

Review Article**Legal Recognition of Live-In Relationship and Its Challenges to the Institution of Marriage****Kasanappa Naik*, Devidas G. Maley******Abstract**

The concept of marriage and live-in relationship are two distinct ideas evolved out of human relations. The marriage promises factor of permanency in the relationship between man and woman whereas there is no guaranty of such permanency in live-in relationship. However, the trend of society is changing orienting towards the live-in relationship as an alternate and convenient mode of relationship for same or similar type of enjoyment as marriage. So, the society and the judiciary are lenient towards the development of live-in relationship. The need of the hour is to have a suitable legislation to regulate such relations to safeguard the interest of the couple living in such relations and also the children born out of such relations. The day is not far away as considering changing social requirements the Parliament can take up the issue and may enact such law. The development of the concept of live-in relationship in the Society is a challenge to institution of marriage and Society shall find a solution to this emerging problem. The society will change in accordance with the time and no Society will remain stand still.

Keywords: Marriage; Live-in Relation; Recognition; Challenge; Society; Change.

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Introduction

The concept of live-in relationship is as old as human civilization. The concept of marriage is a later development than the live-in relationship. No marriages used to happen during the pre-civilization period. People, especially men and women, used to live-in together in a companion way. There were also not prohibited degrees for marriages. There was no concept of Sapinda relationship in vogue. People later thought that some kind of regulation in companionship otherwise would lead towards ill order, chaos and conflict in human relations. History reveals many instances of live-in together which was having the notion of live-

in relationship. The Society to legalize the co-habitation and also to have a social acceptance has introduced the institution of marriage and the same has a legal force as, all most all the countries of the world have enacted laws governing the marriage. Indian marriages are governed by the Indian Marriage Act, 1872 and marriages in Hindus are governed by the provisions of the Hindu Marriage Act, 1955. Marriages are sacred in Indian society. It not only brings two individuals together; it brings two different families with different norms. So, marriage institution is in the highest position in our society.

Concept of Marriage

Marriages in India take place either following the personal law of the religion to which a party is

belonging or following the provisions of the Special Marriage Act, 1954. Marriage, as per common law, constitutes a contract between a man and woman, in which the parties undertake to live together and support each other. Hinduism lay down that sixteen sanskars (sacraments) shall be performed to make the life of the individual noble and prosperous. The most important of these sanskars is that of marriage. It is a ceremony whereby two souls are brought into union spiritually, mentally and physically in the sacred bond of matrimony. Marriage enables man and woman to find their partners in life. The institution of marriage is essential for the procreation and continuation of life. The characteristic traits of two individuals are thereby transmitted to their progeny. Whilst disciplining one, marriage enables one to satisfy one's emotional and physical needs in a religious and socially acceptable way [1].

The word marriage is not defined in Hindu Marriage Act, 1955. But the conditions of Hindu Marriage are dealt with under Section 7 of the Hindu Marriage Act, 1955 [2]. Section 7 of the Hindu Marriage Act, 1955 provides that:

1. A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto.
2. Where such rites and ceremonies include the saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.

The Supreme Court in *Bhaurao v. State of Maharashtra* [3] has held that a marriage cannot be solemnized by the observance of any kind of rites and ceremonies. If they are not customary, they cannot tie a man and a woman as husband and wife. In connection with marriage the word 'solemnized' means 'to celebrate the marriage with proper ceremonies and in due form'. It follows therefore, that unless the marriage is celebrated or performed with proper ceremonies and due form, it cannot be said to be 'solemnized'.

The High Court of Karnataka in *N. Somanath Tarapur v. Divisional Controller, K.S.R.T.C., Bijapur* [4], has held that, it is not the requirement of law that the marriage amongst Hindus in which it is not proved that the couple had taken a vow and seven steps together in front of the sacred fire, is no marriage at all, nor can it be said that no marriage is valid in the absence of such proof notwithstanding there being sufficient evidence to prove the marriage otherwise. What the law says is that if a custom allows and includes many other rituals and rites to be performed

even thereafter, i.e., subsequent to the performing of the taking of seven steps together by the couple in front of the sacred fire, non-performance of further ceremonies and rituals is of no consequence in determining the validity of marriage. Notwithstanding such subsequent ceremonies not having taking place, the factum of marriage between the parties become binding and complete when seven steps are taken.

The High Court of Delhi in *Anil Dutt Sharma v. Union of India* [5] has held that keeping live-in relationship outside the ambit of Section 376 IPC would give it the status of matrimony which the legislature has expressly chosen not to do. The Court further observed that a live-in relationship constitutes a distinct class from marriage but defense of consent would be always available to the accused.

The traditional forms of Hindu marriages as described by Shastrakara Manu such as 1) Brahma, 2) Daiva, 3) Arsha, 4) Prajapatya, 5) Asura, 6) Gandharva, 7) Rakshasa and 8) Paisacha – are no more in vogue. Polygamy, polyandry and even bigamy are also not found for they are legally prohibited. Only monogamous marriages are universally practiced [6].

The individual nuclear family is a universal social phenomenon in modern situation. As Lowie writes: 'It does not matter whether marital relations are permanent or temporary; whether there is polygamy or polyandry or sexual license; whether conditions are complicated by the addition of members not included in our family circle; the one fact stands out beyond all others that everywhere the husband, wife, immature children constitute a unit apart from the remainder of the community' [7].

In the *History of Human Marriage* Westermarck supported the theory of Darwin that the family took shape from the operation of male possessiveness and jealousy, the dominant male claiming monopolistic rights and guarding them by force until they were secured by custom. Hence, he regarded pair-marriage as the normal form which the jealous assertion of property took and traced the origin of monogamous marriage back to the subhuman world, maintaining that it prevails among the higher ups. While the traits to which the Westermarck's points have certainly been important factors, any theory which lays exclusive stress upon them is inadequate [8].

The Supreme Court in *S. Khushboo v. Kanniammal and another* [9] has observed that "Even though the constitutional freedom of speech and expression is not absolute and can be subjected to reasonable restrictions on grounds such as 'decency and

morality' among others, we must lay stress on the need to tolerate unpopular views in the socio-cultural space. The framers of our Constitution recognized the importance of safe-guarding this right since the free flow of opinions and ideas is essential to sustain the collective life of the citizenry. While an informed citizenry is a pre-conditioned for meaningful governance in the political sense, we must also promote a culture of open dialogue when it comes to societal attitudes. Admittedly, the appellant's remarks did provoke a controversy since the acceptance of premarital sex and live-in relationships is viewed by some as an attack on the centrality of marriage. While there can be no doubt that in India, marriage is an important social institution, we must also keep our minds open to the fact that there are certain individuals or groups who do not hold the same view. To be sure, there are some indigenous groups within our country wherein sexual relations outside the marital setting are accepted as a normal occurrence. Even in the societal main stream, there are a significant number of people who seem nothing wrong in engaging premarital sex. Notions of social morality are inherently subjective and the criminal law cannot be used as a means to unduly interfere with the domain of personal autonomy. Morality and criminality are not co-extensive."

'Offence' has to be read and understood in the context as it has been prescribed under the provisions of Sections 40, 41 and 42 of I.P.C. which cover the offences punishable under I.P.C. or under special or local law or as defined under Section 2(n) of Cr.P.C. or Section 3 (38) of the General Clauses Act, 1897 vide, *Proprietary Articles Trade Association v. Attorney General for Canada* [10]. In *Boli Narayan Pawye v. Smt. Siddeswari Morang* [11], the High Court of Gauhati has held that a woman who comes in the life of a man, gives herself to the man, takes the family life of the man and the man uses her as such, recognizes her as his wife must come within the fold of the term 'wife', absence of ceremonial marriage notwithstanding. In *Dwarka Prasad Satpayhy v. Bidyut Prava Dixit* [12], the Supreme Court has held that the proof of marriage as it would be required for prosecution of an offence under S. 494, I.P.C., is not to be asked for in a proceeding under Sec.125 of the Cr.P.C. When the claimant wife satisfies the Court that she had lived with her husband as his wife, strict proof of marriage is not to be asked for. In *Mallika v. P. Kulandai* [13], the Madras High Court has held that where the second marriage was brought about by a misrepresentation of the husband that his previous wife was dead and the claimant and respondent had lived together for considerable time and a daughter was born. The claimant and the

daughter would be entitled to maintenance.

Marriage is a sacred for Hindus whereas contractual relationship for Muslims in India. Marriage, as its legal consequences, entitles both the persons to cohabit; the children born out of a legal wedlock have legitimacy as legal heir; the wife is entitled to maintenance during and after the dissolution of marriage. To avoid these obligations and to enjoy the benefit of living together, the concept of live-in-relations has come into practice. Live-in relationship provides for a life free from responsibility and commitment unlike as in a marriage.

The Meaning of Live-in-Relationship

It is a living arrangement. It is a new phenomenon. It is an arrangement of living under which the couples who are unmarried live together to conduct a long-going relationship similarly as in marriage. In this relationship an unmarried couple lives together under the same roof in a way it resembles a marriage, but without getting married legally. This form of relationship does not thrust the typical responsibilities of a married life on the individuals living together. The foundation of live-in relationship is individual freedom. Couple present themselves as spouse to the world.

No specific law recognizes the live-in relationships in India. No legislation is there to define the rights and obligations of the parties and the status of children born to such couples. A live-in-relationship is not recognized under the Hindu Marriage Act, 1955 or any other statute in India. In the absence of any law to define the status of live-in-relationships, the Courts have taken the view that where a man and a woman live together as husband and wife for a long term, the law will presume that they were legally married unless proved contrary. The Protection of Women from Domestic Violence Act, 2005 provides for the protection, maintenance and right of palimony to a live-in-partner, if she complains in relationships in the nature of marriage. In *Indra Sharma v. V.K.V. Sharma* [14] before the Supreme Court the question involved was whether a live-in relationship would amount to a relationship in the nature of marriage within the definition of 'Domestic relationship' under Section 2(f) of Protection of Women from Domestic Violence Act, 2005 and the disruption of such relationship by failure to maintain a woman in order in such relationship amounts to Domestic Violence within the meaning of Section 3 of the D.V. Act. The Supreme Court, after elaborate discussion of the matter and issues involved, held that for the first time, through the D.V. Act the Parliament has

recognized relationship in the nature of marriage and not a live-in relationship simpliciter. The Court at Para 55 of the judgment has laid down guidelines as to under what circumstances live-in relationship will fall within the expression relationship in the nature of marriage under Section 2(f) of the D.V. Act. They are as under:

- *Duration of Period of Relationship*

Section 2(f) of the DV Act has used the expression "at any point of time", which means a reasonable period of time to maintain and continue a relationship which may vary from case to case, depending upon the fact and situation.

- *Shared Household*

The expression has been defined under Section 2(s) of the DV Act which reads as: "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.

- *Pooling of Resources and Financial Arrangements*

Supporting each other, or any one of them, financially, sharing bank accounts, acquiring immovable properties in joint names or in the name of the woman, long term investments in business, shares in separate and joint names, so as to have a long standing relationship, may be a guiding factor.

- *Domestic Arrangements*

Entrusting the responsibility, especially on the woman to run the home, do the household activities like cleaning, cooking, maintaining or up keeping the house, etc., is an indication of a relationship in the nature of marriage.

- *Sexual Relationship*

Marriage like relationship refers to sexual relationship, not just for pleasure, but for emotional

and intimate relationship, for procreation of children, so as to give emotional support, companionship and also material affection, caring etc.

- *Children*

Having children is a strong indication of a relationship in the nature of marriage. Parties, therefore, intend to have a long standing relationship. Sharing the responsibility for bringing up and supporting them is also a strong indication.

- *Socialization in Public*

Holding out to the public and socializing with friends, relations and others, as if they are husband and wife is a strong circumstance to hold the relationship in the nature of marriage.

- *Intention and Conduct of the Parties*

Common intention of parties as to what their relationship is to be and to involve, and as to their respective roles and responsibilities, primarily determines the nature of that relationship.

A reading of judgment make it crystal clear that if a person lives with another married man it would become illicit relationship. It will not even be called as a 'relationship in the nature of marriage'. It is to be stated that in live-in relationship, both the couple must be unmarried. Entering into relationship with married man would be concubinage and punishable under Section 497 of the IPC.

In so far as law on 'relationship in the nature of marriage', is well established right from *Andhra Henedige Dinohamy v. Wiketunge Liyanapatabendage Balshamy* [15], to *Madan Mohan Sing and others v. Rajanikanta and another* [16]. The Privy Council in *Henedige Dinohamy* case held, "Where a man and woman are proved to have lived together as man and wife, the Law will presume, unless the contrary be clearly prove that they were living together in consequence of a valid marriage and not in a state of concubinage". In *Mohabbat Ali Khan v. Mohd. Ibrahim Khan* [17] the Privy Council held, "the law presumes in favour of marriage and against concubinage when a man and a woman have cohabited continuously for a number of years". Such presumption could be drawn under Section 114 of the Evidence Act. Even recently in *Udaya Gupta v. Ayesha and another* [18], Supreme Court has reaffirmed the position of law. But Supreme Court, in *Indra Sharma's* case at Para No. 65 held that, "We are therefore, of the view that the appellant, having been

fully aware of the fact that the respondent was married person, could not have entered into a live-in relationship in the nature of marriage. All live-in relationship is not relationship in the nature of marriage. Appellant's and Respondent's relationship is, therefore, not a relationship in the nature of marriage because it has no inherent and essential characteristics of a marriage, but a relationship other than 'in the nature of marriage', and the Appellant's status is lower than status of a wife and that relationship would not fall within the definition of the "Domestic Relationship" under Section 2 of the DV Act if we hold that the relationship between the appellant and the respondent is a relationship in the nature of marriage, we will be doing injustice to the legally wedded wife and children who opposed the relationship".

Live-in-relationship i.e., cohabitation is an arrangement whereby two people decide to live together on a long term or permanent basis in an emotionally or and of sexually intimate relationship. The term is most frequently applied to the couples who are not married. Today cohabitation is a common behavior among people in the western world. People may live together for a number of reasons, those may include wanting to test compatibility or establish financial security before marrying. It may also be because they are unable to legally marry, because for example same sex, some inter-racial or inter-religious marriages are not legal or permitted. Other reasons include living with someone before marriage in an effort to avoid divorce, a way for polygamists to avoid breaking the law, a way to avoid the higher income taxes paid by some two income married couples (unlike the United States), negative effects on pension payments (among older people), and philosophical opposition to the institution of the marriage and seeking difference between the commitment to live together and the commitment to the marriage. Some individuals are also may choose cohabitation because they see their relationships has been private and personal matters and not to be controlled by political, religious or patriarchal institutions.

Some couples prefer cohabitation because it does not legally commit them for an extended period and because it is easier to establish and dissolve without the legal costs of an associated with a divorce. In some jurisdiction can be viewed legally as a common law marriages either after the duration of a specified period or the birth of the couple's child or if the couple consider and behave accordingly as husband and wife.

Now the said concept has gained support of law. The Indian Parliament has enacted the law known

as Protection of Women from Domestic Violence Act, 2005 which came into force on 26.10.2006 and wherein 'the relationships in the nature of marriage' are recognized and domestic violence against a woman living in such relations is prohibited. The High Court of Himachal Pradesh in a decision reported in *Ram Prakash v. Snehalatha @ Malka* [20] wherein it is held that women in live-in-relationship are excluded from benefit of Protection of Women from Domestic Violence Act, 2005. It is further held that expression used in Domestic Violence Act, is relationship in the nature of marriage and not live-in-relationship. Further the Supreme Court in *D. Velu Samy v. D. Patchaiammal* [21] has held that all live-in-relationship will not amount to relationship in the nature of marriage. The Supreme Court at Para No. 35 of the Judgment has held that, "no doubt the view we are taking would exclude many woman who have had a live-in relationship from the benefit of D V Act, 2005, but then it is not for this Court to legislate or amend the law. Parliament has used the expression relationship in the nature of marriage and not live-in-relationship. The Court in the garb of interpretation cannot change the language of the statute". The earliest case in which the Supreme Court of India recognized the live-in relationship as a valid marriage was that of *Badri Prasad v. Deputy Director of Consolidation* [22], in which the Court gave legal validity to 50 year live-in-relationship of a couple.

In *Payhal Katara v. Superintendent, Nari Nitetan Kandri Vihar, Agra and others* [23] the Allahabad High Court held that "a lady of about 21 years of age being a major, has right to go anywhere and that any one-man and woman even without getting married can live together if they wish".

Again in the case of *Lata Singh v. State of U.P. and another* [24], the Apex Court held that the live-in relationship was permissible only between unmarried major persons of heterogeneous sex. If a spouse is married, the man could be guilty of adultery punishable under Section 497 of the IPC. Since the husband survives, Rangammal cannot invoke presumption of live-in. If so, the children became illegitimate and disqualified to inherit under Section 16 of the Hindu Marriage Act, 1955. Therefore, live-in relationship could be 'a dangerous thing' between a wife and non-husband as it could lead to an offence of adultery, but not to 'marriage'.

Thus, even such relations are excluded from the preview of Domestic Violence Act and such being the case when the Indian Society is changing, suitable legislation to regulate such relations are the need of the hour to safeguard the interest of the couple living in such relations and also the children born out of

such relations. The day is not far away as considering changing social requirements the Parliament may take up the issue and may enact the law to fill the gaps.

The Supreme Court in *D. Veluswamy v. D. Patchaiammal* made it clear that if the man has a live-in arrangement with a woman only for sexual reasons, neither partner can claim benefits of a legal marriage. In order to be eligible for palimony, the relationship must comply with certain conditions.

The conditions laid down are that the couple must hold themselves out to society as being akin to spouses; they must be of legal age to marry; they must be otherwise qualified to enter into a legal marriage, including being unmarried; they must have voluntarily cohabited for a significant period of time.

Considering that the judgment would exclude many women in live-in relationships from the benefit of the Domestic Violence Act, 2005, the Apex Court said it is not for this Court to legislate or amend the law. The parliament has used the expression relationship in the nature of marriage and not "live-in-relationship". The Court cannot change the language of the statute.

The Maharashtra Government in October 2008 approved a proposal suggesting a woman involved in such relationship for a reasonable period should get a status of a wife.

The National Commission for Woman recommended to Ministry of Women and Child Development on 30.06.2008 that definition of wife as described in Section 125 of Cr. P.C. which deals with maintenance suggested that it include woman involved in a live-in relationship. Aim of recommendation was to harmonizing other sections of law with Protection of Women from Domestic Violence Act, 2005, that a live-in couples relationship on a par with that between a legally married husband and wife.

The move has come after Justice Malimath Committee recommended that all states shall look into this law. The Committee observed that "if man and woman are live in together as husband and wife for a reasonable long period, the man shall be deemed to have married the woman". The Justice Malimath Committee has also suggested that the word 'wife' under Code of Criminal Procedure be amended to include a woman living with the man like his wife which means the woman would also be entitled to alimony.

In *Ramdev Food Products (P) Ltd., v. Aravindbhai Rambhai Patel and others* [26] the Supreme Court observed that live-in relationship between two adult

without formal marriage cannot be construed as an offence.

In *Radhika v. State of M.P.* [27] the Supreme Court observed that the man and woman are involved in live-in relationship for a long period they will be treated as married couple and their child would be called legitimate.

In *Abhijit Bhikaseeth Auti v. State of Maharashtra and others* [28], the Supreme Court also observed that it is not necessary for a woman to strictly establish the marriage to claim maintenance under Section 125 of Code of Criminal Procedure. A woman living in relationship may also claim maintenance under Section 125 of Code of Criminal Procedure.

Presumption of Marriage

Now it is well settled principle of law that if a male and female lived together for long time there arise presumptions of marriage. Under section 114 of the Indian Evidence Act, there would be presumption in favours of wedlock if the partners live together for long spell as husband and wife; but it would be rebuttable and that heavy burden lies on the person who seeks to deprive the relationship of legal origin to prove that no marriage took place clarified in *Tulsa v. Durgthatiya* [29]. The Supreme Court in the above case has held that Section 114 of the Evidence Act refers to common course of natural events, human conduct and private business. The Court may presume the existence of any fact which it thinks likely to have occurred can be resumed from the common course of natural events and conduct of parties as they are borne out by the facts of a particular case.

Where the partners lived together for long spell as husband and wife there would be presumption in favour of wedlock. The presumption was rebuttable, but a heavy burden lies on the person who seeks to deprive the relationship of legal origin to prove that no marriage took place. Law leans in favour of legitimacy and frowns upon bastardy. The Supreme Court in *Ranganath Parmeshwar Panditrao Mali and Another v. Eknath Gajanan Kulkarni and Another* [31], has held that, "in the case in hand, the consistent evidence being that Panditrao and Sevanthabai were living together for long years as husband and wife and plaintiff No.1 is their son and defendant also admitted the afore said fact but contented that there had been no valid marriage between Panditrao and Sevanthabai, a legal presumption does arise, though the presumption is rebuttable and this presumption has not been rebutted by the defendant. The Supreme Court in *S.P.S. Balasubramanyam v. Suruttayan* [31]

has held that, "if a man and woman lived together for long years as husband and wife then a presumption arises in law of legality of marriage. Existing between the two. But the presumption is rebuttable".

The Supreme Court in *Sobha Hymavathi Devi v. Setti Gangadhara Swamy and Others* [32] has held that "if there is continuous and long co-habitation of a man and a woman as Husband and wife and their treatment as such for number of years may arise presumption of marriage, but presumption is rebuttable." Even in *Gokalchand v. Parvin Kumari* [33], it is held referring to Sections 32(5), 50 and 114 of the Evidence Act, 1872 that "continuous co-habitation as husband and wife lead to presumption of marriage and the presumption of marriage is rebuttable if there are circumstances which weaken or destroy the presumption." But in *Bharatha Matha and another v. R. Vijaya Renaganathan and Others* [34], it is held that, "High Court ruled in favor of validity of marriage reversing findings recorded by Courts below that parties were having live-in relationship". But the Supreme Court held that a child born of void or voidable marriage is not entitled to claim inheritance in ancestral coparcenary property but is entitled only to claim share in self-acquired properties. The question of inheritance of coparcenary property by illegitimate children, who were born out of live-in relationship, could not arise. In *Madan Mohan Singh and Others v. Rajanikanth and Another* has held that, the live-in relationship if continued for such a long time, cannot be termed in as walk-in and walk-out relationship and there is a presumption of marriage between them. The decision clarifies that even in case of live-in relationship a presumption of marriage would arise in course of time.

The development of the concept of live-in relationship in the Society is a challenge to institution of marriage and Society shall find a solution to this emerging problem. The society shall change in accordance with the time and no Society remains stand still. The Supreme Court in *Badshah v. Sou. Urmila Badshah Godse and Another* [35] has held as under:

"The law regulates relationship between people. It prescribes patterns of behavior. It reflects the values of Society. The role of the court is to understand the purpose of law in society and to half the law to achieve its purpose. But the law of a society is a living organism. It is based on a given factual and social reality that is constantly changing. Sometimes change in law precedes societal change and is even intended to stimulate it. In most cases, however, a change in law is the result of a change in social

reality. Indeed, when social reality changes, the law must change too. Just as change in social reality is the law of life, responsiveness to change in social reality is the life of the law. It can be said that the history of law is the history of adapting the law to society's changing needs. In both constitutional and statutory interpretation, the court is supposed to exercise direction in determine the proper relationship between the subjective and objective purpose of law."

The need to include live-in female partners for the right of maintenance under Section 125 of Criminal Procedure Code, 1973 was supported by the Judgment in *Abhijit Bhikaseth Auti v. State of Maharashtra and others*. Justice Malimath Committee and the Law Commission of India also suggested that if a woman has been live-in relationship for a considerably long time, she ought to enjoy the legal status as given to wife. However, recently it was observed that a divorced wife is treated as a wife in the context of Section 125 of Cr.P.C. but the live in partners cannot get divorced, and hence cannot claim maintenance under Section 125 of Cr.P.C.

Conclusion

Live-in relationship is not as narrower concept as some people think about it. Live-in relationship means two unmarried couple lives in a common room and cohabit on permanent basis. If such relationship fails then law will certainly take care of such people. Living together for considerable amount of time mature into marriage and the party who cheat the other will have to face the presumption of marriage.

It is much argued that in case there is failure of such relation or that one of spouse give up midway, and then the existing law would take care. There is presumption that if a man and woman live together for considerable length of time their relationship would mature into a marriage and would confer status of husband and wife. The Supreme Court in *D. Veluswamy v. D. Pachiammal* has interpreted the word relationship in the nature of marriage referring to provisions of Protection of Women from Domestic Violence Act, 2005 it is held that, "in our opinion the Parliament by aforesaid Act has drawn distinction between the relationship of marriage and relationship in the nature of marriage and has provided that in either case the person who enters into either one of relationship is entitled to the benefit of the Act". It is further held that, "it seems to us that in aforesaid Act of 2005 Parliament has taken notice of a new social phenomenon which has emerged in

our country known as live-in relationship. This new relationship is still rare in our country and is sometimes found in big cities in India, but it is very common in North America and Europe.

It is further held that, "when a wife is deserted in most countries the law provides for maintenance to her by husband, which is called alimony. However, there was no law provides for maintenance to women who was having a live-in relationship with a man without being married to him and was then deserted by him".

The Court referred the word palimony as used in USA for grant of maintenance to women who has lived for a substantial period of time with a man without marrying him, and is then deserted by him. The Court referred first decision on palimony in *Marvin v. Marvin* [34] by California Superior Court. It is also held that, "Subsequently, in many decisions of the Court of USA, concept of palimony has been considered and developed." It is held that the US Supreme Court has not given any decision. Relationship in the nature of marriage is held to be common law marriage. Thus, law on this topic is yet to develop. Even DV Act is also held to be that applicable to the relationship of this nature. The only remedy is that, the Parliament shall pass legislation on this aspect to put an end to all these confusions. The live-in relationship definitely challenges the concept as well as the institution of marriage which will leads to conflict with cultural ethos.

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