

FEMINIST CRITIQUE

ON

“FIRST REGISTERED LESBIAN MARRIAGE IN
INDIA”

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In a first, Gurgaon court recognizes lesbian marriage

KHEKADA (BAGHPAT)/ GURGAON: Same-sex marriages are not legal in India. But that did not stop a Gurgaon court from effectively recognizing a marriage between two lesbians.

While granting police protection to a runaway lesbian couple from Khekada village in Baghpat, additional sessions judge Vimal Kumar recorded matter-of-factly that Beena and Savita claimed to be married to each other.

Their statements were recorded in the order without any indication that such a marriage had no legal status. "We have married to each other on July 22, 2011 of our own free will without coercion, duress, fraud, misrepresentation etc," it stated.

The court also recorded that one of them, Savita, had earlier been married to a man and that the marriage had been dissolved by a khap panchayat in Bagpat district. Their petition disclosed that Beena and Savita subsequently married each other by signing an affidavit before a public notary in Gurgaon.

On the basis of these dodgy claims about divorce and marriage, the Gurgaon court invoked a 2009 Punjab and Haryana high court judgment directing all district and sessions judges to "ensure help and assistance to runaway couples".

The high court direction had come in the wake of honor killings ordered by khap panchayats against marriages within the same gotra. The Gurgaon judge has now extended that protection to a marriage within the same sex.

Though some western countries recognize same sex marriages, all that India has done so far, through the 2009 Delhi high court verdict on Section 377 IPC, is to decriminalize consensual sex between adults of the same sex.

According to the petition before the Gurgaon court, Beena was unmarried prior to July 22 while Savita had tied the knot with one Ombir last December. Her marriage was dissolved in panchayat proceedings held in Nipura tehsil in Baghpat. The couple in their petition had submitted before the court that they had known each other for 15 years.

"They fell in love in June 2011 and both decided to (have a) live-in-relationship with each other," the petition said.

Their counsel had told the court that both the petitioners had conveyed their intention to their parents, who did not give their consent and threatened them with dire consequences. The

petitioners submitted in court that they had got married to each other on July 22 "by signing an affidavit before a public notary" in Gurgaon.

The couple maintained that their marriage is legally recognized and valid. The petitioners said, "Though they are both female, they have legally married and their marriage is recognized as valid because they fulfill the legal requirements for a legal marriage."

They further asserted, "For all purposes of legal interpretation, the petitioners are a 'married couple' and simply writing the word 'living-in relationship' does not take away their legal status of a married couple."

Savita's parents said they have disowned her and that villagers of Khekada were upset with the Gurgaon court for recognizing a lesbian marriage. "We have not moved out of our homes since the news came. We have disowned her and have written to the local superintendent of police (SP) and collector. We will appear before the Gurgaon court if directed to do so," said Savita's father Jai Prakash.

Savita, a BA final year student, had earlier worked as a teacher at a local private school while Bina is uneducated. Villagers said Bina lived like a boy and her family members also treated her as a male member. "She drove a Pulsar and used to drop Savita to school everyday. Last year, Bina's family moved to Dogat after selling their property here," said Sanjay Dhama, a villager.

Savita's father Jai Prakash said he had spent a lot of money on his daughter's marriage with a UP policeman. But barely six months later, she ran away from her matrimonial home. A police complaint was filed alleging that Bina was behind the act. "Now, we have nothing to do with her. We have lost face because of her actions," Jai Prakash said.

The couple's case will come up for hearing again on August 16. Their counsel, Durgesh Boken, said another lesbian couple may get married after that hearing. "They are awaiting the judgment in this case. They are also from the same region," Boken said

Abstract

We have taken a news article for analysis in partial fulfillment of the assignment component of the course 'Literary Criticism'. This article was published in the newspaper "The Times of India" on 29th July, 2011.

In this report, we have tried to analyze various components of Feminism in India and its states.

It was all the more important to think along the Indian citizen's state of thinking and point of view for reviewing this news article.

Analysis

This news story is about the first Indian lesbian marriage that has been recognized by Gurgaon Court and has come into limelight.

Doing a feminist critique on it; we realize that this article perfectly fits into dissatisfaction with the 'Radical Feminism' and the emergence of third wave of feminist movement, that brought the onset of lesbianism.

Now, Radical feminism is an older perspective within feminism, now primarily associated with second-wave feminism of the 1980's that focuses on the theory of patriarchy as a system of power that organizes society into a complex of relationships based on the assertion that male supremacy oppresses women. Radical feminism aims to challenge and overthrow patriarchy by opposing standard gender roles and oppression of women and calls for a radical reordering of society. Early radical feminism, arising within second-wave feminism, typically viewed patriarchy as a deeper source of oppression, "not only the oldest and most universal form of domination but the primary form" and the model for all others.

The article is about two women Beena and Savita from Khekada in Gurgaon who married each other in full will agreed by the District Court.

Considering the case that both these girls belong to Haryana, a state highly patriarchal in nature, we can easily see the male dominance in nature. There are many instances in news article, foremost being the 'Khap Panchayat' consisting only of male members.

Before their relationship, Beena was unmarried but Savita was in knot with Ombir which was then dissolved by Khap Panchayat without her consent which is a clear cut example of not having right over their own bodies and considering them merely as beauty objects.

“They fell in love in June 2011 and both decided to (have a) live-in-relationship with each other,”

This means that during this time they thought that they had the control over their bodies. They realized that they need not be part of or follow the constructed structure of feminism.

“Villagers said Beena lived like a boy and her family members also treated her as a male member.”

Villagers in India are the root of the radical society. They are not understanding the girls' independence or encouraging it but are again trying to subdue it by attacking the very gender of Beena spite of having medical certification that she is a female.

“Savita's father Jai Prakash said he had spent a lot of money on his daughter's marriage with a UP policeman.”

This again shows that women are being referred as a trade commodity or carriers of lineage, a very prevalent thought among Vedic society. The dowry is just a symbol or a proof of acceptance that she is pure or 'virgin'. Or they are in fear that this act of independence will stain the image of their caste.

"We have not moved out of our homes since the news came. We have disowned her and have written to the local superintendent of police (SP) and collector. We will appear before the Gurgaon court if directed to do so," said Savita's father Jai Prakash. Their counsel had told the court that both the petitioners had conveyed their intention to their parents, who did not give their consent and threatened them with dire consequences.

This is the point that we have been seeing, you fight against a woman till you bring her back into the established patriarchy or completely cast her away so no

one recognizes her. A woman in family with a conserved mindset is expected as care-taker, mother, workforce. It is a biological fact that two women can't give an offspring but the motive of their marriage is love and not carrying the lineage. That's why they are being oppressed.

Conclusion

We read this news story online and this sparked off many discussions among ourselves and according to Hindu law, marriage is between a husband and a wife, and it didn't define whether the partners are one male and a female. So if two people of the same sex decide to take on the role of a husband and wife, it should be perfectly fine. We think this Gurgaon case that we are analyzing, has been a huge step forward for the community, and protection must be given, as it is a question of human rights. I also think that the more we talk of this, the more awareness it will create and changes will come.

Bibliography and References

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