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BEYOND MARRIAGE: DOMESTIC VIOLENCE PROTECTION IN LIVE-IN RELATIONSHIPS

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INTRODUCTION

Protection of Women from Domestic Violence Act, 2005, passed in 2005 by the Indian Parliament and enforced in 2006 in order to safeguard women from domestic abuse that may take place within households represents a paradigm shift, which recognises domestic violence as not only physical assault but emotional, verbal, sexual and financial abuse too. It was introduced as welfare legislation in order to protect the dignity and rights of women within the confines of marriage. With rapid industrialisation and changes in societal trends, the concept of intimate relationships in India has undergone a great deal of change. As societal changes and urbanization occur, the dynamics of relationships have changed in India. The idea of living together has come into play and has been more visible among younger generations. The concept of live-in relationships is characterized by two consenting individuals cohabiting without being legally married. This is in contrast to marriage, in which individuals have certain rights and obligations based on their marriage status and personal laws.¹ In addition, dissolution of a live-in relationship does not necessarily involve a divorce. However, women who live together in these types of relationships may face vulnerable situation arising from domestic violence due to the lack of legal ties. This is why section 2(f) of the Domestic Violence Act widened the scope of domestic relationship to include relationships that were in the nature of marriage.²

The judiciary has also been significant in extending legal protection to women involved in live-in relationships. In the case of *D. Velusamy vs. D. Patchaiammal*, the court found that in some cases, the existence of a live-in relationship between the two parties may be equated with

¹ Dr. Asha Rani, Domestic Violence against Women in Live-in Relationships, 3 Int'l J. Trends Emerging Rsch. & Dev. 65 (2025), <https://doi.org/10.5281/zenodo.17961982>

² Protection of Women from Domestic Violence Act, No. 43 of 2005, § 2(f), India Code (2005)

marriage, and hence the woman can claim her maintenance upon the breakup of the relationship.³ In a similar vein, in the case of *Indra Sarma v. V.K.V. Sarma*, the court emphasized that although the live in relationships may not be socially acceptable, they are neither sinful nor criminal.⁴ This paper discusses the Protection of Women from Domestic Violence Act, 2005 as applied to live-in relationship and discusses how judiciary has interpreted the term relationship in the nature of interpretation of the law by considering the changing nature of relations in society.

1. PROTECTION TO WOMEN UNDER THE DOMESTIC VIOLENCE ACT

Those women who can prove that they are in a "relationship in the nature of marriage" as per Section 2(f) of the Protection of Women from Domestic Violence Act, 2005⁵ can avail themselves of the various reliefs provided under the Act. A liberal view has been taken by the Act regarding domestic violence as it includes physical as well as psychological, sexual, verbal and economic abuse.

Protection orders can be passed against a respondent under Section 18 of the Act so as to prevent him from committing any further acts of violence or harassment against the complainant⁶. Residence orders can be granted to a woman under Section 19 of the Act grants her the right to continue living in the common household despite having no proprietary interest therein.⁷ Monetary reliefs have been provided under Section 20 of the Act, which include the provision for maintenance as well as compensation for expenses incurred and damages suffered on account of domestic violence.⁸

The importance of these provisions is that they provide legal protection not only in relation to formally recognized marriages but also take into consideration the vulnerability of women in other domestic relationships outside the context of marriage. However, what is crucial for accessing these remedies is the decision by the court whether the domestic relationship can be categorized as a relationship in the nature of marriage.

³ *D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469 (India).

⁴ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 S.C.C. 755 (India).

⁵ DV Act § 2(f).

⁶ DV Act § 18

⁷ DV Act § 19

⁸ DV Act § 20

2. RELATIONSHIPS IN THE NATURE OF MARRIAGE AND JUDICIAL INTERPRETATION

The Protection of Women from Domestic Violence Act, 2005 made statutory recognition of live-in relationships for the first time by affording legal protection to women who may be staying with a man in a relationship in the nature of marriage but are not legally married. According to Section 2(f) of the Act, a domestic relationship is any relationship where there exists between two persons, residing or having resided together in a shared household and related by consanguinity, marriage, adoption or a relationship that resembles marriage.⁹

Prior to the early 2000s, the phenomenon of live-in relationship did not see much discussion in the judiciary of India. However, owing to the changing dynamics of society, coupled with the changing attitude towards individual independence, Indian courts began acknowledging live-in relationships within the legal sphere¹⁰. A milestone in this regard was achieved in *Payal Sharma v. Superintendent, Nari Niketan*, wherein it was held by the Allahabad High Court that any two adults have a fundamental right to live together without getting married. It has also been held in the case that although live-in relationships may be termed immoral by some section of society, but such relationships are not illegal in nature.¹¹

Later, in *Vidyadhari v. Sukhrana Bai*, the Supreme Court of India again acknowledged the legal implications of living together without getting married by giving succession rights to the respondent woman in whose long-term relationship with the deceased, she was involved.¹²

These decisions marked an important shift in Indian jurisprudence by recognizing that constitutional protections of dignity, autonomy, and personal choice cannot be confined solely to formally married relationships.

In the case of *D. Velusamy v. D. Patchaiammal* the Court pointed out that it was clear from Parliament's deliberate use of the term that there was a distinction being made between the status of a valid marriage and a relationship in the nature of marriage. This was because, through such a term, Parliament intended to extend the scope of protection to include even women who were living in relationships other than marriage. However, the Court also stated that not all live-in relationships could qualify as a relationship in the nature of marriage. It

⁹ DV Act § 2(f).

¹⁰ Sonali Abhang, Judicial Approach to "Live-In-Relationship" in India—Its Impact on Other Related Statutes, 19 IOSR J. HUMAN. & SOC. SCI. 28, 30 (2014).

¹¹ *Payal Sharma v. Superintendent, Nari Niketan*, A.I.R. 2001 All. 254.

¹² *Vidyadhari v. Sukhrana Bai*, (2008) 2 S.C.C. 238.

should be noted that the ruling was important in recognizing changes in the social environment and the need to protect women in non-marital relationships from domestic violence. On the other hand, the Court followed a restrictive interpretation and limited the protection to those couples that resemble marriage in many respects. The Court considered the duration of cohabitation, sharing the household and the social recognition of the relationship when deciding on the issue of the existence of a particular live-in relationship.¹³

In the landmark judgment in **Indra Sarma v. V.K.V. Sarma**, the Supreme Court has elucidated extensively the concept of relationship in the nature of marriage as contemplated under Section 2(f) of the Protection of Women from Domestic Violence Act, 2005. The Supreme Court has noted that society is gradually becoming aware of different types of relationships between men and women other than the marital relation and the Domestic Violence Act was passed to protect the women from any kind of abuse within these relationships.

The Court made it clear that a live-in relationship is not equivalent to marriage in all respects and a number of factors will be required to determine whether the relationship is one in the nature of marriage or not. For instance, it should exhibit certain qualities of marriage such as cohabitation for considerable period of time, sharing finances, domestic chores, sexual and emotional intimacy, raising kids and public representation of the parties as spouses¹⁴.

In the case of **Chanmuniya vs. Virendra Kumar Singh Kushwaha**, the Supreme Court gave an expansive interpretation to the right of maintenance as per Section 125 Cr.P.C. and held that it would be unjust for a man to absolve himself of any duty after living with a woman in a long-term domestic relationship merely because the relationship lacked formal legal validity. It was stated that maintenance provisions were welfare legislations which sought to ensure that no person remains in destitution. Making a mention of the Protection of Women from Domestic Violence Act, 2005, it was pointed out that under the said Act, the right to monetary relief and protection existed even for women who were in relationships in the nature of marriage.¹⁵

3. CONCLUSION

This approach of the judiciary in the interpretation of live-in relationships by the Protection of Women from Domestic Violence Act, 2005 is an example of the judiciary's endeavour to reconcile emerging social trends with traditional interpretations of marriage in law. The

¹³ Velusamy, (2010) 10 S.C.C.

¹⁴ Indra Sarma, (2013) 15 S.C.C.

¹⁵ Chanmuniya v. Virendra Kumar Singh Kushwaha, (2011) 1 S.C.C. 141

judiciary's efforts to protect women in live-in relationships can be seen from cases like *Chanmuniya v. Virendra Kumar Singh Kushwaha*, *D. Velusamy v. D. Patchaiammal*, and *Indra Sarma v. V.K.V. Sarma*. The judiciary has, at the same time, laid down certain conditions for these relationships to be similar to marriage.

Nonetheless, the dependence on judicial interpretation has also led to inherent challenges. In the absence of precise definitions provided by the legislature for relationship in the nature of marriage, courts have adopted various criteria to test whether or not a couple can qualify as protected under the relevant laws. Criteria based on cohabitation, living together, financial considerations, and recognition in society have led to inconsistent application and consequently ambiguity within the law. Consequently, women in shorter or less publicly visible relationships may remain outside the scope of legal protection despite being vulnerable to abuse and economic dependency.