

CODIFICATION OF LIVE IN RELATION

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Abstract

Hindu marriage means a sacred ritual recognized and performed in presence of Almighty. Hindu marriage is a commitment, of establishing household, entering into sexual relation, procreation of children and creating emotional base, undertaken and fulfilled by Bride and Groom. The Muslim marriage is governed by personal Laws though not codified in terms of Law it has its own system of handling the uneven situations of life. Christian and Parsi marriage have their own specialized code governing all the question related to marriage, divorce, inheritance, succession and relative questions. The wind of westernization and urbanization blew in India carrying with it the new trend called live in relationship. Live in relationship is that domestic relation where two heterosexuals cohabit with each under without creating any liability towards each other. The essence of live in relation is flexibility of one's 'Will to live and quit'. Conservative Indian Society happens to put all relations of human in the moulds of nomenclature, but unfortunately live in relation does not fit any

of these moulds. However Legislation does not consider live in relation as crime or violation of human rights and therefore it is continuously amending the status of live in relation on the same footing of marriage. The different religious and cultural norms set into conflict in consequences of separation of couple in live in relationship. But certainly it would be figure out that due to intense codification of law to live in relation would wither out the wind of live in relationship from India and this codification would unknowingly accomplished the purpose of society at large.

Key Words

Codification, Marriage, live in relation, legal, society

Introduction

India is always known and remembered for its rich cultural heritage. And particularly Hindu Marriages are treated as sacred that recognized by God and enforced by Law. Lord Shiva Ardha- Nari Nateshwar portrays Masculine and feminine form signifying that male and female complete each other. India have witnessed long

journey of different marriage forms from Asura, Gandharva to present civilized marriage. Since time immemorial India has always proceeded with its conventional thinking believing that a person gets 'Moksha' when he is set to pyre by his legitimate son. But after the urbanization the waves of Westernization have greatly influenced the approach of Indian towards the life and its basic necessities. A human is inclined more towards the flexible life by entering into the relations with no liabilities. Live in Relation is a form of relationship in which the heterosexual cohabit under a same roof without entering into the formalities, liabilities and duties of marital relations, without any legal relation, under the status of Live in Relation. Live in relation is as old as human, because the primitive man was surviving on flesh and wondering in jungles for gaining a food and companionship. Today the Civilized man, is almost leading the life of primitive man, in which he has to wonder for his livelihood and in due course finds a mate with whom he can cohabit without creating any liability.

India is enriched with diverse culture, to meet the end of justice; the matrimonial laws are so framed to remedy the disputes arising out of wedlock from different religions. Prior to the enactment of Hindu Marriage Act 1955, there was no regulation pertaining to the age of couple, or number of spouse, however to

be noted that the degrees of prohibited relation in marriage is the outcome of conservative Hindu mentality which has also scientific backing. The Hindu marriage act has not only laid down the requisites of valid marriage but also of divorce, it being wholesome act remedying all problems under one roof. Muslims restore to their personal laws which has the gist of Quran. However there is an analogy between Muslim marriage and Live in relation with difference only of that the in Muslim marriage only the male have right to terminate marriage and in Live in relation both partners have equal right of terminating the relation. The Christian Marriage and the Paris marriages are guided under one roof laws.

Objectivity

To study the status of Live in Relation in society.

To verify the need of codification of live in relationship.

Research Methodology

This study is based on secondary data collected from well-known articles of law websites, articles and books.

Literature Review

Live in relation is not a crime or any civil wrong in eyes of law, so it is neither penalized nor made liable for any liability, but however it is against the culture and values of people. Unlike Marriage the partners in live in relation do not have any part of duty

towards each other, violation of which would lead into any liability.

Marriages are having the social sanctioned which is lacked in live in relation due to which its status is not yet acknowledged by law. Indians being conservative are always comfortable with nomenclature of relations has in a man is named as father, brother, uncle, husband, etc. and they believe that the relation with no name is against the morality. But however law does not deny the status of live in relation, but considering the problems arising out of this relationship, law is focusing more towards creating liability of male partner towards the female partner and any child born out of this relationship. Law approved live in relationship as a valid marriage in *Badri Prasad v. Dy. Director of Consolidation* particularly in this instance the relationship continued for 50 years, as the Honble Court believes that the long relationship is as good as marriage. The main issue in the live in relationship was the legality of status of children born out of live in relationship, which was acknowledged by Hon'ble Supreme Court in *Tulsa & Ors vs. Durghatiya & Ors*, in 2008. Apex Court in each of subsequent precedence is endeavoring to detail out requisite which would enable the status of live in relation to stand equally with marriage. In a landmark judgment of *D. Velusamy vs. D. Patchaiammal*, Apex Court have determined certain basic requisites for a couple intending to cohabit

in live in relation shall, be of legal age of marriage, must be unmarried and cohabiting voluntarily. It is to be noted that whenever any social questions relating to human feeling is to be decided by Honble Apex Court, it measures it with the parameter of Article 21 that is right to life, continuing with its legacy Honble Court have recognized live in relation as right to life under Article 21 in *Khushboo vs. Kanniammal & Anr* though the act of live in relation is immoral in eyes of conservative mentality of Indians. In *S.P. Balasubramanyam vs. Suruttayan* (1994) SCC460, in which the Hon'ble Apex Court have given the legitimate status to the child born by cohabiting under one roof for longer time and the child is entrusted with all the rights and immunities equivalent to that of the child from marriage. Considering the un-interfered long live in relationship is assumed as marriage, the other rights and immunities of wife are to be entrusted to female partner in the live in relationship, in consequence of which the dimension of Sec 125 of Criminal Procedure Code have been enlarged by Apex Court in its interpretation as live in relation as defacto in *Chanmuniya v. Virendra Kumar Singh Kushwaha* though further the matter is referred to higher bench of Apex Court. Considering that though the female in live in relation is backed by various laws in her favor, if she is not given the basic immunity under Domestic Violence Act 2005, could

not suffice. Under section 2(f) of Domestic Violence Act, 2005, Domestic relationship means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage or through a relationship in nature of marriage, adoption or are family members living together as a joint family. In view of that the female partner in live in relation is given maintenance under Sec 125 of Criminal Procedure Code, so is she protected from bigamous multiple relationship, cruelty etc..under The Domestic Violence, Act 2005 and the courts are under discretion to interpret considering particular situations.

However it is to be noted that as Law does not consider live in relationship as illegal or void so it is constantly formulating and implementing the laws which would run parallel to the codified laws of marriage. But the question which pops out is whether the law wants the live in relation on same footing that of marriage or it is trying to uproot the live in relation from the society by tying it with the knots of stringent laws. The laws applicable in live in relation are half said laws because they are not able to define the position of the couple in the society in several instances as the inheritance of the women in the ancestral property of the male or the devolution of male property, in case the male is survived by his family, on

death of male. Also the laws are silent on the adoption and guardianship of child. The main problem which the legislation faces while codifying the laws for live in relation is majority times the partners belong to different religions, which are guided and controlled by different set of laws, and creating the compliance in these laws becomes a challenge. All the laws pertaining to marriage, property, divorce etc. are self explanatory on the point as to upon whom said law is applicable but inserting or amending the laws on the basis of live in relationship would shake the structure and interpretation of present laws.

Suggestion

The main purpose of the couples entering in live in relationship is to stay away from the liabilities and duties of marital status. There is flexibility of entering and quitting the relationship without any legal or social formality. Considering that live in relation is not as per the cultural norms and it is difficult for conservative Indian society to get into the concept of live in relation, but however legislations endeavor to put the live in relations on the footage of marriage. The Legislations is serving the purpose of society because if the laws coming up the day is not away when we can get a consolidated law for the subject matter which would definitely give new eyesight for the relationship. Legislations need to cover a large area of human life aspect which would

stand in all uneven situations of live in relations. Going other way round the consolidation of live in relation would defeat the essence of Live in relation that is 'Will to live and quit' which would divert the couples to get into the rituals of marriage.

Statutes
Domestic Violence Act, 2005
Hindu Marriage Act, 1955
Criminal Procedure Code, 1973

Conclusion

Live in relation being no offence would not be penalized but considering it as sensitive as relates with the affections of couple and against feeling of society at large, the legislations have to go forward cautiously. In future the segment of people moving towards live in relation would get into second thought as they would be abide with the duties and liabilities entrusted upon them by the new consolidated laws coming up. The codification would serve the dual purpose by establishing status of couples in relationship and also society sanctioning the relationship because the couples would be given a nomenclature by the laws. The codification would slowly uproot the live in relation system and serve as Negative Laws with Positive effect.

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