

**THE ROLE OF INDIAN JUDICIARY IN RECOGNITION OF NRI MARRIAGES  
AND DECREES OF DIVORCE AND LEGAL SEPARATION**

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**ABSTRACT**

*Despite the attempts made by our courts to establish guidelines for acknowledging foreign judgements in matrimonial cases through creative interpretation of statutory provisions, the current legislation still contains numerous gaps, loopholes, and ambiguities. The issue of matrimony involving a Non-Resident Indian and a bride from India is a topic of concern. Regrettably, there is a lack of specific legislation in India to address the challenges associated with marriages involving non-resident Indians (NRIs). The diaspora of Indian nationals residing abroad has experienced a significant surge in recent times. However, despite this trend, several issues continue to persist, necessitating their return to India. These matters remain unresolved by the conventional Indian legislative framework. Nevertheless, the open-minded judicial system within the Indian jurisprudence has frequently intervened to address such concerns. This has been achieved through the interpretation of existing laws, with a pragmatic application to the contemporary challenges faced by immigrant Indians.*

**Key Words:** Marriage, Non-Residential Indians, Judiciary, Divorce.

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## INTRODUCTION

Women who were married to Non-Resident Indians in the last ten years have gone through and encountered a lot of difficulties, which ultimately resulted in the husbands abandoning the wives. Even before she is brought to the other country where her husband resides, she is abandoned, which finally leads to her returning to India within a year, or to either being sent back or being forced to run, etc. The bride's family's inability to meet the demand in terms of cost or kind, the groom's prior marriage to a woman other than the Indian girl, especially when the groom continues to live with his former partner or the bride's experience with unexplainable harassment are other reasons why problems arise in most cases when the bride and groom are incompatible<sup>1</sup>.

Such casual unions with NRI men have not only alarmed Indian parents and the public in general, but have also grown to be a significant source of worry for the Indian government. As a result, thousands of brides in several Indian states, mainly in Punjab, have been abandoned as a result of these weddings. The girls from metropolitan regions who are well educated also fall prey to these NRI grooms, so it is not just the girls from rural or semi-urban areas or the girls who are less qualified or completely uneducated who are being deceived by their husbands.<sup>2</sup> Members of Indian society have expressed the opinion that it is crucial to educate these girls about their rights and responsibilities by emphasizing the availability of preventative measures and other social defense mechanisms so that they can defend themselves and preserve their dignity. This is in addition to protecting the affected brides from fraud.<sup>3</sup>

There have fundamental issues arise from the NRI marriages. For example, in the marriages such as NRI, the would-be NRI groom marries an innocent bride, takes the dowry money, and flees the country, leaving the unfortunate bride behind. Also, in some cases, the bride and groom, who are both Indian citizens and domiciliary, get married while they are abroad. Due to abuse from the spouse, his extramarital activities, or other compelling reasons of a similar

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<sup>1</sup> Lok Sabha Secretariat, Standing Committee on External Affairs, 15th Report, (2011), 1.

<sup>2</sup> Law Commission of India 219th Report on Need for Family Law Legislations for Non-Resident Indians (March 2009).

<sup>3</sup> *Supra Note 1 and 2*

nature, the wife returns to India and files a lawsuit before an Indian court. In other cases, if the marriage takes place between a foreign-born bride and husband.<sup>4</sup>

The issue of transnational wife abandoning is directly related to the dissolution of marriage in the majority of NRI marriages. Most of the time, husbands start the process after leaving their wives in their native nations.<sup>5</sup> For women who have been abandoned outside of the country, the divorce process is difficult. Due to the wife's financial plight and inability to travel abroad to dispute the proceedings, the husband might easily get an ex-parte divorce decision. These ladies have a very slim possibility of appearing in court to answer the notice of appearance in person if they lack the money to fly overseas, a way to get a visa, or their travel documents have been destroyed.<sup>6</sup> They also have little chance of finding a lawyer to protect their interests and legal rights in court in the nation where their husband resides. Receiving an ex-parte divorce has ceased to be the unusual and has instead become the rule for abandoned women.<sup>7</sup>

#### **LAWS IN INDIA TO RECOGNIZE FOREIGN DEGREE OF SEPARATION**

Unlike Private International Law or conflicts of laws as in some western countries, there is no legislative law in India. The law in India that recognizes divorces from other countries is not well established. Foreign divorces are recognized in accordance with the general rules governing the recognition of foreign verdicts and decrees. As a result, Indian courts use *Sections 13 and 14 of the Code of Civil Procedure, 1908* as well as *Section 44(A) of the Code of Civil Procedure, 1908* in matrimonial disputes involving NRI weddings.<sup>8</sup> According to Indian law, *Section 13* or *Section 44(A)* of the *Code of Civil Procedure, 1908*, or both, may be used to execute a divorce judgement that was granted by a foreign court in India. Section 13 deals with the foreign court's jurisdiction and ability to render judgements as to their conclusiveness. The term 'Non-Reciprocating Territories' refers to those nations with whom India does not have a treaty or other agreement on the reciprocal execution of verdicts. The

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<sup>4</sup> V.C. Govindaraja, C. Jayaram (ed.), Prof. B.C Nirmal, Hague Conventions on the Recognition of Validity of Marriages, Decrees of Divorce & Decisions Relating to Maintenance Obligations, 36 (ISIL Hope India Publications, 2008).

<sup>5</sup> S. Dasgupta, "Women Abuse in a Globalising World: Abandonment of Asian Women" *Indian Journal of Research*, 2011, 4.

<sup>6</sup> Ibid.

<sup>7</sup> S. Dasgupta, A. Gurnani, S. Kaushal, & S. Lodhia, *Resources, Strategies, and Barriers for Assisting Women Abandoned Transnationally*, 16, University of Pennsylvania Journal of Law and Social Change, (2013) 66.

<sup>8</sup> A.M Setalvad, *Conflict of Laws*, (2011) 363.

assumption of a judgement by a foreign court for execution is covered in *Section 44(A)*. All nations with whom India has reciprocal enforcement agreements are covered.

The debate over marriage and divorce has expanded to cover a number of personal legislations. However, Indian law only offers one solution when it comes to the issue of foreign divorce and nullity judgements being recognized. This issue is covered by *Sections 13* and *44(A)* of the *Code of Civil Procedure, 1908*. Despite these rules being a part of the procedural legislation, that Indian courts follow, they are different in how they are applied. There are two distinct phases when an international verdict is implemented by Indian courts: recognition and enforcement. Only the recognition of the foreign decree is addressed in *Section 13*. As the initial step in the enforcement proceedings, the decree holder must move before an Indian court by filing a regular complaint. The court may issue an order for the decree holder to submit an execution petition in order to collect the amount owing under the decree after hearing the suit proceedings.<sup>9</sup> In order to be enforced, a foreign decree that is recognized through a conventional lawsuit is changed into a domestic judgment.

In contrast, *Section 44(A)* of the *CPC* provides for the immediate execution of a foreign decree through a petition for enforcement, thereby eliminating the need for preliminary legal proceedings. The option for immediate implementation of a foreign decree is solely contingent upon the existence of a bilateral *44(A)* of *CPC*<sup>10</sup>. The list of countries comprises the United Arab Emirates, Russia, Kuwait, Turkey, Mongolia, the United Kingdom, Fiji, Malaysia, Singapore, New Zealand, the Cook Islands, Papua New Guinea, and Trinidad and Tobago. Nevertheless, there exists a necessity to broaden this platform to effectively accommodate the Indian diaspora residing in other nations as well, thereby fostering comprehension and amity between India and the nation of origin of the aforementioned community. The mutual agreement is founded upon the principle of reciprocity. India has established bilateral agreements with a limited number of nations. India has engaged in formal bilateral negotiations pertaining to mutual legal assistance in civil matters, which encompasses the recognition and enforcement of judgements in civil matters as per section.

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<sup>9</sup> *Joao Gloria Pires v. Ana Joaquina Rodrigues Pires*, AIR 1967 Goa 113

<sup>10</sup> *Ibid.*

## **SECTIONS OF THE CODE OF CIVIL PROCEDURE, 1908**

The principle enshrined in *Section 13* of the *Code of Civil Procedure* pertains to a fundamental aspect of private international law, which stipulates that a foreign court's verdict, rendered within its jurisdiction, ought to be duly acknowledged and executed. The Indian judiciary is obligated to acknowledge a foreign verdict not merely as a matter of courtesy, but rather based on principles of fairness, impartiality, and ethical conduct. Private international law varies across nations, however, there exist certain shared principles that have been acknowledged in civilized legal systems. The legal principle that necessitates the fulfilment of a claim that has been adjudicated by a foreign court of competent jurisdiction has become firmly established in the Indian judicial system, akin to other judicial systems<sup>11</sup>. Undoubtedly, within Indian territory, India possess sovereignty. However, as correctly stated by the Apex court in a case, considering foreign law does not diminish our sovereignty.<sup>12</sup> Consequently, possessing knowledge of international law can be a valuable tool in establishing the concepts of fairness and societal principles.<sup>13</sup>

A certified copy of a foreign judgement shall be presumed to have been issued by a competent court unless the court finds evidence to the contrary on record or establishes the contrary through proof, as required by *Section 14* of the *Code of Civil Procedure, 1908*.<sup>14</sup> According to *Section 13* of the *Code of Civil Procedure*, a foreign verdict has binding authority over any case that has been directly adjudicated between the same parties or those who claim litigation rights under the same title, with the following exceptions: Exceptions to the binding authority of a foreign ruling include the following:

- a) In cases where a court of competent jurisdiction has not rendered a verdict.
- b) In instances where a decision has not been made based on the merits of the case, the matter remains unresolved.

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<sup>11</sup> T. S. Rama Rao, *Private International Law of India*, Vol. IV *The Indian Yearbook of International Affairs* 251 (1955).

<sup>12</sup> *Y. Narasimha Rao v. Y. Venkata Lakshmi*, 1991 SCC (3) 451.

<sup>13</sup> *Ibid.*

<sup>14</sup> *The Code of Civil Procedure, 1908* (5 of 1908), s. 14.

- c) In instances where the law of India is applicable, or where there is a mistaken interpretation of international law, the proceedings may be deemed to be based on an erroneous understanding of legal principles.
- d) If the legal proceedings in which the verdict was reached are in violation of natural justice, then this may be grounds for opposition.
- e) In cases where the acquisition of the item in question has been achieved through fraudulent means.
- f) Wherein it upholds a contention based on violation of any legislation currently enforced in India.<sup>15</sup>

In certain circumstances, a foreign court's ruling may not be considered conclusive. These circumstances include instances where the foreign judgement was not issued by a competent court, was obtained through fraudulent means, did not consider the merits of the case, was in violation of international or Indian law, was contrary to principles of natural justice, or was based on a breach of Indian law. Further, the concept of *res judicata* in foreign judgements is encapsulated within *Section 13*. Both the plaintiff and defendant are entitled to non-suit the plaintiff based on a foreign judgement. *Section 13* stipulates that a foreign judgement will not be deemed conclusive if any of the conditions outlined in *clauses (a) to (f)* are met. Therefore, in such instances, a foreign judgement may be susceptible to collateral challenge.

In the case of India, India's Apex Court held that, It is our contention that the pertinent clauses outlined in *Section 13* of the *Code of Civil Procedure, 1908* possess the potential to be construed in a manner that ensures the necessary definiteness within this area of jurisprudence in accordance with principles of public policy, justice, fairness, and morality. The regulations that are thus formulated will serve to safeguard the integrity of the institution of marriage and the cohesion of the family unit, which are fundamental tenets of our communal existence.<sup>16</sup>

In contrast to *Section 13*, *Section 44(A)* of the *Code of Civil Procedure, 1908* provides for the direct enforcement of foreign decrees in civil matters through an executing petition, thereby eliminating the need for preliminary legal proceedings. The provision for the direct enforcement of foreign decrees is contingent upon a mutually agreed upon bilateral

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<sup>15</sup> The Code of Civil Procedure, 1908 (5 of 1908), s. 13.

<sup>16</sup> *Satya v. Teja Singh*, AIR 1975 SC 105.

arrangement premised on the principle of reciprocity between India and the jurisdiction where the decree was issued.

## **THE ROLE INDIAN JUDICIARY IN LEGAL SEPARATION OF NRI'S MARRIAGES**

The legal framework for acknowledging foreign divorce decrees in India is established by *Section 13 and 44(A) of the Code of Civil Procedure, 1908*. Recognition of a foreign divorce decree is contingent upon the presence of a genuine and significant connection between the parties involved and the court that rendered the divorce judgement. The current laws in India, whether statutory or judge-made, are not effectively addressing the issue of abandoned wives and therefore do not serve to promote their emancipation. The present discourse concerns the diverse verdicts pronounced by Indian courts pertaining to matters that arise in marriages involving non-resident Indians (NRIs), such as those concerning the jurisdiction of Indian courts, challenges in recognizing foreign judgements, and issues pertaining to ex-parte divorce decrees.

The case of *Joao Gloria Pires v. Mrs. Ana Joaquina Rodrigues Pires*<sup>17</sup> pertains to the marriage of Joao Pires and Joaquina, who are both Roman Catholics and residents of Goa. The couple was wedded in a church located in Old Goa, and have remained married since then. Joao immigrated to Uganda and subsequently acquired British citizenship through naturalization. The individual obtained a divorce decree from the High Court of Uganda on the basis of Joaquina's alleged act of adultery. The petitioner submitted a plea to the High Court of Goa, requesting confirmation of the divorce decree in accordance with the provisions of the Portuguese Civil Code. Joaquina asserted that she was not notified of the divorce proceedings in Uganda and contended that, as Roman Catholics, her marriage was considered indissoluble under the Law of Goa, where the marriage was originally solemnized.

The contract of 1940 between the Portuguese Government and the Holy Church, which deemed the marriages indissoluble, was no longer in effect, as Joao argued, and adequate notice of the proceedings had been provided. All countries, R.S. Bidra, J., noted, appear to have passed

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<sup>17</sup>AIR 1967 Goa 113.

statutory provisions bearing on how and under what conditions the foreign judgement can be implemented. *Sections 13 and 44(A)* of India's *Code of Civil Procedure, 1908*, contain the applicable law. These rules outline two ways for putting an overseas ruling into effect. One option is to have a lawsuit filed in India based on the international ruling and then have the Indian court carry out the decree. Second, if there is a treaty or agreement in place between India and the country whose verdict is being implemented, the foreign court's judgement could be carried out immediately by a District court in India.

Subject to the six exclusions in *Section 13* of the *Code of Civil Procedure, 1908*, a foreign ruling is binding on directly adjudicated issues. The sixth situation involves foreign judgements that contradict with Indian policy. The present case resembles *clause 6* of the *Code of Civil Procedure, 1908*, which states that a foreign verdict must not harm the Portuguese Public Order to be validated.<sup>18</sup>

*Section 13(f)* of the *Code of Civil Procedure, 1908* encompasses *Section 23* of the *Indian Contract Act*, which stipulates that any agreement that contradicts public policy is not legally enforceable. The phrase in question bears a striking resemblance to the semantic implications of the term "public policy" as delineated in *Section 23* of the *Indian Contract Act*. Thus, it can be observed that the stipulations outlined in *Section 1102* of the *Code* and *Section 13* of the *Code of Civil Procedure, 1908* exhibit a degree of similarity as indicated. The Indian courts rely on similar principles as those adopted by the English courts when dealing with foreign judgments.

In the current instance, the court declined to acknowledge the Ugandan divorce due to its inconsistency with public policy. The court notably omitted any consideration of whether the decree issued by the Ugandan court was rendered by a court possessing appropriate jurisdiction. The aforementioned analysis failed to take into account the potential acquisition of Ugandan domicile by the husband, as well as the nature of the divorce decree as a decree issued by the court of domicile. Likewise, it failed to take into account whether the court order was issued in the jurisdiction where the husband was domiciled. The court initially presumed the validity of the decree due to the petitioner husband's residency, but ultimately deemed it incompatible with public policy and therefore unenforceable. The presiding judge, after

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<sup>18</sup> *Joao Gloria Pires v. Mrs. Ana Joaquina Rodrigues Pires*, AIR 1967 Goa 113



considering the wife's argument, concluded that the Roman Catholic marriage's law of indissolubility was a subject of public policy. Consequently, the Ugandan divorce, which contravened the public policy, could not be validated or acknowledged.

The appellant in the case of *Satya v. Teja Singh* entered into matrimony with the respondent Teja Singh on July 1, 1955, in accordance with Hindu customs. At the time of their marriage, both individuals were Indian citizens and had established domicile in India. The matrimonial union was solemnized in Jalandhar, located in the state of Punjab. A male child was born in 1956 and a female child in 1958 as a result of the marital union. The respondent departed for the United States on January 23, 1959 to pursue advanced studies in Forestry, while previously employed as a Forest Range Officer in Gurdaspur. After completing a year of study at New York University, he enrolled at Utah State University to pursue a Doctorate in Forestry, which he completed after approximately four years of study. Upon the completion of his academic pursuits, he obtained employment in the state of Utah. Throughout the aforementioned quinquennium, the appellant maintained her residence in India alongside her underage offspring. It appears that she accompanied the respondent to America, with the understanding that he would return to India upon finishing his studies.<sup>19</sup>

On January 21, 1965, the appellant submitted a request for support to the court in accordance with *Section 488* of the *Criminal Procedure Code*. She stated that the respondent had failed to care for her and their two children and that she was forced to seek support herself. She sought with the judge to compel him to pay a monthly support payment of one thousand rupees. The respondent's marriage to the appellant came to an end on December 30, 1964, when a divorce judgement was handed down by the 'Second Judicial District Court of the State of Nevada' and for the 'County of Washoe', U.S.A. This verdict put an end to their marriage. As a consequence of the decision, he asserted that the appellant was no longer his wife, and hence, he was exonerated from his duty to provide financial support for her.<sup>20</sup>

The Judicial Magistrate, First Class, Jalandhar ruled on December 17, 1966, that the appellant was not bound by the divorce decision because the respondent had not settled in Nevada. The Hindu Marriage Act, 1955 was required to dissolve the appellant and respondent's marriage.

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<sup>19</sup>AIR 1975 SC 105.

<sup>20</sup> Ibid.

The Magistrate directed the respondent to pay the appellant Rs. 300/month and each child Rs. 100/month. The Additional Session Judge in Jalandhar upheld the ruling since the Hindu Marriage Act required marriage dissolution. At the third round of litigation, the respondent (husband) won by submitting a Revision Application at the High Court of Punjab and Haryana. The person filing for divorce was a legal resident of Nevada when the divorce proceedings began in the Nevada court, according to an expert judge.<sup>21</sup>

The High Court applied the old English rule that ‘during marriage the domicile of the wife, without exception, follows the domicile of the husband’, ruling that since the respondent was domiciled in Nevada, so was the appellant. Thus, the Nevada court possessed divorce jurisdiction. The learned Judge relied on the Privy Council’s ruling in *Le Mesurier v. Le Mesurier*.<sup>22</sup> In *Le Mesurier*, international law decided that the married couple’s current residence is the sole real test of jurisdiction to dissolve their marriage.<sup>23</sup>

The High Court formulated the following query for contemplation, “Is it possible for a Hindu marriage that has been solemnized within the territorial boundaries of this nation to be legitimately dissolved by means of a divorce decree issued by a foreign court?” The framing of the question in this manner serves to limit the scope of the debate solely to Hindu matrimonial practices. The statement expands the investigation by raising the overarching issue of the validity of foreign courts in dissolving marriages that were officiated in this nation. The High Court opted to base its decision on the *Le Mesurier* doctrine, which posits that the domicile of the spouses serves as the sole accurate indicator of jurisdiction, rather than addressing the inquiry at hand. The crux of the matter under dispute is whether the divorce decree issued by the Nevada Court in the United States of America is eligible for acknowledgement in India.<sup>24</sup>

The determination of the level of recognition to be granted to the Nevada court’s decree is primarily contingent upon the regulations of our private international law. It is widely acknowledged that Private International Law exhibits variations across different jurisdictions. The assertion is made that there does not exist a universally recognized system of private

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<sup>21</sup> Ibid.

<sup>22</sup> 1895 AC 517: 72 LT 873: 11 TLR 481.

<sup>23</sup> *Le Mesurier v. Le Mesurier*, 1895 AC 517: 72 LT 873.

<sup>24</sup> AIR 1975 SC 105

international law. As per Cheshire's assertion, the majority of contemporary nations possess a distinct municipal law system that significantly varies from that of their neighboring countries, alongside a unique conflict of laws system.<sup>25</sup>

In the United Kingdom and North America, questions concerning the personal status of parties are decided according to the law of their domicile. However, in France, Italy, Spain, and the majority of the other European nations, this decision is made according to the law of the parties' nationality. Because the principles that regulate these affairs are so inconsistent with one another, it is fairly uncommon for a man and a woman to be considered as husband and wife in one jurisdiction, but to be treated as divorced in another country. As a direct consequence of this, we are forced to deal with the issue of such shaky marriages.

In the current case, the Supreme Court conducted a thorough analysis of the advancements in private international law pertaining to this matter. Additionally, the court noted that the principles of conflict of laws in America and England should not be adopted by Indian courts without careful consideration. The rule of private international law must be determined by the distinctive principle of our public policy, as well as the notions of genuine divorce and substantial justice. Acquiring knowledge of foreign law in a corresponding jurisdiction could serve as a valuable reference point when adjudicating such cases.

The Supreme Court cited *Indyka v. Indyka* and the 1971 Recognition of Divorce and Legal Separations Act. These cases changed England and Scotland's divorce recognition laws, the Court acknowledged. The Act implements the 1970 Hague Convention, which was ratified by most governments. *Section 2* of the *Recognition of Divorce and Legal Separations Act of 1971* recognize foreign divorces and legal separations obtained through judicial or other means in any country outside the British Isles if they are effective under that country's laws. *Section 3* of the Act states that a foreign divorce or legal separation is valid if one spouse was a habitual resident or a citizen of the country, where it was granted when legal proceedings began. *Section 8(2)* allows the rejection of a foreign divorce or legal separation if one spouse obtained it without informing the other or if it would violate public policy.<sup>26</sup> As noted by the esteemed Supreme Court of India, there exists no corresponding legislation in India.

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<sup>25</sup> Cheshire, North & Fawcett, *Private International Law*, (1999) 993-997

<sup>26</sup> Recognition of Divorce and Legal Separations Act, 1971, s. 8(2).

The Supreme Court made an observation regarding the concept of domicile, stating that in the current scenario, Teja Singh had temporarily visited Nevada and had approached the Court there only to establish jurisdiction and obtain a divorce decree by falsely claiming to be domiciled in Nevada. The Court's ruling stated that the notion of domicile lacks uniformity across the globe. Furthermore, the Court emphasized that a mere lengthy stay in a particular location does not automatically establish domicile, and similarly, a brief stay does not necessarily negate it. The residency is required to satisfy both qualitative and quantitative criteria; specifically, the factual and intentional elements must align. In the current case, the individual identified as Teja Singh sought out a jurisdiction in Nevada with the intention of obtaining a divorce. He selected a jurisdiction that was convenient and easily accessible for this purpose, and subsequently departed from the jurisdiction before his legal residency was established. Hence, the jurisdiction of the Nevada court is deemed invalid and cannot be acknowledged in the Indian judicial system. Consequently, the Le Mesurier doctrine, which was relied upon by the high court, has become obsolete.<sup>27</sup>

Except, where it has not been pronounced by a court of competent jurisdiction, a foreign judgement is conclusive under *CPC Section 13(a)* for any matter directly adjudicated in that judgement. Thus, if the foreign judgement falls under *paragraphs (a) to (e) of Section 13*, it will no longer be decisive on any matter adjudicated. Section 13 allows a separate action to dispute the judgement on five grounds. *Section 13(e)* lets you appeal a dishonest foreign judgement. Deception about the respondent's case may be ignored, but deception about the Nevada court's jurisdiction is vital to recognizing its ruling.

De Grey C.J elucidated the essence of fraud in the context of the Duchess of Kingston's case, with reference to the verdict of a spiritual court. The presiding judge made an observation that the aforementioned verdict, while indeed a product of the judiciary and thus not subject to internal impeachment, may still be susceptible to external impeachment. Stated differently, while it was impermissible to assert that the court was erroneous, it was permissible to assert that the court was deceived.

The couple married in Tirupati, India, in 1975. The appellant (husband) filed a petition for dissolution of the marriage at the Sub-Court of Tirupati, stating that he and his wife last lived

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<sup>27</sup> *Satya v. Teja Singh*, AIR 1975 SC 105.

at South Claiborn Avenue, New Orleans, Louisiana, and that he was an Indian citizen. He subsequently filed another petition for dissolution of marriage in the Circuit Court of St. Louis County, Missouri, USA, saying that he had been a resident of Missouri for 90 days or more by refusing to live with the appellant in the US and particularly in Missouri. The appellant's 90-day residency in Missouri gave the Circuit Court of Missouri jurisdiction. The Circuit Court of Missouri granted an order of dissolution of marriage in the absence of the respondent (wife) for the sole reason that the marriage had irretrievably deteriorated.<sup>28</sup>

Following the dissolution of their marriage in 1980, the appellant subsequently entered into a subsequent matrimonial union upon relocating to India. Subsequently, the respondent, who is the wife, lodged a formal accusation against her husband for the crime of bigamy. The defendant was acquitted of the criminal charge on the grounds of the divorce decree presented to the magistrate. The High Court overturned the magistrate's order in response to a criminal revision petition filed by the respondent. The appellant has filed an appeal before the Supreme Court due to being aggrieved. The Supreme Court deliberated on several key aspects of the case, including the appellant's residency in the State of Missouri for a period of 90 days preceding the petition, the basis of the decree being the irretrievable breakdown of the marriage, and the respondent's lack of submission to the jurisdiction of the American court.<sup>29</sup>

## CONCLUSION

India could have signed The Hague *Convention on the Recognition of Divorce and Legal Separations*, 1970, to address the growing problem of unchallenged divorce rulings acquired by non-resident Indian husbands in foreign nations. Recently, Indian courts have shown a tendency to examine the merits of NRI divorce, child custody, and maintenance cases rather than simply implementing foreign court rulings. Thus, the Indian government should join The Hague Convention to properly handle judicial actions involving Non-Resident Indians abroad. This would allow for national and state-aligned domestic laws. Despite a four-decade-old legislation Commission of India proposal, India does not have a legislation recognizing foreign matrimonial verdicts. The scope and depth of a jurisdiction's courts' recognition and enforcement of foreign court rulings is a complex matter. The Government of India requested

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<sup>28</sup>(1991) 3 SCC 451.

<sup>29</sup> Ibid.

the Law Commission of India to explore concerns related to foreign divorce recognition in India after the Supreme Court's *Satya v. Teja Singh* verdict. The Law Commission responded with its sixty-fifth report in 1976. Despite the Report, Parliament has not passed any relevant legislation.