects the rights and dignity of the parties while also upholding the principles of justice and equity.

Impact of the case on the institution of family, marital relations and the Indian family law

The Supreme Court ruling in the Sharada case stands of immense relevance for the institution of marriage, marital relations, and family law in India. One of the most pivotal impacts of the rulings is the medical determination of mental unsoundness in divorce litigations.^[10] Before this case, no specific law provision allowed the court to direct compulsory medical examination of a party for determining mental unsoundness in marital disputes. Consequently, courts were sometimes hesitant to order such examinations, even when they believed that mental unsoundness might be a relevant factor in deciding a case. However, the Apex court ruling clarifying the court's inherent power under Section 151 of the Civil Procedure Code to order compulsory medical examination resolved the big legal dilemma. Therefore, the judgement made it easier for courts to consider mental unsoundness as a prime factor in divorce litigations which has had significant implications towards the institution of marriage in India.

The ruling ensures no power imbalance in any party's favour by upholding the court's inherent power for compulsory medical examination or drawing adverse inferences in case of refusal. It provides a level playing field in divorce litigations by treating both parties equally before the eyes of the law, resultantly promoting fairness and equity. It further helped promote the family's overall health and well-being by ensuring that mental

unsoundness is appropriately diagnosed and treated where necessary. In cases where mental unsoundness is a factor in a divorce proceeding, the compulsory medical examination ordered by the court can help to ensure that the party in question receives the appropriate treatment and support.

The judgment also highlights the relevance of medical examination, in matrimonial litigation in the current scenario of changing times. With the advancement of medical science and technology, medical examination has become an increasingly important tool for resolving disputes related to physical and mental health, including issues such as impotence, infertility, and mental illness. In the context of matrimonial disputes, the medical examination can provide valuable evidence that can help establish the truth of the allegations made by the parties and facilitate the resolution of the dispute fairly and justly. From the perspective of DNA evidence, since medical examination evidently includes DNA testing, the ruling contributed to developing Indian family law by recognising the broad importance of medical testing in marital dispute cases, which may also involve maintenance and support for divorced women. The case, by pressing on the medical examination, resultantly provides a legal framework for using DNA evidence in marital disputes. The judgment virtually recognised that scientific evidence could be used to challenge the presumption of paternity, and the court could order the party to undergo a DNA test compulsorily (if required in the interest of justice). This recognition of the importance of scientific evidence helps the system to ensure greater accuracy and fairness in determining maintenance and support obligations. Since DNA evidence by establishing paternity remains crucial in determining the financial responsibilities of a former husband towards his former wife and children and ensures the protection of the rights of children born out of wedlock.

The case also provides guiding jurisprudence

to other courts regarding when to administer medical examination and avoid it. Since though the ruling recognised the inherent power of the matrimonial court, it also placed certain restrictions on the exercise of this power. The court directed that medical examination must not be ordered as a course of routine and must be done only in the interest of justice and when required as per the facts and circumstances of the case. Thus, the powers must be used only in cases where there exists a strong prima facie case in the favour of the applicant and the courts have sufficient material for the same. This directive is significant because it recognises that family and marriage are fundamental social institutions and should not be interfered with lightly. The court recognised that the individual's privacy is a vital aspect of one's life and that any interference in this regard should be done only when absolutely necessary. Therefore, the case also recognised that the power to order a medical examination must be exercised judiciously and following the principles of natural justice.

The Apex Court ruling thus, acknowledges the necessity to balance individual privacy right with the greater interest of justice. While, demonstrating the relevance of medical examination for excavating the truth, it also provides the rider of utmost care and caution, particularly in matrimonial litigations to preserve the institution of marriage and considering the sensitivity attached to matrimonial litigations. The case henceforth not only addresses the inherent complexities of marital disputes but also underlines the significance of natural justice, the right to privacy, and the necessity to balance the objectives of justice with dignity and individual rights in married relationships.

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Conflict of interest: None

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