

QUEERING THE CONSTITUTION: REDEFINING FAMILY AND CIVIL UNION IN M.A. V. STATE OF SUPERINTENDENT OF POLICE

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ABSTRACT

A recent Madras High Court judgment marks a pivotal shift in Indian constitutional jurisprudence by affirming that same-sex relationships are valid, constitutionally protected choices. Rejecting familial coercion and reiterating the importance of liberty, dignity, and self-determination under Article 21, the Court's decision in a habeas corpus case supported an adult woman's right to choose her spouse. The Court made a significant shift from conventional, heteronormative notions of family. It acknowledged homosexual unions and other consensual, non-marital partnerships as equally worthy of constitutional protection. It did this by making the law more relatable and by actively addressing issues of language, identity, and lived reality. By extending the definition of family beyond biological and marital relationships, the ruling questions established legal frameworks and requires that state institutions especially the police support individual autonomy rather than stifle it. This case demonstrates a transformational constitutional approach, reaffirming the need to protect and uphold individual liberty and choice partnerships in a pluralistic democracy. It forces us to reevaluate how the law views partnerships, families, and the responsibility of the state in defending individual liberties.

Keywords: LGBTQIA+ Rights, Habeas Corpus, Chosen Family, Constitutional Morality, Same-Sex Relationship, Right to Personal Liberty.

INTRODUCTION

One of the most important constitutional issues of our day is still being addressed by the Indian court at the nexus of law, identity, and dignity: how do we interpret and defend the right to be, love, and belong? Long limited to the heterosexual, married, and biologically related unit, the concept of family is progressively being reinterpreted in constitutional jurisprudence. The courts are being asked more and more to not only defend rights but also to reconsider the definitions that define them in light of changing social realities and the increased visibility of LGBTQIA+ people³²¹. This case comment critically

examines a recent habeas corpus ruling by a High Court constitutional bench.

The case concerned whether the State, society, and the law itself could recognize and protect a same-sex partnership, rather than just whether a person could be released from unlawful confinement. Although the decision is minor in form, it represents a deeper change: it asserts that liberty cannot be formed exclusively by cultural expectations and acknowledges the legitimacy of non-traditional, non-marital partnerships. This comment aims to analyze the judgment's legal, linguistic, and symbolic importance by placing it within the framework of India's constitutional morality. It focuses on how the ruling redefines "family," questions

³²¹ Seethal Kuttappan and Dalliandeep Kaur Tiwana, 'Observing the Statutory Rights of Queer and Unmarried Couples in India' (2023) *IJFMR* vol 5 issue 4.

heteronormativity, and validates queer autonomy as essential to Article 21 rights³²².

BRIEF FACTS OF THE CASE

The Petitioner and the Detenue, a well-educated 25-year-old Tamil Nadu woman, had a strong emotional connection. A friendship that eventually developed into a love partnership. But when the relationship was revealed, the family reacted angrily. The Detenue was allegedly forced to participate in coercive rituals intended to “correct” her sexual orientation after being removed from the Petitioner by force, imprisoned at home, and physically abused. These acts directly violated her autonomy and dignity in addition to denying her personal freedom.

Despite the seriousness of the situation, the Petitioner made several unsuccessful attempts to get police help. On May 5, 2025, she submitted a written complaint to the Gudiyatham Police Station, noting it to the Vellore DSP and SP. Additionally, she sent SOS messages to Jeevan Beema Nagar and Reddiarpalayam, among other stations. However, the police officials allegedly forced the Detenue to stay with her birth family rather than taking protective action, exhibiting egregious insensitivity and duty neglect. Concerned about her partner’s safety, the petitioner filed a writ of habeas corpus under Article 226 of the Constitution³²³ with the High Court of Madras.

LEGAL ISSUES:

1. Whether confining an adult woman by her family violates her fundamental right to personal liberty under Article 21?
2. Whether a same-sex relationship between consenting adults is protected under constitutional rights to dignity, privacy, and choice?
3. Whether police inaction in such cases amounts to a failure of the State’s duty to safeguard LGBTQIA+ individuals?

4. Whether same-sex partners can legally form a ‘family unit’ entitled to recognition and protection?

PETITIONER’S ARGUMENT

Invoking the writ of habeas corpus, the Petitioner, a woman in a consensual same-sex relationship with the Detenue, petitioned the Hon’ble High Court under Article 226 of the Constitution. She argued that her biological family was unlawfully confining the Detenue, a 25-year-old legal adult, based only on her sexual orientation. The Petitioner argued that the Detenue had been unlawfully and unconstitutionally detained after being removed from her by force, subjected to coercive rituals, and denied the ability to communicate or move. She added that no prompt or efficient action was taken by the authorities in spite of her repeated complaints to several police stations, including Reddiarpalayam, Gudiyatham, and Jeevan Beema Nagar. Instead, the Detenue’s fundamental rights under Article 21³²⁴ (Right to Life and Personal Liberty) were violated since the police forced her to accompany her parents.

The Petitioner stressed that constitutional jurisprudence established in *NALSA v. Union of India*³²⁵ and *Navtej Singh Johar v. Union of India*³²⁶ protects the Detenue’s sexual orientation and partner choice. The petitioner argued that in a democracy, a relationship between two consenting individuals cannot be criminalized, humiliated, or violently broken. The Detenue’s release from unlawful detention and police protection so they can live together in safety and dignity without interference from the natal family or authorities were the two main goals of the prayer.

RESPONDENT’S ARGUMENT

The Detenue’s natal family, especially her parents, who were represented by the fourth respondent, were the main contesting

³²² Art. 21, Constitution of India, 1950
³²³ Art. 226, Constitution of India, 1950

³²⁴ Art. 21, Constitution of India, 1950
³²⁵ *NALSA v. Union of India* (2014) 5 SCC 438
³²⁶ *Navtej Singh Johar v. Union of India* (2018) 10 SCC 1

respondent in this case. They claimed that their actions were motivated by parental concern rather than malice. In an impassioned plea to the Court, the Detenue's mother claimed that the Petitioner had deceived her daughter and even that the Detenue had become addicted to drugs as a result of the Petitioner's influence. The family argued that instead of autonomy over a relationship they felt was abnormal and socially inappropriate, their daughter needed counseling and rehabilitation.

Additionally, they contended that the Petitioner's intentions were questionable because, in both her police report and court declaration, she only identified herself as a "close friend." They asserted that this ambiguity called into question the validity of the Petitioner's assertion of a true romantic or life partnership. Assuring that the Detenue's future and well-being would be protected if she avoided the Petitioner, the mother pleaded with the court to return her to her family. Although the police authorities, who were the official respondents, legally complied with the Detenue's production, they failed to provide a convincing argument for their tardiness and inaction in handling the Petitioner's SOS concerns. They took a neutral stance before the Court, neither acknowledging nor disputing the claims of forced custody or rights abuses, and their actions went virtually unaccounted for.

JUDGMENT OVERVIEW

The case emphasizes the abuse of familial power, as the 25-year-old Detenue was imprisoned by her birth family for selecting a spouse of the same sex. It was discovered that her lack of movement, coercion into rituals, and physical restraint were all blatant signs of unlawful confinement. The Court stated that a person's will must control their life decisions after they reach the age of majority. Article 21 of the Constitution³²⁷ states that family feelings cannot supersede an individual's right to independent liberty. The ruling reaffirmed that a woman is not her parent's property, regardless

of her sexual orientation. Private detention received the same level of attention as any illegal state detention. She was promptly released after the Court correctly ruled that her detention was illegal.

The natal family rejected the Petitioner and the Detenue's amorous relationship because it was non-heteronormative. Despite the fact that the Petitioner initially referred to herself as a "friend" because of peer pressure, the Court recognized the validity of their relationship despite the designation. The judges emphasized that sexual orientation must be protected by the constitution as a fundamental aspect of individual identity and dignity. The Court emphasized that same-sex partnerships are not only legal but also merit equal moral and legal protection by citing NALSA and Navtej Singh Johar. The couple's whole fundamental rights were extended by invoking Articles 14, 15, 19, and 21³²⁸. The Court affirmed a rights-based approach and disassociated itself from the rhetoric of social shame. Their friendship was maintained as profoundly human and constitutionally legitimate.

The police's institutional failure was one of the most damning features of this case. Police personnel from three different stations failed to respond or take action in spite of the petitioner's repeated complaints and SOS messages. They allegedly forced the Detenue to return to her family rather than providing safety. The Court denounced this behavior as a violation of constitutional obligations, particularly with regard to the rights to life and security. The ruling issued a writ of continued mandamus to ensure future compliance and called out the systemic indifference toward LGBTQIA+ people. Neutrality in these situations might be interpreted as cooperation in rights breaches, the cops were told. The idea that a state's silence does not equate to constitutional innocence is reinforced by this section of the decision.

³²⁷ Constitution of India, 1950

³²⁸ Constitution of India, 1950

The Court took benefit of the opportunity to reexamine and broaden the meaning of “family” beyond the conventional heteronormative or marriage-based conceptions. The judges argued that emotional intimacy, reciprocal care, and shared intention are sufficient to form a family, citing *Deepika Singh v. CAT*³²⁹ and the *Yogyakarta Principles*³³⁰. Despite not being married, the Detenue and the Petitioner were acknowledged as a “chosen family” that should be respected and protected. Through judicial recognition, the justices sought to address the societal invisibility that same-sex couples experience. With regard to gender and sexual identity, this interpretation brought Indian jurisprudence into compliance with international human rights standards. The message was unmistakable: the definition of family must be determined by constitutional morality rather than societal morality. This change also guarantees greater inclusivity in the discussion of family law in the future.

CASE COMMENTS

Liberty vs. Familial Control: Detention Is Detention Even at Home

The Hon’ble Division Bench affirmed that every adult has the freedom to select their identity, relationship, and path in life, placing a higher priority on constitutional autonomy than family authority. As a capable adult, the Detenue made it apparent that she wanted to live with the Petitioner. The Court reiterated that a person’s right to choose a life partner is unassailable under Article 21 regardless of caste, religion, or sexual orientation, citing *Shafin Jahan v. Asokan*³³¹ K.M.

Recognizing Love Beyond Labels

The Court emphasised that sexual orientation is essential to dignity and liberty under Article 21 in *Navtej Singh Johar v. Union of India*³³². Equal

constitutional protection should be granted to same-sex couples even in the absence of a formal marriage. According to the Court’s ruling in *Justice K.S. Puttaswamy v. Union of India*³³³, developing intimate relationships is a matter of personal freedom and privacy.

State Inaction as Constitutional Betrayal

The Court ruled that the State had a positive duty to protect people from identity-based violence and harshly condemned the police’s indifference. Citing *Yogyakarta Principles*³³⁴ (Principles 5, 6, and 24) and *NALSA v. Union of India*³³⁵, the Bench upheld the idea that domestic constitutional provisions are strengthened by international human rights standards. Articles³³⁶ 14, 15, and 21 are violated when nothing is done in such situations.

Reimagining Family: From Bloodlines to Bonds of Choice

In *S. Sushma v. Commissioner of Police*³³⁷ and *Deepika Singh v. CAT*³³⁸, the Court acknowledged civil unions and chosen families as constitutionally valid. *Shakti Vahini v. Union of India*³³⁹ was also referenced in the verdict to highlight the State’s obligation to stop morally or honor-based violence. The Court granted a writ of continuous mandamus, upholding Articles³⁴⁰ 14, 15, and 21, to guarantee institutional accountability and ongoing police protection for LGBTQIA+ people.

Ambiguity Regarding the Legal Status of Queer Partnerships

Although the ruling in *M.A. v. Superintendent of Police* upheld same-sex partners’ freedom to live together as a “chosen family,” it does not provide a legally binding framework that would acknowledge such relationships outside of

³²⁹ *Deepika Singh v. CAT* 2022 SCC OnLine SC 1088

³³⁰ *Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity*, March 2007, available at <https://yogyakartaprinciples.org/principles-en/> (last visited July 1, 2025).

³³¹ *Shafin Jahan v. Asokan K.M.* (2018) 16 SCC 368

³³² *Navtej Singh Johar v. Union of India* (2018) 10 SCC 1

³³³ *Justice K.S. Puttaswamy v. Union of India* (2017) 10 SCC 1

³³⁴ *Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity*, March 2007, available at <https://yogyakartaprinciples.org/principles-en/> (last visited July 1, 2025).

³³⁵ *NALSA v. Union of India* (2014) 5 SCC 438

³³⁶ *Constitution of India*, 1950

³³⁷ *S. Sushma v. Commissioner of Police* MANU/TN/7445/2023

³³⁸ *Deepika Singh v. CAT* 2022 SCC OnLine SC 1088

³³⁹ *Shakti Vahini v. Union of India* (2018) 7 SCC 192

³⁴⁰ *Constitution of India*, 1950

individual freedom. Whether homosexual partnerships are entitled to the same legal occurrences as marriage or civil unions, such as inheritance, joint adoption, property rights, or tax benefits, was not specifically addressed by the Court³⁴¹.

Because protection is restricted to habeas corpus relief rather than permanent legal status, this omission runs the risk of turning the decision into a symbolic affirmation rather than a significant legal milestone³⁴². Critics point out that, similar to the Supreme Court's reluctance in *Supriyo @ Supriya Chakraborty v. Union of India*³⁴³, where the bench declined to legalize same-sex marriage but urged Parliament to take civil union laws into consideration, the Court could have referred the matter for legislative consideration or at the very least recommended guidelines for statutory recognition, but it chose not to. Because they must rely solely on ad hoc court remedy, homosexual couples are left vulnerable in areas such as family law, succession, and social security, even though the case improves constitutional rights under Article 21³⁴⁴.

CONCLUSION

The decision is a crucial defense of constitutional morality against social conservatism. The Court acknowledged that sexual orientation is not a determining factor in love, autonomy, or dignity. It strengthened the inclusive spirit of Articles³⁴⁵ 14, 15, 19, and 21 by defending same-sex partners' rights to live together and start a chosen family. A change from passive neutrality to active constitutional responsibility was also marked by the sharp condemnation of police inactivity. The decision makes a substantial contribution to the developing LGBTQIA+ jurisprudence in India. It basically tells the country that liberty is a right

and not a privilege. However, the decision runs the risk of being viewed as more symbolic than structural because it doesn't offer a clear path for the statutory recognition of queer couples. It draws attention to the court's readiness to uphold individual liberties but its reluctance to completely address the legislative gap pertaining to LGBTQIA+ family rights.

³⁴¹ Gautam Bhatia, *Transformative Constitution: Law and Social Change in India* (HarperCollins 2019) 265.

³⁴² Tarunabh Khaitan, 'Beyond Navtej: The Battle for LGBTQ+ Family Rights in India' (2024) 37(2) *National Law School of India Review* 134.

³⁴³ *Supriyo @ Supriya Chakraborty v. Union of India* (2023) 12 SCC 1

³⁴⁴ Arvind Narrain, 'Symbolism vs Substance: Queer Rights in Indian Courts Post-Navtej' (2023) 45(4) *Economic and Political Weekly* 23.

³⁴⁵ Constitution of India, 1950