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Reasons and Decision – Motifs et décision

Sponsorship Appeal

Appellant(s)	Arvind KUMAR	**Appelant(e)(s)**
and		**et**
Respondent	Minister of Citizenship and Immigration	**Intimé(e)**
Date(s) of Hearing	May 15, 2025	**Date(s) de l'audience**
Place of Hearing	Toronto, ON (by virtual audience)	**Lieu de l'audience**
Date of Decision	June 11, 2025	**Date de la décision**
Panel	Z. Mia	**Tribunal**
Counsel for the Appellant(s)	Naina Aujla	**Conseil de l'appelant(e) / des appelant(e)s**
Designated Representative(s)	N/A	**Représentant(e)(s) désigné(e)(s)**
Counsel for the Minister	Alexandra Kunkel	**Conseil du (de la) ministre**

REASONS FOR DECISION

OVERVIEW

[1] Arvind Kumar (Appellant) sponsored Kajal[1] (Applicant) to come to Canada as his spouse. The sponsorship was refused because a Canadian immigration officer concluded that the couple are in a bad faith relationship because it is not genuine and was entered into primarily for an immigration purpose.[2] Additionally, the officer determined that the couple's marriage is not valid in India and therefore, the Applicant cannot be sponsored as a spouse.[3] The Appellant appeals the refusal.[4]

[2] The Appellant and the Applicant are, respectively, 27 and 25 years old. They are both citizens of India and the Appellant became a Canadian permanent resident in 2022. They state that they married in India in November 2022.

[3] The couple testified at the hearing through a Hindi-English interpreter provided by the tribunal. The Appellant testified from Canada and the Applicant testified from India.

[4] In this appeal I must decide whether the Appellant has met the burden of demonstrating, on a balance of probabilities, that the marriage is genuine and was not entered into primarily for the Applicant to acquire any status or privilege under the *Immigration and Refugee Protection Act*. As well, I must decide whether, on a balance of probabilities, the couple's marriage is valid for immigration purposes.

[5] Appellants at this tribunal have the benefit of a *de novo* hearing where they can address the concerns raised by immigration officials and, in cases such as this one involving a spousal sponsorship, show why the marriage is genuine and was not entered into primarily for an immigration purpose. In this case, the couple must also show that their marriage is valid for immigration purposes. In short, appellants have a chance to be heard and prove their case. They can do this by putting their best foot forward with reliable – clear, consistent, and credible – oral testimony and supporting evidence.

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[1] The Applicant does not have a surname.
[2] *Immigration and Refugee Protection Regulations*, s. 4(1).
[3] *Immigration and Refugee Protection Regulations*, s. 117(1)(a).
[4] *Immigration and Refugee Protection Act*, S.C. 2001, c.27, s. 63(1).

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[6] After hearing the testimony of parties, Respondent's counsel submitted that the couple's relationship is genuine and was not entered into primarily for an immigration purpose. They showed knowledge of each other and their families, they are compatible in age and education, there is a record of consistent communication, and there is evidence of financial support.

[7] The only outstanding issue for the Respondent is validity of the marriage under Indian law. The burden was on the Appellant to show compliance with Indian law, and he did not do so. Respondent's counsel said the couple did not complete an essential ritual in Hindu marriages performed in India: the Saptapadi, which is where a couple completes seven circumambulations around a sacred fire and makes vows. There is no reliable proof that the Saptapadi was done and the one photograph purporting to show the Saptapadi has likely been manipulated. The Respondent asks for the appeal to be dismissed because the couple are not spouses for immigration purposes and thus the Applicant cannot be sponsored by the Appellant.

[8] Appellant's counsel submitted that the couple were advised by a pandit (Hindu religious leader) to do limited ceremonies and celebrations at their marriage because of a problem with the Applicant's horoscope. The couple have a marriage certificate, which is sufficient to prove they completed the requisite rituals and, in any event, they did all the rituals in early 2024 once the horoscope problem had resolved.

[9] Considering the testimony and documentary evidence, I agree with Respondent's counsel's assessment that the couple are in a genuine relationship that was not entered into primarily for an immigration purpose. I also agree with Respondent's counsel that the Appellant has not shown that the November 2022 marriage is valid in India. The Saptapadi is a necessary element of a Hindu marriage in India and there is no reliable proof that it was performed in November 2022 as the couple claim. I did not find the couple's testimony regarding the Saptapadi credible. They were not able to offer clear explanations regarding this key ritual. Moreover, the only photograph in the evidence purporting to show the Saptapadi has likely been manipulated and thus, it is unreliable. All told, the Appellant failed to discharge the burden of showing with reliable testimony and evidence that the marriage is valid in India.

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DECISION

[10] The Appellant did not meet the burden of showing that the marriage is valid for immigration purposes. As a result, the Applicant is not a member of the family class and cannot be sponsored as a spouse.

[11] The appeal is dismissed.

LAW

[12] The *Immigration and Refugee Protection Regulations* (*Regulations*) provide that spouses can be sponsored for Canadian permanent residence as members of the family class:

> **117 (1)** A foreign national is a member of the family class if, with respect to a sponsor, the foreign national is
>
> (a) the sponsor's spouse, common-law partner or conjugal partner;[5]
>
> …

[13] The *Regulations* define marriage as follows:

> ***marriage***, in respect of a marriage that took place outside Canada, means a marriage that is valid both under the laws of the jurisdiction where it took place and under Canadian law.[6]

ANALYSIS

The couple did not show that their marriage is valid.

[14] As explained below, the Appellant and the Applicant did not show that their marriage, conducted in November 2022, is valid for immigration purposes. There is a lack of reliable evidence showing that they completed the necessary rituals for a valid marriage in India, and the couple did not provide reasonable explanations for the evidentiary shortcoming. I am particularly concerned that they may have proffered a manipulated photograph to show that the Saptapadi required in Hindu marriage ceremonies took place.

[5] *Immigration and Refugee Protection Regulations*, s. 117(1)(a).
[6] *Immigration and Refugee Protection Regulations*, s. 2.

[15] The Appellant and the Applicant said they married through a Hindu ceremony in India in November 2022. Their union was arranged by their parents.

[16] The visa officer was concerned that the couple did not perform all the essential rituals required for a Hindu marriage in India, especially the Saptapadi. The substance of the officer's concern is laid out in the Global Case Management System (GCMS) notes as follows:

> **I have concerns that your marriage is not legal or valid as they do not show all the customary rites and ceremonies of a traditional Hindu marriage based on the photographic evidence provided by you.**
>
> There appear to be limited pre and essential wedding ceremonies, **the essential ritual of Saptapadi is not seen** and there appears to be no post wedding ceremonies depicted. I note that you do not appear to be wearing the traditional chura, or the tying of the mangal sutra in front of the priest and **the circumambulations around the holy fire are not seen in the photos, which are essential to any Hindu marriage ceremony.**
>
> …
>
> **In India, by law and tradition, no Hindu marriage is binding or complete unless the ritual of seven steps and vows in presence of fire (Saptapadi) is completed.**
>
> …
>
> **The priest chants the mantras, while the couple takes rounds around the sacred fire. They take seven steps together that are known as the saptapadi.** The married couple then seeks the blessings of all their elders. If indeed, they followed customs outside the norm, the sponsor and applicant, as per section 3 of the Hindu Marriage Act must show:
>
> the expressions "custom" and "usage" signify any rule which, show having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family:
>
> - Provided that the rule is certain and not unreasonable or opposed to public policy; and
>
> - Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family;
>
> According to the Hindu Marriages Act Section 7
>
> (1) A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto.

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> (2) Where such rites and ceremonies include the Saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.
>
> **Upon review of submissions and based on your responses, the event photographed does not depict that a traditional Hindu marriage ceremony was performed as per the rituals and customs.** Mere registration is not a proof of valid or invalid marriage.[7]
>
> [Emphasis added.]

[17] As they told the visa officer, the couple testified that the Appellant's family pandit told them there was a "Manglik fault" in the Applicant's horoscope that did not augur well for a marital union at the time. This meant they could not follow all the marriage rituals and have a big celebration. The Appellant's mother trusted the pandit and thus, they followed his advice in having a small gathering of about 100 people and the marriage rituals were modified to account for the horoscope fault. The supporting evidence shows that modifications to some marriage rituals are acceptable.[8] The couple said they did not do the Sehra, Doli, Chura, and the tying of the groom's turban per the pandit's instruction. They testified that they did perform the Saptapadi. As well, they said they exchanged garlands, had a ring ceremony, and did the Sindoor.

[18] The substance of this appeal turns on whether the couple completed the Saptapadi.

[19] After repeatedly being asked, the Appellant acknowledged that the Saptapadi is essential for a Hindu marriage in India. As well, the Respondent provided reliable evidence showing this ritual is required for a marriage to be valid in India.[9] Based on the Appellant's testimony and the Respondent's evidence, I am satisfied that the Saptapadi – seven circuits around the fire and vows – is an essential element of a valid Hindu marriage in India.

[20] The Appellant said all the required rituals were completed and reflected in the photographs provided with the sponsorship application and in the evidence for this appeal. There are several photographs of the November 2022 event, but only one purporting to depict the Saptapadi.[10] The visa officer was concerned, as the Respondent is in the appeal before me, that this photograph is an

[7] Appeal Record, pp. 54-55.
[8] Exhibit A-3.
[9] Exhibit R-1.
[10] Appeal Record, p. 140.

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amalgam of two photographs. The GCMS notes include the following from the Applicant's interview with the visa officer:

> Q. Only one photograph was initially submitted as evidence of the rituals of pheras [Saptapadi] - and the photograph submitted with the application appears to be super-imposed. It appears that two photographs have been morphed into one – in order to depict that a phera is being held. No other photographs were provided, and you haven't brought any either.
>
> * * Showed the morphed photograph to the applicant - she had no answer / neither did she deny.**[11]

[21] The pandit does not appear in any of the photographs.

[22] When asked whether the Saptapadi was done in November 2022, the couple repeatedly pointed to the horoscope fault and the modified rituals. Ultimately, they insisted that Saptapadi was done.

[23] The Appellant and the Applicant were not credible when replying to questions about the photograph purporting to depict the Saptapadi.

[24] When asked why more photographs of an essential element of the marriage were not provided, the couple said they hired a local photographer to take the images. I do not see why the use of a local photographer is a reasonable explanation for why more photographs of the Saptapadi showing the couple and the pandit were not provided. When reminded that some of the guests likely had smartphones with cameras and may have taken photographs of the Saptapadi, the Appellant did not give a relevant reply, but simply said he and the Applicant "didn't know this would be an issue". He reiterated that they hired a local photographer and offered no other reasonable explanation. The couple were not credible on the issue of additional photographs of the Saptapadi. The Appellant is represented by counsel and the visa officer's concern about the photograph in question was known to the couple for some time. Arguably, the Appellant could have canvassed the wedding guests prior to the appeal hearing to see if more photographs could be provided showing the couple performing the Saptapadi with the pandit present.

[11] Appeal Record, p. 48.

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[25] I examined the photograph[12] purporting to show the Saptapadi and find it unreliable because it is likely a combination of two or more images that have been altered. The photograph depicts the couple standing together with a fire at the bottom right of the image and several other people are present. The center left part of the image shows a portion of tile steps that are out of place with the rest of the scene which shows carpet and grass. This artefact suggest that the photograph has likely been manipulated by merging two images. As well, there are other artefacts – the Appellant's feet, the bottom of the Applicant's dress, the edges of the carpets, and different visual perspectives between the left and right halves of the image – which suggest an altered image. Finally, the ritual fire also appears to be incongruent with the rest of the image.

[26] In response to the concerns about the photograph purportedly showing the Saptapadi, the Appellant said the ritual was done and pointed to a statutory declaration provided by the pandit.[13] In that declaration, the pandit refers to the horoscope fault and resulting modifications to the Sehra, Doli, and Chura. While the pandit declares that the marriage "was solemnized with the full adherence to the necessary Hindu rituals and ceremonies, as modified in accordance with astrological guidance", there is no mention of the Saptapadi and whether it was performed or modified. In my view, the pandit's declaration is of little help in clearing up the concern regarding the validity of the marriage, especially in light of the altered photograph.

[27] As discussed above, the Appellant failed to show that the Saptapadi was performed in November 2022. The couple's testimony that the ritual was performed is not credible, and my concern is amplified by the fact that the image purporting to show the Saptapadi was likely manipulated.

CONCLUSION

[28] As explained in these reasons, the Appellant and the Applicant are in a genuine relationship that was not entered into primarily for an immigration purpose. However, the Appellant did not show that his marriage is valid in India and as a result, the Applicant cannot be sponsored as a spouse. Therefore, the appeal is dismissed.

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[12] Appeal Record, p. 140.
[13] Exhibit A-1, pp. 12-13.

NOTICE OF DECISION

The appeal is dismissed

(Signed) Z. Mia

Z. Mia

June 11, 2025

Date

Judicial Review – Under section 72 of the *Immigration and Refugee Protection Act*, you may make an application to the Federal Court for judicial review of this decision, with leave of that Court. You may wish to get advice from counsel as soon as possible, since there are time limits for this application.

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