



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 3708 OF 2023

(SMA)

BETWEEN:

1. SRI SAZEED PARVEJ
S/O SHAMSHER ALI
AGED ABOUT 37 YEARS
R/AT No.89, 2ND FLOOR
8TH CROSS, MADINA NAGAR,
MANGAMMANA PALYA,
BANGALORE SOUTH
BOMMANAHALLI,
BANGALORE-560 068.

Digitally
signed by
VASANTHA
KUMARY B K
Location:
HIGH
COURT OF
KARNATAKA

ALSO AVAILABLE AT
No.3046,TVH APARTMENT,
OMR PADUR,
CHENNAI-603 103

CURRENTLY RESIDING AT:
R/A NO.011, DIVYA JYOTI ROYAL COUNTY
MANIPAL COUNTY ROAD
SINGASANDRA
BANGALORE-560068

...APPELLANT

(BY SRI. C V SRINIVASA., ADVOCATE)



AND:

1. SMT FARZANATAJ NISAR KHAN
W/O SAZEED PARVEJ
D/O NISAR KHAN
AGED ABOUT 32 YEARS
R/A 4A CRS, NASASOFT COMPUTER ACADEMY
17B, V V BADAVANE, M V EXTENSION
HOSKOTE, BENGALURU RURAL-562114

ALSO AVAILABLE AT

APARTMENT NO.5 E, BLOCK-1
REAL VALUE NEEL KAMAL APARTMENTS
OLD MAHABALIPURAM ROAD
KAZHIPATTUR, CHENNAI-603103
TAMIL NADU

ALSO AVAILABLE AT

SENIOR TEST AUTOMATION ENGINEER
HEXAWARE TECHNOLOGIES
H5, SIPCOT IT PARK
NAVALLUR POST
KANCHEEPURAM DISTRICT
CHENNAI-603103
TAMIL NADU

...RESPONDENT

(BY Ms.B.V VIDYULATHA, ADVOCATE FOR RESPONDENT
(COUNSEL TO ASSIST THE COURT AS AMICUS CURIAE))

THIS MFA IS FILED UNDER SECTION 39 OF SPECIAL MARRIAGE ACT R/W SECTION 19 OF THE FAMILY COURTS ACT AGAINST THE JUDGMENT AND DECREE DATED 28.03.2023 PASSED IN MC NO.77/2018 ON THE FILE OF THE III ADDITIONAL PRL. JUDGE, FAMILY COURT, BENGALURU, DISMISSING THE PETITION FILED UNDER SECTION 27(1)(d) AND (e) OF THE SPECIAL MARRIAGE ACT.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

The present appeal is filed under Section 39 of the Special Marriage Act, 1954 r/w Section 19 of the Family Courts Act, 1984 impugning the order dated 28.03.2023, passed by the Court of the III Additional Principal Judge, Family Court at Bengaluru, in M.C. No.77/2018, whereby the divorce petition filed by the appellant/husband under Section 27 (1) (d) and (e) of the Special Marriage Act of 1954, has been rejected on the ground of maintainability.

2. Heard Sri C.V. Srinivasa, learned counsel for the appellant and Smt.B.V. Vidyulatha, learned Amicus Curiae who has assisted the Court.

3. The Nikah of the appellant and the respondent was solemnized on 04.04.2015. The Nikah Nama was registered by the Registrar of Nikah, Jamia Masjid-E-Islamabad, Khazi Street, Basavanagudi, Bengaluru. Both the parties are Muslims and their marriage was also performed as per the Shariat law in accordance with the customs and rituals prevailing in the Muslim community and the parties are governed by the Mohammedan Law. As the parties were going



abroad, they decided to register their marriage under provisions of the Special Marriage Act, 1984. The registration certificate was issued on 21.12.2015. In the impugned order, the Family Court has held that the appellant would not be entitled to file divorce petition under Section 27 (1) (d) and (e) of the Special Marriage Act, inasmuch as, the marriage was performed in accordance with the Shariat Law as per the customs and rituals prevailing in the Muslim Community. The mere registration of marriage will not take away its colour from being a Muslim marriage. Therefore, the case filed by the appellant seeking divorce under Section 27 (1) (d) and (e) of the Special Marriage Act has been dismissed.

4. The learned counsel for the appellant has vehemently submitted that once the marriage gets registered, it will lose the colour and effect of being the Muslim marriage and it has to be treated as a special marriage under the provisions of the Special Marriage Act. He also relied on the certificate of marriage which indicates that the certificate will have the effect from 04.04.2015. He therefore, submits that once a marriage certificate is issued under the Special Marriage Act, which has the effect from the date of marriage i.e., 04.04.2015, it means the marriage has to be treated under the Special Marriage Act and all provisions of the Special



Marriage Act would be applicable including the provisions for filing a divorce case etc.

5. On the other hand, Smt. B.V. Vidyulatha, learned Amicus Curiae submitted that the marriages, which are not performed under the Shariat law, the Hindu law, the Christian law or the special provisions governing other communities, are to be registered under the Special Marriage Act and those marriages only will be treated as the marriages under the Special Marriage Act and the provisions of the said Special Marriage Act would be applicable in respect of the said marriage including for taking divorce etc.

6. The learned counsel for the appellant has relied on a judgment of the learned Single Judge of Delhi High Court. However, the said judgment has no bearing in the facts of the present case inasmuch as in that case, the marriage itself was solemnized under the Special Marriage Act.

7. We are of the considered view, that mere registration of a marriage which has been performed in accordance with the law of the community i.e. Shariat law for the Muslims or Hindu Marriage Act for the Hindus or Christian Marriage Act for the Christians etc., will not lose its colour of being marriage under such law merely on the act of registration.



8. As submitted by Smt. Vidyulata, learned Amicus Curiae, that registration of the marriages, which are not performed under the provisions of the Shariat Law or Hindu Marriage Act or Christian Marriage Act or any other similar Act, would be the special marriage under the Special Marriage Act.

9. The harmonious construction of the provisions of the Special Marriage Act and the law under which marriage is performed would be that, once the marriage is performed under the particular law governing the community of the parties, the mere registration under the Special Marriage Act would not lose its colour and effect of the marriage being under the Shariat law or Hindu law or Christian law.

10. We therefore, find no substance in this appeal which is why it is ***dismissed***.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE