

JOURNAL SECTION**DOMESTIC VIOLENCE IN
LIVE-IN-RELATIONSHIP****By : Bala Jyoti**

Cohabitation between two partners as living together for a long time is presumed to be live-in-relationship couple. There is no law binding the partners together and subsequently either of the partners can walk out of relationship. The legal status of such type of relation is unconfirmed. In fact it is an arrangement whereby couples those are unmarried actually decide to live together, cohabit in order to conduct a long-term relation in nature to that of marriage.

Adult couple can live together without marriage, says top court. These observations came while the apex court was hearing a plea filed by one Nand Kumar against a Kerala High Court order annulling his marriage with Thushara. Supreme court held that a 20 years old Kerala women whose marriage had been annulled could choose whom she wanted to live with. The top court held that live in relationships were now even recognized by the legislature and they have found a place under the provisions of the protection of women from Domestic Violence Act of 2007. A Bench of Justice "A.K. Sikri & Ashok Bhushan" on 07.05.2018 in Criminal Appeal no. 597 of 2018 in case titled "Nand Kumar & Anr. vs. State of Kerala & Ors." Criminal Appeal No. 597 of 2018 said their marriage could not be said to be "null and void" merely because Nanda Kumar was less than 21 years of Marriage at the time of marriage. Appellant no. 1 as well as Thushar are Hindus.

Right of maintenance to women in live-in-relationship

Since in live in relationships couples cohabit outside marriage without any legal obligation towards each other. Hon'ble Supreme Court has ruled that any couple living together for a long term will be presumed as legally married unless proved otherwise. Thus, the aggrieved live-in partner can take shelter under the Domestic Violence Act, 2005 which provides protection and maintenance and thereby grant the right of alimony.

When we talk about social transformation, law on live in relationship is also another step to meet such requirements being humanism and universalism therefore society needs comfortable and secure environment with their needs addressed. I may with all humility can say safely that the judgments rendered by Hon'ble Supreme Court has protected the interest of minority as less than one percent of the population is facing such kind of problems to live with dignity and honour being in live-in-relationship though such relationship are still considered taboo and unacceptable by majority.

Although the legal status of live-in-relationship in India is unclear, the Supreme Court has ruled that any couple living together for a long term will be presumed as legally married unless proved contrary and a married man also be in live-in-relationship with an unmarried women which does not attract the charge of adultery but in that case his legal wedded wife can file a divorce suit on the ground of cruelty based on the conduct of the married man. Similarly, if an unmarried girl is interested in a married man she is at liberty to take her own decisions in life and

can take police help by filing complaints under Section 504, 506 IPC. Infact the concept of live-in-relationship develops from the pervasive mind-set of those who yearn for compatibility relationships infact there is no legal definition in Indian Law which describe the hypothesis as live-in-relationship. Today every millennium believes that the bond that binds marriage is very obligatory for them and it tries in a relationship that resembles marriage but without his obligations and responsibilities. This arrangement is usually entered into by consent either to test compatibility before marriage or simply to avoid the hassle of a formal marriage, thus keeping in mind the reason, the number of couples choose a live-in-relationship before marriage is increasing as they feel that there is no fear of getting divorced, and there is a mutual respect, lesser responsibilities and the main issue is no legal hassles. The couples live as a married couple and celebrate each occasion with love but there are no obligations towards each other, they become so accustomed to each others company more than anything. It is the kick that offers a live-in-relationship, this is the kick that keeps it going, it is also a test of commitment towards each other.

Law leans in favour of legitimacy and frowns upon bastardy and therefore children born out of live-in-relationships are legitimate and not illegitimate and thus this type of child has a right to property also as per Justice V. R. Krishna Iyer in "*Badri Prasad vs. Dy. Director of consolidation*" AIR 1978 SC 1557, 1978 (3) SCC 527 wherein they have differentiated between bastardy and legitimacy. It was held that presumption is in favour of valid marriage as law leans in favour of legitimate as if a man and woman who live as husband and wife in society, a strong presumption arises in favour of the wed-lock where the partners have lived for a period of long spell as husband and wife. Similarly in "*Khushboo vs. Kanniammal*" AIR 2006 SC 2522 in this case, a three judge bench consisting of Chief Justice K.G. Balakrishnan, Justice Deepak Verma and Justice V.S. Chauhan, it was held that living together is not an offence and there is no law which prohibited live-in-relationship or pre-marital sex. The apex court while quashing all the criminal complaints filed against south Indian actress Khushboo held that living together is right to life hence right to life and liberty is a fundamental right of two individuals living together similarly in "*Chanmuniya vs. Virendra Kumar Singh Kushwaha*" 07.10.2010 the Hon'ble Apex Court said that a man and a women living together as husband and wife for a considerable period of time would raise presumption of a valid marriage between them therefore a strict proof of marriage should not be a precondition for maintenance under Section 125 C.R.P.C so as to fulfil the true spirit and essence of the beneficial provision of maintenance under Section 125 C.R.P.C. Now often defined cases of domestic violence between the couples those are in live-in-relationships since couples live together as husband and wife and are sphering domestic household, hence many cases of violence are also reported. Since domestic violence is a pattern of behaviour, a pattern is abuse in a domestic setting by another partner or his/her family. Abuse may be emotional, economic, verbal, physical or sexual. In most of the cases the violence is suffered by a women by the hands of her partner. In case of "*Indra Sarma vs. V.K.V. Sarma*" on 26.11.2013 wherein it has been held that "live-in relationship" would amount to a "relationship in the nature of marriage" falling within the definition of "domestic relationship" under Section 2(f) of the Protection of Women from Domestic Violence Act, 2005 and the disruption of such a relationship by failure to maintain a women involved in such a relationship

amounts to "domestic violence" within the meaning of Section 3 of the D.V. Act and therefore women is also entitled for compensation under Section 22 and 23 of D.V. Act, thus we can say safely that live-in or marriage like relationships is neither a crime nor a sin though still socially unacceptable in this country. The decision to marry or not to marry or to have a heterosexual relationship is intensely personal though law of the land come to rescue to legalise such relationships hence partners can also draw a live-in together agreement about how they share their property.

In my humble view live-in-relationship has its own challenges so far as compatibility and societal acceptance is concerned despite supreme courts green signal as it has been held that such type of relationships are legalized hence we can say that it completely requires change of mind-set and attitudinal change towards such couple.

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