



LEGAL STATUS OF LIVE IN RELATIONSHIP IN INDIA

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ABSTRACT In recent time, there has been much debate about live-in relationships and their legal ramifications. In a recent landmark judgment, the Supreme Court ruled that a woman who had not been legally married to a man would inherit his property, which was hitherto only a privilege of a legally wedded wife. In socialist country the social values as well as individual liberties are secured by the state. The enduring debate on live-in-relationship can never have a conclusive viewpoint as it keeps varying from time to time and new issues observance up. It creates chaos and conflict with religion, social ethics and legal lenience. The author presents a history of live in relationship and perspective on legalization of live-in-relationship in western countries and also discusses the status of women involved in such relationship and legal effects and consequences of adopting such relationship in Indian social and legal system.

KEYWORDS : Live In Relationship, Rights, Supreme Court, Gandharva Marriage, Ancient

1. INTRODUCTION:

The meaning of live in relationship is a living arrangement. It is "an arrangement of living under which the couples which are unmarried live together to conduct a long-going relationship similarly as in marriage". In this relationship an unmarried couple lives together under the same roof in a way it resembles a marriage, but without getting married legally. This form of relationship does not thrust the typical responsibilities of a married life on the individuals living together. The foundation of live in relationship is individual freedom.

In Indian society, marriage is still considered as sacramental and eternal union. But with changing times, Indian society is slowly opening its doors for western culture and lifestyles and one of the most crucial episodes amongst it, is the concept of Live In Relationship. Live in relationship form a characteristic feature and style of living of couples, especially those in metropolitan areas. With each passing day number of unmarried partners living together is scaling high. Cohabitation or live in relationships in India is though not illegal, but it is considered as socially and morally improper.

Now the question arises is what is live in relationship? The legal definition of live-in-relationship is "an arrangement of living under which couples which are unmarried live together to conduct a long-going relationship similarly as in marriage." Many people imagine that living together before marriage resembles taking a car for a test drive. However, the definition and ambit of live in relationship is very unclear, there is no specific legislation in India on this subject, and the laws are in the form of court verdicts which varies from case to case.

2. HISTORICAL BACKGROUND OF LIVE IN RELATIONSHIP IN INDIA:

Live in relationship is not new thing in Indian society but, there was some evidence shown in historical books live in relationship was one type on customs in some part of ancient India "Live-in relationship" might be a new term but the concept is ancient. In the Vedas, we find a mention of eight types of marriages, one of which is the Gandharva type, in which a man and a woman mutually consent to get married. This neither involves the family of the couple nor a particular ritual to solemnise the marriage. It is just a word-of-mouth commitment. But it still comes under the purview of marriage. Although a couple were united by means of a Gandharva vivaaha, the commitment and responsibility was identical to any of the other types of marriages ordained in the traditional texts. (Perhaps it is worthwhile to mention here that the concept of child marriage is nonexistent in the Vedas; boys and girls were married only after they attained puberty)

Even among the various types of marriages accepted by the Vedas, some are said to be much better than the others. Two highly respected types are the Brahma type and the Prajapatya type.

The Brahma type is where the parents of a boy find a suitable girl for him to get married to. This also includes the case where boy picks a particular girl to marry. The Prajapatya type is where the parents of a girl find a suitable boy for him to get married to. This also includes the

svayamvara tradition where the girl picks a particular boy to marry. Two others - the Daiva type and the Arsha type - refer to the girl's parents giving their girl off in marriage to priests.

3. PROVISIONS IN INDIA:

At present in India no law deals with the concept of live in relationship. But even in the absence of a specific legislation on the subject, it is praiseworthy that our courts take an initiative and give certain recognition to such relationships. In earlier cases the court tended to presume marriage based on the number of years of cohabitation.

In the cases prior to independence like **A Dinohamy v. WL Blahamy**, (1928) 1 MLJ 388 (PC), the Privy Council laid down a broad rule postulating that "where a man and a woman are proved to have lived together as a man and wife, the law will presume, unless the contrary be clearly proved, that they were living together in consequences of a valid marriage." The same principle was reiterated in the case of **Mohabhat Ali v. Mohammad Ibrahim Khan**, AIR1929 PC 135.

The Supreme court in the **D. Velusamy v. D. Patchaiammal** case 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 palimony, a relationship must comply with certain conditions." The conditions laid down are that 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.

Considering 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.

After independence the SC in **Badri Prasad v. Dy. Director of Consolidation**, AIR 1978 SC 1557, recognized live in relationship as a valid marriage.

Later in **Patel and others case**, (2006) 8 SCC 726, the SC observed that live in relationships are not illegal. The same proposition was upheld in the case of **Tulsa v. Durghatiya**, (2008) 4 SCC 520. The further sanction to live in relationship was granted by judgement of SC in 2010 in the **Khushboo case**, JT 2010 (4) SC 478.

However, this position is not all binding. The Delhi High Court, in a recent case of **Alok Kumar v. State Crl M.C. No. 299/2009**, observed that a live in relationship is a walk in and walk out relationship.

Hence, though more or less uniformity has been exuded in a positive direction by the court when it comes to live in relationships, but law does not cut a clear picture.

From above discussion, an important observation has been made that to recognize the right of female partners in live in relationship via some statutes will have to be accompanied by changes in laws of succession, adoption, marriage.

4. CONCLUSION:

From above discussion, I come to the conclusion that there is urgent need of legal provision on live in relationship which demonstrate clear cut picture keeping in mind the present Indian social context which stands on the foundation of tradition and culture. Live in relationships should be granted legal status but only after considerable period of cohabitation protecting rights of partners and child born out of such relationship.

In my opinion live in relationship among urban, educated, upper middle class young people began as a declaration of independence, as a way of keeping away from the shackles of marriage. In fact, it's willful rejection of the institution of marriage. So according to me the rights of live in couples should be legally recognized while ensuring that it does not impede upon the system of marriage.

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