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## **DENIAL OF RIGHT TO LIFE TO MARRIED PEOPLE IN LIVE-IN RELATIONSHIP**

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### **INTRODUCTION**

The practise of living together as a pair without getting married, known as a live-in relationship, is becoming more common in Indian society. The judiciary has established many standards to provide protection and recognition to individuals who are unmarried and enter into a live-in relationship. The problem comes when individuals who have a valid marriage but have not divorced it get into live-in relationships and want to safeguard their right to life and liberty under Article 21. In recent years, various courts have issued differing opinions on the subject, which will be examined and studied in this article.

### **THE LEGALITY OF IN-HOUSE RELATIONSHIPS**

The Supreme Court of India ruled in *Lata Singh v. State of Uttar Pradesh*<sup>1</sup> that a live-in relationship between two consenting adults, while perceived as immoral, does not constitute an offence under the law. Similarly, in *S. Khushboo v. Kanniammal and Anr*<sup>2</sup>, the Supreme Court stated that living together is a part of the right to life and thus cannot be considered illegal.

In another significant case, *D Veluswamy v. D Patchaimmal*<sup>3</sup>, the Supreme Court stated that any live-in relationship should be considered a "relationship in the nature of marriage"— while interpreting whether women in live-in relationships should be given protection under the Protection of Women from Domestic Violence Act, 2005.

- a) The couple must exhibit themselves as each other's spouses to society.
- b) Both of them must be of legal marriageable age and unmarried when in a live-in relationship; and
- c) The pair must live together for an extended period of time."

If the aforementioned criteria are met, the live-in relationship will be regarded a marriage-like partnership, allowing women all rights under the DV Act, including the right to maintenance and alimony. Additionally, any children born from such partnerships will be considered legal.

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<sup>1</sup> Lata Singh v. State of U.P., (2006) 5 SCC 475.

<sup>2</sup> S. Khushboo v. Kanniammal, (2010) 5 SCC 600

<sup>3</sup> D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469

## **RELATIONSHIP STATUS IN A LIVE-IN RELATIONSHIP WITH AN EXISTING MARRIAGE**

The Supreme Court ruled in *Indra Sarma v. V.K.V. Sarma*<sup>4</sup> that all live-in interactions could not be accompanied with relationships in the "nature of marriage."

A live-in relationship between a married man and a married woman, or a married woman and a married man, is not equivalent to marriage because it amounts to adultery and bigamy, both of which are illegal. As a result, such women are not protected under the DV Act.

Although such live-in relationships cannot be equated to marriage, should individuals who already have an existing marriage, without disbanding it, begin living with partners other than their spouse and seek protection under Article 21 be denied?

In *Rashika Khandal v. State Of Rajasthan*<sup>5</sup>, a live-in couple filed a writ suit in the Rajasthan High Court, claiming protection of their life and liberty under Article 21. The Court, however, denied their petition on the grounds that the man in the relationship was already married, and so a live-in relationship between a married and unmarried person could not be permitted.

Similarly, in *Smt. Geeta & Anr. v. State Of U.P. & Ors.*<sup>6</sup> the woman in a live-in relationship had an existing marriage and sought protection, but the Allahabad High Court dismissed the petition, ruling that protection could not be granted to such people because they are violating the Hindu Marriage Act, and the right to life and individual liberty under Article 21 can be awarded only if they act within the scope of the applicable law.

However, in *Gurjeet Kaur & Anr v. State of Punjab & Ors*<sup>7</sup>, where the woman was already married and living with another man, the Punjab and Haryana High Court, while refusing to recognise it as a legal relationship, ordered the concerned authorities to take appropriate measures to ensure that the couple's life and liberty were not jeopardised.

However, in *Yash Pal and Anr. v. State Of Haryana And Ors.*<sup>8</sup> when a man with an extant getting married was surviving with another woman and decided to seek safeguards, the Punjab and

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<sup>4</sup> *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

<sup>5</sup> *Rashika Khandal v. State of Rajasthan* MANU/RH/0242/2021.

<sup>6</sup> *Smt. Geeta & Anr. v. State Of U.P. & 4 Ors.*, WRIT-C No.-7542 of 2021 (Allahabad High Court, 15.06.2021).

<sup>7</sup> *Gurjeet Kaur & Anr v. State of Punjab & Ors.* MANU/PH/0302/2021.

<sup>8</sup> *Yash Pal And Anr. v. State Of Haryana And Ors.* CRWP-4660-2021(O&M) (Punjab and Haryana High Court, 21.05.2021).

Haryana High Court denied them any protection, arguing that there is no clarity on the subject and referring the case to a larger bench and posed two questions First, is the Court obligated to provide any protection to two people living together without regard to their marital status or other facts of the crime? Second, if the correct response is no, in what circumstances can such couples be denied protection?

The case is currently being heard by a larger bench of the Punjab and Haryana High Court.

### **THE ABANDONMENT OF THE RIGHT TO LIFE**

The writers feel that the Rajasthan and Allahabad High Courts erred in their decisions in the cases of Rashika Khandal and Geeta. The Punjab and Haryana High Court did take a progressive stance in Gurjeet Kaur, ensuring that there is no threat to the couple's life, but there was a contradiction in the case of Yashpal, when the Court declined to award any protection to the pair.

The said High Courts, in denying protection to the couple, primarily relied on two contentions: first, that a live-in couple where either of them has an existing marriage cannot be protected, because this "live-in relationship" cannot be considered akin to the "institution of marriage" as held by SC in D. Veluswamy and Indra Sarma; second, the Court termed these relationships "adulterous" and "bigamous" and held them to be unlawful, thus refusing.

These arguments, according to the writers, are flawed. It is crucial to note that the Supreme Court in D. Veluswamy and Indra Sarma merely specified the parameters under which a live-in relationship will be declared marriage and the woman will be entitled to all the rights of a legally wedded wife. As a result, if any of the two people is married, the connection will not be recognised as one in the nature of marriage. One must recognise that there are several forms of live-in partnerships, and these decisions make no mention of the couple being denied the right to life and liberty if their live-in relationship is not equivalent to marriage.

Article 21 of the Constitution guarantees everyone the right to life, which cannot be denied until and until proper procedure is followed. The blanket legislation intends to safeguard anyone whose life or liberty is in risk, regardless of whether they are a kid, an adult, or in a live-in relationship. In ***Joseph Shine v. Union of India***<sup>9</sup>, the Supreme Court threw down Section 497 of the Indian Penal Code, effectively decriminalising adultery. As a result of this decision, cohabiting with

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<sup>9</sup> Joseph Shine v. Union of India, (2019) 3 SCC 39.

someone other than one's spouse is no longer considered an offence.

Second, Section 494 of the IPC, which defines bigamy, expressly indicates that only the second marriage within the husband's or wife's lifetime constitutes an offence. A simple live-in relationship between such a wedded and single person does not constitute bigamy. As a result, in circumstances when individuals get into live-in relationships throughout the duration of their marriage, while it may be regarded unethical or reprehensible, there is no violation of penal law, and so security to life and liberty under Article 21 must not be given to such people.

### **CONCLUSION**

The right to live peacefully and without fear is a fundamental right to which every person in society is committed. Although live-in relationships of already married individuals cannot be afforded the same status as that of a marital institution, they must not be refused the security of their life. There has been a great deal of ambiguity on this topic, as different courts have reached different conclusions. The case is now being heard by a bigger bench of the Punjab and Haryana High Court, and we hope that the Court will widen the scope of the Right to Life and Liberty protected by Article 21 and grant protection to couples to live peacefully regardless of their marital status.