



2025:AHC:226669

A.F.R.

Judgment Reserved On 04.12.2025

Judgment Delivered on 17.12.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 35171 of 2025

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Rajeev Kumar Saxena
Counsel for Respondent(s)	:	C.S.C.

Along with :

- Writ - C No. 34986 of 2025:**
Smt and another
Versus
State of U.P. and 3 others
- Writ - C No. 35935 of 2025:**
and another
Versus
State of U.P. and 3 others
- Writ - C No. 37009 of 2025:**
and another
Versus
State of U.P. and 3 others
- Writ - C No. 38452 of 2025:**
@ and another
Versus
State of U.P. and 3 others
- Writ - C No. 38527 of 2025:**
and another
Versus
State of U.P. and 3 others
- Writ - C No. 38699 of 2025:**
and another
Versus
State of U.P. and 3 others
- Writ - C No. 38946 of 2025:**
and another
Versus

- The State of U.P. and 4 others
8. **Writ - C No. 39782 of 2025:**
and another
- Versus
- State of U.P. and 3 others
9. **Writ - C No. 40532 of 2025:**
and another
- Versus
- State of U.P. and 3 others
10. **Writ - C No. 40539 of 2025:**
and another
- Versus
- State of U.P. and 3 others
11. **Writ - C No. 41395 of 2025:**
and another
- Versus
- State of U.P. and 3 others
12. **Writ - C No. 42827 of 2025:**
and another
- Versus
- State of U.P. and 4 others
-

Court No. - 78**HON'BLE VIVEK KUMAR SINGH, J.**

1. Heard Sri Swetashwa Agarwal, learned Senior Counsel, appeared as Amicus Curiae and assisted by Sri Subir Lal, Shri Sausthav Guha, Sri Dhanraj Singh Yadav, Sri Ajay Kumar and Sri Abhay Kumar Shukla, learned counsels appearing on behalf of the petitioners and Sri Yogesh Kumar, Sri Pramit Kumar Pal and Sri Suresh Babu, learned Standing Counsels for the State of U.P., in all the writ petitions.

2. By means of the present writ petition, the petitioners have prayed for a writ in the nature of mandamus directing the respondents not to interfere in their peaceful life and also for a direction to provide protection.

3. A large number of petitions are being filed in this Court wherein the petitioners have decided to stay together in a live-in relationship and they claimed that they have an apprehension of life threat from the private respondents and the Police of concerned Districts have been approached by them, but no heed was paid, therefore, they have approached this Court by way of filing these writ petitions. In all the writ petitions, the petitioners have prayed that the Police of their District be directed to

provide protection from private respondents as well as other family members/relatives/associates of the private respondents from causing any harm to the petitioners.

4. Since controversy involved in all the writ petitions are similar, hence they are being decided by a common judgment.

5. This Court, taking note of the involvement of the important issue in the matter, requested Mr. Shwetashwa Agarwal, learned Senior Advocate, to assist this Court, as amicus curiae, which was accepted by the learned Senior Counsel and he argued the matter with the assistance of learned counsels named above.

6. Learned Senior Counsel started his argument that in India live-in relationship is not unlawful though, it is not accepted in many parts of the society because people think it may increase adultery. According to Article 21 of the Constitution of India, every citizen's right to marry is an alienable fundamental right. They can be married or be in a live-in relationship. It is their choice and no one can interfere in their peaceful living.

7. Learned Senior Counsel further argued that Article 21 of the Constitution of India grants the personal choice of whether to marry or not and be in a live-in relationship. A major person has a right to marry a people of his/her choice or to live with his/her partner/they have a right to live out of the wedlock.

8. It is further argued by the learned Senior Counsel that live-in relationship may be considered to be an immoral act. Morality may differ from person to person. It is according to each person and perception whether a particular thing is moral or immoral. The live-in relationship is not prohibited by any law. The legality of the live-in relationship arose from Article 19 and 21 of the Constitution of India, therefore, one can live anywhere and with anyone of their choice, with or without marriage. According to law, a live-in relationship cannot be said illegal, however, some people may call it immoral. It is also submitted that the Indian Parliament has never passed any Legislation that declares a live-in relationship as illegal or unlawful. The Supreme Court and the High

Courts in various judgments, have accepted the live-in relationship.

9. The learned Senior Counsel citing several judgments of Supreme Court as well as High Courts, stated that it is verdict that a live-in relationship between consenting adults of heterogenic sex does not amount to any offence. It is also submitted that Article 14 of the Indian Constitution guarantees equal protection of law in the territory of India and Article 21 protects the citizen's right to life and liberty. In these cases, the petitioners, claimed to be in a live-in relationship, have crossed the age of majority which is a legal age to enter into any relationship with protection, according to their prayer. The learned Senior Counsel has relied upon various judgments of the Supreme Court as well as High Courts in support of his contention, which shall be discussed by this Court in succeeding paragraphs of this judgment.

10. Learned Additional Chief Standing Counsel and learned Standing Counsel for the State of U.P. stated that the Indian society cannot accept the live-in relationship in replacement of marriage. Married couples often have many societal responsibilities of finances, taking care of each other's family members and performing the duties organized by the society. In a live-in relationship there is no need to please parents and relatives, and the couples are free from such responsibilities which will arise out of marriage.

11. It is also stated by learned counsel for the State that live-in relationship cannot be accepted at the cost of our country's social fabric. These parties are not binding by any law and either of the partners can walk out of the said relationship as and when they like to do so. It is a contract of live-in together which is renewed every day by the parties and can be terminated by either of the parties without consent of the other party and one party can walk out at any point of time. There is no legal status of such type of relationship and the legal status of the children born out of such relationship would not be determined and it will create a lot of complications in the life of live-in partners, therefore, before seeking any relief from the Court, they should marry first.

12. It is also submitted by the learned counsel for the State of U.P. that if

the petitions are allowed, that would impose an impermissible obligation upon the State to supervise, affirm and protect personal choices of the petitioners. It is further submitted that protection may be granted to the couples who have solemnized marriage against the wishes of their parents and relatives but no protection can be granted to non-marital couples. The apprehensions of the petitioners are vague, speculative and unsupported by any contemporaneous complaint to local police authorities. There is no real and immediate threat to life or limb of the petitioners. The State's obligation to protect arises only when a real and immediate threat exists; the Constitution does not compel prophylactic, generalized or anticipatory protection for private arrangements. The police cannot be compelled to serve as personal security for non-marital cohabitation. Protection by the police is warranted only when there exists a credible and immediate threat.

13. In last, it is submitted by learned counsel for the State that moral values and traditions of the Indian Society in name of modernisation cannot be accepted and no relief can be granted by this Court considering the status of the parties/petitioners. The learned counsel for the State have also relied upon following judgments:

- "1. Director of Settlements vs. M.R. Apparao, (2002) 4 SCC 638.*
- 2. Shanti Fragrances v. Union of India, (2018) 11 SCC 305.*
- 3. Municipal Committee, Amritsar vs. Hazara Singh, (1975) 1 SCC 794.*
- 4. Common Cause vs. Union of India, (2018) 5 SCC 1.*
- 5. Indra Sarma vs. V.K.V. Sarma, (2013) 15 SCC 755.*
- 6. State of Punjab vs. Gurdial Singh, (1980) 2 SCC 471.*
- 7. K.K. Bhalla vs. State of M.P., (2006) 3 SCC 581.*
- 8. Poonam Verma vs. Delhi Police, (1996) 4 SCC 565.*
- 9. Divisional Manager, Aravali Golf Club vs. Chander Hass, (2008) 1 SCC 683."*

14. I have heard rival submissions of the parties and perused the records.

15. Marriage is a sacred relationship in India. Marriage has its legal consequences, entitles both the persons to cohabit, children born out of a legal wedlock have legitimacy as legal heirs, the wife is entitled to maintenance during and after the dissolution of marriage. To avoid these responsibilities and to enjoy the benefit of living together, the concept of living together has come into picture. Live-in relationship provides for a life free from responsibilities and commitment unlike in a marriage. In this relationship, an unmarried couple lives together under the same roof in a way it resembles a marriage, but without getting legally married.

16. Live-in relationship is not socially accepted in our country. On the other hand, it is considered as taboo in India. The door for western ideas is always welcome in India and the concept of live-in relationship is one of such ideas. Live-in relationship is still facing social stigma and moral debate, especially regarding traditional values, children, differing religious/cultural perspectives. For some, it is immoral while others see it as a valid choice for compatibility.

17. In modern era, the concept of live-in relationship means a male and a female living together under a roof without marriage. This Court has been approached by live-in couples for protection from the private respondents, therefore, without going into the morality of the act of the petitioners, the Court has to see as to whether any illegal act has been committed by the petitioners and in this context, it has to be seen as to whether they are entitled to any relief.

18. **Badri Prasad vs. Deputy Director of Consolidation, AIR 1978 SC 1557; (1978) 3 SCC 527**, was the first case in which the Hon'ble Supreme Court of India has recognized live-in relationship and interpreted it as a valid marriage. In this case the Hon'ble Supreme Court gave the legal validity to the 50 years old relationship of a couple. The Supreme Court held that the parties were in a live-in relationship for more than 50 years and their relationship would be considered as husband and wife, presuming the relationship was valid.

19. In the case of **Payal Sharma @ Kamla Sharma vs. Superintendent,**

Nari Niketan, Agra, AIR 2001 ALL 254, the Division Bench of Allahabad High Court, clearly stated that a man and women even without getting married can live together if they wish. This may be regarded immoral by the society but it is not illegal. There is a difference between the law and morality. The petitioner was set at liberty by the Division Bench of High Court, Allahabad, and it was observed that she can go anywhere and can live with anyone as she desires. The police was also directed to ensure security of the petitioner.

20. In the case of **Tulsa And Others vs. Durghatiya And Others, (2008) 4 SCC 520**, the Hon'ble Supreme Court has remarked that where partners live jointly for an extended period of time, a belief would emerge in a substantial marriage. Subsequently, there is no rule which shows that living together with someone is unlawful, also children conceived out of such relationship will no more be considered as illegitimate.

21. In the case of **S. Khushboo vs. Kanniammal And Another, (2010) 5 SCC 600**, the Hon'ble Supreme Court held that adults willingly engaging in sexual relations outside the marital setting is not an offence. Paragraph Nos. 31 and 46 of the **S. Khushboo (supra)** are reproduced as under:

"31. While it is true that the mainstream view in our society is that sexual contact should take place only between marital partners, there is no statutory offence that takes place when adults willingly engage in sexual relations outside the marital setting, with the exception of "adultery" as defined under Section 497 IPC. At this juncture, we may refer to the decision given by this Court in Lata Singh Vs. State of U.P. & Anr., AIR 2006 SC 2522, wherein it was observed that a live-in relationship between two consenting adults of heterogenic sex does not amount to any offence (with the obvious exception of "adultery"), even though it may be perceived as immoral. A major girl is free to marry anyone she likes or "live with anyone she likes". In that case, the petitioner was a woman who had married a man belonging to another caste and had begun cohabitation with him. The petitioner's brother had filed a criminal complaint accusing her husband of offences under Sections 366 and 368 IPC, thereby leading to the commencement of trial proceedings. This Court had entertained a writ petition and granted relief by quashing the

criminal trial. Furthermore, the Court had noted that "no offence was committed by any of the accused and the whole criminal case in question is an abuse of the process of the Court".

46. 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 mainstream, there are a significant number of people who see nothing wrong in engaging in 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"

22. Here an important issue raised in these petitions is regarding the fundamental rights of the petitioners guaranteed under Article 21 of the Constitution of India. Can this Court be a silent spectator when its extraordinary jurisdiction under Article 226 of the Constitution of India invoked seeking its protection for personal liberty and a young couple whose only fault is that they have crossed the bridge which is not socially acceptable by our society.

23. The Hon'ble Apex Court has considered this issue and has laid down law that partners, living in a relationship has not committed any offence.

24. In the case of **Gian Devi v. The Superintendent, Nari Niketan, Delhi and Others, (1976) 3 SCC 234**, the three-Judge Bench of the Hon'ble Supreme Court has held that if a girl is major then no fetter can be placed upon her choice of the person with whom she is to stay nor any restriction can be imposed regarding the place where she should stay. The Supreme Court further observed that relatives can also have no right to interfere in such matter. It is enough to extract relevant part of the judgment which reads as under:

"7. ... Whatever may be the date of birth of the petitioner, the fact remains that she is at present more than 18 years of age. As the petitioner is sui juris no fetters can be placed upon her choice of the person with whom she is to stay, nor can any restriction be imposed regarding the place where she should stay. The court or the relatives of the petitioner can also not substitute their opinion or preference for that of the petitioner in such a matter."

25. In **Lata Singh vs. State of UP 2006 Cr.L.J. 3309**, while dealing with a case of harassment by the parents of the boy and girl, who had entered into inter-caste marriage, Hon'ble Supreme Court has issued directions to the Administration/Police authorities throughout the country in the following terms:-

"This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law."

26. In **Bhagwan Dass v. State (NCT of Delhi), (2011) 6 SCC 396** Hon'ble Supreme Court held in paragraph 28 and 29 as under:-

"28. Often young couples who fall in love have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts. We have held in Lata Singh case that there is nothing "honourable" in "honour" killings, and they are nothing but barbaric and brutal murders

by bigoted persons with feudal minds. In our opinion honour killings, for whatever reason, come within the category of the rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilised behavior. All persons who are planning to perpetrate "honour" killings should know that the gallows await them.

29. Let a copy of this judgment be sent to the Registrars General/ Registrars of all the High Courts who shall circulate the same to all the Judges of the Courts. The Registrars General/ Registrars of the High Courts will also circulate copies of the same to all the Sessions Judges/ Additional Sessions Judges in the States/Union Territories. Copies of the judgment shall also be sent to all the Chief Secretaries/ Home Secretaries/ Directors General of Police of all States/ Union Territories in the country. The Home Secretaries and Directors General of Police will circulate the same to all SSPs/SPs in the States/Union Territories for information."

27. The anguish expressed by the Supreme Court in the case of **Bhagwan Dass (supra)** is a matter of serious concern for our democratic polity. Organizing Khaps on the caste basis and implementing their decisions instantly will turn the democracy into mobocracy. It will turn India into a banana republic. As noticed by the Supreme Court, honour killing has become commonplace in several parts of India. If the tendency to overreach the rule of law is not nipped in the bud, it would corrode the very foundation of our Constitution on which its grand edifice rests. The consequences are fraught with danger of collapse of our institutions and rule of law that will lead to anarchy.

28. The Supreme Court in the case of **D. Velusamy v. D. Patchaiammal, reported in (2010) 10 SCC 469**, has considered the live-in relationship or a relationship in the nature of marriage and laid down some ingredients, which can be treated like a common law marriage. The relevant paragraph of the judgment reads as under:

"31. In our opinion a "relationship in the nature of marriage" is akin to a common law marriage. Common law marriages require that although not

being formally married:

(a) The couple must hold themselves out to society as being akin to spouses.

(b) They must be of legal age to marry.

(c) They must be otherwise qualified to enter into a legal marriage, including being unmarried.

(d) They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time."

29. A three Judge Bench of the Hon'ble Apex Court in **Soni Gerry vs. Gerry Douglas, (2018) 2 SCC 197**, where the daughter of appellant and respondent, who had attained the age of majority, expressed her desire to reside in Kuwait with her father, where she was pursuing her education, held:

"10. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/He is entitled to make her/his choice. The courts cannot, as long as the choice remains, assume the role of parens patriae. The daughter is entitled to enjoy her freedom as the law permits and the court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father. We say so without any reservation."

30. In **Dhanu Lal vs. Ganesh Ram, (2015) 12 SCC 301**, the Apex Court has held that couples in live in relationships will be presumed legally married. It was also held that the woman in live in relationship would be eligible to inherit the property after the death of a partner.

31. In **Nandakumar and Another vs. State of Kerala, (2018) 16 SCC 602**, the Apex Court emphasized that live in relationship is now recognized by the legislature itself and it has found its place under the provisions of Protection of Women from Domestic Violence Act, 2005. The relevant paragraphs of **Nandakumar (supra)** are reproduced as

under:

"We need not go into this aspect in detail. For our purposes, it is sufficient to note that both Appellant 1 and Thushara are major. Even if they were not competent to enter into wedlock (which position itself is disputed), they have right to live together even outside the wedlock. It would not be out of place to mention that "live-in relationship" is now recognized by the legislature itself which has found its place under the provisions of the Protection of Women from Domestic Violence Act, 2005."

32. The matter in issue has already been dealt with in great detail by the Hon'ble Supreme Court in the case of **Indra Sarma vs. V.K.V. Sarma, (2013) 15 SCC 755**, wherein it was held that live-in relationships may last for a considerable time and can lead to standards of dependency and vulnerability and with the increase in number of live-in relationships there must be sufficient protection, specially for women and those children who are born out of such relationships. The law cannot promote premarital sex, and live-in relationships are personal and people can give their opinion in favour or against it. The legislature must consider this issue and enact separate legislation so that protection for women and children born out of live-in relationships can be provided. The relevant paragraphs of the aforesaid judgment are reproduced hereinunder:

"37. The distinction between the relationship in the nature of marriage and marital relationship has to be noted first. The relationship of marriage continues, notwithstanding the fact that there are differences of opinions, marital unrest, etc., even if they are not sharing a shared household, being based on law. But live-in-relationship is purely an arrangement between the parties unlike, a legal marriage. Once a party to a live-in- relationship determines that he/she does not wish to live in such a relationship, that relationship comes to an end. Further, in a relationship in the nature of marriage, the party asserting the existence of the relationship, at any stage or at any point of time, must positively prove the existence of the identifying characteristics of that relationship, since the legislature has used the expression "in the nature of".

38. Reference to certain situations, in which the relationship between an aggrieved person referred to in Section 2(a) and the respondent referred to in Section 2(q) of the DV Act, would or would not amount to a relationship in the nature of marriage, would be apposite. Following are some of the categories of cases which are only illustrative:

38.1. (a) Domestic relationship between an unmarried adult woman and an unmarried adult male.- Relationship between an unmarried adult woman and an unmarried adult male who lived or, at any point of time lived together in a shared household, will fall under the definition of Section 2(f) of the DV Act and in case, there is any domestic violence, the same will fall under Section 3 of the DV Act and the aggrieved person can always seek reliefs provided under Chapter IV of the DV Act.

38.2. (b) Domestic relationship between an unmarried woman and a married adult male.- Situations may arise when an unmarried adult women knowingly enters into a relationship with a married adult male. The question is whether such a relationship is a relationship "in the nature of marriage" so as to fall within the definition of Section 2(f) of the DV Act.

38.3. (c) Domestic relationship between a married adult woman and an unmarried adult male.- Situations may also arise where an adult married woman, knowingly enters into a relationship with an unmarried adult male, the question is whether such a relationship would fall within the expression relationship "in the nature of marriage".

38.4. (d) Domestic relationship between an unmarried woman unknowingly enters into a relationship with a married adult male.- An unmarried woman unknowingly enters into a relationship with a married adult male, may, in a given situation, fall within the definition of Section 2(f) of the DV Act and such a relationship may be a relationship in the

"nature of marriage", so far as the aggrieved person is concerned.

38.5. (e) Domestic relationship between same sex partners (gay and lesbians).- *The DV Act does not recognize such a relationship and that relationship cannot be termed as a relationship in the nature of marriage under the Act. Legislatures in some countries, like the Interpretation Act, 1984 (Western Australia), the Interpretation Act, 1999 (New Zealand), the Domestic Violence Act, 1998 (South Africa), the Domestic Violence, Crime and Victims Act, 2004 (U.K.), have recognized the relationship between the same sex couples and have brought these relationships into the definition of Domestic relationship.*

39. *Section 2(f) of the DV Act though uses the expression "two persons", the expression "aggrieved person" under Section 2(a) takes in only "woman", hence, the Act does not recognize the relationship of same sex (gay or lesbian) and, hence, any act, omission, commission or conduct of any of the parties, would not lead to domestic violence, entitling any relief under the DV Act.*

40. *We should, therefore, while determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence", have a common sense/balanced approach, after weighing up the various factors which exist in a particular relationship and then reach a conclusion as to whether a particular relationship is a relationship in the "nature of marriage". Many a times, it is the common intention of the parties to that relationship as to what their relationship is to be, and to involve and as to their respective roles and responsibilities, that primarily governs that relationship. Intention may be expressed or implied and what is relevant is their intention as to matters that are characteristic of a marriage. The expression "relationship in the nature of marriage", of course, cannot be construed in the abstract, we must take it in the context in which it appears and apply the same bearing in mind the purpose and object of the Act as well as the meaning of the expression "in the nature of*

marriage". Plight of a vulnerable section of women in that relationship needs attention. Many a times, the women are taken advantage of and essential contribution of women in a joint household through labour and emotional support have been lost sight of especially by the women who fall in the categories mentioned in para 38.1 (a) and para 38.4 (d) supra. Women, who fall under categories (b) and (c) (paras 38.2 and 38.3), stand on a different footing, which we will deal with later. In the present case, the appellant falls under category (b), referred to in paragraph 38.2 of the Judgment.

41. We have, therefore, come across various permutations and combinations, in such relationships, and to test whether a particular relationship would fall within the expression "relationship in the nature of marriage", certain guiding principles have to be evolved since the expression has not been defined in the Act.

42. Section 2(f) of the DV Act defines "domestic relationship" to mean, inter alia, a relationship between two persons who live or have lived together at such point of time in a shared household, through a relationship in the nature of marriage. The expression "relationship in the nature of marriage" is also described as defacto relationship, marriage – like relationship, cohabitation, couple relationship, meretricious relationship (now known as committed intimate relationship), etc.

43. The courts and legislatures of various countries now began to think that denying certain benefits to a certain class of persons on the basis of their marital status is unjust where the need of those benefits is felt by both unmarried and married cohabitants. Courts in various countries have extended certain benefits to heterosexual unmarried cohabitants. Legislatures too, of late, through legislations started giving benefits to heterosexual cohabitants."

33. In the case of *Shafin Jahan vs. Asokan K.M. And Others*, (2018) 16 SCC 368, the Hon'ble Apex Court has held that right to marry a person of own choice is integral part of Article 21 of the Constitution of India. There is a complete freedom to choose life partner of any faith, belief, religion, caste etc. Neither State, nor law, nor society can dictate the

choice of partner. The right cannot be taken away except through law which is substantially and procedurally fair, just and reasonable. The relevant paragraphs of **Shafin Jahan (supra)** are reproduced as under:

"26. In Ummu Sabeena vs. State of Kerala and Others, (2011) 10 SCC 781, the Court further ruled that the principle of habeas corpus has been incorporated in our constitutional law and in a democratic republic like India where judges function under a written Constitution and which has a chapter of fundamental rights to protect individual liberty, the judges owe a duty to safeguard the liberty not only of the citizens but also of all persons within the territory of India; and the same exercise of power can be done in the most effective manner by issuing a writ of habeas corpus.

27 . Thus, the pivotal purpose of the said writ is to see that no one is deprived of his/her liberty without sanction of law. It is the primary duty of the State to see that the said right is not sullied in any manner whatsoever and its sanctity is not affected by any kind of subterfuge. The role of the Court is to see that the detinue is produced before it, find out about his/her independent choice and see to it that the person is released from illegal restraint. The issue will be a different one when the detention is not illegal. What is seminal is to remember that the song of liberty is sung with sincerity and the choice of an individual is appositely respected and conferred its esteemed status as the Constitution guarantees. It is so as the expression of choice is a fundamental right Under Articles 19 and 21 of the Constitution, if the said choice does not transgress any valid legal framework. Once that aspect is clear, the enquiry and determination have to come to an end.

52. It is obligatory to state here that expression of choice in accord with law is acceptance of individual identity. Curtailment of that expression and the ultimate action emanating therefrom on the conceptual structuralism of obeisance to the societal will destroy the individualistic entity of a person. The social values and morals have their space but they are not above the constitutionally guaranteed freedom. The said freedom is both a constitutional and a human right. Deprivation of that freedom which is ingrained in choice on the plea of faith is impermissible. Faith of

a person is intrinsic to his/her meaningful existence. To have the freedom of faith is essential to his/her autonomy; and it strengthens the core norms of the Constitution. Choosing a faith is the substratum of individuality and sans it, the right of choice becomes a shadow. It has to be remembered that the realization of a right is more important than the conferment of the right. Such actualization indeed ostracises any kind of societal notoriety and keeps at bay the patriarchal supremacy. It is so because the individualistic faith and expression of choice are fundamental for the fructification of the right. Thus, we would like to call it indispensable preliminary condition.

53 . Non-acceptance of her choice would simply mean creating discomfort to the constitutional right by a Constitutional Court which is meant to be the protector of fundamental rights. Such a situation cannot remotely be conceived. The duty of the Court is to uphold the right and not to abridge the sphere of the right unless there is a valid authority of law. Sans lawful sanction, the centripodal value of liberty should allow an individual to write his/her script. The individual signature is the insignia of the concept.

54. In the case at hand, the father in his own stand and perception may feel that there has been enormous transgression of his right to protect the interest of his daughter but his view point or position cannot be allowed to curtail the fundamental rights of his daughter who, out of her own volition, married the Appellant. Therefore, the High Court has completely erred by taking upon itself the burden of annulling the marriage between the Appellant and the Respondent No. 9 when both stood embedded to their vow of matrimony."

34. The Rajasthan High Court while deciding **S.B. Criminal Writ Petition No. 1730 of 2024 (Rekha Meghwanshi And Another vs. State of Rajasthan And Others)**, dealt with the identical situation and granted protection to the live-in couples, vide order dated 21.8.2024.

35. In another latest judgment, Rajasthan High Court while deciding **S.B. Criminal Writ Petition No. 1537 of 2025 (XXX vs. State of Rajasthan And Others)**, granted protection to live-in couples vide order dated

01.12.2025, relying upon the judgments of **Rekha Meghwanshi (supra)**, **Nandakumar (supra)** and **Lata Singh (supra)**. Paragraph nos. 10, 12 and 13 of the judgment dated 01.12.2025 passed by the Rajasthan High Court are reproduced as under:

" 10. In the case of Mafi & Anr. Vs. State of Harayana & Ors. while deciding CRWP No.691/2021 vide order dated 25.01.2021 has held as under:

"In the present case, this Court, without expressing any opinion on the validity of the relationship of the petitioners, is required to consider whether the apprehension of the petitioners needs to be redressed. Petitioner No.1 in the present case is more than 18 years of age and is a major. She is well within her right to decide what is good for her and what is not. She has decided to take a step to be in a live-in relationship with petitioner No.2, who is also major, though may not be of a marriageable age. Be that as it may, the fact remains that both the petitioners in the present case are major and have a right to live their lives on their own terms. The private respondent Nos.4 to 8 being relatives of petitioner No.1, who is a major, cannot dictate to her how and with whom she should spend her life. Parents cannot compel a child to live a life on their terms. Every adult individual has a right to live his or her life as he or she deems fit. The petitioners are both major and have every right to live their lives as they desire within the four corners of the law. The society cannot determine how an individual should live her or his life. A person with whom someone chooses to spend his or her life with cannot be determined by what society wants. Parents don't accept their daughter's choices only because of fear that it is not acceptable to the society.

The Constitution of India guarantees every individual the right to life and the choice of a partner is an important facet

of the right to life. The petitioners are seeking protection of their lives and liberty as envisaged under Article 21 of the Constitution of India. Article 21 of the Constitution of India provides for protection of life and personal liberty and further lays down that no person shall be deprived of his or her personal liberty except as per the procedure established by law. No doubt petitioner No.2 is not of marriageable age, however, admittedly, he is a major. Merely because of the fact that petitioner No.2 is not of a marriageable age the petitioners cannot possibly be denied enforcement of their fundamental rights as envisaged under Article 21 of the Constitution of India. The petitioners, both being major, have decided to live together in a live-in relationship and there possibly cannot be any legally justifiable reason for the respondents to object to the same.”

12. Article 21 of the Constitution of India guarantees the right to life and personal liberty under the ambit of the fundamental rights, and any threat to these rights constitutes violation of the same.

*13. It is a well settled legal position, as expounded by the Hon'ble Supreme Court in the cases of **Lata Singh Vs. State of UP & Anr.**, reported in **AIR 2006 SC 2522**, **S. Khushboo Vs. Kanniammal & ors.**, reported in **(2010) 5 SCC 600**, **Indra Sarma Vs. V.K.V. Sarma** reported in **(2013) 15 SCC 755** and **Shafin Jahan Vs. Asokan KM & Ors.** reported in **(2018) 16 SCC 368** and passed by the Co-ordinate Bench of this Court in the case of **Suman Meena vs. State of Rajasthan** while deciding **S.B. Criminal Writ Petition No.792/2024** decided on 03.03.2025, that the life and personal liberty of individuals has to be protected, except according to procedure established by law, as mandated by Article 21 of the Constitution of India. Further, as per Section 29 of the Rajasthan Police Act, 2007 every police officer is duty bound to protect the life and personal liberty of the citizens.”*

36. The Punjab and Haryana High Court while deciding CRWP No. 4725 of 2021 (Seema Kaur and Another vs. State of Punjab And Others), granted protection to live-in partners vide order dated 03.06.2021. The

relevant paragraphs of **Seema Kaur (supra)** are reproduced as under:

*"This Court in the past and also recently has allowed protection to those runaway couples, even though they were not married and were in a live-in relationship, and in cases where the marriage was invalid (as one of the parties though a major, was not of age as per Section 5 of the Hindu Marriage Act). Reference in this regard can be made to the judgment rendered by the Division Bench in **Rajwinder Kaur and another Versus State of Punjab, 2014 (4) RCR (Criminal) 785** where it was held that marriage is not a must for security to be provided to a runaway couple. The police authorities were directed to ensure that no harm was caused by any one to the life and liberty of the couple. Similar views have been taken by the Coordinate Benches in the case of **Rajveer Kaur Versus State of Punjab, 2019 (3) RCR (Civil) 478** and in **Priyapreet Kaur Versus State of Punjab, 2021 (1) RCR (Civil) 604** amongst others. Different High Courts too have allowed protection to runaway couples who are not married. Again reference can be made to a recent judgement rendered by the Allahabad High Court in **Kamini Devi vs. State of UP, 2021(1) RCR (Civil) 421** and in **Bhagwan Dass v. State (NCT of Delhi), (2011) 6 SCC 396**.*

The concept of a live in relationship may not be acceptable to all, but it cannot be said that such a relationship is an illegal one or that living together without the sanctity of marriage constitutes an offence. Even under The Protection of Women from Domestic Violence Act, 2005, a woman who is in a 'domestic relationship' has been provided protection, maintenance etc. It is interesting to note that the word 'wife' has not been used under the said Act. Thus, the female live-in-partners and the children of live-in-couples have been accorded adequate protection by the Parliament.

*Article 21 as enshrined in the Constitution of India provides for its citizen to a right to life and personal liberty, with a stipulation that they shall not be deprived of it except according to a procedure established by law. In the case of **Shakti Vahini Versus Union of India and others, 2018 (5) R.C.R (Criminal) 981**, the Supreme court has held "The right to exercise*

Assertion of choice is an insegregable facet of liberty and dignity. That is why the French philosopher and thinker, Simone Weil, has said:-"Liberty, taking the word in its concrete sense consists in the ability to choose." At this stage, one cannot also lose sight of honour killings which are prevalent in northern parts of India, particularly in parts of States of Punjab, Haryana, Rajasthan and Uttar Pradesh. Honour killing is a result of people marrying without their family's acceptance, and sometimes for marrying outside their caste or religion. Once an individual, who is a major, has chosen his/her partner, it is not for any other person, be it a family member, to object and cause a hindrance to their peaceful existence. It is for the State at this juncture, to ensure their protection and their personal liberty. It would be a travesty of justice in case protection is denied to persons who have opted to reside together without the sanctity of marriage and such persons have to face dire consequences at the hands of persons from whom protection is sought. In case such a course is adopted and protection denied, the courts would also be failing in their duty to provide its citizens a right to their life and liberty as enshrined under Article 21 of the Constitution of India and to uphold to the Rule of law.

*The petitioners herein have taken a decision to reside together without the sanctity of marriage and it is not for the courts to judge them on their decision. The Supreme Court in its decision rendered in **S. Khushboo v. Kanniammal**, (2010) 5 SCC 600 has held that live in relationship is permissible and the act of two adults living together cannot be considered illegal or unlawful, while further holding that the issue of morality and criminality are not co-extensive. If the petitioners herein have not committed any offence, this court sees no reason as to why their prayer for grant of protection cannot be acceded to. Therefore, with due respect to the judgments rendered by the Coordinate Benches, who have denied protection to couples who are in live in relationship, this court is unable to adopt the same view.*

Without entering upon an exercise to evaluate the evidentiary value of the documents placed on the file, I dispose of this petition with directions to respondent No.2-Senior Superintendent of Police, Bathinda to decide the

representation of the petitioners (Annexure P-3) within a period of one week from the date of receipt of a copy of this order and grant them protection, if any threat to their life and liberty is perceived. It is made clear that this order shall not be taken to protect the petitioners from legal action for violation of law, if any committed by them."

37. The M.P. High Court, in case of **Anjali Kushwah And Ors. vs. The State of M.P., Writ Petition No. 41033 of 2024**, decided on 30.12.2024, has protected the live-in couple. The following observation was made by the M.P. High Court:

" In view of the aforesaid and also looking to the judgement of the Supreme Court in the case of Lata Singh v. State of U.P. reported in (2006) 5 SCC 475 and Navtej Singh Johar v. Union of India reported in (2018) 7 SCC 192, this Court is inclined to allow the present petition despite the fact that petitioner No. 1 is less than 21 years of age because both the petitioners are shown to be major being above 18 years of age and their choice needs to be protected from the external forces. However, this Court expresses its concern over the choice of the petitioners to enter into live in relationship as at such a tender age they may not be emotionally fully mature and economically fully independent. The petitioners are expected to exercise maturity while getting such protection from this Court.

In terms of the above, petition is allowed and the respondents Nos. 2 to 4 are directed to look into the grievance raised by the petitioners and shall examine the grievance of the petitioner regarding their life and liberty. They will be at liberty to verify the factum of age of the petitioners."

38. Even the Allahabad High Court while deciding **Writ-C No. 27338 of 2023 (Razia And Another vs. State of U.P. And Three Others)**, protected the live-in couples vide order dated 05.09.2023, and held that the petitioners are at liberty to live together and no person would be permitted to interfere in their peaceful live-in relationship. Paragraph no. 13 of **Razia (supra)** is reproduced as under:

"13. From the above discussion and the rulings of the Supreme Court, it is clear that a boy or girl, who have attained majority, is free to marry or

live with a person of his/her choice and no one including his/her parents or anyone on their behalf can interfere in their right to freedom of choosing a partner which emanates from Right to Life and Personal Liberty guaranteed under Articles 19 and 21 of the Constitution of India."

39. The Division Bench of Allahabad High Court has also protected live-in couple in **Writ-C No. 11108 of 2020, Kamini Devi and Another vs. State of U.P. and Others**, decided on 23.11.2020. Paragraph nos. 6 and 10 of the said judgment are reproduced as under:

*"6. Apart from the same Hon'ble Apex Court in a long line of decisions has settled the law that where a boy and a girl are major and they are living with their free will, then, nobody including their parents, has authority to interfere with their living together. Reference may be made to the judgements of the Supreme Court in the cases of **Gian Devi v. The Superintendent, Nari Niketan, Delhi and others**, (1976) 3 SCC 234; **Lata Singh v. State of U.P. and another**, (2006) 5 SCC 475; and, **Bhagwan Dass v. State (NCT of Delhi)**, (2011) 6 SCC 396, which have consistently been followed by the Supreme Court and this Court, as well as of this Court in **Deepika and another v. State of U.P. and others**, 2013 (9) ADJ 534. The Supreme Court in *Gian Devi* (supra) has held as under:*

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"7. ... Whatever may be the date of birth of the petitioner, the fact remains that she is at present more than 18 years of age. As the petitioner is sui juris no fetters can be placed upon her choice of the person with whom she is to stay, nor can any restriction be imposed regarding the place where she should stay. The court or the relatives of the petitioner can also not substitute their opinion or preference for that of the petitioner in such a matter."

10. Having regard to the facts and circumstances of the case, we are of the view that the petitioners are at liberty to live together and no person shall be permitted to interfere in their peaceful living. As right to life is a fundamental right insured under Article 21 of the Constitution of India in which it is provided that no person shall be deprived of his right to life

and personal liberty. In case any disturbance is caused in the peaceful living of the petitioners, the petitioners shall approach the Senior Superintendent of Police, Farrukhabad i.e. the second-respondent, with self attested computer generated copy of this order downloaded from the official website of High Court Allahabad, who shall provide immediate protection to the petitioners."

40. Learned counsel appearing on behalf of the State has placed reliance upon a judgment of Division Bench of this Court in the case of **Kiran Rawat And Another vs. State of U.P., 2023 (7) ADJ 679**, decided on 28.4.2023, and submitted that this Court has refused to provide protection to the couples residing together in a live-in relationship.

41. From perusal of judgment of this Court in **Kiran Rawat (supra)**, it is apparent that the Court has not held that all the couples residing in a live-in relationship are not entitled to protection of the Court. The judgment was not passed in consonance with the judgments passed by the Hon'ble Supreme Court and the facts of the present cases are entirely different from the facts of the case of **Kiran Rawat (supra)**.

42. In none of the judgment of Hon'ble Supreme Court, relied upon by the State counsels, the live-in relationship was criticized/deprecated or refused to protect the live-in partners. On the contrary, it was recognized by the Hon'ble Supreme Court in various judgments discussed above. A perusal of the aforesaid judgments manifest that the Apex Court has consistently respected the liberty of an individual who has attained the age of majority. An individual on attaining majority is statutorily conferred a right to choose a partner, which if denied would not only affect his/her human rights but also his/her right to life and personal liberty, guaranteed under Article 21 of the Constitution of India.

43. Learned counsel for the State has relied upon several judgments of the Hon'ble Supreme Court. They have relied upon **Shanti Fragrances (supra)**, which is related to taxation matters; **Common Cause (supra)**, which is related to euthanasia; **K.K. Bhalla (supra)** which is related to town planning and **Divisional Manager (supra)**, which is also not related to live-in relationship.

44. Except the judgment of **Kiran Rawat (supra)**, learned counsel for the State could not produce any judgment of the Hon'ble Apex Court wherein live-in relationship was deprecated or criticized or the protection was not granted to live-in partners. Even in the case of **Kiran Rawat (supra)**, the Division Bench of this Court considered the legality and validity of interfaith couple, which is not the subject matter herein.

45. The concept of a live-in relationship may not be acceptable to all, but it cannot be said that such a relationship is an illegal one or that living together without the sanctity of the marriage constitutes an offence. Even under the Protection of Women from Domestic Violence Act, 2005, a woman who, is in a domestic relationship has been provided protection, maintenance etc. The word "wife" has not been used under the said Act.

46. Once an individual, who is a major, has chosen his/her partner, it is not for any other person, be it a family member, to object and cause a hindrance to their peaceful existence. It is the bounden duty of the State, as per the Constitutional obligations casted upon it, to protect the life and liberty of every citizen. Right to human life is to be treated on much higher pedestal, regardless of a citizen being minor or major, married or unmarried. Mere fact that the petitioners have not solemnized marriage, would not deprive them of their fundamental right as envisaged in the Constitution of India being citizens of India. This Court has no hesitation to hold that the Constitutional's fundamental right under Article 21 of the Constitution of India stands on a much higher pedestal. Being sacrosanct, under the Constitutional scheme it must be protected, regardless of the solemnization of marriage or even the absence of any marriage between the parties.

47. The petitioners herein, who are major, have taken a decision to reside together without the sanctity of the marriage and it is not for the Courts to judge them on their decision. If the petitioners herein have not committed any offence, this Court sees no reason as to why their prayer for grant of protection cannot be acceded to. Therefore, with due respect to the judgments rendered by the co-ordinate Benches, who have denied protection to couples, who were in a live-in relationship, this Court is unable to adopt the same view.

48. It is well settled legal position as expounded by the Hon'ble Supreme court in the case of **Lata Singh (supra)**, **S. Khushboo (supra)**, **Indra Sarma (supra)** and **Shafin Jahan (supra)** and other judgments passed by various High Courts including ours, that the life and liberty of the individuals has to be protected, except according to procedure established by law, as mandated by Article 21 of the Constitution of India.

49. In the opinion of the Court, a person, who has attained the age of majority as per Section 3 of the Majority Act, is able to understand his/her welfare and, therefore, he/she could not be restricted to go wherever he/she likes. He/she is free to live with anybody and could not be restrained from doing so.

50. Section 114 of the Indian Evidence Act/Section 119(1) of Bhartiya Sakshya Adhiniyam, 2023, states that if couples live together for a significant amount of time as husband and wife, they will be presumed to be married. The Courts shall apply this presumption to protect the rights of the parties in a live-in relationship, i.e. women and the children born as a result thereof.

51. Having regard to the facts and circumstances of the case, this Court is of the view that the petitioners are at liberty to live together peacefully and no person shall be permitted to interfere in their peaceful living. As right to life is a fundamental life ensured under Article 21 of the Constitution wherein it is provided that no person shall be deprived of his right to life and personal liberty except according to procedure established by law.

52. In case, any disturbance is caused in the peaceful living of the petitioners, the petitioners shall approach the Commissioner of Police/SSP/SP concerned with certified copy of this order and the Police Officer after being satisfied that the petitioners are major and willingly living together, will provide immediate protection to the petitioners. If the petitioners are educated and they produce their educational certificates and other certificates admissible under law, from which it is evident that they have attained the majority and they are living with their free will then no Police Officer shall take any coercive action against them unless

an F.I.R. is registered against them in respect of any offence whatsoever. If they do not have any documentary proof regarding age and they come from rural background and or illiterate/semi-literate, the Police Officer can subject such boy or girl to ossification test to verify their correct age and he can also follow the other procedure permissible under the law.

53. Accordingly, aforesaid writ petitions are **allowed**.

54. No order as to cost.

55. Before parting with these cases, I would render my gratitude and appreciation for the invaluable assistance provided to the Court by Mr. Swetashwa Agarwal, learned Senior Advocate, as Amicus Curiae, ably assisted by Sri Subir Lal and Sri Sausthav Guha, learned counsels for the petitioners.

56. The hard work as well as arguments advanced by above named State counsels, are also appreciable.

(Vivek Kumar Singh,J.)

December 17, 2025

A.P. Pandey