



A LEGAL STUDY TO PROTECT THE RIGHTS OF COUPLE IN LIVE- IN- RELATIONSHIP IN INDIA.

Dr. A. Narayanaswamy

Assistant Professor of Law

Vidyodaya Law College

Tumakuru, Karnataka, India

Abstract : Marriage is one of the primary institutions, but its practices are different from one religion to another and one part of the region to another part of globe. Internationally, live in relationships have been recognized by many countries like USA, France, Scotland, Canada and Australia. Perhaps with the impact of globalization, development of education and widespread of legal awareness, Live in relationship is being practiced as a modern trend in India also. It is a living arrangement in which an unmarried couple lives together under the same roof in a long term relationship. There is no specific law to regulate and control live in relationship in India. The foundation for live in relationships is based on individual freedom and liberty, which is fundamentally recognized and guaranteed under Article 21 of the Indian Constitution such as protection of life and personal liberty and including right to privacy as a fundamental rights. In case of violation of these rights judiciary is empowered to protect the rights of individuals. So that, at very first the Hon'ble Supreme Court of India recognized the live in relationship as a valid marriage in **Badri Prasad vs. Dy. Director of Consolidation** in which the Court gave legal validity to live in relationship as a couple. There are several causes and different issues in live in relationship. Even women in relationship have to right to get maintenance and children are entitled to get to maintenance and property.

IndexTerms - Live in Relationship, Couple, Rights, Freedom, Maintenance and Judiciary.

I. INTRODUCTION

Marriage is a universal institution, but, its practices are different from one country to another and one religion to another religion. According to the Hindu custom, marriage is a sacrament since the Vedic period and it is an enduring bond between a male and a female, which provides rights and obligations between the spouses. Besides, different personal laws have been recognized the rights and obligations of the couple married as per their customs and religious practices which permit for divorce, maintenance, adoption and succession right now in India.

However, live in relationship is a new concept to India and Hindu custom didn't permit to practice it; perhaps, it was common practice in western countries only. This form of living together is not recognized even by the Hindu Marriage Act, 1955 or any other statutory law and generally a common man is still hesitant in accepting this kind of practice. Perhaps, with the development of education and widespread of legal awareness, it is being practiced in modern India, especially in metropolitan areas. The foundation for live in relationships is based on individual freedom, privacy and liberty, which are fundamentally recognized and guaranteed

under Article 21 of the Indian Constitution such as protection of life and personal liberty and including right to privacy. Indeed, there is no specific law on the live in relationship and there is no legislation to define the rights and obligations of the parties in a live in relationships and the status of children born to such couples.

II. OBJECTIVES OF THE RESEARCH PAPER:

The research paper covers on the protection of rights of couple in live in relationship and the objectives of this paper are as follows:

- 1) To examine the rights of couple in live in relationship,
- 2) To know the Constitutional and Legislative provisions to regulate live in relationship in India,
- 3) To determine the causes for in Live in relationship,
- 4) To trace out the issues in Live in relationship,
- 5) To find out the role of judiciary to protect the rights of couple in live in relationship in India,
- 6) To trace out solutions in the direction to protect the rights of women in Live in relationship.

III. THE METHODOLOGY ADOPTED IN THE RESEARCH PAPER:

The methodology adopted by the researcher in the present research paper is a doctrinal method of research, and the topic is related to legal frame work to protect the rights of couple in live in relationship. In this doctrinal research, the researcher has confined to study the reasons for live in relationship and to find out solutions in the direction to protect the rights of couple in live in relationship. Indeed, the researcher has followed the Analytical method of research in this research paper.

IV. HYPOTHESIS OF THE RESEARCH PAPER:

The researcher has undertaken the present study in order to find out the legal framework and judicial opinion to protect the rights of couple in live in relationship. Therefore, the researcher has framed the following hypothesis,

- 1) The existing legal frameworks relating to live in relationship are inadequate.
- 2) The role of Judiciary to protect the rights of couple in the live in relationship is sufficient.

V. REVIEW OF THE LITERATURE:

The review of literature provides an excellent beginning point to the research paper; perhaps, the area of research is focusing on the issue of protection of rights of couple in live in relationship. To carry out this research work, the researcher has referred relevant literature such as Books, Constitutional provisions; Enactments, Precedents and journals relied upon the materials relating to this area.

VI. MEANING OF LIVE IN RELATIONSHIP:

Live in relationship can be explained in a simple term as a relationship in the nature of marriage where both partners enjoy individual freedom and live in a shared household without being married to each other. It involves continuous cohabitation between the parties without any responsibilities or obligations towards each another. It is a living arrangement in which an unmarried couple lives together under the same roof in a long term relationship that resembles a marriage. So that, it is a type of arrangement in which a man and woman live together without marriage. Ultimately, this form of relationship has become an alternate to marriage in metropolitan cities in which individual freedom is the top priority amongst the youth and nobody wants to get entangled into the typical responsibilities of a married life. At very first the Supreme Court of India recognized the live in relationship as a valid marriage in **Badri Prasad vs. Dy. Director of Consolidation**, in which the Court gave legal validity to the 50 year live in relationship of a couple.

However, the rights of a partner of live in relationship was at very first recognised by the Protection of Women from Domestic Violence Act, 2005, which considers females who are not formally married, but are living with a male person in a relationship, which is in the nature of marriage, also akin to wife, though not equivalent to wife. Section 2(f) of the Act defines domestic relationship which means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related

by consanguinity, marriage, or through a relationship in the nature of marriage and adoption are family members living together as a joint family. Thus, the definition of domestic relationship includes not only the relationship of marriage but also a relationship in the nature of marriage. Section 2(q) in The Protection of Women from Domestic Violence Act, 2005 defines respondent means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act.

VII. CAUSES FOR LIVE IN RELATIONSHIP:

There are several causes why people prefer to live in relationship, they are as follows,

- **Individual Freedom:** In live in relationship couples are free of any obligations and can choose their life partner as their own choice. They are free birds and no in-laws trouble especially for a woman, they don't have any restrictions on dress or talk in a certain way and it offers personal freedom to both partners compared to marriage. If the couple is independent then they can also choose to spend their expenses as they please.
- **Free from Family bindings and Planning:** A married couple is expected and supposed to start family planning immediately after marriage. Sometimes it gives less time for couples to know each other in post marriage, but, in live-in relationship it doesn't oblige one to be pressurized for the same and it gives couple ample time to know each other and explore themselves and their relationship.
- **No Societal Norms:** Couple in live in relationship do not bother about social norms because they currently fall outside the norms of societal structure, the adverse influence of society can be avoided in them. This means that live-in relationships do not follow the otherwise necessary dictates of society.
- **Responsible for oneself only:** Unlike married couples, live-in couples are only responsible for themselves. A married couple might have to take care of a lot of responsibilities, such as their relatives, family traditions, children, kith and kin. On the other hand live-in couples are at most responsible for their partner and not anyone or anything else.
- **Financial Freedom:** It leads to financial freedom, unlike in a marriage where both know each other's income and saving and have to share finances. Couple can take independent decision to earning and spending money, whereas a married couple is more likely to share their earnings. No risk of such sort arises for live-in couples, whatever and wherever money is spent or shared, not burdening the other for money related explanations.
- **Free from Identity Crisis:** Couple free from identity crisis in live-in relationship. Couple are not someone's husband or son-in-law or brother-in-law or uncle or aunt. The humongous change of identity seen from being someone's son to someone's many avatars, may result in getting lost in the whirlpool of identity, but, Live-in couples are sure to enjoy just being no one's no one.
- **No Commitment Hassle:** No commitment issues and couple need not worry about committing to him/her, leave aside their family.
- **Smooth Break Ups:** No need of hard legal process of divorce in live in relationship, but it is a easy breakup. Something you can get out of whenever you want to and because of no commitments.

VIII. LEGAL FRAME WORK ON LIVE IN RELATIONSHIP IN INDIA:

As per the legal observations, yet, the Indian parliament is not enacted any specific law to regulate and control the conditions of couple in live in relationship. So that, there is no specific law on the subject of live in relationship in India and there is no legislative provision to define the rights and obligations of couple to a live in relationships, the legal status of children born to such couples and to claim maintenance of woman and divorce etc.. in live in relationship.

After the independence in India, to regulate and control mal practices relating to marriage among Hindus, the Hindu marriage Act was enacted in 1955, which provides provisions for the protection of matrimonial rights such as validity of marriage, restitution of conjugal rights, divorce and legitimacy of

children and maintenance of couple and children, but, the Act nowhere mentioned any provisions to couple in live in relationship and their children.

However, at very first, the protection women from Domestic violence Act 2005, defines domestic relationship which means a relationship between two persons who live or have at any point of time, lived together in a shared household, when there are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family protect members living together as a joint family.

IX. ISSUES BETWEEN COUPLE IN LIVE IN RELATIONSHIP:

There are several issues between the couple in Live in relationship, they are as follows,

- **In case of married man and unmarried woman lives in live in relationship: live in relationship allows only unmarried male or female to live together as a couple, but on the other hand married man and unmarried woman lives as a couple in live in relationship and they will face a lot of legal complications.**
- **It is difficult to determine and fix the duration of time in live in relationship:** as per the judicial interpretation, the couple in long standing relationship in live together, they can be recognized as a husband or wife, but it is difficult to determine the duration of long standing in live in relationship.
- **Due to temporary relationship, lack of security to couple in live in relationship:** whenever live in relationship is temporary and no obligations upon the other party, it is extremely difficult to impose obligation upon the other party for maintenance.
- **Lack of legal recognition and legal status to couple in live in relationship:** as compared to marriage, there is no legal recognition to couple in live in relationship.
- **Problem of legitimacy and inheritance rights of children in live in relationship.**
- **Problem of Maintenance to couple and custodial rights of children in live in relationship.**

X. RECOMMENDATIONS AND VIEWS OF COMMITTEES AND COMMISSIONS ON LIVE IN RELATIONSHIP

- **In 2003 Justice Malimath Committee** was recommended to include women in a live-in relationship for a "reasonably long period" under the definition of "wife" in Section 125 of the CrPC.
- **In 2008 the National Commission for Women (NCW)** recommended amending Section 125 of the Cr.PC to include women in live-in relationships.
- The 8th Law Commission of India also recommended inclusion of women in a live in relationships within the purview of Section 125 to claim maintenance.

XI. JUDICIAL RESPONSE TO PROTECT THE RIGHTS OF COUPLE IN LIVE IN RELATIONSHIP:

In the absence of any law to define the status of live in relationships, ultimately Courts have duty to come forward to give clarity to the concept of live in relationships and to protect the rights of couple in live in relationship. In this direction Courts have taken the view that “where an adult and unmarried man and woman live together as husband and wife for a long term, the law will presume that they are also legally married unless proved contrary” and the leading cases in this direction as follows;

1. In the case of **Payal Katara v. Superintendent, Nari Niketan and others**, the Allahabad High Court recognized the concept of live in relationship and the court held that live in relationship is not illegal. The Court said that a man and a woman can live together as per their wish even without getting married. It further said that it may be immoral for the society but is not illegal as per law.

2. Again in the case of **Patel and Others.**, the Supreme Court has held that live in relationship between two adults without marriage cannot be construed as an offence. It further held that there is no law which postulates that live in relationships are illegal. The concept of live in relationship was again recognized in the case of **Tulsa vs Dhurgatiya**.
3. In the case of **S. Khushboo vs. Kanniammal & Anr.**, the Supreme Court held that living together is a right to life, but it may be immoral in the eyes of the conservative Indian society, but, it is not “illegal” in the eyes of law. In this case, all the charges against Kushboo, the south Indian actress who endorsed pre- marital sex and live in relationship were dropped. The Court held that how can it be illegal if two adults live together, in their words “living together cannot be illegal.
4. However in one of its judgment **Alok Kumar vs. State of Delhi**, the Delhi High Court has held that live in relation is walk in and walk out relationship and no strings are attached to it. This kind of relationship does not create any legal bond between the partners. It further held that in case of live in relationships, the partners cannot complaint of infidelity or immorality.
5. Again the Supreme Court in the case of **D. Velusamy v. D. Patchaiammal** has held that, a ‘relationship in the nature of marriage’ under the protection of women from domestic violence 2005 Act must also fulfill some basic criteria. Merely spending weekends together or a one night stand would not make it a ‘domestic relationship’. It also held that if a man has a ‘keep’ whom he maintains financially and uses mainly for sexual purpose or as a servant it would not, in our opinion, be a relationship in the nature of marriage’. The court made it clear that if the man has a live-in arrangement with a woman only for sexual reasons, neither partner can claim benefits of a legal marriage. In order to be eligible for alimony, a relationship must comply with certain conditions, the apex court said. The following conditions were laid down by the apex Court:
 - The couple must hold themselves out to society as being akin to spouses;
 - They must be of legal age to marry; they must be otherwise qualified to enter into a legal marriage, including being unmarried;
 - They must have voluntarily cohabited for a significant period of time.

Conscious of the fact that the judgment would exclude many women in live-in relationships from the benefit of the Domestic Violence Act, 2005, the apex court said it is not for this court to legislate or amend the law. The parliament has used the expression ‘relationship in the nature of marriage’ and not ‘live-in relationship’. The court cannot change the language of the statute.

6. In **Indra Sarma vs. V.K.V.Sarma**, the Supreme Court has illustrated five categories where the concept of live in relationships can be considered and proved in the court of law, they are as follows;
 - Domestic relationship between an adult male and an adult female, both unmarried. It is the most uncomplicated sort of relationship.
 - Domestic relationship between a married man and an adult unmarried woman, entered knowingly.
 - Domestic relationship between an adult unmarried man and a married woman, entered knowingly.
 - Domestic relationship between an unmarried adult female and a married male, entered unknowingly.
 - Domestic relationship between same sex partners (gay or lesbian)

Right of maintenance is granted to wives under all personal laws- be it Hinduism, Islam, Christianity, or Zoroastrianism. However, none of these religions recognize live-in relationships. Instead, an unmarried woman living with a man is considered unchaste. In absence of any remedy available to women engaged in a live-in relationship, Courts have extended the scope of application of remedy available under Criminal Procedure Code.

7. In *Abhijit Bhikaseth Auti v. State of Maharashtra and others* and asserted that marriage in a strict form need not be shown to claim maintenance under Section 125 of the Criminal Procedure Code.
8. In a case in Delhi, the Delhi High Court awarded Rs. 3000/- per month as maintenance to a maid who was in a live in relationship with her widower employer. In *Varsha Kapoorvs UOI &Ors.*, the Delhi High Court has held that female living in a relationship in the nature of marriage has right to file complaint not only against husband or male partner, but also against his relatives.
9. In the case of *Koppiseti Subbharao Subramaniam vs. State of Andhra Pradesh*, the defendant used to harass his live in partner for dowry. In this case the Supreme Court held that the nomenclature 'dowry' does not have any magical charm written over it. It is just a label given to demand of money in relation to a marital relationship. The Court rejected the contention of the defendant that since he was not married to the complainant, Section 498A did not apply to him. Thus, the Supreme Court took one more step ahead and protected the woman in a live in relationship from harassment for dowry.
10. The Supreme Court of India took the initiative to safeguard the interest of children of live in couples. In the case of *BharataMatha&Ors.vs. R. VijayaRenganathan&Ors.*, the Supreme Court of India has held that child born out of a live-in relationship may be allowed to succeed inheritance in the property of the parents, if any, but doesn't have any claim as against Hindu ancestral coparcenary property.
11. In *Nisha Kumari and Another v. State of Punjab and Others*, the Hon'ble Punjab and Haryana High Court on 16 December 2024 addresses whether an individual, who is already legally married and living with a different partner, can claim protection of life and liberty under Article 21 of the Indian Constitution while in a live-in relationship. The key issue before the Court was whether a live-in arrangement involving at least one married person has the same legal standing as a relationship "in the nature of marriage." The petitioners, a 30-year-old woman who has not divorced her spouse and has two children and a 32-year-old man, sought protection against alleged threats from their families and the community. The court stated that no protection for Live-In relationship when one partner is already married.
12. In the case of *Chanmuniya v. Virendra Kushwaha*³, the Hon'ble SC overruled the previous decision, and upheld the right of a woman living in a live-in to claim maintenance under Section 125 CrPC. The woman may be given the right to maintenance under this section if there is a strong presumption of marriage as defined by section 114 of the Indian Evidence Act, 1872 for a sizable period of time.⁴

Based on the above judicial interpretation, it is stated that even though there is no special law relating to live in relationship, judiciary recognized as a marriage and entitled to claim relief from the Protection of Women from Domestic Violence Act, 2005 and Section 125 of the Cr.pc.

XII. SUGGESTIONS:

- To enact a separate law to recognize and regulate the rights and obligations of couple in live in relationship.
- To provide provision for registration couple in live in relationships.
- To bring an amendment to the Hindu succession act to provide right to succession and coparcenary property.
- To bring an amendment to the Hindu Adoption and maintenance act to adopt the child by couple of live in relationship.
- To bring an amendment to the Cr.pc and include the woman to get right to maintenance under it.
- To determine the obligation of married man in live in relationship.

XIII. CONCLUSION:

Based on the above discussion it is concluded that the Live-in relationships in India have still not received the consent of the majority of people. They are still considered a taboo to the Indian society. The majority of the people consider it as an immoral and an improper relationship. At present there is no specific legislation that deals with concept of live in relationship and the rights of the parties and the children of the live in partners. It was a very unambiguous concept until the Supreme Court of India took the initiative and declared that live in relationship though considered immoral but it is not illegal.

Through its various decisions the judiciary has tried to accord legality to the concept and protect the rights of the parties and the children of live in couples. But at present there is a need to formulate a law that would clarify the concept. There should be clear provisions with regard to the time span required to give status to the relationship, registration and rights of parties and children born out of it. The utmost need of the hour is to secure the future of the children born to live in couples. The steps taken by the judiciary are indeed welcoming and pragmatic in approach. Though the live in relations provide the individuals individual freedom but due to the insecurity it carries it with, there needs to be a law to curtail its disadvantages.

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