



# **DOMESTIC VIOLENCE AND REMEDIES UNDER LAW**

**Presented by:  
Justice Anubha Rawat Choudhary,  
Judge, High Court of Jharkhand**

# Introduction

- Domestic violence is a major social issue in India that affects countless individuals, primarily women.
- It is a complicated issue rooted in societal standards, economic concerns, and gender-based power relations.
- Despite legislative protections and measures to prevent domestic abuse, it remains a prevalent problem with terrible repercussions.
- The Vienna Accord of 1994 and the Beijing Declaration and the Platform for Action (1995) have acknowledged this.
- The United Nations Committee on Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in its General Recommendation No. XII (1989) has recommended that State parties should act to protect women against violence of any kind especially that occurring within the family.

# Causes of Domestic Violence

- The patriarchal character of Indian society is one of the main reasons for domestic violence. In Indian culture, it is common for women to be considered less valuable than men. As a result, men believe they have the right to control their relationships and will resort to violence to maintain that power.
- Poverty is a crucial element that fuels domestic violence. Since women from low-income households are frequently financially dependent on their partners, they are more likely to experience domestic abuse.
- Presently, where a woman is subjected to cruelty by her husband or his relatives, it is an offence under section 498-A of the Indian Penal Code. But the criminal laws do not however address the domestic violence in its entirety.

# Effects of Domestic Violence

- Domestic violence is devastating for the victim women and also to her children. It creates mental as well as physical health problems to the victims.
- Children who witness domestic violence are under great risk of developing long-term issues like anxiety, depression, and behavioral problems. As they get older, they could become more prone to acting violently.

# Solutions to Domestic Violence

- To curtail domestic violence, it is necessary to address the fundamental causes of the problem. This might include modifying cultural perceptions of women, enhancing women's access to education and employment prospects, and offering assistance to victims.
- Another important step to curtail domestic violence is to change the views towards the women and by promoting gender equality.
- Media efforts can promote favorable attitudes toward women, and educational projects can be utilized to teach kids about gender equality and healthy relationships with the women. It is to impress them that a girl child has equal rights on all the sphere of society and deserves to be treated with dignity.

# Improving Access to Education and Economic Opportunities

- Improving access to education and economic opportunities for women can also help to prevent domestic violence.
- Financially independent women are less likely to experience domestic violence as they are not dependent on their partners for support.
- Initiatives such as microfinance programs and vocational training can help women to become economically independent and reduce their risk of domestic violence.

# Providing Support for Victims:

- Providing support for victims of domestic violence is also essential. This can involve providing access to counseling, legal aid, and safe shelters for women who need to escape an abusive relationship.
- Raising awareness about the issue is also crucial, and encouraging victims to speak out about their experiences is also vital.

# Legal Protections

- Legal protections can also play an important role in preventing domestic violence.
- **The Protection of Women from Domestic Violence Act (PWDVA) enacted in 2005** is an important act to provide victims with legal protections.
- This act is a laudable piece of legislation enacted in 2005 to tackle the domestic violence and to bring women's human rights into sphere of the home, which has been an important site of violence.
- This law provides for the issuance of protection orders that can prohibit the abuser from contacting or approaching the victim and can also provide for financial support and access to shared property.



# Protection of Women from Domestic Violence Act, 2005

- This Act was enacted in the year 2005.
- It has five chapters and 37 sections.
- Chapter 1 – Section 1 to 2 - Deals with short title, extent and definitions.
- Chapter 2 – Section 3 – Definition of Domestic Violence.
- Chapter 3 – Section 4 to 11- Power and Duties of Protection Officers and other service providers .
- Chapter 4 – Section 12 to 29 -Procedure for obtaining orders of reliefs.
- Chapter 5 – Section 30 to 37 – Miscellaneous provisions.

# Aims and Objectives of D.V. Act

- The main object of the Act is to provide more effective protection to the constitutional rights of women and to protect them against violence of any kind occurring within the family.
- D.V. Act, 2005 provides civil remedies to the victims for enforcement of her rights eg. Right to residence, Maintenance, Custody, Protection and compensation.
- The legislative intent was further emphasized by the Supreme Court of India in the case of *Indra Sarma v. V.K.V Sarma, (2013) 15 SCC 755* wherein it was stated that the DV Act is enacted to provide a remedy in civil law for the protection of women, from being victims of such relationship, and to prevent the occurrence of domestic violence in the society.

- The objective of the Act lays down “An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.”
- The Madras High Court in ***Vandhana v. T. Srikanth, 2007 SCC Online Mad 553*** in one of the early cases since the enactment of the DV Act, observed that the Act was formulated to implement Recommendation No. 12 of United Nations Committee on Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), 1989 and which was ratified by India in June, 1993.

- The Bombay High Court in the case of **Ishpal Singh Kahai v. Ramanjeet Kahai, 2011 SCC Online Bom 412** reiterated that the object of the DV Act is to grant statutory protection to victims of violence in the domestic sector who had no proprietary rights. The Act provides for security and protection of a wife irrespective of her proprietary rights in her residence. It aims at protecting the wife against violence and at the prevention of recurrence of acts of violence.

# Who is an aggrieved person?

- Any woman who is or has been in a relationship with the abuser, where both parties have lived together in a shared household and is related by consanguinity, marriage or through a relationship in the nature of marriage or adoption with the abuser.
- In addition, relationships with family member living together as a joint family are also included.
- Even those woman who is sister, widow, mother or in live-in with the abuser is entitled to legal protection under this act.

# Types of Domestic Violence

As per Section 3 of D.V Act domestic violence is of four types :

(1) Mental / Physical harm injury which includes -

- (i) Physical abuse,
- (ii) Sexual abuse
- (iii) Verbal and emotional abuse
- (iv) Economic abuse

(2) Harassment or injury caused due to unlawful demand of any dowry or other property or valuable security.

(3) Any type of threat by the respondent/ husband or any person related to the respondent/ husband in order to create any harm to the women

(4) Any other harms or injury either physical or mental to the women.

# Abuses under the D.V. Act

As per Explanation - I of section 3 of D.V. Act, 2005

- (i) "**Physical Abuse**" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force
- (ii) "**Sexual Abuse**" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;



(iii) **"Verbal and Emotional Abuse"** includes—

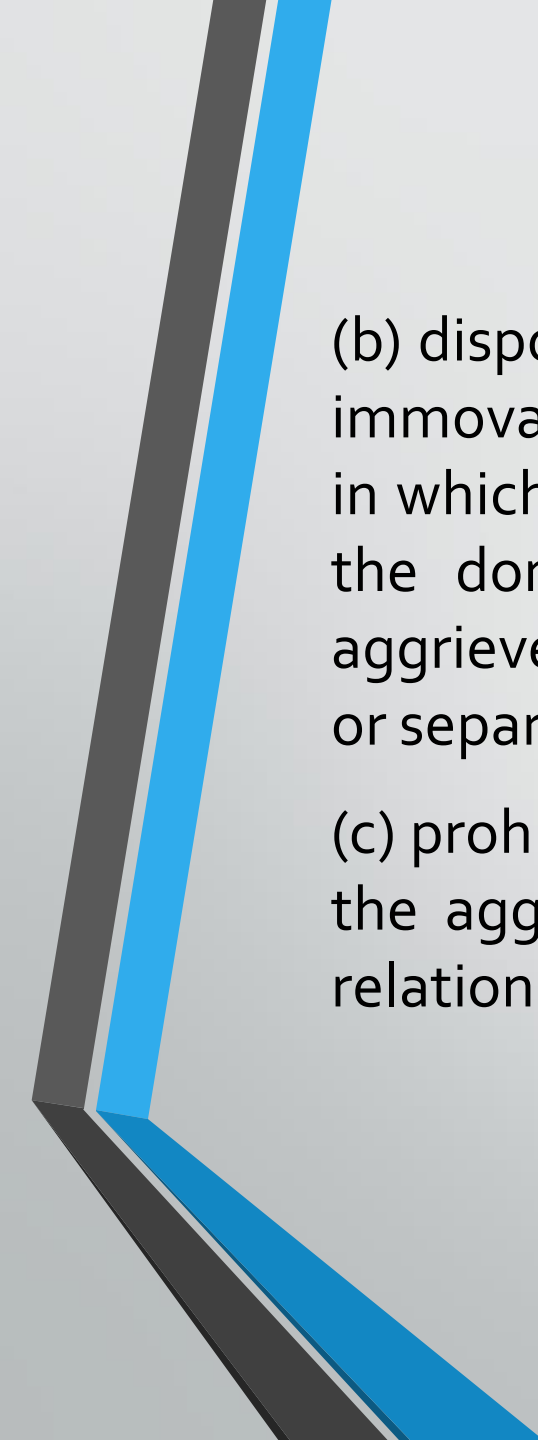
(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested;



iv) "**Economic Abuse**" includes—

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house hold necessities for the aggrieved person and her children, if any, *stridhan*, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance;



(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her *stridhan* or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

# Who can be a complainant under the Act?

- Any woman who is, or has been in a domestic or family relationship with the respondent and who has been subjected to domestic violence, can file a complaint under this act for redressal of her grievance.
- Any Police Officer, Protection Officer or service provider may also file a complain with regard to Domestic Violence to be held to any women.
- Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.
- The Act protects even those females who are sisters, widows or mothers, living together as a joint family with the respondent in a shared household.
- Even a women in “live-in- relationship” she has to get the benefit of D.V. Act, if she fulfils certain conditions.

- The Supreme Court in the case of **D.Veluswamy v. D.Patchaiammal, AIR 2011 SC 479**, wherein the Court enumerated five ingredients of a live-in-relationship as follows:
  1. Both the parties must behave as husband and wife and are recognized as husband and wife in front of society.
  2. They must be of a valid legal age of marriage.
  3. They should qualify to enter into marriage eg. None of the partner should have a spouse living at the time of entering into relationship.
  4. They must have voluntarily cohabited for a significant period of time.
  5. They must have lived together in a shared household.

# Who is Respondent under the Act?

- As per section 2(q) “**Respondent**” means any ‘**adult male person**’ who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought relief under the Act.
- In case of **Hiralal P. Harsora Vs. Kusum Narottamdas Harsora, AIR 2016 SC 4774**, it was held that words ‘adult male person’ contrary to object of affording protection to women who suffered from domestic violence of any kind and word expression ‘adult male’ is substituted by “**any person**”.


# Important Definitions under D.V. Act

In this Act, unless the context otherwise requires,-

- **Sec. 2 (a) "aggrieved person"** means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;
- **Sec. 2 (e) "domestic incident report"** means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;
- **Sec. 2(f) "domestic relationship"** means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

- **Sec. 2(k) "monetary relief"** means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;
- **Sec. 2(q) "respondent"** means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:  

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;
- **Sec. 2(r) "service provider"** means an entity registered under sub-section (1) of section 10;

- 
- “**Domestic relationship**” means a relationship between two persons who live or have lived, together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.



# What is a shared household under Section 2(s)?

A shared household is a household where the aggrieved person lives or has ever lived in a domestic relationship with the respondent. It includes

(i) allotted, (ii) tenanted or (iii) joint family property, in which the complainant or the respondent has any right.

In the case of **Satish Chandra Ahuja Vs. Sneha Ahuja, AIR 2020 SC 5397** redefined the meaning of 'shared household' and overruled the judgment of **S.R. Batra Vs. Tarun Batra, (2007) 3 SCC 169** and held that in event, the shared household belongs to the husband or any relative of the husband (including father in law) with whom in a domestic relationship the women has lived, the said house will become a shared household. By this judgment, Apex Court has widened the scope of shared household.

# What are the authorities appointed for the protection of victims of domestic violence?

- Protection Officers
- Service Provider – Any NGO or other organization registered under this Act may be service provider.
- Police Officers, and
- Magistrate

# Who is a Protection Officer and what are her/his duties?

- A Protection Officer is an officer, preferably a woman, appointed & notified by the State Government in notified area for discharge her duties under the Act.
- The duties of a Protection Officer is to ensure protection and relief for a victim of domestic violence.
- Amongst her duties are:
  - Assist the Magistrate in the discharge of his functions under the Act;
  - Make a D.I.R i.e. report of incident of domestic violence to the Magistrate;
  - Make an application to the Magistrate seeking protection order for the aggrieved;
  - Ensure legal aid for the aggrieved under the Legal Services Authorities Act, 1987;
  - Maintain a list of service providers;
  - Arrange safe shelter for the aggrieved, if desired;
  - Get the aggrieved person medically examined if she has sustained injuries.
  - Ensure that an order granting monetary relief made by a magistrate is complied with and duly executed

# Who are service providers?

- The Act provides that any voluntary association registered under the Societies Registration Act, 1860 or a company registered under the Companies Act, 1956 may register itself with the State Government as a Service Provider, their object should be to protect the rights and interests of women by lawful means including providing counselling, medical, financial, conveyance, shelter and other assistance.
- A service provider has the power to prepare incident of domestic violence; to get the aggrieved person medically examined, if needed and ensure safe shelter if required.

# What is the procedure for obtaining relief protection, under the Act?

- An aggrieved person or a protection officer, or any other person on behalf of the aggrieved person may present an application to the Magistrate for relief and protection. After hearing the aggrieved person and the respondent, the Magistrate may pass any of the following orders:
  - Protection Order.
  - Residence order.
  - Order providing monetary relief e.g. for loss of earnings, medical expenses, loss or destruction of property, maintenance.
  - Interim custody order.
  - Compensation order, i.e. damages for injuries including mental torture and emotional distress caused to the aggrieved.

# To what other relief is an aggrieved person entitled under the Act?

- The aggrieved person is entitled to reside in a shared household whether or not she has any right, title or beneficial interest in the same. She cannot be evicted except in accordance with procedure established by law.
- Besides, if an aggrieved person or any service provider on her behalf, requests the person in charge of a shelter home for shelter, such shelter will be provided to her.
- Aggrieved person will be provided medical facilities if she seeks them from the person in charge of the same.
- If a Magistrate is satisfied that application discloses prima-facie that an act of domestic violence has been committed against the applicant victim then on the basis of the affidavit he may grant an ex-parte order against the respondent.
- Aggrieved person is entitled to sought any relief in any other legal proceeding also along with proceeding under D.V. Act.

# Procedure for obtaining orders of reliefs (Chapter- IV)

## Section 12. Application to Magistrate.

- (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

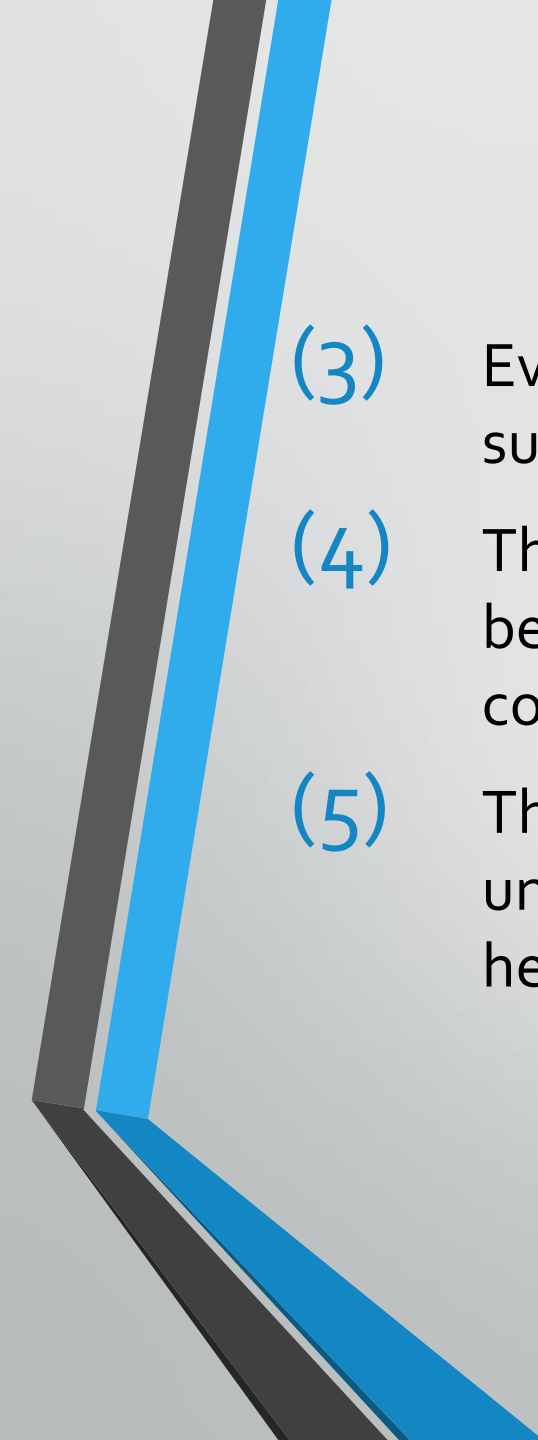
Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2)

The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.



- 
- (3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.
  - (4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.
  - (5) The Magistrate shall Endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

## Section 13. Service of notice.

- (1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.
- (2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

## Section 14. Counseling

- (1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counseling with any member of a service provider who possess such qualifications and experience in counseling as may be prescribed.
- (2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

### **Section 15. Assistance of welfare expert.**

In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

### **Section 16. Proceedings to be held in camera.**

If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act in camera.

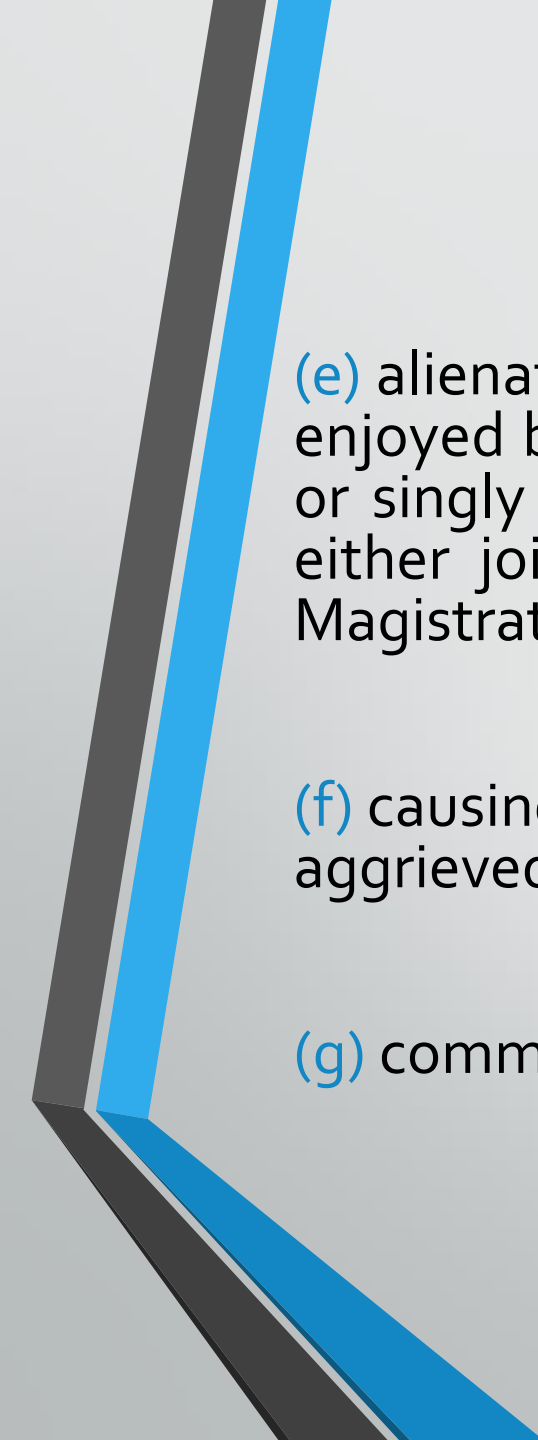
## **Section 17 Right to reside in a shared household.**

- (1)** Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.
- (2)** The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

## Section 18. Protection orders.

The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favor of the aggrieved person and prohibit the respondent from-

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;
- (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;



(e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;

(f) causing violence to the dependents, other relatives or any person who give the aggrieved person assistance from domestic violence;

(g) committing any other act as specified in the protection order.

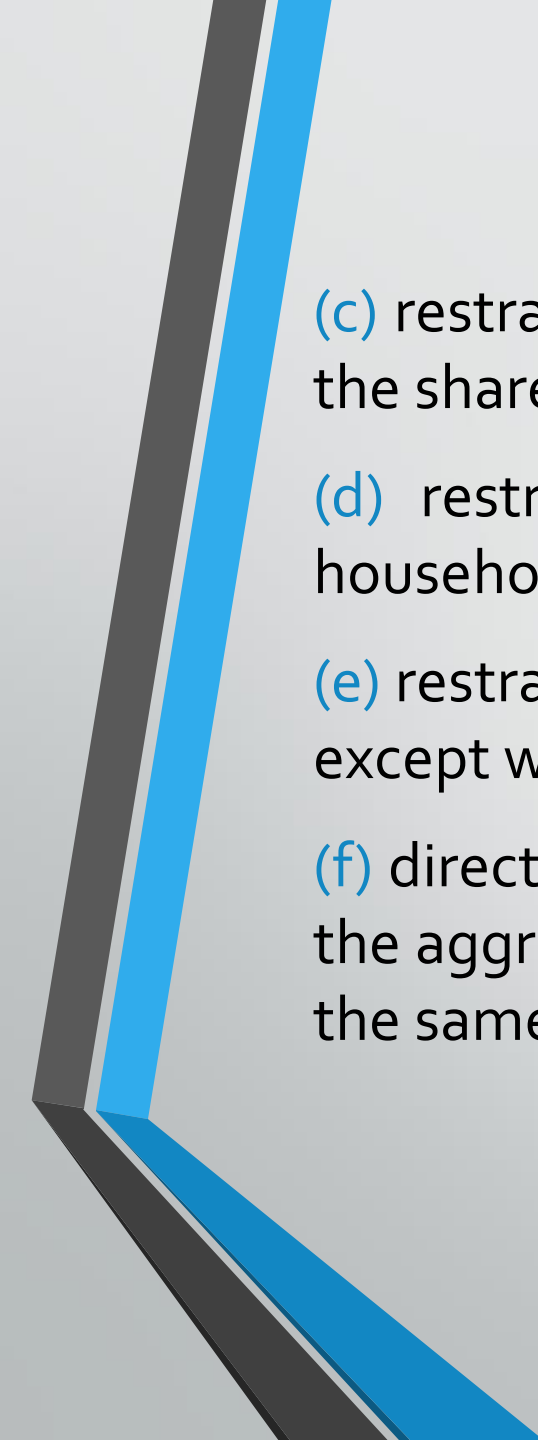
## Section 19. Residence orders.

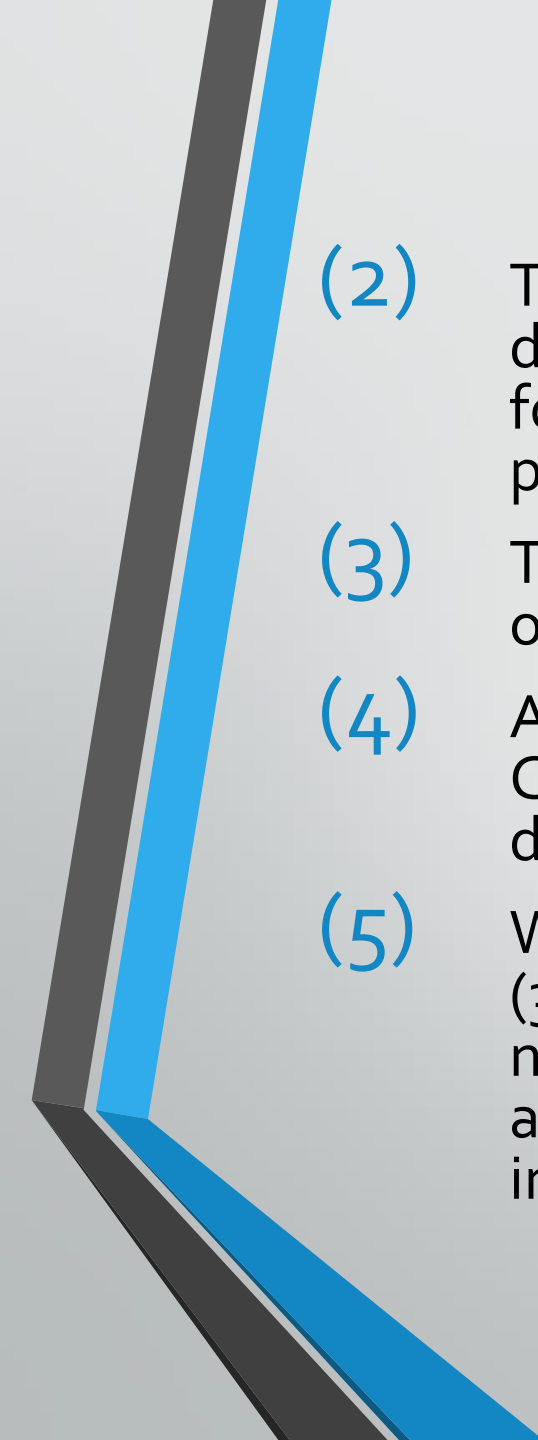
(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order –

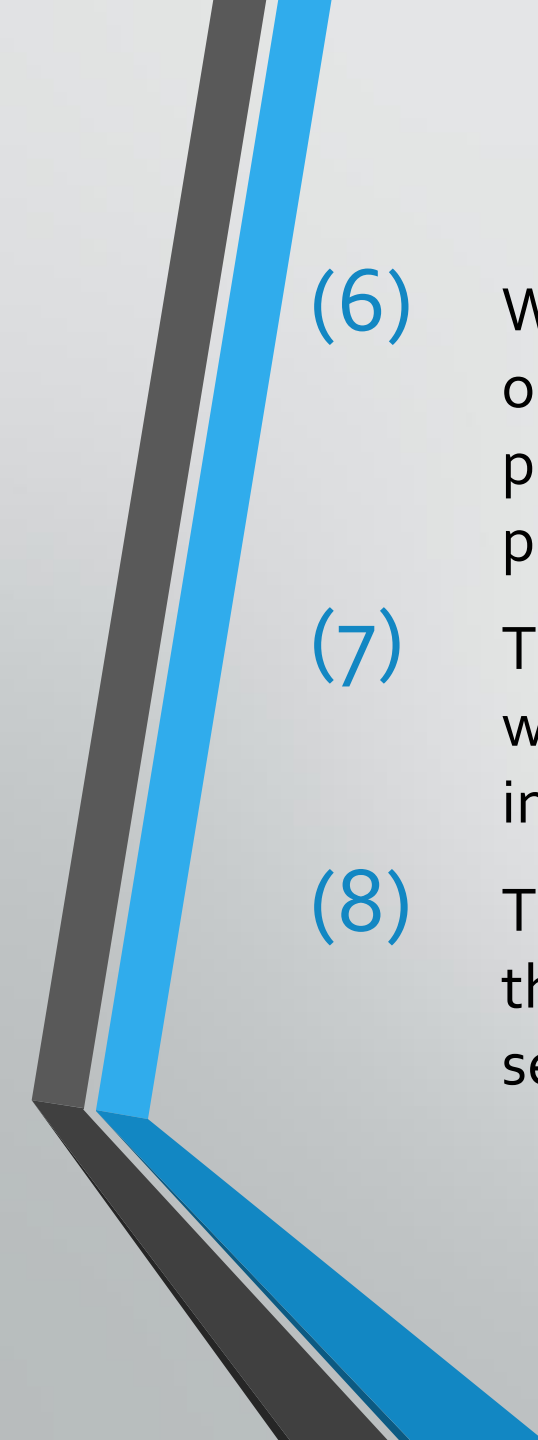
- a) (a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved woman from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;
- b) (b) directing the respondent to remove himself from the shared household;

Provided that no order under clause (b) shall be passed against any person who is a woman.



- 
- (c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;
  - (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;
  - (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or
  - (f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

- 
- (2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.
  - (3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.
  - (4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.
  - (5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

- 
- (6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.
  - (7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.
  - (8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

## 20. Monetary reliefs.

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,-

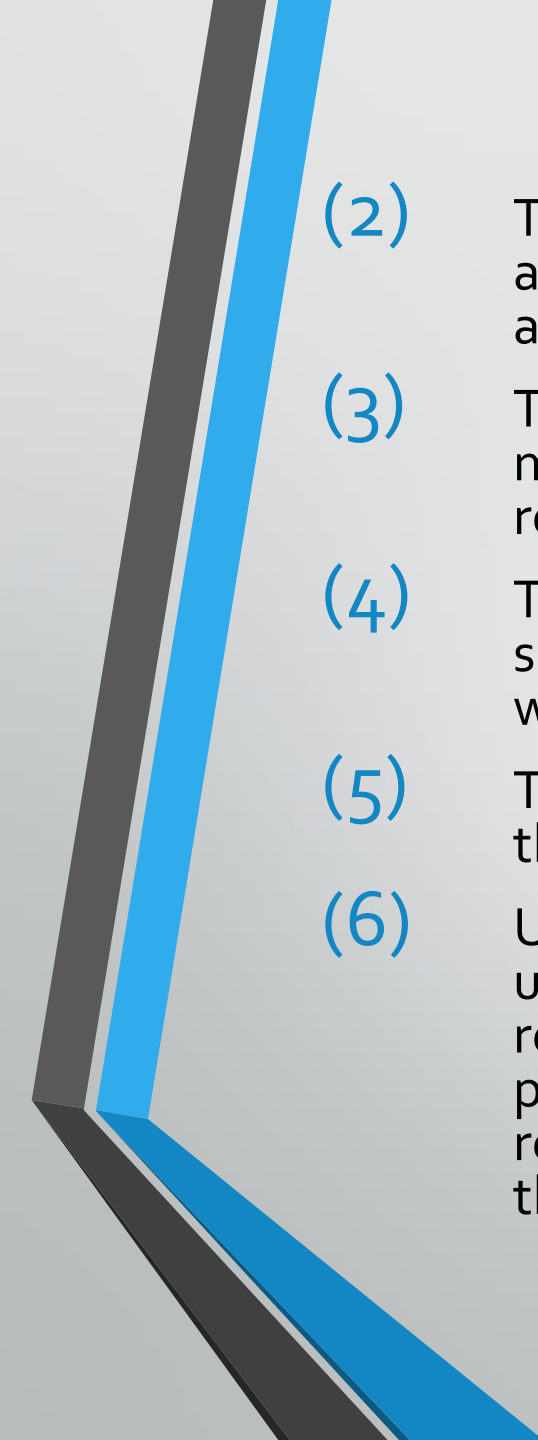
(a) the loss of earnings;

(b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

- In a case **Juveria Abdul Majid Patni Vs. Atif Iqbal Mansoori and another;** (2014) 10 SCC 736, besides other issues, the claim under different provisions of Domestic Violence Act, 2005 was also made and the Hon<sup>ble</sup> Supreme Court in paragraph 23 of the said judgment held as follows:
- The monetary relief as stipulated under Section 20 is different from maintenance, which can be in addition to an order of maintenance under Section 125 CrPC or any other law.
- Such monetary relief can be granted to meet the expenses incurred and losses suffered by the aggrieved person and child of the aggrieved person as a result of the domestic violence.
- This fact was reiterated in case of **Jogeshwar Saw @ Yogeshwar Saw @ Dabloo Sao @ Dabloo @ Babloo @ Babloo Sao Vs. State of Jharkhand and others, Criminal Revision No. 862 of 2012.**

- 
- (2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.
  - (3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.
  - (4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.
  - (5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).
  - (6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

## Section 21. Custody orders

Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent:

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

## **Section 22. Compensation orders.**

In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.



## Section 23. Power to grant interim and ex parte orders.

- (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.
- (2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

## Section 25. Duration and alteration of orders.

- (1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.
- (2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

## Section 26. Relief in other suits and legal proceedings.

- (1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.
- (2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.
- (3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

## Section 27. Jurisdiction

- (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-
  - a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
  - b) the respondent resides or carries on business or is employed; or
  - c) the cause of action has arisen,shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.
- (2) Any order made under this Act shall be enforceable throughout India.

## Section 28. Procedure

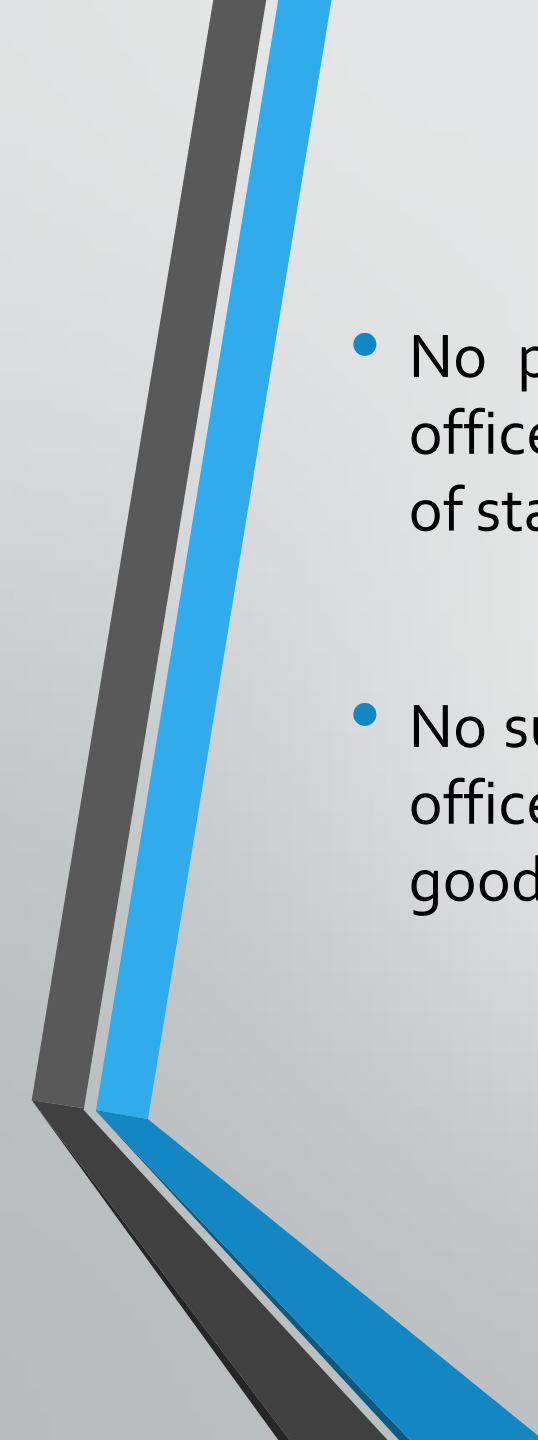
- (1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).
- (2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

## **Section 29. Appeal.**

There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

# Miscellaneous provisions under D.V. Act

- Penalty by breach of protection order- As per section 31 breach of any protection order is punishable with imprisonment which may be extended to one year or fine which may be extended to Rs. 20,000/- or both.
- Such breach of protection order (u/s 31) is cognizable and non-bailable in nature (section 32).
- If any protection officer fails or refuses to discharge his duties, without any sufficient reasons shall be punishable with imprisonment which may be extended to one year or with fine extended to Rs. 20,000/- (section 33).

- 
- No prosecution or other legal proceeding shall lie against the protection officer unless a complaint is filed against him/ her with the previous sanction of state government or any person authorised thereof (section 34).
  - No suit, prosecution or other legal proceeding shall lie against any protection officer for any damages caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.




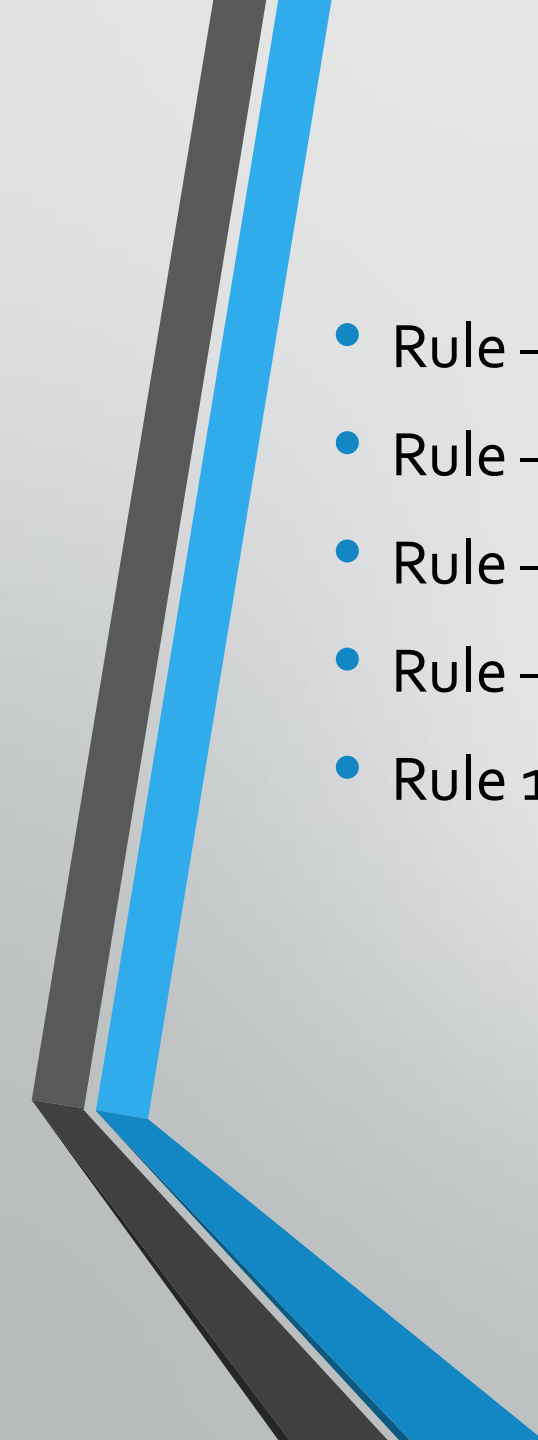
## Section 37. Power of Central Government to make rules.

- The Central Government may, by notification, make rules for carrying out the provisions of this Act.
- In exercise of power conferred under section 37 of the Act Central Government has made "The Protection of Women from Domestic Violence Rule, 2006", which came into force on 26<sup>th</sup> Day of October, 2006

# The Protection of Women from Domestic Violence Rules, 2006

- Rule 3- Qualifications and experience of Protection officer.
- Rule 4 – Information to Protection Officer
- Rule 5 – Domestic Incident Report
- Rule 6 – Application of the aggrieved person under section 12 shall be in Form II to be filed before the Magistrate.

- 
- Rule – 7 – Affidavit for obtaining ex-parte orders of Magistrate
  - Rule – 8 – Duties and functions of Protection Officers
  - Rule – 9 – Action to be taken in case of emergency
  - Rule – 10 – Certain other duties of Protection officer
  - Rule – 11- Registration of Service Providers.
  - Rule – 12 – Means of service of notices

- 
- Rule – 13 – Appointment of counsellors
  - Rule – 14 – Procedure to be followed by counsellors.
  - Rule – 15- Breach of Protection orders.
  - Rule – 16 – Shelter to the aggrieved persons
  - Rule 17 – Medical facilities to the aggrieved persons

# Forms given under D.V. Rule, 2006

- (a) Form I – Regarding Domestic Incidence Report under section 9(b) and 37(2)(c) of DV Act, 2005.
- (b) Form II – Application to Magistrate u/s 12 of D.V. Act, 2005.
- (c) Form III – Affidavit u/s 23(2) of D.V. Act, 2005.
- (d) Form IV – Information on rights of aggrieved persons under D.V. Act, 2005
- (e) Form V – Safety plan (as per rule 8 (1)(iv) of D.V. Rule, 2006
- (f) Form VI – Form for registration as service providers u/s 10(1) of D.V. Act, 2005.

# Leading Case Law under Domestic Violence Act, 2005

- **Prabha Tyagi v. Kamlesh Devi, (2022) 8 SCC 90**

Held:- Right to reside in shared household extends to foster children.

- **S. Vanitha v. Deputy Commissioner, Bengaluru, (2021) 15 SCC 730**

Held:- Overriding effect of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 cannot be construed to preclude all other competing remedies and protections under the Protection of Women from Domestic Violence Act, 2005.

- **Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414**

Held:- Requirements for premises to qualify as shared household.

# Leading Case Law on Section 498A

- **K.V. Prakash Babu v. State of Karnataka, (2017) 11 SCC 176**

Held:- Mental cruelty in Section 498-A Expln (a) has nothing to do with demand of dowry. It is associated with mental cruelty that can drive a woman to commit suicide and is dependent on the conduct of the person concerned, the milieu, and strata from which the persons come.

- **Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273**

Held:- All state governments directed to instruct its police officers not to automatically arrest when a case under S. 498A IPC is registered, but to satisfy themselves about the necessity for arrest under the parameters flowing from S. 41 CrPC.

- **Neelu Chopra v. Bharti, (2009) 10 SCC**

Held:- For lodging a proper complaint mere mentioning of relevant sections and language of those sections is not sufficient. Particulars of offence committed by each accused and role played by them in committing that offence need to be stated.



# Conclusion:

Domestic violence is a complex issue that requires a multifaceted approach to prevent and address. Changing societal attitudes towards women, improving access to education and economic opportunities for women, providing support for victims, and strengthening legal protections are all critical components of preventing domestic violence. By taking these steps, we can work towards creating a society where all individuals are valued and treated with respect and dignity.



**Thank You**