

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

***THE HON'BLE SRI JUSTICE K. LAKSHMAN
AND**

***THE HON'BLE SRI JUSTICE VAKITI RAMAKRISHNA REDDY**

+ FAMILY COURT APPEAL No. 195 of 2014

Between:

XXXXXXXXXXXXXXXXXXXX ... Appellant
AND

XXXXXXXXXXXXXXXXXXXX ... Respondent

JUDGMENT PRONOUNCED ON : 19.01.2026

SUBMITTED FOR APPROVAL:

1. Whether Reporters of Local newspapers : Yes/No
may be allowed to see
the Judgment ?
2. Whether the copies of judgment may be : Yes/No
marked to Law Reports/Journals
3. Whether Their Lordship/Ladyship wish : Yes/No
to see the fair copy of judgment

K. LAKSHMAN, J.

VAKITI RAMAKRISHNA REDDY, J.

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! Counsel for the Appellant : Smt. M. Venkateshwari

^ Counsel for Respondent : -

< GIST :

> HEAD NOTE:

? Cases referred:

1. (2009) 1 Supreme Court Cases 714
2. 2021 Supreme (Del) 389
3. TSHC: CRP No.3413 of 2023 decided on 22.01.2024
4. TSHC: FCA 338 of 2013 decided on 20.03.2024
5. (2000) 8 SCC 587
6. AIR 2001 SC 938
7. 2023(3)ALD 73 (TS)

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FAMILY COURT APPEAL No. 195 of 2014

DATE: 19.01.2026

BETWEEN:

XXXXXXXXXXXXXXXXXXXX ... Appellant

AND

XXXXXXXXXXXXXXXXXXXX ... Respondent

JUDGEMENT: (*Per Honourable Sri Justice Vakiti Ramakrishna Reddy*)

Aggrieved by the order and decree dated 11.07.2014 passed by the Family Court – Cum - Additional District Judge, Nizamabad (hereinafter referred to as ‘the family court’) in O.P.No.158 of 2013, the appellant/petitioner has preferred the present Family Court Appeal No.195 of 2014, seeking to set-aside the said order and decree.

2. For the sake of convenience, the parties hereinafter shall be referred to as they were arrayed before the learned Family Court.

II. BRIEF FACTS OF THE CASE:

3. The petitioner filed a petition under Section 13 (1) (i) (a) of Hindu Marriage Act, 1955 (for short 'HMA'), seeking dissolution of her marriage with the respondent. The averments of the petition in brief are as under:

a) The petitioner was a student pursuing Bachelor of Dental Surgery (BDS) at Meghana Institute of Dental Science, at Mallaram Village, Nizamabad District. In or about September, 2010, the respondent, who was residing in the same locality at Harijanwada, Utnoor Town, Adilabad District, started making repeated phone calls and sending messages to the petitioner through his Mobile Phone No. 73823 04608, expressing his desire to meet the petitioner, for which the petitioner clearly informed the respondent that she was not interested to meet him. She also specifically requested him not to make any phone calls or send any messages. Despite the same, the respondent came to the petitioner's college and expressed his intention to marry her. But the petitioner refused the said proposal and warned the respondent that she would lodge a police complaint if he continued to harass her. On 07.05.2012, the respondent again came to

the college and requested the petitioner to meet him at the bus stand to talk. The petitioner stated that she went to Nizamabad Bus Stand, where the respondent had shown her a bottle, stating that it contained acid, and threatened her to follow him silently without crying or creating any nuisance on the road, or else he would pour acid on her. Fearing for life, the petitioner silently boarded the Bus. The petitioner pleaded with the respondent not to ruin her career and informed him that she is only daughter to her parents and that her father, with great difficulty, had managed to get her admitted into the college. However, the respondent did not heed to her request.

b) On the same day at about 9.00 PM, the petitioner and the respondent got down from the bus at MGBS, Gowliguda, Hyderabad. Thereafter, on 08.05.2012 at 10.00 AM, the respondent again forcibly took the petitioner in a Bus and reached Nellore. The respondent took the petitioner in an Auto Rickshaw to his friend's room and confined her thereby locking the said room. Next day morning i.e., on 09.05.2012, the respondent took the petitioner in an Auto to an Office, where he forcibly obtained two signatures of petitioner on certain papers and register/book, and thereafter again brought the petitioner

back to his friend's room. On the same day, again the respondent took the petitioner to a temple along with his friends and took photographs along with them and there he had declared that he had married the petitioner. He further threatened her not to disclose the said incident to anybody or to her parents, or else he would kill her brother. With great difficulty, the petitioner returned to Hyderabad and there-from to Nizamabad. Due to fear and threat she did not disclose the incident to anyone.

c) In August, 2013, when the petitioner was appearing for the practical examinations of the final year of BDS course, the respondent again came to the college and threatened her stating that after completion of her exams, he would take her with him. He also handed a copy of an alleged marriage certificate. The petitioner then discussed the matter with her parents and lodged a complaint against the respondent before SHO, Rural Police Station, Nizamabad. The petitioner stated that she had no knowledge of the alleged marriage dated 09.05.2012, which according to her, was performed under coercion and threat by the respondent. Hence, the petitioner sought dissolution of the marriage.

COUNTER OF THE RESPONDENT:

4. In reply to the above stated averments, the respondent filed a counter *inter alia* denying all the allegations made by the petitioner. The brief averments of the counter are as under:

a) The petitioner and the respondent were residents of same locality i.e. Harijanwada, Utnoor and they developed intimacy with each other. They participated in each other's festivals without any hesitation and gradually fell in love. They mutually agreed to marry each other and accordingly got married under the Hindu Marriage Act, 1955. It was further stated that both of them liked each other without any knowledge of their respective castes. They also had photographs taken together evidencing their relationship. It was stated that the marriage was also consummated.

b) The respondent further stated that he permitted the petitioner, whole heartedly to meet her parents, who are residing at Utnoor. The respondent further stated that the marriage was performed before the panchas with free will and consent of the petitioner. Thus, the respondent prayed for dismissal of the petition.

III. ISSUE FRAMED BY THE FAMILY COURT:

5. Based on the above pleadings, the learned Family Court had framed the following issue: -

Whether the respondent married the petitioner by exerting threat and force and got (*sic*) the petitioner is entitled for dissolution of marriage?

IV. EVIDENCE BEFORE THE FAMILY COURT:

6. Before the learned Family Court, on behalf of the petitioner, the petitioner herself was examined as PW1 and her father was examined as PW2. Apart from oral evidence, the petitioner produced the copy of complaint lodged by the petitioner with the concerned police against the respondent as Ex.A.1. On behalf of the respondent, the respondent examined himself as RW1. During the cross examination of PW1, the respondent got marked Exs. B1 and B2, which are letters allegedly, containing the signatures of the petitioner. Further, Ex.B3 consists of bunch of nine (9) photographs along with a CD and Ex. B4 consists of two additional photographs along with a CD.

V. SUBMISSIONS OF THE PARTIES:**7. Submissions on behalf of the appellant (petitioner):**

i) The foremost contention advanced by the learned counsel for the petitioner during the course of hearing relates to the very validity of the marriage between the parties. It was contended that the very alleged marriage between the parties is void for the reason that the Hindu Marriage Act, 1955 has no application to the case on hand. The learned counsel submitted that the petitioner admittedly belongs to Scheduled Tribe (ST), whereas the respondent belongs to Scheduled Caste (SC) Mala. It was further contended by the learned counsel for the petitioner that Sub - Section (2) of Section 2 of the Hindu Marriage Act, 1955 expressly excludes the members of the Scheduled Tribes from application of the said Act. Consequently the alleged marriage between the parties, having been solemnized under the provisions of the Hindu Marriage Act, 1955 is liable to be declared as void. In support of the said contention, the learned counsel for the petitioner has placed reliance upon various binding judgments of the Honourable Apex Court and as well as decisions of various High Courts in India, which are detailed hereunder:

S. No.	Name of the case
1.	Gullipilli Sowria Raj v. Bandaru Pavani @ Gullipilli Pavani ¹
2.	Satprakash Meena v. Alka Meena ²
3.	Kadavath Srikanth v. Kadavath Ashwitha @ Jadav Preethilekha ³
4.	Dr. N. Surya v. Smt. N. Sushma ⁴
5.	Labishwar Manjhi v. Pran Manjhi and others ⁵
6.	Dr. Surajmani Stella Kujur v. Durga Charan Hansdah ⁶
7.	Dr. B Swapna v. Dr B. Gnaneswar ⁷

ii) It was further contended by the learned counsel for the petitioner that the Family Court ought to have drawn a proper inference that there was no possibility of a voluntary love relationship between the parties, as the Petitioner was pursuing her studies in Nizamabad District, whereas the Respondent was working as a Constable in Nellore. It was submitted that in view of physical distance between them and the fact that they belong to different castes, the alleged marriage between the parties was neither practical, nor probable, more particularly in the light of the oral evidence of PW2, who is the father of PW1.

¹ (2009) 1 Supreme Court Cases 714

² 2021 Supreme (Del) 389

³ TSHC: CRP No.3413 of 2023 decided on 22.01.2024

⁴ TSHC: FCA 338 of 2013 decided on 20.03.2024

⁵ (2000) 8 SCC 587

⁶ AIR 2001 SC 938

⁷ 2023(3)ALD 73 (TS)

iii) The learned counsel for petitioner further submitted that the learned Family Court failed to appreciate that the petitioner being an educated young woman, managed the issue on her own from September, 2010 to 11.10.2013 and consciously remained kept silent in order to protect herself and her family from police complaints, litigation and the consequent damage to their family's reputation. It was argued that such silence could not have been construed adversely against the petitioner. It was further submitted that the Family Court erred in observing that it was not believable that in broad day-light the respondent would threaten the petitioner by holding an acid bottle and by intimidating her with threats of pouring kerosene and acid. The learned counsel submitted that such an observation overlooks the prevailing social realities, where many atrocities against the women like acid attacks, sexual assaults and so on are uncommon even in the broad day light in urban areas.

iv) The learned counsel for petitioner submitted that the Family Court misunderstood the petitioner's explanation for no lodging a police complaint or immediately informing her father with regard to the respondent's behaviour towards her. It was contended that being a

student, the petitioner was under constant fear and apprehension, and was hesitant to approach the Police or disclose the matter to her father, as such actions would have lead to social stigma and irreparable damage to her character and family's honour.

v) The learned counsel for petitioner further submitted that the learned Family Court failed to appreciate that the petitioner is not denying the registration of marriage, but has consistently asserted that the said marriage was brought about forcibly, by threatening her with an acid attack. It was argued that the Family Court has committed an error in placing undue reliance on the Exs.B1 & B2 i.e., letters and Exs.B-3 & B-4 i.e., 9 photographs, without properly appreciating the specific averments and explanations offered by the petitioner with respect to the said documents and that the entire episode took place on the force and threat of an acid attack.

vi) The learned counsel for petitioner further submitted that the learned Family Court adopted a self-contradictory approach, inasmuch as, on one hand, it observed that the petitioner was a teenager, while on the other hand, came to a conclusion that she had a love affair with the respondent. It was further submitted that the

learned Family Court failed to draw the necessary inference from the conduct of the respondent, who despite being a responsible employee in the Police Department, did not seek consent or approval of the parents of the petitioner, even assuming that there was a relationship between the parties prior to the alleged forcible marriage.

vii) The learned counsel for petitioner further submitted that the learned Family Court failed to appreciate that the respondent failed to place any evidence on record to establish and prove that the parties lived together as husband and wife from 09.05.2012 till the date of filing of the proceedings.

8. **Contentions of the respondent as stated in his counter as well as in the oral evidence on record before the Family Court:**

It was stated by the respondent that the petitioner and the respondent liked each other and that the marriage was solemnised under the Hindu Marriage Act, 1955 with free will and consent of the petitioner and that they had taken their photos together expressing love and affection, without knowledge of each other's caste and that the marriage was also consummated. It was further submitted that the parents of the petitioner forced her to avoid marital life with the

respondent on the ground that the respondent belongs to SC Mala and that he is serving only as a Constable, which according to them, was perceived as an insult to the reputation of the petitioner's family in the society.

VI. FINDINGS OF THE FAMILY COURT:

9. The learned Family Court, after considering the oral and documentary evidence, dismissed the petition filed by the petitioner against respondent holding that the petitioner failed to establish her case on the grounds of both cruelty and forcible marriage, and consequently declined to declare the marriage as void.

10. Aggrieved thereby, the petitioner preferred the present appeal seeking dissolution of her marriage with the respondent.

11. Heard Smt. M Venkateshwari, learned counsel for the petitioner. There is no representation on behalf of the respondent. Perused the record including the grounds of appeal.

VII. POINTS FOR DETERMINATION:

12. In view of the rival contentions and the statutory exclusion engrafted under Section 2(2) of the Hindu Marriage Act, 1955, the following points arise for determination:

- (i) Whether the Hindu Marriage Act, 1955 is applicable to the petitioner, who admittedly belongs to a Scheduled Tribe, in the absence of any notification issued by the Central Government under Section 2(2) of the Act?
- (ii) If the Hindu Marriage Act, 1955 is held to be inapplicable, whether the registration or alleged solemnization of marriage under the said Act confers any legal validity on the marriage between the parties?
- (iii) Whether mere performance of marriage according to Hindu rites or customs, without pleading and proof that the petitioner was “Hinduised” or governed by Hindu customs, is sufficient to attract the applicability of the Hindu Marriage Act, 1955?
- (iv) Whether the Family Court committed a jurisdictional error in adjudicating the lis under the Hindu Marriage Act, 1955, without framing and deciding the foundational issue of statutory applicability?

(v) Whether the impugned order and decree passed by the Family Court warrant interference by this Court?

VIII. ANALYSIS:

Point Nos. (i) to (iv)

13. The principal submission advanced on behalf of the petitioner relates to the applicability of the Hindu Marriage Act, 1955, to members of Scheduled Tribes. The core issue that thus arises for consideration is whether the said Act could have been invoked on the facts of the present case, particularly when the petitioner admittedly belongs to a Scheduled Tribe and disputes statutory applicability.

14. Before embarking upon the analysis, it would be useful to extract Section 2(2) of the Hindu Marriage Act, 1955, which reads as under:

“Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribe within the meaning of clause (25) of Article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs.”

15. It is not in dispute that the respondent belongs to SC Mala, whereas the petitioner belongs to a Scheduled Tribe. The caste status of the parties thus stands admitted.

16. It is also not in dispute that the marriage between the parties was registered under the Hindu Marriage Act, 1955, and that it is alleged to have been solemnized in a temple according to Hindu rites and customs. The decisive question, therefore, is whether such registration or form of solemnization can confer validity when one of the parties is statutorily excluded from the operation of the Act.

17. A marriage registered under the Hindu Marriage Act, 1955, cannot be sustained in law if one of the parties is not governed by the Act. The applicability of a personal law statute flows from legislative mandate and not from the volition or conduct of the parties. Where a Hindu seeks to marry a person not amenable to the Hindu Marriage Act, 1955, the legally permissible course is to contract such marriage under the Special Marriage Act, 1954, which is a secular enactment designed to govern such unions. In the present case, the petitioner belongs to a Scheduled Tribe to which the Hindu Marriage Act, 1955, does not apply by virtue of Section 2(2). In the absence of any Central

Government notification extending the Act, statutory exclusion continues to operate, and cannot be neutralised by registration, ceremony, or mutual consent.

18. In **Gullipilli Sowria Raj's case (supra)**, the Honourable Supreme Court held that the scheme of the Hindu Marriage Act, 1955, is confined to marriages between two Hindus, and that statutory conditions cannot be diluted by form or ceremony. The Honourable Supreme Court held as under:

“16. Although, an attempt has been made to establish that the Hindu Marriage Act, 1955, did not prohibit a valid Hindu marriage of a Hindu and another professing a different faith, we are unable to agree with such submission in view of the definite scheme of the 1955 Act. In order to appreciate the same, we may first refer to the Preamble to the Hindu Marriage Act, 1955 , which reads as follows:

“An Act to amend and codify the law relating to marriage among Hindus”.

(Emphasis added)

As submitted by Mr. Rao, the Preamble itself indicates that the Act was enacted to codify the law relating to marriage amongst Hindus.

17. *Section 2 of the Act which deals with application of the Act, and has been reproduced hereinabove, reinforces the said*

proposition. Section 5 of the Act thereafter also makes it clear that a marriage may be solemnized between any two Hindus if the conditions contained in the said Section were fulfilled. The usage of the expression 'may' in the opening line of the Section, in our view, does not make the provision of Section 5 optional. On the other hand, it in positive terms, indicates that a marriage can be solemnized between two Hindus if the conditions indicated were fulfilled. In other words, in the event the conditions remain unfulfilled, a marriage between two Hindus could not be solemnized."

19. In **Satprakash Meena's case (supra)**, the Delhi High Court observed that in the absence of proof of established tribal custom or an admission that the parties were governed by Hindu personal law in the legal sense, the provisions of the Hindu Marriage Act, 1955, would not apply.

20. In **Kadavath Srikanth's case (supra)**, this Court held that Section 2(2) of the Act operates as an express statutory bar unless lifted by a Central Government notification.

21. In **Dr. N. Surya's case (supra)**, a Division Bench of this Court emphasized that where applicability of the Hindu Marriage Act, 1955, is in issue, the Family Court must frame and decide the same as a foundational issue.

22. In **Labishwar Manjhi's case (supra)**, the Honourable Supreme Court explained the concept of “Hinduisation” and held that Scheduled Tribe members would come within Hindu personal law only upon clear proof of abandonment of tribal customs.

23. In **Dr. Surajmani Stella Kujur's case (supra)**, the Honourable Supreme Court held that a custom must be specifically pleaded and strictly proved to have the force of law. The Court observed as follows:

“For custom to have the colour of a rule or law, it is necessary for the party claiming it to plead and thereafter prove that such custom is ancient, certain and reasonable. Custom being in derogation of the general rule is required to be construed strictly. The party relying upon a custom is obliged to establish it by clear and unambiguous evidence”

24. In **Dr. B. Swapna's case (supra)**, this Court reiterated that Section 2(2) of the Hindu Marriage Act, 1955, operates as a complete statutory exclusion.

25. In the present case, there is neither pleading nor evidence to establish that the petitioner had abandoned tribal customs or was governed exclusively by Hindu personal law. Mere performance of

marriage according to Hindu rites or registration under the Act is legally insufficient.

26. The respondent's reliance on registration under the Hindu Marriage Act, 1955, therefore, does not advance his case, as registration cannot validate what the statute expressly excludes.

27. Had the respondent intended to contend that the petitioner was governed by Hindu customs, the same ought to have been pleaded and proved by cogent evidence. No such pleading or proof is forthcoming.

28. The inevitable conclusion, therefore, is that the Hindu Marriage Act, 1955, is inapplicable to the petitioner, and the alleged marriage, insofar as it is sought to be recognized under the said Act, is void in law.

29. Accordingly, Point Nos. (i) to (iv) are answered in favour of the petitioner.

Point No. (v)

30. The Family Court adjudicated the lis by applying the provisions of the Hindu Marriage Act, 1955, without first deciding the

foundational issue of statutory applicability. When jurisdiction itself is contingent upon such applicability, failure to adjudicate the same renders the entire exercise jurisdictionally infirm, warranting appellate interference.

31. The impugned order and decree, therefore, cannot be sustained.

IX. CONCLUSION AND FINDINGS:

32. On a careful consideration of the pleadings, evidence on record, statutory scheme, and authoritative pronouncements relied upon, this Court records the following findings:

(i) The Hindu Marriage Act, 1955, by virtue of the express exclusion under Section 2(2), does not apply to the petitioner, who belongs to a Scheduled Tribe, in the absence of a Central Government notification extending its applicability.

(ii) The registration of the alleged marriage under the Hindu Marriage Act, 1955, or the performance of marriage according to Hindu rites and customs, does not confer legal validity when one of the parties is not amenable to the provisions of the said Act.

- (iii) Mere performance of marriage according to Hindu customs, without specific pleading and cogent proof that the petitioner had abandoned tribal customs and was governed exclusively by Hindu traditions, is insufficient to attract the applicability of the Hindu Marriage Act, 1955.
- (iv) The burden to plead and prove that the petitioner was “Hinduised” or governed by Hindu customs squarely lay upon the respondent, which burden has not been discharged.
- (v) The Family Court committed a jurisdictional error in adjudicating the *lis* under the Hindu Marriage Act, 1955, without first framing and deciding the foundational issue relating to statutory applicability.
- (vi) Consequently, the impugned order and decree passed by the Family Court is vitiated in law.

33. The above findings conclusively answer Point Nos. (i) to (v) framed for determination.

X. RESULT:

34. The appeal is allowed.
35. The order and decree dated 11.07.2014 passed by the Family Court-cum-Additional District Judge, Nizamabad, in O.P. No. 158 of 2013, is hereby set aside.
36. It is declared that the alleged marriage between the petitioner and the respondent, insofar as it is sought to be recognised or enforced under the Hindu Marriage Act, 1955, is void and unenforceable in law.
37. There shall be no order as to costs.
38. As a sequel, pending miscellaneous applications, if any, in this Appeal shall also stand closed.

K. LAKSHMAN, J.

VAKITI RAMAKRISHNA REDDY, J.

Date: 19.01.2026
AS