

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 3 | Issue 3

2020

© 2021 International Journal of Legal Science and Innovation

Follow this and additional works at: <https://www.ijlsi.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for free and open access by the International Journal of Legal Science and Innovation at VidhiAagaz. It has been accepted for inclusion in International Journal of Legal Science and Innovation after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at International Journal of Legal Science and Innovation, kindly email your Manuscript at editor.ijlsi@gmail.com.

Live in Relationship vs. Indian Society

HITAKSHI MAGGO¹

ABSTRACT

Live in relationship where a couple live together under a same roof until they are ready to be hitched or say until they want to get married. This type of relationship are not illegal in India but still have not fully accepted by our Indian Society. Many types of social issues have arisen many times when we read about the concept of live-in relationship because of the fact that Indian marriages are considered as a beautiful relationship or a tie bond and these kind of relationship are considered as sin according to our society. There are no particular laws for live in relationships in India but considered as judicial Interpretation. There are no such laws related to this but our Indian judicial system is little bit confused about this because there are still some rights associated with the couples in live-in are present like under Criminal procedure code, evidence act, there are safety houses for such person for their protection and many more rules and regulations are present. Under this research paper we are going to see such rules and aspects and also societal aspect on this relationship in accordance with some judgement.

I. LIVE IN RELATIONSHIP

In our society marriage is considered as a good bond and unbreakable bond between spouses from Vedic period. But as we know society changes with time and due to which there are several changes made related to marriage. Now-a-days, many couples choose live-in relationships over marriage. Live-in relationships are those relationships where an unmarried couple live together with duties and responsibilities same as in married but according to their will that till when they want to live together. Numerous couples around this world adopted live-in relationship to know each other properly before tying up in a marriage. There are no such legal obligations between these relationships, it is a type of relationship where two people cohabit outside marriage. You can say it as a marriage but it is not a marriage rather it is a kind of long term relationships with responsibilities like a spouse according to their will but they are not bound with that legally. But these kind of relationships are considered as a taboo in Indian society.

¹ Author is a student at Fairfield Institute of Management and Technology, India.

For proper understanding we have to know the difference between live-in relationship and marriage. Marriage is a matrimonial bond which is govern by different legal acts for different cultures in India like for example for Hindu's there is a Hindu marriage act and for Muslims there is a Muslim marriage act,etc. these lays down the proper rules and regulations for a valid marriage in accordance with the culture and religions. There is a ritually recognized contract between spouses that established certain rights and legal obligations towards each other. If there is any disputes arise out of any marriage or say if the marriage doesn't work there are legal remedies provided by law to solve that out under marriage in different religion. There are different cultures, religions in India and for inter-cast marriage there is a special marriage act enacted for their marriage and legal rights. On the other hand live-in relationship in simple words are those kind of relationship where a couple live with each other as in marriage and enjoy their freedom together and take each other's responsibility according to their will and act as in marriage but without being married to each other. It is also known as cohabitation where two parties live together without any responsibility or obligations as in marriage. Why I stated that according to their will? Because in this relationship any of the party can easily move out of the relationship if they will to do so and there is no law tying them together like in marriage. But this type of relationship is important to know each other before getting married because what if that person tries to walk away from marriage you have to face several problems at that time.

Law and society always change with time but not all of change due to which live-in relationships doesn't get that much importance in Indian society. Various high court or Supreme Court decisions try to explain live-in relationships in their own way. But there is not only one problem there are several problems in India regarding this type of relationship.

In the case of Payal Sharma vs. Superintendent, Nari Niketan & Ors², the Hon'ble Justice M Katju and Justice R. B Mishra stated that in their view or opinion, a male and female can live together without getting married if they wish to do so. This can be regarded as immoral for our society but it is not illegal as per our legal system.

in another case of S.P.S. Balasubramanyam vs. Suruthaya³, the Hon'ble supreme court stated that if a men and women cohabit with each other for several number of years under the same roof then it will be assumed that it is a marriage under section 114 of Indian Evidence Act and the children born to them will be legitimate and have equal rights as per prescribed.

Another landmark judgement given by Supreme Court in the case of Velusamy vs. D.

² (2001) S.C.C. 332

³ (1994) 1 S.C.C. 460 : A.I.R. 1994 SC 133

Patchaiammal⁴ is “that merely spending weekends together or a night it would not make the relationship a domestic relationship. Women in a live-in relationship can not be entitled to maintenance unless she fulfills certain parameters.” Under this judgement there are some condition prescribed to consider live-in relationship valid.

It provides that couple in live-in relationship should be of legal age to marry or say qualify to enter in a legal marriage including being unmarried, then secondly, it is provided that, both should be unmarried if any of them is married then it will be fall under the category of adultery, it is also stated that couple must be voluntarily cohabited for a significant period of time. Court also held that not all type of relationships will amount to get the domestic violence act. And the conditions mentioned must be verified and proved by evidence.

II. IMPACT OF LIVE-IN RELATIONSHIP ON SOCIETY

According to modern cultures there are several people like live-in relationships and try out them before getting hitched. But in Indian society this type of relationship is consider as a taboo and can't be treated as a good because of several customs and their image in society. Society will call it as a "DHABA" in other word a type of sin for them which will totally destroy their image in society and their religion. Most of people think live-in relationship as a good thing because under this type of relationship couple get to know each other's capability and compatibility before tying up in a knot or say before carrying each other's responsibilities which can be a huge importance in one's life. Many of the marriages brake due to several issues between the spouses because they don't know each other that well. But before living in the live-in relationships they can easily get to understand each other and there is no harm in such relationship if they get loyal to each other.

But now-a-days some of the people treat their any kind of relationship just as a thing and come in relationship for fun or enjoyment or sexual needs. And after enjoying they broke up and for this reason live-in relationship is good in some points and also bad in some cases. Like what if a women in this relationship get pregnant and male wants to leave for this purpose there is a provision under Hindu marriage act, 1955 that children born out before marriage will be considered to be the legitimate children of their parents, but now the question arise what if non of the parent wants to carry the responsibility of the child then there is a provision for that too, parents have to adhere to the responsibility of the child and it is important to secure the legal rights of the child there will be a guardian for the child too if

⁴ (2010)10 S.C.C. 469: A.I.R. 2011 SC 479

needed. Which is clearly stated under the case of *S.P.S. Balasubramanyam vs. Suruthaya*⁵ stated men and women cohabit with each other for several number of years under the same roof then it will be assumed that it is a marriage under section 114 of Indian Evidence Act and the children born to them will be legitimate and have equal rights as per prescribed.

But in our society live-in relationship is considered as a sin and if someone try to get in such relationships then the society will treated as a defamation because it is not a true thing according to their customs and cultures. In many cases if someone resides under a same roof without getting married then the relatives or say family member of the couples try to harm them in any way or try to threaten them that it is not good come back leave him/her or say such things like you made us ashamed in our society and so on. This kind of act made their life like hell, because no one can live in fear for their life time.

The couple live in a live-in relationship plea to high court for the protection from women's family. But the Punjab and Haryana High Court refused to grant the protection to a live-in couple who alleged faced threats from the girl's family because if such protection as claimed is granted the entire social fabric of society would get disturbed. Girl is 18 years old and boy is 21 years old, they claim protection of their life and liberty from relatives of girl. Petitioner couple GulzaKumari and Gurwinder Singh filled the petition stated that they are shortly intended to get married but they were apprehensive about the danger to their lives from the parents of girl. But the petition stands dismissed because court stated that petitioners in the garb of filling the petition seek a approval to their live-in relationship.

III. LEGAL STATUS OF LIVE-IN RELATIONSHIPS IN INDIA

There is a case of *Shakti Vahini vs. Union of India*⁶, here Shakti Vahini is a NGO which deals with Honor Killing, and in the said case Supreme Court held that "assertion of choice is an inseparable facet of liberty and dignity" which means choice is a very big word for the right and freedom given by our constitution "right to life and liberty".

Sometimes in our society men become a victim of honor killing and also a girl become a victim of honor killing if they try to marry according to her/his choice. Because in some parts of India love marriage and even live-in relationship is treated as a sin and point of embarrassment for them which result in this crime "honor killing". Most of the families considered their wives, daughters, mothers or say female members of their family as a subordinates or sacrificing person in other words which is known as patriarch monarch

⁵ (1994) 1 S.C.C. 460 : A.I.R. 1994 SC 133

⁶ (2018 7 SCC 192) A.I.R. 2018 SC 1601

behavior. The honor killing can happen with or without marriage.

Under this case bench reminded that it is their obligation to act as a guardian for them or as the Sentinel on Qui Vive, which means guard the right to liberty of an individual as the dignified existence of an individual has an inseparable association with liberty. More importantly court stated that immediate steps should be taken to provide security to the couple if necessary move them to safe place to keep in mind of their safety. The state government suggested by bench to establish safe houses in each district for this purpose.

There is a provision under Criminal Procedure Code, 1973, Section 125 which enacted and incorporated to avoid any kind of insolvency for wife, child and the same has now been enacted by judicial interpretation to partners in a live in relationship. The Malimath committee reports in 2003 to give meaning to a word wives that the women who is in relationship/ live-in relationship for a considered amount of time can now have legitimate rights of a wife and also can claim maintenance under section 125 of criminal procedure code.

IV. CONCLUSION AND SUGGESTIONS

There are disadvantages of live-in relationships like it can be end up in breakups. Like a person has no obligation to continue the relation and for that purpose the next person get depressed or heart broken. Or in some cases where there is a child then the breakups of relationship can hamper children's mind too. The effect on children's life can be serious; it can be result in depression too. There are laws for the children but the life without a parent is difficult. Like in above case there are several chances of honor killing with a live-in relationships, there is a law but when the things happen then the life of a person become hell. No one can live in such a fear and it is our right to live freely. It is not a bad thing, society should accept the relationship it can be further resulted in a healthy relationship. By stating disadvantages I am not opposing this relationship. Live-in relationship is a healthy way to know each other and become enough capable and compatible to tie up in a knot. This is a good thing for future healthy relationship. That's why it has a big scope in foreign countries like UNITED STATES OF AMERICA live-in relationship gain status and a word Palimony enacted by them which means compensation after separation in tis relationship. Under the case of *Michelle Marvin V. Lee Marvin*⁷ it is stated that in a mutual cohabitation agreement couples are bind to divide income earned during the time they live together and can enjoy their freedom. Even in CANADA if a couple live-in for more than 12 months together and

⁷ 18 Cal.3d 660 (1976)

have given birth or adopt a child can enjoy their rights as a legally valid couple. Which is a good thing for a healthy relationship and according to me in India it should be acceptable.
