

# LONG COHABITATION IS PRESUMED MARRIAGE: SC

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The Supreme Court has upheld the “presumption” that a couple who live together as husband and wife are legally married and the woman can claim maintenance under Section 125 of the Code of Criminal Procedure.

A Bench of Justices R. Banumathi and Indira Banerjee observed that it is “fairly well settled that the law presumes in favour of marriage and against concubinage when a man and woman have cohabited continuously for a number of years”.

Citing past judgments of the apex court, the Bench quoted that “where a man, who lived with a woman for a long time and even though they may not have undergone legal necessities of a valid marriage, should be made liable to pay the woman maintenance if he deserts her”.

## Legal loopholes

“The man should not be allowed to benefit from the legal loopholes by enjoying the advantages of a de facto marriage without undertaking the duties and obligations. Any other interpretation would lead the woman to vagrancy and destitution, which the provision of maintenance in Section 125 is meant to prevent,” the court said in a recent judgment.

The judgment was based on an appeal filed by a woman against a Karnataka High Court decision of June 2009. The High Court set aside a family court order, directing the man she lived with since 1998, and had two children by, to pay maintenance. Their relationship had been solemnised in a temple. He had later abandoned the family.

The family court had ordered him to pay the woman Rs. 3000 and the children Rs. 2500 each on a monthly basis. The court said they were accepted as husband and wife by society. The man had, however, moved an appeal in the High Court, which pronounced that there was no proof that she was his legally-wedded wife.

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