



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## Can a Marriage be solemnised virtually under the Special Marriage Act 1954?

Vinya Sai Suguna Karedla<sup>a</sup>

<sup>a</sup>JC College of Law, Guntur, India

*Received* 14 December 2022; *Accepted* 27 December 2022; *Published* 31 December 2022

---

*We live in a virtual world where everything can be done from our comfort zone by the virtue of the internet. The day-to-day tasks and the means of food, clothing, accessories, gifts, appliances, and not everything can be done by having a master key in our hands called the internet and a smartphone. Humans became puppets of gadgets but it is a lifesaver in present-day competitive life. There had been an upsurge in online use due to the pandemic it became the only means of communication at that time. The pandemic made everything possible that we never thought would occur. Have we ever imagined not going to work is a mandatory issue, but it just happened? In the same way, having a marriage registered through online mode is something that is never imagined, that too in a country like India where marriages carry great respect and are known for their big, grand rituals and cultures. The Supreme Court of India made an epic decision by allowing virtual marriages in a few cases and now it is possible to register your marriage through virtual mode.*

**Keywords:** *marriages, virtual mode, special marriage act, internet, smartphones.*

---

## LANDMARK CASES WHERE SUPREME COURT ALLOWED VIRTUAL MARRIAGES

The Madras bench for the first time allowed a couple to register their marriage virtually under the Special Marriage Act 1954. In the case of *Vasmi Sudarshini v The Sub Registrar*<sup>1</sup> The petitioner herein, P.N.Vasmi Sudarshini had fallen in love with Rahul who was a US citizen of Indian origin and both decided to get married under the Special Marriage Act 1954. Both made a joint application to the sub-registrar in Manavalakurichi, Kanyakumari district. After the expiry of the mandatory 30 days, both parties came down to the office for their marriage but for some reason, the sub-registrar could not solemnise their marriage, Due to visa issues Rahul had to move back to the US immediately. Thus the petitioner moved the court to solemnise their marriage through virtual mode. As a result of the petition, the court directed the authorities to solemnise their marriage through virtual mode with three witnesses in sight and the petitioner got the authority of the power of attorney to make a signature on behalf of Rahul.

The court observed that the law has to march along with technology and also the provisions of the Special Marriage Act 1954 under Section 12 provide that marriage can be solemnised in any form as parties choose. Further, they are not asking for a proxy marriage as both parties are present but Rahul will be present virtually which is not restricted under the Special Marriage Act 1954. The court stated that some countries like Singapore enacted the COVID-19 Act 2020 for solemnization and registration of marriage using communication technology. “also observed that during the first world war, the US allowed their soldiers to get married to their sweethearts just by interchanging marriage contracts through emails.”<sup>2</sup> Hence authorised the authorities to solemnise their marriage and issue marriage certificates under Section 13 of the Special Marriage Act 1954.<sup>3</sup>

---

<sup>1</sup> *Vasmi Sudarshini v The Sub Registrar* Writ Petition (MD) No. 15511/2022

<sup>2</sup> ‘Virtual wedding would meet the requirements of law under S. 12 of Special Marriage Act, 1954; Madras High Court cites how Lord Rama married Sita Ji’s statue in her absence’ (SCC Online, 2 August 2022) <<https://www.sconline.com/blog/post/2022/08/02/virtual-wedding-would-meet-the-requirements-of-law-under-s-12-of-special-marriage-act-1954-madras-high-court-cites-how-lord-rama-married-sita-jis-statue-in-her-absence>> accessed 12 December 2022

<sup>3</sup> B. Tilak Chandar, ‘Bride in India to marry groom in U.S. virtually, courtesy Madras High Court’ (*The Hindu*, 29 July 2022) <<https://www.thehindu.com/news/cities/Madurai/bride-in-india-to-marry-groom-in-us-virtually-courtesy-madras-high-court/article65700013.ece>> accessed 12 December 2022

A case of Kerala High Court allowed a couple to solemnise their marriage through virtual mode. *Leenu Lakshmi v State of Kerala*<sup>4</sup> In this case the couple decided to get married on 04.09.2020. Mr. Vyshak the bridegroom here works in New York and came down to India for an engagement and went back to New York thinking he can come to India for his wedding but due to corona he could not come to India as of the travel norms, The petitioner wanted to solemnise their marriage through virtual mode under Section 12 of Special Marriage Act 1954. In the instant case, the court granted relief to the petitioner and laid down directions to be followed during the solemnization of marriage by the Sub Registrar stating:

- The witness should be present before the Sub-registrar.
- Witnesses should identify the parties online.
- Parties present online should provide some public documents for the recognition of marriage officers. The signatures of the affixed by authorised power of attorney where required.
- All the requirements of the law should be compiled before the solemnization of marriage.
- The marriage officer should fix the date and time and convey the same to the parties in advance.
- Marriage officers are free to fix the online platform.
- Marriage officers are directed to comply with the directions as expeditiously as possible on completion of the statutory formalities.
- On solemnization, a marriage certificate shall be issued as intended in Section 13 of SMA 1954.

After the court upheld the virtual marriages there had been a rise in such kinds of cases, like the case of *Vipin P.B v State of Kerala*<sup>5</sup> where the petitioner and his fiance Ayana Thomas intended to get married on 27.01.22 the petitioner's fiance got to work in New Zealand, due to the pandemic travel restrictions she wasn't able to come down to India for marriage. As the court already granted permission to such marriages due to covid restrictions in previous cases it came

---

<sup>4</sup> *Leenu Lakshmi v State of Kerala* Writ Petition (Civil) No. 23925/2021

<sup>5</sup> *Vipin P.B v State of Kerala* Writ Petition (Civil) No. 7710/2022

to dispose of the case by granting relaxation to the petitioner, authorised the marriage officer to do the same, and directed him with the above obligations. There has been another case with similar facts and similar orders or directions to the marriage officer. In the case of *Sarath C.P. v. State of Kerala*.<sup>6</sup> In this case, the couple decided to get married on 06.10.22, but the bride Priyanka got employment in England as a nurse. Due to professional constraints and covid 19 pandemic travel restrictions, she could not make it to her marriage physically. Thus the petitioner herein requested the court to solemnise their marriage in online mode as the court did in previous cases. The court upheld the decision of solemnising the marriage online as it understood the need for it in the present case as well. And directed the marriage officer with some directions as mentioned in previous cases.

## ANALYSIS

The provision of Section 12 of the Special Marriage Act 1954 reads as follows :

Section 12(2)<sup>7</sup>: “The marriage may be solemnised in any form which the parties may choose to adopt: Provided that it shall not be complete and binding on the parties unless each party says to the other in the presence of the Marriage Officer and the three witnesses and any language understood by the parties, – “I, (A), take the (B), to be my lawful wife (or husband).” All the above cases are disposed of on the ground that Section 12<sup>8</sup> of SMA States that parties can solemnise their marriage in any form as parties may choose which led to the virtualization of marriages.

“During the trials in Delhi High Court Justice Rekha Palli had allowed a US couple to register their marriage online. In the instant case, the couple got married long ago before the registration of marriage was made compulsory in 2014. Now they wanted to register their marriage online, hearing the same J. Rekha Palli permitted them to register by stating that the law has to be in march with technology and the same was already allowed by the Kerala High court in some cases. Here the concern they raised was there should be some face recognition technologies to

---

<sup>6</sup> *Sarath C.P v State of Kerala* Writ Petition (Civil) No. 8237/2022

<sup>7</sup> Special Marriage Act 1954, s 12(2)

<sup>8</sup> Special Marriage Act 1954, s 12

confirm the parties online. And legal experts commented that the registration of marriages through video conferences will be a new normal with the availability of technology”<sup>9</sup> Also it was observed in one of such cases that “ where there is a difficulty, the letter of law cannot be so rigid that it makes it impossible for the parties to follow them. Moreover, the registration department is there to facilitate the parties and not to create obstruction or hurdles.”<sup>10</sup>

## THE AESTHETIC TOUCH OF WEDDING ON-SITE IS GOING TO GET OLDER

These cases became live examples of the upsurge of virtual marriages and technological use. It shows how a pandemic made a huge impact on the core concept of marriage in India. Not only the virtual presence of either of the parties but these days online wedding invitations and live streams of marriages have become a fashion, the attention-seeking concept of big, fat, grand marriages in India is something which is on the verge of becoming an old culture. Because of this covid mainly public gatherings, festivals, and marriages are getting restricted and are limited to a very small number of people, marriages are getting leaner and instead of big marriage conventions, the business of wedding planners and online wedding platforms is emerging rapidly. According to some views of wedding expo platforms, Shikha Nahata and its team stated that “ keeping in mind the restrictions and potential dangers covid poses, families think that having an online wedding is a far better option than not having marriage at all.”<sup>11</sup> Slowly the rapo of online weddings is getting popular and all the fun is getting virtual.

---

<sup>9</sup> ‘Registration of marriage after couple appears online is legal: Delhi High Court’ (*The New Indian Express*, 10 September 2021) <<https://www.newindianexpress.com/cities/delhi/2021/sep/10/registration-of-marriage-after-couple-appears-online-is-legal-delhi-high-court-2356827.html>> accessed 12 December 2022

<sup>10</sup> ‘Marriages under special law can be registered virtually: SC’ (*Hindustan Times*, 10 August 2021) <<https://www.hindustantimes.com/india-news/marriages-under-special-law-can-be-registered-virtually-sc-101628545749805.html>> accessed 12 December 2022

<sup>11</sup> Shelly Anand, ‘Are virtual weddings the new way to tie the knot?’ (*India Today*, 2 December 2020) <<https://www.indiatoday.in/india-today-insight/story/are-virtual-weddings-the-new-way-to-tie-the-knot-1746144-2020-12-02>> accessed 12 December 2022

## PROS AND CONS OF VIRTUAL WEDDINGS

How every coin has two faces and every aspect and concept of life has two phases: a good one and a bad one. Choosing them is based on our wisdom. Likewise, the concept of virtual marriage also has its own merits and demerits. It goes like this:

**Merits:** The attractive concept of virtual marriage is having married from your comfort zone. The biggest concern of every family is the budget for the ceremony, it is a low-cost wedding as all the guests are at their homes, and in some cases, the parties themselves are in different areas, and the budget for food, accommodation and travel expenses are going to be cut down. The biggest aspect of Indian weddings is having a large number of people which makes marriages a heavy responsibility for decent financial budget families but it is no more a concern as we need not bound ourselves to limit the people from attending online. It is a boon to low financial budget families. And also in the present days, everyone has to work to meet the cost of living, thus we need not hold our plans and postpone the works which are important, for the sake of marriage. It will be marked as a unique concept in history that makes a normal marriage special. And also it is the best way to keep your loved ones safe and healthy in such crucial times. It is going to be a special movement which makes your wedding much more memorable.

**Demerits:** There are many things that could be considered demerits of virtual marriages. The important thing could be the sense and touch of family and friends and the joy and fun you could have with them on such an auspicious event in everyone's lives. There will be a sense of emotion and that rhythm in the cheers and applause which will occur at the movement you take vows or the time you are declared to be one, could be the memory of your wedding which will be missing in the virtual weddings. Virtual marriages feel lonely with no one to make your day different from any other day of your busy life. There would be no memory left of the day when you get your marriage registered through online mode like one of those hectic video conferences with your boss. There is a high possibility of technical issues. It is a highly sensitive issue as they are controversial when it comes to the people who care about culture and traditions. "As we can

see, virtual marriage under Hindu marriage law is not valid.”<sup>12</sup>Also, there is a possibility of promoting materialistic relationships through virtual marriages.

## CONCLUSION

Now we can say how a pandemic can change the structure and core concepts of a nation. These cases are live examples that a virtual marriage can also be registered and could be considered as II in India when there is an obstacle for the present in the marriage. Not only for the parties of marriage but also the audience, technology became a bridge to cross every difficulty we face in this 21 st century. Technology has made marriages budget-friendly and at the same time making us apart from our friends and family but it proves that the legal system is flexible and is in pace with the technological growth of the nation. Many countries had provided relaxations regarding the solemnization of marriages through online mode. Interestingly, the madras court stated that even in the olden days’ soldiers were allowed to marry their loved ones through interchanging marriage contracts. It shows how flexible a legal system could be.

---

<sup>12</sup> Anubhav Lamba, ‘Validity of Online Marriages, under Hindu and Muslim Personal Laws’ (*Legal Services India*) <<https://www.legalserviceindia.com/legal/article-2783-validity-of-online-marriages-under-hindu-and-muslim-personal-laws.html>> accessed 11 Deember 2022