



Ashish Shrivastava
Assistant Professor of Law ,
M. B. Khalsa Law College,
Indore (M.P.)

A LEGAL ASPECT ON LIVE IN RELATIONSHIP IN INDIA

Ashish Shrivastava
Assistant Professor of Law ,
M. B. Khalsa Law College,
Indore (M.P.)

Abstract:-

The present research paper explained the live in relationship of unmarried major persons of heterogeneous sex . Does it amount offence ? There are various Supreme Court and High Courts cases to explained that live in relationship is a gist of the Right to Life and Personal Liberty under the article 21 of our Constitution of India . Live in relationship is to be compared with marriage . The rights of live in female partner and legally wedded wife . Problems occurs after the live in relationship or after math of live in relationship . Rights secure of legally wedded wife in the society . The research paper rights of wife and live in female partners like ; maintenance and alimony , legitimacy of the children and



property rights under Hindu law as well as Protection provides under Domestic Violence 2005 Live in relationship is popular term but not yet Explained yet by the statute .

The research paper is also explained the immorality , uncertainty and bigamy and adultery of live in relationship in the eyes of Indian Society and the concept of live - in - relationship is totally against to Indian culture, traditions, humanity. India having the traditional values , bonds of family , cultural and religious limitations . Studies deals with the problems of youth why they are run away from the responsibilities and critical evaluation of the live in relationship. Live in relationship it is considered a total fall out and disrespect of our social values. In India according to traditional Hindu Law , marriage is sacrament and not a civil contract . It is a 'Sanskar' ceremony obligatory for every Hindu .

Keywords:

heterogeneous sex , Right to Life and Personal Liberty , society .ue .

INTRODUCTION :-

The culture of India is one of the oldest and unique. In India, there is amazing cultural diversity throughout the country. The South, North, and Northeast have their own distinct cultures and almost every state has carved out its own cultural niche. There is hardly any culture in the world that is as varied and unique as India. India is home to some of the most ancient civilizations Indian culture is rich and diverse and as a result unique in its very own way. Our manners, way of communicating with one another, etc are one of the important components of our culture.

Western culture has affected almost every dimension of society. The core religious traditions are still the same but the life style differences can be found because of western culture. We can say that western has affected the core traditions of Indian society and changed life style and apparent characteristics of the society. Each and everything including clothing, fashion, food, media, and traditions has been affected by the advent of western culture. The youth prefers to wear western dresses rather than traditional Indian dresses.

Society has always been impacted by technology. Technology impacts how cities grow, where people live. Information and money flow more quickly than ever. Goods and services produced in one part of the world are increasingly available in all parts of the world. International travel is more frequent. International communication is commonplace.

India is a country, which is slowly opening its doors for western ideas and lifestyles and one of the most crucial episodes amongst it, is the concept of Live-in relationships. In ancient India, though the marriage was a general norm, the Hindu scriptures describe and admit the existence of premarital relationships as well. According to Manu, premarital relationships existed both in the Vedic period and afterwards, but was a rare occurrence. This concept of live-in relationship is not new in India; in ancient times it was known as maitri-karar in which a written agreement was made between the two opposite sex that they would live together as friends and look after each other.

Sex before marriage and live in relationship are not new concept for rich and upper people even it is found to be pre dominant. Now it is very common among all the classes of the society. Live in relationship is a distinctive subject matter which has risen in recent years. Live in relationship is an act of leisure activity. Live in relationship understand the relations among the partners and create them learn to manage things of being committed. People are not only getting jobs from out sides countries but also following cultures of western countries. Live in relationship are not new for western countries but these days the concept is adjusting its roots in east also even our country is not untouched.

RATIONAL:

The legal practitioner ,judge researcher of law have to involve in search of law to be applied to a case in hand because "no lawyer knows more than a relatively infinitesimal part of the law ,nor does any judge .But they have to know how to find law and where to find law .

Lawyers draw relevant proposition of law to be applied in a case in hand from two important sources : the judgments made by higher courts ,i.e. the precedents and the legislation. One cannot find out a law applicable to a fact situation covered by a single source of law .Often the legal proposition to be applied in a fact situation cannot be drawn from a particular source of law .A sound knowledge in substantive and procedural laws enables a lawyer to identify relevant facts of case from a mountain of facts made available to him by a client .On the identification of relevant facts and the law to be applied there to a lawyer uses his logic to correlate them .

OBJECTIVES:

The sole aim of the legal research is the objectivity. Objectivity of truth means that the phenomenon would be a reality independent of beliefs, hopes or fears of any individual, all of which we find out not by intuition and speculation but by actual observation.

In my research paper the object of my studies regarding the live in relationship is in the year 2010 the Hon'le supreme court declared the concept of live in relationship is acceptable in our country. Do we really think that according to the Indian culture and tradition, this concept is acceptable in our country? If yes then how much it is suitable for our society?

Does it going to spoil the ancient culture, what we have in India? Or we had this culture since ancient time? Just due to some young people with new thoughts, do we have started to lose our tradition and culture? Legal and Social aspects of live in relationship. What we think rather than getting, married live in relationship is better?

RESEARCH METHODOLOGY:

Techniques for collecting data are referred to as methods while the logic applying the scientific perspective to the study of events is termed 'methodology'. Various methods constitute only a part of methodology. The systematic investigation of problem and of matters concerned with law such as Codes ,Acts, Constitutions, etc is legal research judges, lawyer's, Law commission and researchers constantly do research in Law. Legal researchers do make systematic research into facts of social, political, and economic conditions which gives rise to the individual rules, acts or codes. They also examine the socio-legal and other effects of those acts or rules.

The legal research deals with the social and behavioral phenomena. It studies behavior of human being as members of society and their feelings, response, attitudes under different circumstances. Legal research is carried on both for discovering new legal facts and verification of old ones. Legal research tries to give solutions of LEGAL PROBLEMS.

UNIVERSE AND SAMPLE COLLECTION:

In my research paper mainly available literature is official documents or public documents .Public documents also supply huge fund information .They deal with different subjects and are usually published by various institutions , organization and associations. Records , parliamentary debates , Judgments , etc are regarded as important public documents . These documents are easily available and , to a large extent also reliable . The public documents may be in the form of unpublished records and published documents . A good deal of information regarding socio - legal problems is now collected and released for publication by Government . Generally, all current legislative materials such as Bills , Acts , Rules , Notifications , etc are published in the Gazette of India . The Federal court Reporter and supreme court Reports published the cases decided by them. Private publications like A IR , Supreme court cases , Supreme court Journal also report the case decisions of the Supreme Court . The case decisions of High Courts are also published in 'All India Reporter' ,Madras Law Journal , Bombay Law Reporter ,etc .

OBSERVATION OR ANALYSIS:

The research study deals with the issue of live in relationship which is very common these days . here I am trying to find out of the reasons of critical evaluation of live in relationship. How ever law on this issue is not very clear either in India or in abroad .

While the case by case basis court is adumbrating the law with regard to live in relationships, there are many questions that need to be answered. The rights guaranteed to female live in partner along with the rights of child born out of such relationships ought to be secured . However , it has to be kept in mind that when law giving legal sanction to live in relationship , it does not impede upon the institution of marriage ??? , as many a times men who get into live in relationship is already married . the rights of women in such relationship is also not very clear .

As far as the right of child born under such relationship concerned, under Hindu marriage act 1955 such child will be legal, nevertheless there is no such laws apart from Hindu marriage act 1955 that endorses presumption of legality of child born out of live in relationship. Hence the option of live-in-relationships may seem attractive but the real side may not be that fancy. They may be practically possible but their success in life which some day requires a life-long companion is definitely dull.

In case the parties to live-in-relationship decide to move out of it, to secure rights of child whom none of the parents want to keep, there must be a provision that any of them would be responsible to look after the child. To ensure that his rights are actually given, Court may appoint a guardian. The child is entitled to get a share in the property of both the father as well as the mother.

Justice Malimath Committee as well as the Law Commission of India states that if a woman has been in a 'live in' relationship for a reasonable period, she should enjoy the legal rights of the wife. On 8th October, this recommendation was accepted by the Maharashtra government.

The Fundamental right under Article 21 of the Constitution of India grants to all its citizens "right to life and personal liberty" which means that one is free to live the way one wants. Live in relationship may be immoral in the eyes of the conservative Indian society but it is not "illegal" in the eyes of law. In Payal Sharma v. Superintendent, Nari Niketan Kandari Vihar The Allahabad High Court has held that a lady of the age of majority has a right to go anywhere she wants and that both men and women can live together even without getting married. In Patel and others case , the Supreme Court of India held that live-in relation between two adults without a formal marriage cannot be construed as an offence. This stand was reiterated

by the Supreme Court in the case *Khushboo v. Kaniammal and another*.

The judgments mentioned above had caused great furore and were subjected to severe public anger, they were seen as a step to demolish the culture and tradition of India and to encourage the western concept of live-in relationship.

But few do realize that these judgments have acted not as an incentive to live-in relationship, but as a discouraging factor. An analysis shows that the characteristics of live-in relationship which attracts people towards it are lack of responsibility, freedom and lack of commitment. But the judgments of the courts in India have attached several responsibilities to the said relationship in the form of maintenance, presumption of marriage, legitimacy of children, etc. Thus, the legalization of live-in relationship defeats the very reason for which most urban and financially independent individual, especially youngsters of modern society, opt this as opposed to the institution of marriage. Attributing the incidents and consequences of marriage to live-in relationship, brings it almost at par with marriage.

The Supreme Court of India; bench consisting of Chief Justice K G Balakrishnan, Deepak Verma and B S Chauhan in *actress kushboo* case said "When two adult people want to live together, what is the offence. Does it amount to an offence? Living together is not an offence. It cannot be an offence," The court opined according to Indian Mythology even Krishna and Radha lived together. "Please tell us what the offence is and which section of law applies?" The apex court also cited Article 21 of the part -III of the Constitution of India, which expressly guaranteed the right to life with dignity, liberty and respect, and court also stressed that the perceived immorality by a few protagonists of morality cannot be branded as offence. "The major girl is free to marry any one and she can live with any one", The live-in relationship between two consenting adults does not amount any offence, which is heterosexual in nature [which is contrary to Adultery, which is offence under Indian Penal code 1872], The *Kushboo* case will be known for upholding of freedom of expression, free speech, individual rights, she has right to express her views on any subject within parameters of law. The supreme court did not any fault with her views, opined she has right to express her opinion.

Though the Honorable Supreme Court has given the permission of premarital sex which is not an offence and some restricted rights also given to the female partner of live in relationship under the DOMESTIC VIOLENCE ACT 2005, what you people think its correct thing or not? How many live in partners got married when they being live in partners? Its just a weapon of youth which is used by them that is they are live in partner because they wanted to know each - other and checked their compatibility with each other then after they will get married. There is no certainty in such relationships its just a contract which is renew day by day by both the live in partners court already held that In *Alok Kumar Vs State & Anr* dated 10th AUGUST 2010, The Delhi High court while dealing with the validity of lives in relationship held that "Live in relationship is a walk - in and walk - out relationship. There are no strings attached to this relationship, neither this relationship creates any legal bond between the parties.

It is a contract of living together which is renewed every day by day the parties and can be terminated by either of the parties of the parties without consent of the other party and one party can walk out at will at any time."

Now a days by youth Live in relationship taking as a fashion or a status symbol. Don't you people think that such type of relationship increases the bigamy, adultery and of course male and female prostitution, which is totally IMMORAL for our society. Supreme Court just analyses the law and gave the decision only, and the persons or youth which they are live in together taking undue advantage of making the such type of relationships. They move away from their responsibilities, run away from their moral duties took the reasons like divorce, long legal process and mental tension etc. for these problems legislature made laws and we have the solution because where there is problem there is solution.

Though one side our judiciary trying to make procedure and rights easy where another side trying to decrease the litigation. But problem as it is there is no change in the problem. Supreme Court given their acceptance to premarital sex and live in relationship but the after math of a such relationship are very ugly.

There can be no comparison between "marriage" and "live in relationship". Marriage is the way to keep our society alive and "live in relationship" is just an excuse with the help of which we are trying to run away from our social responsibilities. Supporting what Maharashtra government is doing would be like encouraging live in relationship. So here we say it is only acceptable some youth but not all the society people and live in relationship having more bad after effects of it.

FINDINGS:

This is the biggest evil of 21st century and a trend that will lose the religious, cultural and morality and respect for elders, and society. Here I checked it out that still in our society the concept of live in relationship A huge number of peoples are not accept or strongly against to such type of relationship

and about non peoples are favor the live in relationship concept.

SUGGESTIONS:

So humble suggestion is that above disadvantages should be checked. Live in relationship is an individualistic and human rightist approach. Although the live in relationship is quite prevalent in western countries, but reality in India is different. Here marriage is still an institution, which is preferred over any form of union. In suggestion there should be clear cut law relating on this subject. Secure the rights of woman who engage in such relation through appropriate provisions.

But in my Personal opinion strongly oppose the concept of Live - in relationship which gives only an only insecurities, problems and increasing immorality and spoiling our marriage institution as well as our Indian culture and tradition which is a strong identity of India which giving a position in front.

CONCLUSION:

Live in relationship which has risen in recent year because of domestic violence. Before going deep into this subject, people should understand the meaning of live in relationship. Live in relationship is an act of escapism. Live in relationship judges the relations between couples and make them learn to manage things of being committed. People are not only getting jobs from outside countries, but also following culture of western countries.

Live in relationship is one such connection in which a boy and a girl have some relation before their marriage and if they are satisfied with their partner they get married or be like that for years. This kind of act though seems different; it is the one, which is being implemented today. Live in relationship handles matters of premarital sex, but those couples who are maintaining relations don't mind such things. Over all this relation builds up harmony between the couples, but spoils their social influence.

Career oriented new generation is mainly not interested in marriage instead they live in such kind of relationship like cohabitation without marry to avoid lengthy procedure of divorce and even children' partners who are living in such relation desires to live comfort as well as tension free life'. There is no clear cut law regarding about live-in-relationship "WE CONCLUDE THAT WITH THE VEDICTS OF HONOURABLE COURTS THAT SUCH KIND OF RELATIONSHIP NEITHER ILLEGAL AT ALL NOR TREATED AS AN OFFENCE BUT IT MAY BE IMMORAL IN THE EYES OF SOCIETY". Legal rights of women who involved in such relation may have equal rights as marriage but children out of this relation have validate right in inheritance.

Live in relationship is the greatest threat to India. It destroys Indian family system. It cannot build healthy society by any means. Live in relationship says that "live for yourself, not for others". It should not be legalised by any means. It is not the solution for domestic violence or dowry harassment. Live-in-relationship does not have commitment or sacrament. It is built up on the pillars of money, individualism, liberty and fashionable life style. It is very fragile that it can break at any point of time. Religiously, morally, culturally and legally, it is a pure high-tech prostitution.

If it is legalised, marriages will vanish soon and India will go to dogs! Ultimately India will become another America, where there is no proper culture or no proper family system. Let's do not become cultureless brutes. Please Save India! Save Culture!

BIBLIOGRAPHY:

1. Wiki pedia : The free Encyclopedia
2. Google Search engine
3. Live-In Relationship In A Marriage-Centric India : Posted by Madhur Gupta
4. What makes a live-in 'legal'? Supreme Court explains : Posted By Rakesh Bhatnagar
5. Live in relation & Provisions relating to Maintenance
6. Principles of Sociology, Dr. Kumar, L N Agarwal Educational Publ. 7th Edn, 2003
7. S. Khushboo vs. Kanniammal & Anr. (2010) 5 SCC 600
8. Supreme Court of India in D. Velusamy vs D. Patchaiammal on 21 October, 2010
9. Delhi High Court in Varsha Kapoor vs Uoi & Ors. on 3 June, 2010
10. Supreme Court of India in D. Velusamy vs D. Patchaiammal on 21 October, 2010
11. Alok Kumar vs State & Anr. on 9 August, 2010 ; by Mr. Mahendra Subhash Khairnar
12. REINCARNATION OF MARRIAGE, live-in relationship
13. S. Khushboo .V Kanniammal ,CRIMINAL APPEAL NO. 913 of 2010 [Arising out of SLP (Crl.) No. 4010 of 2008] (2010) 5 SCC 600 Supreme Court quashed all 22 cases filed against her under section 499

- ,504 ,505 IPC for her remarks about pre-marital sex.
14. IN THE HIGH COURT OF DELHI AT NEW DELHI WP (CrI.) No. 638 of 2010
 15. Live-in Relationship “Justified Sin, of Modern India” or a conspiracy against, Indian culture and Religions
 16. Legal Research Methodology of professor H. N. GIRI
 17. Legal Research Methodology of Dr S. R. Myneni
 18. Cr. M. C. NO. 299/2009
 19. Live in relationship - Review and Analysis : Chetan Tripathi
 20. Legal Decisions
 21. Protection of Women from Domestic Violence Act 2005 Sections 2(a), 12 read with Sections 18, 19, 20, 21 and 22.
 22. In S. Khushboo Vs. Kanniammal & Anr. JT 2010 (4) SC 478
 23. In Lata Singh Vs. State of U.P. & Anr. AIR 2006 SC 2522
 24. Madan Mohan Singh & Ors v. Rajni Kant & Anr. (Civil Appeal No. 6466 of 2004, decided on August 13, 2010) (Paras 19-22)
 25. Bharata Matha & Ors v. R. Vijaya Renganathan & Ors. (C.A. No. 7108 of 2003; Decided on 17-05-2010)
 26. Alok Kumar v. State & Anr "Alok Kr. v. State (Cr. M.C. No. 299/2009, decided on August 9, 2010)". High Court of Delhi. Retrieved 25 August 2010.
 27. D. Velusamy v. D. Patchaiammal CRIMINAL APPEAL NOS. 2028-2029 Of 2010