

withdrawn in the meantime, the district court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized under this Act and that the averments in the petition are true, pass a decree declaring the marriage to be dissolved with effect from the date of the decree.

29. Restriction on petitions for divorce during first three years after marriage.—(1) No petition for divorce shall be presented to the district court unless at the date of the presentation of the petition three years have passed since the date of entering the certificate of marriage in the Marriage Certificate Book :

Provided that the district court may, upon application being made to it, allow a petition to be presented before three years have passed on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the district court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the district court may, if it pronounces a decree, do so subject to the condition that the decree shall not have effect until after the expiry of three years from the date of the marriage or may dismiss the petition, without prejudice to any petition, which may be brought after the expiration of the said three years upon the same, or substantially the same, facts as those proved in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of three years from the date of the marriage, the district court shall have regard to the interests of any children of the marriage, and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said three years.

30. Re-marriage of divorced persons.—Where a marriage has been dissolved by a decree of divorce, and either there is no right of appeal against the decree or if there is such a right of appeal, the time for appealing has expired without an appeal having been presented, or an appeal has been presented but has been dismissed, and one year has elapsed thereafter but not sooner, either party to the marriage may marry again.

CHAPTER VII

JURISDICTION AND PROCEDURE

31. Court to which petition should be made.—(1) Every petition under Chapter V or Chapter VI shall be presented to the district court within the local limits of whose jurisdiction the marriage was solemnized or the husband and wife reside or last resided together.

(2) Without prejudice to any jurisdiction exercisable by the court under sub-section (1), the district court may, by virtue of this sub-section, entertain a petition by a wife domiciled in the territories to which this Act extends for nullity of marriage or for divorce if she is resident in the said territories and has been ordinarily resident therein for a period of three years immediately preceding the presentation of the petition and the husband is not resident in the said territories.

32. Contents and verification of petitions.—(1) Every petition under Chapter V or Chapter VI shall state, as distinctly as the nature of the case permits, the facts on which the claim to relief is founded, and shall

also state that there is no collusion between the petitioner and the other party to the marriage.

(2) The Statements contained in every such petition shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints, and may, at the hearing, be referred to as evidence.

33. Proceedings may be in camera.—A proceeding under this Act shall be conducted *in camera* if either party thereto so desires or if the district court so thinks fit to do.

34. Duty of court in passing decrees.—(1) In any proceeding under Chapter V or Chapter VI, whether defended or not, if the court is satisfied that,—

(a) any of the grounds for granting relief exist ; and

(b) where the ground of the petition is adultery, the petitioner has not in any manner been accessory to or connived at or condoned the adultery, or, where the ground of the petition is cruelty, the petitioner has not in any manner condoned the cruelty ; and

(c) when divorce is sought on the ground of mutual consent, such consent has not been obtained by force, fraud or undue influence ; and

(d) the petition is not presented or prosecuted in collusion with the respondent ; and

(e) there has not been any unnecessary or improper delay in instituting the proceeding ; and

(f) there is no other legal ground why the relief should not be granted ;

then, and in such a case, but not otherwise, the court shall decree such relief accordingly.

(2) Before proceeding to grant any relief under this Act it shall be the duty of the court in the first instance, in every case where it is possible so to do consistently with the nature and circumstances of the case, to make every endeavour to bring about a reconciliation between the parties.

35. Relief to respondent on petition for divorce.—If in any proceeding for divorce, the respondent opposes the relief sought on the ground of the petitioner's adultery, cruelty or desertion, the court may give to the respondent the same relief to which he or she would have been entitled if he or she had presented a petition seeking such relief.

36. Alimony pendente lite.—Where in any proceeding under Chapter V or Chapter VI it appears to the district court that the wife has no independent income sufficient for her support and the necessary expenses of the proceeding, it may, on the application of the wife, order the husband to pay to her the expenses of the proceeding and weekly or monthly during the proceeding such sum as, having regard to the husband's income, it may seem to the court to be reasonable.

37. Permanent alimony and maintenance.—(1) Any court exercising jurisdiction under Chapter V or Chapter VI may, at the time of passing any decree or at any time subsequent to the decree, on application made to it for the purpose, order that the husband shall secure to the wife for her maintenance and support, if necessary, by a charge on the husband's property, such gross sum or such monthly or periodical payment of money for a term not exceeding her life, as, having regard to her own property, if

any, her husband's property and ability and the conduct of the parties, it may seem to the court to be just.

(2) If the district court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as it may seem to the court to be just.

(3) If the district court is satisfied that the wife in whose favour an order has been made under this section re-married or is not leading a chaste life, it shall rescind the order.

38. Custody of Children.—In any proceeding under Chapter V or Chapter VI the district court may, from time to time, pass such interim orders and make such provisions in the decree as it may seem to it to be just and proper with respect to the custody, maintenance and education of minor children, consistently with their wishes wherever possible, and may after the decree, upon application by petition for the purpose, make revoke, suspend or vary, from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree were still pending.

39. Enforcement of and appeal from decrees and orders.—All decrees and orders made by the court in any proceeding under Chapter V or Chapter VI shall be enforced in like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction are enforced and may be appealed from under the law for the time being in force :

Provided that every such appeal shall be instituted within a period of ninety days from the date of the decree or order.

40. Application of Act V of 1908.—Subject to the other provisions contained in this Act, and to such rules as the High Court may make in this behalf, all proceedings under this Act shall be regulated, as far as may be, by the Code of Civil Procedure, 1908 (Act V of 1908).

41. Power of High Court to make rules regulating procedure.—

(1) The High Court shall, by notification in the Official Gazette, make such rules consistent with the provision contained in this Act and the Code of Civil Procedure, 1908 (Act V of 1908), as it may consider expedient for the purpose of carrying into effect the provisions of Chapters V, VI and VII.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules shall provide for,—

(a) the impleading by the petitioner of the adulterer as a co-respondent on a petition for divorce on the ground of adultery, and the circumstances in which the petitioner may be excused from doing so ;

(b) the awarding of damages against any such co-respondent ;

(c) the intervention in any proceeding under Chapter V or Chapter VI by any person not already a party thereto ;

(d) the form and contents of petitions for nullity of marriage or for divorce and the payment of costs incurred by parties to such petitions ; and

(e) any other matter for which no provision or no sufficient provision is made in this Act, and for which provision is made in the Indian Divorce Act, 1869 (IV of 1869).

42. Saving.—Nothing contained in this Act shall affect the validity of any marriage not solemnized under its provisions ; nor shall this Act be deemed directly or indirectly to affect the validity of any mode of contracting marriage.

43. Penalty on marriage person marrying again under this Act.—Save as otherwise provided in Chapter III, every person who, being at the time married, procures a marriage of himself or herself to be solemnized under this Act shall be deemed to have committed an offence under section 494 or section 495 of the Indian Penal Code (Act XLV of 1860), as the case may be, and the marriage so solemnized shall be void.

44. Punishment of bigamy.—Every person whose marriage is solemnized under this Act and who, during the lifetime of his or her wife or husband, contracts any other marriage shall be subject to the penalties provided in section 494 and section 495 of the Indian Penal Code (Act XLV of 1860), for the offence of marrying again during the lifetime of a husband or wife, and the marriage so contracted shall be void.

45. Penalty for signing false declaration or certificate.—Every person making, signing or attesting any declaration or certificate required by or under this Act containing a statement which is false and which he either knows or believes to be false or does not believe to be true shall be guilty of the offence described in section 199 of the Indian Penal Code (Act XLV of 1860).

46. Penalty for wrongful action of Marriage Officer.—Any Marriage Officer who knowingly and wilfully solemnizes a marriage under this Act—

(1) without publishing a notice regarding such marriage as required by section 5, or

(2) within thirty days of the publication of the notice of such marriage, or

(3) in contravention of any other provision contained in this

Act,

shall be punishable with simple imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

47. Marriage Certificate Book to be opened to inspection.—(1) The Marriage Certificate Book kept under this Act shall at all reasonable times be opened for inspection and shall be admissible as evidence of the statements therein contained.

(2) Certified extracts from the Marriage Certificate Book shall, on application, be given by the Marriage Officer to the applicant on payment by him of the prescribed fee.

48. Transmission of copies of entries in marriage records.—Every Marriage Officer in the State shall send to the Registrar-General of Birth, Deaths and Marriages of that State at such intervals and in such form as may be prescribed, a true copy of all entries made by him in the Marriage Certificate Book since the last of such intervals, and, in the case of Marriage Officers outside the territories to which this Act extends, the true copy shall be sent to such authority as the Central Government may specify in this behalf.

49. Correction of errors.—(1) Any Marriage Officer who discovers any errors in the form or substance of any entry in the Marriage Certificate