

LIVE-IN RELATIONSHIPS IN INDIA

Written by *Prof. Dr. Komal Audichya** & *Shreya Sharma***

**SSLG, Jaipur National University*

***Jaipur National University*

INTRODUCTION

The concept of a live-in relationship was a practice that maintained a strategic distance from Indian culture for quite a while. Living together before tying the knot is an offense to the Indian culture earlier. In particular, the Hindu Dharma leans towards 'One man, one wife' as the most sacred type of marriage. India a nation of cultural values and customs, ceremonies can't stand to dive into western culture. However, since developing economy and individuals getting increasingly mindful, India at last needs to step ahead and stroll with the rest of the world by authorizing Live-in relationship. The state cabinet gave its green sign to amend section 125 of the Criminal Procedure Code which tries to secure the financial interests of different women. In any case, it would require the center's stamp of approval to turn into a law. The meaning of the word wife would need to be change which is under section 125. The change done would resemble a woman who trusts in Live-in relationship or needs to have a polygamous relationship is legitimate. The state has proposed a sensibly significant period of time for that woman to remain with the mate, however has not characterized the span of that period especially. In a nation like India this is one of the odd steps taken, yet at the same time its better one.

The legitimate meaning of live in relationship is "a plan of living under which the couples which are unmarried live together to conduct a long-going relationship correspondingly as in marriage." A live-in relationship is one such association in which a boy and young girl have some connection before their marriage and if they are happy and contented with their partner they get hitched or are like that for quite a long time. This sort of act however appears to be changed; it is one, which is being actualized today. Live-in relationship handles the matter of pre-marital sex, yet those couples who are keeping up relations wouldn't fret such things. By and large, this connection develops harmony between the couples, however ruins their social

impact. Live in relation; for example, cohabitation is an arrangement whereby two individuals choose to live together on a long haul or permanent basis in an emotionally and/or sexually intimate relationship. The term is most frequently applied to couples who are not hitched.

JUDICIAL INTERPRETATION

Live-in relationships were legitimately viewed as void-ab-initio. Yet, in a judgment in 1978, such connections are legitimate just because on account of the Supreme Court. If the imperatives of a marriage, for example, mental soundness, the satisfaction of the legitimate age of marriage, consent, and so on are altogether fulfilled, the couple is viewed as in a lawful live-in relationship. The couple is likewise viewed as married in the event that they live together for an extensively significant period until demonstrated generally.

The apex court has given five distinct sorts of living together in the excellent judgment of *Indra Sarma vs. V.K.V.Sarma*ⁱ in 2013. Firstly, as indicated by the court and domestic cohabitation between a grown-up male and a grown-up female who are unwed is the simplest type of relationship. Secondly, the cohabitation between a wedded man who is a grown-up and unwed grown-up women or the other way around. It is imperative to specify about live-in relationship, that cohabitation is occurring with common consent. The Supreme Court has made it clear that any domestic relationship with a wedded individual will equivalent to adultery. Thus, regardless of whether the cohabitation happens accidentally can go about as a ground for divorce. Finally, the apex court additionally talks about the domestic cohabitation which happens between homosexual partners.

It likewise expressed that such connections fall within the ambit of Section 2(f) of the Protection of Women against Domestic Violence Act, 2005 that gives an understanding of the said concept. In living relationships, the aspects of the relationship may arrive at a conclusion, regardless of any decision made by the couple.

On 23.03.2010 the Hon'ble SC in *S. Khushboo v. Kanniammal*ⁱⁱ case opined that a man and woman living together without marriage can't be interpreted as an offense. "At the point when two grown-up individuals need to live together what is the offense. Does it add up to an

offense? Living together isn't an offense. It can't be an offense," a three-judge bench observed. The court said even Lord Krishna and Radha lived together as indicated by folklore.

The Allahabad High Court again perceived the idea of live-in relationship in *Payal Sharma v. Nari Niketan*ⁱⁱⁱ, wherein the Bench comprising of Justice M. Katju and Justice R.B. Misra observed that "In our opinion, a man and a woman, even without getting married, can live together if they wish to. This may be regarded as immoral by society, but it is not illegal. There is a difference between law and morality." Thereafter, in *Ramdev Food Products (P) Ltd. v. Arvindbhai Rambhai Patel*^{iv}, the Court observed that two individuals who are in a live-in relationship without a proper and formal marriage are not criminal wrongdoers. This judgment at that point was made applicable to different cases.

In *Madan Mohan Singh v. Rajni Kant*^v, the Court held that, the live-in relationship whenever proceeded for a long time, can't be named as a "walk in and out" relationship and that there is a presumption of marriage between the parties. By this methodology of the Court, it is very well be derived that the Court is agreeable to treating long term living relationships as marriage instead of giving making it another idea like a live-in relationship.

In later part of 2010 the Delhi High Court decided *Alok Kumar v. State*^{vi} which likewise was identified with live-in relationships. The complainant was in a live-in relationship with the petitioner, who had not in any case divorced from his previous wife and had his very own offspring. The complainant additionally had her very own offspring. The Delhi High Court, in this manner, labeled the idea of such relationship as a walk-in and walk-out relationship with no legal strings attached. It is a contract of living together "which is renewed every day by the parties and can be terminated by either of the parties without consent of the other party". The individuals who would prefer not to go into such connections go into a relationship of marriage which makes a lawful bond that can't be broken by either party freely or at will. Along these lines, individuals who decide to have "live-in relationships" can't later grumble of betrayal or unethical behavior.

In *Chanmuniya v. Chanmuniya Kumar Singh Kushwaha*^{vii} where High Court announced that the appellants wife isn't qualified for maintenance on the ground that only legitimately wedded lady can claim maintenance under Section 125 CrPC. In any case, the Supreme Court turned down the judgment conveyed by the High Court and granted maintenance to the wife saying

that provisions of Section 125 CrPC must be considered in the light of Section 26 of the PWDVA, 2005. The Supreme Court held that women in live-in relationship are similarly entitled to every claims and relief which are accessible to a lawfully married wife.

In the cases, before independence like *Andrahennedige Dinohamy v Blahamy*^{viii} the Privy Council set out an broad interpretation proposing that, where a man and a woman are proved to have lived together as a husband and wife, the law will presume, except if the contrary be plainly demonstrated, that they were living together in result of a substantial or a valid marriage and not in a condition of concubinage. After independence, the primary case that can be reviewed is *Badri Prasad v Dy. Chief of Consolidation*^{ix} wherein the Supreme Court perceived live-in relationship as a legitimate marriage, putting a stop to questions raised by experts and authorities on the 50 years of life in a relationship of a couple.

The equivalent was relied on in *S. Khushboo v Kanniammal and Anr*^x. With the husband surviving, Rangammal can't invoke presumption of live-in. In this manner the children got illegitimate and precluded to acquire u/s 16 of the Hindu Marriage Act, 1955. This judgment isn't restrictive law for live-in kids. Along these lines, live-in could be a risky thing between a wife and non-husband as it could prompt the wrongdoing of adultery, but never to 'marriage'.

PROTECTION AGAINST EXPLOITATION OF WOMEN AND CHILDREN IN LIVE-IN RELATIONSHIPS

Maintenance of lady partner

The right of maintenance is accessible to wives under every single personal law in India. But none of the religions perceive and acknowledge live-in relationships. Since no cure is allowed to women associated with a live-in relationship, Indian Courts have augmented the extent of maintenance under the Criminal Procedure Code. Accordingly, Section 125 of the Criminal Procedure Code has been given to give a legitimate right of maintenance to woman partners in or out of a marriage. In *Abhijit Bhikaseth Auti v. State of Maharashtra and Others*^{xi}, the SC additionally observed that it isn't vital for women to establish the marriage to claim maintenance under sec. 125 of Cr.P.C. The Malimath committee had likewise proposed that the word 'wife' 'under Cr.P.C. be changed to incorporate a 'woman living with the man like his wife' which implies the lady would likewise be qualified for a divorce settlement.

Domestic Violence

The Domestic Violence Act was upheld as an endeavor to protect women from harsh and abusive (physical, mental, verbal or economic) marital connections. According to Section-2 (f), it applies to a wedded couple, yet additionally to a 'relationship in nature of marriage'. In this manner, considering this even the Supreme Court in a few cases has enabled live-in relationships to be covered within the ambit of the law indicated. In ***Lata Singh v State of UP and Anr***^{xiii} The Apex Court held that the live-in relationship was passable just between unmarried major persons of heterogeneous sex. In the event that a spouse is hitched, the man could be liable for adultery punishable under area 497 of the IPC.

Children out of marriage

Partners living together for quite a while may have children together. Nonetheless, live-in couples are not permitted to adopt kids according to the guidelines governing the Adoption of Children as advised by the Central Adoption Resource Authority. In ***S.P.S. Balasubramanyam v Suruttayan Andalli Padayachi and Ors***^{xiii}, the Supreme Court permitted presumption of marriage u/s 114 of Evidence Act out of live-in relations and presumed that their kids were legitimate. Henceforth, they are legitimately qualified for getting a share in ancestral property. In another milestone, judgment was passed on account of ***Tulsa v. Durghatiya***^{xiv}, where it was held by the Supreme Court that any child brought into the world out a co-living relationship won't be considered as illegitimate. The main essential being that the guardians of the child must be living together under a similar rooftop that too for a given number of years so that the general public can regard them to be 'husband' and 'wife'.

Legitimacy and inheritance rights of children

Inheritance rights of children are referenced in Section 16 of the Hindu Marriage Act, where the legitimate status of legitimacy is given even to illegitimate kids (those resulting from marriage) for the sole purpose behind a legacy. In this manner, inheritance rights have been conceded to children resulting from a live-in relationship. These rights are accessible in both ancestral and self-purchased properties. Live-in relations endured a difficulty with the bar imposed by the Supreme Court in its judgment conveyed in a Family debate in the matter of ***Bharatha Matha v. R. Vijaya Renganathan***^{xv}. The Supreme Court held that a child resulting

from a live-in relationship was not qualified for claiming legacy in Hindu ancestral coparcenary property. By all accounts, to be a general law yet its foundation of jurisdiction lies in the facts particular to this case. This decision may not be acknowledged as a general law by any means. It is just advocated in this specific issue, yet whenever applied to all live-in relations raising a presumption of conjugal bond; it would bring about a gross miscarriage of justice.

Custody and maintenance rights of children

The position on the maintenance rights of children out of marriage varies in personal marriage laws. For instance, under the Hindu Law the father has to maintain the child, whereas under the Muslim Law the father has been absolved of such an obligation. However, under Section 125 of the Criminal Procedure Code, remedy is available for children who are unable to claim maintenance under personal laws. Section 125 provides a legal right of maintenance to wives, children etc. Lately, the Supreme Court decided that couples living in live-in relationship will be assumed legitimately wedded. The Bench additionally included that the woman in the relationship would be qualified to acquire the property after the death of her partner.

LIVE IN RELATIONSHIP VERSUS MARRIAGE

A few of the significant differences with regards to discussing live in a relationship versus marriage include:

- **Family Support:** This is one significant purpose of contrast between the two. With regard to marriage, the conviction is that marriage happens between two families. However, with regards to a live-in relationship, it is just between two individuals. Family support if there should arise in a case of marriage is certainly present which is, for the most part, ailing in a live in relationship. Particularly in India families still, disdain after living relationships.
- **Children:** Marriage is known to have social and lawful advantages for children and youngsters. Despite the fact that the child resulting from a live in relationship is legitimate, in any case, the father in this situation doesn't hold a commitment to support the child. Here, the mother is, for the most part, viewed as the lawful guardian.
- **Commitment:** There are a plethora of studies and articles on live in a relationship that show that individuals staying in a co-living relationship have commitment issues later

on when contrasted with wedded couples. Clinicians accept that individuals who for the most part have commitment issues go into a co-living relationship.

- **Health:** There are different researches about which propose that individuals who are married have better mental and physical wellbeing in contrast with unmarried couples which likewise involves live-in partners. There have been reports where married couples show lower paces of chronic diseases and illnesses in contrast with live in partners.

LIVE-IN RELATIONSHIP IN OTHER COUNTRIES

Various nations have a diverse stand on Live-in relationships. For instance, Bangladesh cohabitation after divorce is much of the time rebuffed by the salishi system of informal courts, particularly in rural areas. In Indonesia, an Islamic penal code proposed in 2005 had made cohabitation punishable of as long as two years in jail. Likewise, cohabitation is illicit as indicated by Shariat law in nations where it has been practiced. On the contrary, in many developed nations like the USA, Denmark, Norway, Sweden and Australia and others, live-in relationship is normally practiced, acknowledged and are not viewed as illicit.

United States: The American legal history was then witnessed to a few consensual sex enactments, which prepared for living together contracts and their cousins, the “prenuptial agreements”. The nation later established living together by giving cohabiters basically indistinguishable rights and obligations from wedded couples, just like Sweden and Denmark. Those living together are not perceived as legitimate guardians.

Australia: Segment 4AA of Family Law Act 1957 characterizes the significance of de-facto relationship it says that an individual is in de fact association with someone else if: (a) The people are not legitimately married to one another, and (b) The individual is not related by family and (c) Having respect to every one of the conditions of their relationship, they have a relationship as a couple living together on a certified household basis.

United Kingdom: In spite of the fact that a man and woman living together in a stable sexual relationship are frequently alluded to as “common law life partners”, the articulation isn’t completely right in law in England and Wales. In the UK, live in couples does not enjoy lawful

approval and status as allowed to the wedded couple. It feels that live-in partners owe each other more than that to be deserving of the term. However, the law looks to ensure the right of a child brought into the world under such a relationship. The two guardians have the onus of raising their kids independent of the way that whether they are married or cohabiting. According to a 2010 note from Home Affairs Section to the House of Commons, if a cohabiting couple separates, the courts have no power to supersede the strict legal ownership of property and separate it as they may do on divorce. Besides, there is no commitment or obligation on the part of the partners to keep up with one another. Furthermore, partners don't have inheritance right directly over one another's property except if named in their partner's will. In any case, to pay tax unmarried couples are seen as an individual under the *Civil Partnership Act 2004*.

Scotland: The live-in relationship was given lawful sanctity in the year 2006 by *Family Law Act*. Section 25 (2) of the Act states that a court can consider an individual as a co-habitant of another by keeping an eye on three factors; the length of the period during which they lived together, the nature of the relationship during that period and the nature and degree of any financial arrangements, in the event of breakdown of such relationship^{xvi}. Section 28 of the Act gives a cohabitant the right to apply in court for monetary help. This is if there should arise an occurrence of detachment or separation and not the death of either spouse. In the event that a partner dies intestate, the survivor can move the court for monetary help from his domain within 6 months.

France: In France, there is the provision of "*Common Solidarity Pacts*" known as "*pacte civil de solidarite*" or *PaCS*^{xvii}, passed by the French National Assembly in 1999 that enables couples to go into an association by signing under the watchful eye of a court assistant or a clerk. The contract ties "two adults of distinct sexes or of similar sex, so as to compose their common life" and enables them to enjoy the rights concurred to wedded couples in the areas of the income tax, lodging, and social welfare. The contract can be revoked unilaterally or bilaterally subsequent to giving the partner three months' notification recorded as a hard copy.

Philippines: Herein, the live-in relationship couple's right to one another's property is represented by Co-ownership rule. Article 147, of *The Family Code, 1987*, it states that when a man and a woman who are capacitated to wed one another, live only with one another as a

husband and wife without the advantage of marriage or under a void marriage, their wages and salaries will be claimed by them in equivalent shares and the property obtained by the two through their work or industry will be represented by the rules or guidelines on co-ownership.

CONCLUSION

It ought not to be denied that our culture needs a legislature to manage connections that are probably going to develop in number with changes in the ideology of individuals. The right opportunity has arrived that endeavors ought to be made to enact a law having clear provisions as to the time range required to provide status to the relationship, enrollment, and rights of parties and children born out of it. Laws ought to be made by the parliament, which should keep a check of the act of sidestepping servitudes. In this way, the legal status of live-in relationships in India has been developed and dictated by the Supreme Court in its different decisions. The Supreme Court expresses that living together is a right to life and in this way it can't be held illegal. In any case, there is no different enactment that sets out the provisions of live-in relationships and gives lawfulness to this concept. Despite the fact that the concept of live-in relationship is viewed as immoral by the general public, however, is certainly not unlawful or illegal according to the law. The court has likewise attempted to improve the plight of the women and kids borne out of live in relationships by characterizing their status under the Domestic Violence Act, 2005 if the relationship ends up being "relationship in the nature of marriage".

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