



CIVIL

Madras High Court Affirms Same-Sex Couples Can Constitute a Family, Even Without Marriage

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Introduction

In the landmark case of *MA v Superintendent of Police*¹, the Madras High Court reaffirmed that familial relationships transcend traditional norms, granting same-sex couples the recognition of forming a family. Filed under Article 226 of the Constitution, the case arose from a habeas corpus petition alleging unlawful detention and coercion by a natal family attempting to suppress their daughter's sexual orientation. The judgment underscores the court's progressive stance on [LGBTQIA+ rights](#), emphasizing personal liberty, autonomy, and the evolving understanding of family, despite the lack of legislative recognition for same-sex marriages in India.

Background and Legal Framework

The case arose from a habeas corpus petition filed under Article 226 of the Constitution of India by the petitioner, who sought the release of her partner from alleged illegal detention by the partner's natal family. The petition highlighted coercive actions, including forced rituals and beatings aimed at altering the detainee's sexual orientation. This plea was heard against the backdrop of evolving LGBTQIA+ jurisprudence, supported by significant judgments like *NALSA v. Union of India* (2014)² and *Navtej Singh Johar v. Union of India* (2018)³, which decriminalised consensual same-sex relationships.

Court Decision

The bench, consisting of Justice G.R. Swaminathan and Justice V. Lakshminarayan, ruled in favour of the petitioner. The court emphasised that the detainee, a 25-year-old adult, was entitled to make her own life choices, including her relationship with the petitioner. The judgment reiterated that the concept of family extends beyond traditional definitions and includes chosen families. In their ruling, the bench underscored the significance of personal autonomy as a cornerstone of dignity and freedom, asserting that societal expectations cannot override an individual's right to self-determination. They further stressed that the judiciary must act as a bulwark against discrimination and uphold the constitutional guarantees of equality and liberty for marginalised communities, including LGBTQIA+ individuals.

Rival Contentions

Petitioner's Contentions:

The petitioner argued that the detainee, a 25-year-old adult, was being held against her will by her natal family. The petitioner emphasised that the detainee had explicitly expressed her wish to leave her family and live with the petitioner. It was claimed that the family had subjected the detainee to coercion, physical violence, and forced rituals in an attempt to "normalise" her. The petitioner further asserted that these actions violated the detainee's fundamental rights to life, liberty, and personal autonomy as guaranteed under Article 21 of the Indian Constitution.

Respondents' Contentions:

The detainee's mother, representing the family's stance, contended that the petitioner had led her daughter astray and attributed her behavior to external influences, including alleged substance abuse. She expressed that the detainee needed counselling and rehabilitation, insisting that the actions taken were in her daughter's best interest. The family asserted that their interventions were aimed at ensuring her well-being and preventing her from making choices they deemed detrimental to her future.

Legal Provisions and Judgments

The court emphasised the legal principles protecting individual autonomy, citing Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. Drawing upon the landmark judgments in *NALSA v. Union of India* (2014) and *Navtej Singh Johar v. Union of India* (2018), the court reaffirmed that sexual orientation and identity are intrinsic to personal autonomy and dignity. It also referenced the *Shakti Vahini v. Union of India* (2018)⁴ judgment, which underscored the constitutional validity of individual choice in relationships, regardless of social approval. Additionally, the court acknowledged the Yogyakarta Principles advocating the universal enjoyment of human rights, including the right to form families free from discrimination based on sexual orientation. Through this interpretation, the court reiterated that the concept of family extends

beyond traditional frameworks, validating queer relationships and chosen families under Indian jurisprudence.

High Court Analysis

The court critically examined societal prejudices and expressed discomfort with the term “queer” due to its negative connotations. It censured the police for their insensitivity and inaction, noting their failure to respond to SOS messages and written complaints from the petitioner. The bench emphasised the state’s duty to protect LGBTQIA+ individuals and ensure their rights under constitutional and international principles.

Final Decision

The court allowed the detainee to leave with the petitioner, restraining her natal family from interfering with her liberty. It issued a continuing mandamus to the jurisdictional police to ensure the couple’s safety and act promptly on complaints from the LGBTQIA+ community. The judgment reinforced the detainee’s right to autonomy and choice.

Concluding Remarks

This decision is a significant milestone in recognising and protecting the rights of LGBTQIA+ individuals in India. While legislative measures on same-sex marriage are yet to be enacted, such

judicial pronouncements pave the way for greater inclusivity, acceptance, and protection of non-traditional families within the constitutional framework. For further details, write to contact@indialaw.in

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