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LIVE- IN- RELATIONSHIP: LEGAL STATUS IN INDIA

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Abstract -It is being truly said that the only thing which is constant in this world is change .The Indian society has observed a drastic change in its living pattern in the past few years. People are slowly and gradually opening their minds towards the idea of pre -marital sex and live -in-relationship .This change has been continuously under criticism and highly discussed as such concepts lack legality and acceptance by the society .Unlike marriage ,in live-in-relationship couples are not married to each other but live together under the same roof that resembles a relation like marriage .In India , only those relation between a man and a woman is considered to be legitimate where marriage has taken place between the two based on existing marriage laws otherwise all other sort of relationship are deemed to be illegitimate .Live-in-relationship are not only discouraged but also are not accepted by the members of society due to the sophisticated culture .The parents of a couple may also not allow for such a relationship and may not allow the couple to reside in the same house . The couples also face issues when they seek residence on rent. Apart from the issue of the place of residence ,the couple also faces issues at the workplace and public places .

Keywords -Live-in-relationship, pre-marital sex, discouraged, sophisticated culture.

Introduction - A live -in-relationship refers to a living arrangement in which an unmarried couple lives together in a long -term relationship that is similar to marriage but they are not tied by the sacred thread of marriage. The couple -only cohabit together, but they live like husband and wife .Society and its laws are not strangers to one another and they are both an important aspect of mankind and therefore with the ever-evolving society, the laws shall be evolving as well ,or else the development of the society will be ceased by the outdated laws .The Supreme court has elaborated the concept of live-in-relations through its Judgment and has issued guidelines to deal with such relationship .All the major decisions of the apex court regarding the live -in-relationship ,the status and rights of children born out of such relationship ,and various provisions indirectly covering such relationship in its ambit. The child born through a live -in-relationship enjoys the same rights of succession and inheritance as are enjoyed by a child through a married couple under the Hindu

Marriage Act. The couple must hold themselves out to society as being akin to spouses. They must be otherwise qualified to enter a legal marriage. While the Supreme Courts opinion might not have the undesirable effect on more and more couples preferring live -in-relationship rather than opting to wed ,it could certainly embolden more young men and women as they would now be convinced that there is no breach of law in the live-in-relationship .One can only weigh the pros and cons and take into account the impact of their decision on their family and most importantly on themselves .

The institution of marriage appears to have been evolved with a view to discipline sexual relations and ensure legitimacy of children and their intellectual and psychological development in a congenial atmosphere.¹ With advent of industrial revolution and the development of education throwing open the avenues of economic independence to women, human values, especially those pertaining to husband and wife relations, has undergone radical transformation.² The outcome of rapidly changing social morals has been a peculiarly ambivalent situation in the form of non-marital heterosexual relations ("live-in" relations as they commonly called). Such relationships among the urban, educated, upper middle class and elite young people has emerged towards their independence outlook, aimed at keeping them away from the 'shackles' that institutionalized the marriage.³ 'Live-in' relationship is a de facto non-marital heterosexual relations prevailing in West with the different name like: common law marriages, informal marriages or marriage by habit, deemed marriages etc. It is a willful rejection of the institution of marriage, of the stereotypes it engenders, and of the restrictions and inequalities it has come to stand for.⁴ It is a form of inter-personal status legally recognized in some jurisdictions as a marriage even though no legally recognized marriage ceremony is performed or civil marriage contract is entered into or the marriage registered in a civil registry.⁵

Definition of live-in-relationship- A living arrangement in which an unmarried couple live together under the same roof in a long term relationship that resembles a marriage is known as a live -in -relationship .Thus ,it is the type of arrangement in which a man and woman live together without getting married .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 amongst the youth and nobody wants to get entangled into the typical responsibilities .

Legal definition of live-in-relationship - An arrangement of living under which the couple which is married live together to conduct a long going relationship similarly in marriage .

¹ Sarojini Nayak & Jeevan Nair, *Women's Empowerment in India*, 110 (2005) Pointer Publisher, Jaipur.

² *Ibid*, at p. 111.

³ Shoma A. Chatterji, *Women in Perspective-Essays on Gender Issues*, 168 (2010) Vistas Publishing.

⁴ *Ibid*.

⁵ Bradley, David "Regulation of Unmarried Cohabitation in West-European Jurisdictions - Determinants of Legal Policy", *International Journal of Law, Policy and the Family*, 15(1): 23 (2001).

Case laws :

Badri Prasad v. Dy. Director of Consolidation And Ors.⁶ The Supreme courts in this case said that it is firmly presumed that a couple who have been living like husband and wife shall be husband and wife, but such presumption is rebuttable and the burden of proof lies on the part of the person who seeks to rebut such relationship to its legal origins.

S.P.S. Balasubramanyam v. Suruttayan⁷ In this case the court ruled that where a man and a woman live together for a long period as husband and wife, there lies a presumption of legality of marriage between the couple, until the contrary is proved and a child born out of such relationship is also not illegitimate and is entitled to inheritance in the property of the man.

Lata Singh v. State Of U.P. & Another⁸ The Allahabad high court was held that a major girl is free to marry anyone she like or may live with anyone she likes. The court further held that no offence has been committed by the accused and the present case is an abuse of the process of the court and the administration mechanism.

Tulsa & Ors v. Durghatiya⁹ The court held that the provisions under The Indian Evidence Act, 1872 section 114 said refer to a common course of natural events, human conduct, and private business. The court shall presume the existence of facts that are likely to have happened.

D. Velusamy v. D.Patchaiammal¹⁰ The apex court while bestowing the difference between live-in relationship, and relationship like marriage laid down the conditions under which a woman in a live-in relationship can claim maintenance under section 125 of The Code of Criminal Procedure, 1973. The conditions required to get maintenance out of the live-in relationship.

S.Khushboo v. Kanniammal¹¹ The Apex court held that there is no legal provision where adults are voluntarily associated in sexual relationship other than marriage, and therefore it does not violate any law.

Bharatha Matha & Ors v. R.Vijaya Renganathan & Ors¹² The Supreme court of India held that a child born in a void or voidable marriage is not entitled to claim inheritance rights in the ancestral property however such child may claim a share in any self-acquired property.

Chanmuniya v. Virendra Kumar Singh Kushwaha & Ors¹³ The Apex Court ruled that in circumstances where partners live together as husband and wife, there lies a presumption in favor of wedlock, and

⁶ (2013)15 SCC 3196

⁷ Civil Appeal no.7108of 2003

⁸ (2011)1 SCC 141

⁹ (2011) 86 ALR 450

¹⁰ (2013) 15 SCC 755

¹¹ Criminal .Revision no.(F)166of 2015 (O&M)

¹² Criminal Appeal no.(5).1656/2015

¹³ Civil Appeal no. 3411 of 2007

consequently the high court in the Ajay Bhardwaj case ruled that women in live-in-relationship are entitled to maintenance akin to legally-wedded wives .

Revanasiddappa & Anr v. Mallikarjun & Ors¹⁴ The Supreme court of India in the case of considered the right to the property as a constitution rights to the illegitimate child and upheld the right to inheritance of the children who were born out of a live-in-relationship .

Intra Sarma v. V.K.V.Sarma¹⁵ The Supreme court of India held that live-in-relationship may last for a considerable time can lead to standards of dependency and vulnerability and with the increase in the number of live-in-relationship ,there must be sufficient protection ,especially for women and those children who are born out of such relationship .The law cannot promote pre-marital sex ,and live-in-relationship are personal and people can give their opinion in against it . The legislature must consider this issue and enact separate legislation so that protection for women and children born out of live-in-relationship can be provided .

Ajay Bhardwaj v. Jyotsna And Ors.¹⁶ The Punjab and Haryana High Court held that t¹⁷he jurisdictions of sec.125 of CrPc were formed to prevent any unsettled residence and poverty of wife ,or minor children ,or old age parents ,and the jurisdictions of same has also been lengthened by judicial interpretation to the partners in a live-in-relationship ,however ,the nature of such relationship must be considered while deciding the maintenance .

Lalita Toppo v. The State Of Jharkhand¹⁷ The Supreme Court of India held that under the jurisdictions of Protection of women from Domestic Violence Act ,2005 the female live-in-relationship partner will be allowed to relieve more than what is bestowed under section 125 of code of Criminal Procedure ,1973.

Dhannu Lal v. Ganeshram¹⁸ The Supreme Court decided that couples living in relationship will be presumed legally married .It was also held that the women in the relationship would be eligible to inherit the property after the death of her partner.

When is it legal to be in a live-in relationship -

- They have to use the same household items jointly .
- Like husband and wife in a live-in-relationship ,one has to help each other .
- While in live-in-relationship ,if they have children ,then give them lots of love and affection ,enter them well.

¹⁴ Civil Appeal No.Of 2011 (Arising out of Special Leave Petition (C) No.12639/09)

¹⁵ (2013)15 SCC 755

¹⁶ criminal revision no. (f) 166 of 2015 Punjab & Haryana High Court, Chandigarh

¹⁷ (2019)13 SCC 796

¹⁸ (2015) 12 SCC 301

- In live-in-relationship ,the couple should be an adult ,if not an adult ,then this relationship will not be considered valid .
- Both should not have husband and wife in live-in-relationship ,if this happens then it will be considered .

What is the provisions of live -in-relationship in the law of India

- 1. Right to life under Article 21 of the Constitution of India .The court further held that live-in-relation are permissible and the act of two major living together cannot be considered illegal or unlawful .
- The constitution of India has given certain fundamental right and freedoms to the people .Under Article 19 of the constitution Indian citizens have a fundamental right to reside and settle in any part of the territory of India .
- Section 50 and 114 of the Evidence act 1872 ,together ,it is clear that the act of marriage can be presumed from the conduct of parties as they are borne out by the facts of a particular case .
- Domestic violence Act ,2005 was legislated as an attempt to protect women from abusive partners and family .As per SEC.2(f) the act not only applies to a married couple ,but also to a relationship in nature of marriage .
- Section 125 CrPc a wife can claim maintenance from her husband if he refuses to maintain her .If a woman is able to establish a relationship in nature of marriage then she is entitled to claim maintenance from such a partner as a presumption can be raised by the court that such a relationship is a marriage and the woman can be presumed to be a wife.

Benefits of live-in-relationship

- The two know each other more than they have been together .
- Both the partners are not financially dependent on anyone .
- There is less social and family pressure on this relationship .
- Both sides respect each other .
- By litigations like divorce when the relationship ends ,have been seen less in live in relationship .

Disadvantages of live-in-relationship

- Society does not accept live -in -relationship but despises .
- In live-in-relationship ,the relationship does not last as long as marriage does .
- If the relationship breaks up ,then women have to face disdain more than men.
- Children born from live in relationship do not understand the importance and limitations of family .
- Lack of respect in live in relationship .

Conclusion

The glamour and beauty of relationship is definitely unlocking and unfolding relationship .It has been one of the most controversial legal topics in the recent past .The issue is steadily creeping inside the present clog society and requires a special legislature to negate the chances of misuse of such relationship .One of the instincts of human being is to search life partner that has recognized by civil societies and existed with civilization .Marriage is a sacred union gets legal effects and high respect in society .Live in relationship denotes an arrangement in which a man and women decide to live together on along term of permanent basis in an emotionally and or sexually intimate relationship like husband and wife or cohabits with each other with out any legal sanction ,therefore live in relationship has one of the most controversial legal issue as premarital sex, which is considered against the moral values of social ethics in a Indian culture .Live -in -relationship are now very popular in India .The law does not prescribe how we should live ,it is ethics and social norms which explain the essence of living in welfare model .The court itself notices that what law sees as no crime may still be immoral .It has said in a judgment of 2006 notice by the court now ,that two consenting adults engaging in sex is not an offence in law even though it may be perceived as immoral of courses such protective sanctions may potentially lead to complications that could otherwise be avoided .But simply raising the hammer may not be the best route to taming the bold and the point of the emotional and societal pressures that such a relationship may create ,but also the fact that it could give rise to various legal hassles on issues like division of property, violence ,cases of desertion by death of a partner and handling of custody and other issues when it comes to children resulting from such relationship .

Despite any legal marriage ceremony or civil marriage contract some countries in the world recognize common law marriage ,called de -facto marriage . An attempt has been made to tell important things for people living in live -in-relationship .Every couple should be aware of all this ,they should know what provisions have been made for them in the law .Couple living in live in relationship understand each others responsibility and lead a good life .During this ,a mistake of any kind can reach the door of law and the relationship can also get spoiled .That why it is very important to know all these things for a healthy relationship .

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