

Paradigm of New Mode of Relationship

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ABSTRACT:

This article tries to throw light on emerging life style in India. A deep look into western style of relationship in Indian society .change is the law of nature .So it resulted everywhere. It is up to individual to decide whether to accept the changes or not

This article about new life style in family set up. India has been known for well married family set for centuries. Now the time has come for a change, a time to experience a new paradigm of life style. We call it as 'Live in relationship'. This style is going to be accepted by all short span time. In metropolitan cities it is already in practice .The advantage of this method of life will attract the new generation, this article brings a clear understanding of what is live in relationship and how it can be effective in our society .It addresses all merit and demerits and tries to give a solution to all such queries which can be raised by critics.

Keywords: *Live in relationship, marriage, domestic violence, couple, supreme court, custody.*

I. INTRODUCTION

India is a socio-cultural country. In this country each and everything is connected with one or other rituals and continues as tradition. Still this modern world of tradition is flowing like water flowing river, People want to be free from traditional culture and adapting more easiest way of lively hood which can be called as western culture. Joint family need to turn up to nuclear family then to single parent. Similarly, Institution of marriage is slowly vanishing and coming up with new concept which is termed as “*Live in Relationship*”.

Live in relationship is situations in which two people (who are more than 18 years) live together with free consent and share household in the essence of marriage but unlike marriage.

In this modernization, Institution of marriage is gradually changing from marriage to live in relation, cause behind this is that couple doesn't want to get into legal marriage besides first they want to check their compatibility. Don't want to mash up in family drama or long process of court. Moreover they not ready to take responsibility of child nor of each other, They live together, yet they are independent from each other and if any one of the party (couple) not suitable and find any difficulty in living with each other then he/she can apart from each other by “Break up “without going for divorce or lengthy process of court. Living together means sharing together. Sharing the life, the emotions, the happiness, the sorrows. In a traditionally married life actually this sharing is short lived. In the early years of their marriage they are so happy close and sharing caring and all. But as the years go by the closeness get stuck. The reason is that two unknown individuals come together to live. Naturally there can be many differences. Difference in thoughts, in life style, in food and in all. So when the difference does not match each other, it leads to conflict. Since they are bonded legally they push forward their life somehow without any love or sharing. This is what we see in our society. We can see a

number of divorce cases daily. We can see a number of suicides. We can a number of murders. All these are because of the forceful bond of marriage. Whereas, in live in relationship it doesn't take place. The love and care continues till they live together. This kind of relationship really will reduce the house hold violence. There will be an end to the practice of divorce and other criminal activities.

II. JURISPRUDENCE ACCEPTS OF LIVE IN RELATIONSHIP

There is no any special bill or law related to live in relationship nor has any law been made for live in relation. The Indian law doesn't give any right nor put any obligation on live in relationship. However, House of lord has simplified the theory of live in relation through bunch of case laws. Though law is not clear yet few rights impart by educating the existing legislation so that exploitation is prevented by parties in such relationship. Several legislations are analyzed below:-

- **Evidence act, 1872**

“The court docket may moreover assume the presence of any reality which it thinks more then likely to occurred, respect being given to the ordinary way of natural events, human direct and open and private business, in a connection with regards to the realities of the specific case. Thusly, in which a man and a young lady live separately for an all-inclusive spell of time as a team at that point there could be a supposition of marriage”¹

- **Criminal procedure code, 1973**

Under *section* 114 of *CRPC* a wife claim maintains from her hubby, even more this section also provide maintains to children from parents , parents from children moreover a major child can also claim maintains if he is unable to take care of himself or herself .

“Wife comprises a lady who has divorced, has acquired divorce from her spouse and has not hooked up with another man”². Wife cannot claim for maintains if she wilily living away from her spouse without any reasonable reason or she is in relationship with any other man or either spouse away with their mutual consent.

- **Domestic violence act, 2005**

“*Protection of women from Domestic violence*” (PWDVA).Brought in force in the year of 2005 by Indian government in order to protect a woman who is facing violence in domestic relationship (household). The term domestic violence covers forms of violence, which cause injury harm, in dangerous, health, safety, life of the suffer (victim).

¹ Section 114

²Section 125(1)(d)(b)

“This Act provides the occurrence of domestic violence as well as to provide adequate aid to suffer of domestic violence. It also Provide Protection right of women which is guaranteed by Indian constitution”³.

The Act also provides that the respondent is required to pay maintains claimed under section 125 of CRPC. It also provide the partner in Live-in-relationship can also claim maintenance.

III. JURISDICTION ON LIVE IN RELATIONSHIP

Judiciary of India plays a vital role in maintaining Law order in society by interpreting and educating law. There is no special laws has been made for live in relationship but, our judiciary took major action to protect the right of parties in live in relationship.

Since from 1978 case of live in relationship started coming up in India and our judiciary took very positive action toward it, live in relationship can be wrong in the eyes of society but it is not illegal and consider equivalent to intuition of marriage. Through various cases and landmark judgment given by our apex court as well as high courts.

Some land mark judgments and case are stated below through which house of lord protect right as well as include social norms and constitution values.

Live in relationship case came into court through the case of *Bari Prasad v. Dy. Director of consolidation & ors*⁴ in India were apex court of our country has consider live in relationship equivalent to intuition of marriage by stating that if two major live together for half century without marriage then it will be consider equal to marriage as they are as if they are married to each other by society as well as by relative more over Honorable court has added the ‘the presumption become rebuttable, and a heavy burden lies on parties whether they are married or not .

*Payal Sharma v. Superintendent Nari Niketan*⁵ in this case a lady who was living in Nari Niketan fall in love with a guy and started spending some time with him and later she started living with him most of the time, one day her father came to know about it and filed a false FIR against that boy stating that “the boy has kidnapped his daughter” and police arrested him the girl somehow manage to take him out of prison, but as this news went to Nari Niketan, they restrict Payal Sharma in their premise as she lived with a boy and she characterless and immoral.

Payal Sharma went to honorable court under article 32 for the protection of her fundamental rights. House of lord stated by protection her rights that “a boy and a girl of marriageable age can live together without marriage

³ Section 2(f)

⁴ Badri Prasad V. Dy. Director of consolidation & Ors in India 1978 AIR 1557 SC

⁵ Payal Sharma Vs Superintendent Nari Niketan (2001) SCC 332 (India)

this can be wrong in society but wrong in the eyes of law”

If two major cohabit together in live hood without marriage it will not be consider as an offence stated by apex court of India in case of *Patel v. ministry of home affairs*⁶.

Legal status has been given to children who born out of Live in relationship through case of *Tulsa& Ors v. Durghatiya & Ors*⁷ moreover our able court has adopted that a long term relationship equivalent to marriage but it must not be live in live out relationship.

*S. Khushboo v. Kanniammal & Anr*⁸ in this case live in relationship is compare with Right to life here house of lord stated that there is no statue or law related to live in relationship but it is right to life under article 21 “(No person shall deprived of his life or personal liberty except according to procedure established by law).”

*D.Velusamy v. D.Patchaiammal*⁹ here bench of two judges “Justice Markandey Katju and Justice T.S.Thakur” laid down some parameter for maintenance to a women in live in relationship. It is said that maintenance will be granted to a women who follow these parameter:

1. Couple must be of marriageable age (women should be 18 and men should of 21 years).
2. Couple should stay together with free consent.
3. Couple should stay together for considerable period of time.
4. Couple must be akil as if they are married to each other.
5. If a couple is not married then society must think (image) that they are going to marry.

This is a landmark case *Indrasarma v. V.K. V.Sarma*¹⁰ court has laid down 6th parameter of maintenance

If a woman is in live in relation with a married man then that lady can't claim for maintenance until & unless that man is divorced or filled divorce against his spouse. If a women is living with married man who has filed divorce then a women can claim for maintenance by fulfilling parameter which is laid down in *D.Velusamy v. D.Patchaiammal*

IV. FOLLOWING INSTRUCTIONS ARE GIVEN SUPREME COURT

1. *Span of relationship*

Domestic violence act define “Domestic Relationship” which means that a girl and boy said to be domestic relationship only if they spend tighter a considerable period of time however the exact time period has not

⁶ Patel vs. ministry of home affairs(2006) AIR SC

⁷ Tulsa&Ors vs. Durghatiya &Ors (2008) 4 SCC 520 (India)

⁸ S. Khushboo vs. Kanniammal & Anr (2010) 5 SCC 600 (India)

⁹ D.Velusamy vs. D.Patchaiammal (2010) 10 SCC 469 (India)

¹⁰ Indra sarma v. V.K. V.Sarma (2013) 15 SCC 755 (India)

been stated by it vary from case to case .

2. *Ménage*

Section 2(s) of the DV Act define shared household and, hence, need no further explanation.

3. *Stay together for considerable period of time*

If two major stay together in household and they are sharing their basic needs with each ie-joint account in bank ,paying house rent together, electric bill etc, with the intention to have a long standing relationship.

4. *Domestic Arrangements*

If a men and women living together taking of each other responsibility, taking care, maintaining or up preserving the house and so on.It can be said that they are in relationship in essence marriage.

5. *Sexual Relationship*

Marriage like relationship alludes to sexual relationship, for delight, however for enthusiastic and private relationship, for multiplication of youngsters, to give passionate help, friendship and furthermore material warmth, mindful, and so forth.

6. *Children*

Having kids is a solid sign of a relationship in the idea of marriage. Gatherings, subsequently, expect to have a long-standing relationship. Sharing the duty regarding raising and supporting them is likewise a solid sign

7. *Socializing in society*

Holding out to people in general and associating with companions, relations and others, as though they are a couple is a solid situation to hold the relationship is in the essence of marriage

8. *Intention of the Parties*

Normal aim of gatherings about what their relationship is to be and to include, and as to their individual jobs and duties, fundamentally decides the idea of that relationship.”¹¹

On May 2018 in case of *Nanda Kumar & Anr v. The State of Kerala & Ors*¹²A bench of Justices AK Sikri and Ashok Bhushan set aside the Kerala High Court order, which had quashed the couple’s marriage last year on the grounds that the boy was less than 21-years-old and hence could not be married.

The top court, however, came to their rescue. “It is sufficient to note that each of them are predominant. Even in the event that they have been now not in a position to go into wedlock, they have right to live even outdoor

¹¹ Amit Anand choudhary, Article “couple living together will be presumed married” The Times of India ,12 April 2015

¹² Nandakumar&Anr V. The State of Kerala &Ors (2018) AIR SC 597

wedlock,” held the bench.

The judges highlighted that the two had a right to live together, more so in view of the truth that ‘live-in dating’ is now recognized with the aid of the legislature under the provisions of the Protection of Women from Domestic Violence Act.

The bench further found fault with the approach of the High Court in entrusting custody of the girl to her father after declaring her marriage to be bad in law.

It maintained that after the girl was discovered to be above 18, there was no question of entrusting her custody to anyone and that she has the right to stay wherever she desires to or circulate as in step with her desire.

The Court also pointed out that on the grounds that each the woman and boy are Hindu, their marriage can be taken into consideration as a voidable marriage below the regulation, and till the boy turns 21, they can have a 'stay-in' relationship if they so desire.

The bench additionally stated the apex court docket's current judgment inside the 'Kerala Love Jihad' case to emphasise that person individuals have an absolute right to make choices in lifestyles and that the court cannot count on the role of a exceptional-guardian.

The Court disposed of the appeal, moved by the boy against the HC order, by making it clear that it would freedom of the girl as to choose with whom she wants to live

V. CHILDREN BORN OUT OF LIVE IN RELATIONSHIP

Now, It comes to right of child born out of live in relationship. A baby who born is unaware of the fact that he/she born out live in relationship or marriage.

Baby who born out of wedlock should not get any punishment, just because her /his parents were not married ,it is the right of every children , get love of their parents ,respect in society .by considering this all factors our judiciary is taking all constructive action so that child should not depreciate by society or by a single person .

In the case of *S P S Balasubramanyam v. Suruttayan*¹³ Honorable court has said that “If a man and women are dwelling underneath the same roof and cohabiting for some years ,there could be presumption underneath section 114 of evidence Act that they live as husband and wife and the children born to them will no longer be illegitimate” .More over judiciary educate the status and legislation to an extent through article 39(f) which says” that children are given opportunities and facilities to develop in healthy manner and in conditions of freedom and dignity and the that childhood and youth are protected against exploitation and against moral and

¹³ S P S Balasubramanyam V. Suruttayan(1994) 1 AIR SC 133

material abandonment”¹⁴

*Tulsa & Ors v. Durghatiya & Ors*¹⁵ house of lord given a legal status child born from live in relationship “ will not consider as an illegitimate child” and also added that a long term live in relationship will be consider equivalent to institution marriage but it should not be a “walk in and walk out relationship”.

*BharathaMatha v. R. VijayaRenganathan*¹⁶ The Supreme Court held that a infant born out of a stay-in courting may be allowed to inherit the property of the mother and father (if any) and consequently take delivery of legitimacy within the eyes of law. We have visible that Indian judiciary inside the absence of specific rules were protective the rights of the kids by way of giving regulation a broader interpretation in order that no toddler is “bastardised” for having no fault of his/her own.

*Dimple Gupta v. Rajiv Gupta*¹⁷ in this case bench of Justice S.B. Sinha & Justice Harjit Singh Bedi state that even an ill-conceived baby who is resulting from illegal relationship can claim for maintains, it is said that if a child attain majority then also they can claim for maintenance. Moreover court added that there is no difference between children who born from legal marriage or live in relationship, even they have right over parents property (if any).

VI. CUSTODIAN OF CHILDREN

This is one of the major problem faced in relationship that who will take care of children if their parents apart from each other, there is certain rule laid down for parents who are married and got divorce but no law for custody of child who born of unmarried parents. To solve this issue of custody the court had alluded to section 13 of *Hindu minority and guardianship Act, 1956*. In the case of *Shyamrao Maroti Korwate* case that in order to give custody foremost thing should be taken care that is welfare of child. Apart from this it has been said that there are certain act *Guardianship and wards Act, 1890* and these acts should read together and then to decide who will have custody of child.

What if parents are of other religion, then the concerned with that particular religion is applicable. For example if parents are Muslim, Muslim law will be applicable which say that right of custody of a child first to mother of child which is known as *hizanat*. In Muslim law there is no obligation for maintenance.

VII. CONCLUSION

A country like India will find it difficult to accept this style of life. Because India has a strong faith on traditions. For long years India has been witnessing the traditional family set up. The marriage is considered the

¹⁴ Indian const, article 39(f) amended by The constitution (42th amendment) 1976.

¹⁵ *Tulsa & Ors vs. Durghatiya & Ors* (2008) 4 SCC 520 (India)

¹⁶ *BharathaMatha v. R. VijayaRenganathan* (2010) 11 SCC 483 (India)

¹⁷ *Dimple Gupta v. Rajiv Gupta* (2007) AIR SC 1139

most pious act of the society. In fact everyone believes that the basic unit of society is family. Hence, if anything that happens to this unit can affect the society in whole. The joint family set up is also very strong in many parts of the country. To break that set up is not so easy. More over the concern about the future of a child born in a family is a big matter here. The parents care the child even when the child grows into an adult. The parents direct the children to live the way they think fit and most of the children just remain subjected to their parents. The parents take the responsibility of the education of the child, job and even who to marry and when to marry. The more interesting is that the grand parents take the responsibility of their grandchildren. The process of nourishing their grandchildren continues as they have nurtured their own children.

Having such a strong family setup in India, it is really a question how the live in relationship is possible. However, the growing generation is realizing the need and trying abolishing the existing system. The thoughts of globalization and the influence of westernization is a boosting to change the traditional way of family life. As the message spread about the advantages of live in relationship, the trend of marriage and family life will change. The time has come to mobilize people about the benefit of such relationship. People needed to be educated and must convince them about the safety and security of life those in this relationship. The living examples will certainly eradicate the insecurity prevailing among the Indians about the future of their coming generation. The need of the hour is the realization of mutual respect of each individual. The mutual respect of both boys and girls can be seen only in live relationship. Not only that, if the individual decide live forever as husband and wife the mutual respect will persist through out their life.