

**PRESENTATION ON**  
**PROTECTION OF WOMEN FROM**  
**DOMESTIC VIOLENCE ACT,2005**  
**(A) PARTIES BY WHOM AND AGAINST**  
**WHOM RELIEFS CAN BE SOUGHT**  
**(B) TYPES OF RELIEFS**  
**(C) EXECUTION OF ORDERS**

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## TABLE OF CONTENTS

<b>S.No.</b>	<b>TOPIC</b>	<b>PAGE No.</b>
1.	Introduction to Protection of Women from Domestic Violence Act,2005	3
2.	Parties By Whom And Against Whom Reliefs Can Be Sought	4
3.	Types of reliefs	10
4.	Execution of orders	15
5.	Conclusion	17

## INTRODUCTION

The patriarchal setup has been deeply rooted in Indian society since time immemorial. It may be believed that this system laid the foundation stone for the abuse of women. Domestic violence affects women from every social background irrespective of their age, religion, caste, or class. It is a violent crime that not only affects a person and her children but also has wider implications for society. Although the root behind the crime is hard to decipher, certain reasons behind the violence can be traced to the stereotyping of gender roles, and the distribution of power. The definition of violence has evolved over the years to an extent it not only includes physical forms of violence but also emotional, mental, financial, and other forms of cruelty. Thus, the term domestic violence includes acts which harm or endangers the health, safety, life, limb, or wellbeing (mental or physical) of the victim, or tends to do so, and includes causing: physical abuse, sexual abuse, verbal abuse, emotional abuse, and economic abuse, perpetrated by any person who is or was in a domestic relationship with the victim. Before the enactment of the Protection of Women from Domestic Violence Act, 2005 (“hereinafter to be referred as DV Act”), the victim could approach the court under Section 498-A of the Indian Penal Code, 1860, which provides for ‘husband or relative of husband of a woman subjecting her to cruelty’ wherein only a certain set of offence dealing with cruelty to married women was the only recourse. All other instances of domestic violence within the household had to be dealt with under the offences that the respective acts of violence constituted under the IPC without any regard to the gender of the victim.

To minimize the cumbersome position of law, be it procedural or substantive, the DV Act was enacted to protect the women from acts of domestic violence. The legislative intent of the Act was further emphasized by the Hon’ble Supreme Court of India in the case of *Indra Sarma v. V.K.V Sarma*<sup>1</sup>, 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. Other legislations like CrPC, IPC, etc., where reliefs have been provided to women who are placed in vulnerable situations were also discussed.

The objective of the Act is 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 Hon’ble Madras High Court in the case of *Vandhana v. T. Srikanth*<sup>2</sup>, in one of the early cases since the

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<sup>1</sup> (2013) 15 SCC 755

<sup>2</sup> 2007 SCC Online Mad 553

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. Interpretation of the DV Act should conform to international conventions and international instruments and norms. The Hon'ble Bombay High Court in the case of *Ishpal Singh Kahai v. Ramanjeet Kahai*<sup>3</sup>, 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.

The purpose of DV Act is to protect and curb widely prevalent offences of domestic violence but women are still at the receiving end not because of inadequate laws but prima facie, due to lack of its implementation in proper spirit, *Maran Nama v. State of Tripura*<sup>4</sup>.

## **PARTIES BY WHOM AND AGAINST WHOM RELIEFS CAN BE SOUGHT**

Before dwelling into the topic of parties by whom and against whom reliefs under DV Act can be sought, there are certain important definitions enshrined under the Act which have to be looked into and they are as follows.

### **IMPORTANT DEFINITIONS UNDER THE DV ACT**

#### **Aggrieved Person:-**

According to the definition provided under the DV Act in **Section 2(a)**, an “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. Therefore, any woman who is or has been in a domestic relationship is entitled to make a complaint invoking provisions of the Act.

#### **Domestic Relationship:-**

According to **Section 2(f)** of DV Act, “domestic relationship” means a relationship between two persons living in a shared household. Domestic relationship can be through marriage such as wives, daughters-in-law, sisters-in-law, widows and any other members of the family; or blood relationship such as mothers, sisters or daughters; and other domestic relationships

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<sup>3</sup> 2011 SCC Online Bom 412

<sup>4</sup> 2010 SCC OnLine Gau 202.

including through adoption, live-in relationships, and women in bigamous relationship or victims of legally invalid marriages. The law addresses the concerns of women of all ages irrespective of their marital status.

The definition of “domestic relationship” under the DV Act is exhaustive: when a definition clause is defined to “mean” such and such, the definition is prima facie restrictive and exhaustive, *Indra Sarma. V.K.V Sarma*<sup>5</sup>. The Hon’ble Supreme Court further stated that the word domestic relationship means a relationship that has some inherent or essential characteristics of marriage though not a marriage that is legally recognized. Expression “relationship in the nature of marriage” cannot be construed in the abstract. It is to be taken in the context in which it appears and to be applied bearing in mind the purpose and object of DV Act as well as meaning of the expression “in the nature of marriage”.

“Relationship in the nature of marriage”, is akin to a common law marriage which inter alia requires that the parties must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time. The parties should also have a “shared household” as defined in Section 2(s). Merely spending weekends or one night together does not constitute “domestic relationship” under Section 2(f). Further held, not all live-in relationships form a relationship “in the nature of marriage” because several parameters have to be satisfied in order to constitute relationship in the nature of marriage. Lastly, held, relationship with “keep” whom a man uses for sexual purposes and/or as a servant, does not constitute relationship in the nature of marriage, *D. Velusamy v. D. Patchaiammal*<sup>6</sup>.

The Hon’ble Supreme Court culled out some guidelines for testing under what circumstances, a live-in relationship will fall within the expression "relationship in the nature of marriage" under Section 2(f) of the DV Act. The guidelines, of course, are not exhaustive, but will definitely give some insight to such relationships:

- 1. Duration of period of relationship:** Section 2(f) of the DV Act has used the expression "at any point of time", which means a reasonable period of time to maintain and continue a relationship which may vary from case to case, depending upon the fact situation;
- 2. Shared household:** The expression has been defined under Section 2(s) of the DV Act and, hence, needs no further elaboration;
- 3. Pooling of resources and financial arrangements:** Supporting each other, or any one of them, financially, sharing bank accounts, acquiring immovable properties in joint names or in

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<sup>5</sup> (2013) 15 SCC 755

<sup>6</sup> (2010) 10 SCC 469

the name of the woman, long-term investments in business, shares in separate and joint names, so as to have a long-standing relationship, may be a guiding factor;

**4. Domestic arrangements:** Entrusting the responsibility, especially on the woman to run the home, do the household activities like cleaning, h cooking, maintaining or upkeeping the house, etc. is an indication of a relationship in the nature of marriage;

**5. Sexual relationship:** Marriage-like relationship refers to sexual relationship, not just for pleasure, but for emotional and intimate relationship, for procreation of children, so as to give emotional support, companionship and also material affection, caring, etc.

**6. Children:** Having children is a strong indication of a relationship in the nature of marriage. The parties, therefore, intend to have a long-standing relationship. Sharing the responsibility for bringing up and supporting them is also a strong indication;

**7. Socialisation in public:** Holding out to the public and socialising with friends, relations and others, as if they are husband and wife is a strong circumstance to hold the relationship is in the nature of marriage.

**8. Intention and conduct of the parties:** Common intention of the parties as to what their relationship is to be and to involve, and as to their respective roles and responsibilities, primarily determines the nature of that relationship. Intention may be expressed or implied and what is relevant is their intention as to matters that are characteristic of a marriage.

#### **Shared Household:-**

According to **Section 2(s)** of DV Act 2005, a shared household is where the aggrieved person or a woman lives in a domestic relationship, either singly, or along with the man against whom the complaint is filed. It may also imply a household where a woman has lived in a domestic relationship but has been thrown out. This may include all kinds of situations whether the household is owned by the respondent or it is rented accommodation. It also includes a house either owned jointly by the aggrieved person and the respondent or both may have jointly or singly, any rights, titles or interests. The DV Act recognizes a woman's right to reside in a shared household. This means a woman cannot be thrown out of such a household except through the procedure established by the law. In case she is thrown out she can be brought back again after obtaining the order from the court.

A woman to claim the protection of right in "shared household" has to establish (a) that the relationship with the opposite party is "domestic relationship", and (b) that the house in respect of which she seeks to enforce the right is "shared household". In Indian society, there are many situations in which a woman may not enter into her matrimonial home immediately after marriage. A woman might not live at the time of the institution of proceedings or might

have lived together with the husband even for a single day in “shared household” should not be left remediless despite valid marriage. Narrow interpretation of “domestic relationship” and “shared household” would leave many a woman in distress without remedy. Hence the correct interpretation of aforesaid definition including the right to live in “shared household” would be that words “live” or “have at any point of time lived” would include within its purview “the right to live”, *Vandhana v. T. Srikanth*. This law does not alter the legality of ownership or transfer the ownership and a woman cannot claim that she owns a house; it only provides emergency relief to the victim in the sense that she cannot be thrown out of her house. For claiming ownership, a woman has to follow a separate legal procedure and has to file a separate application as per the provisions of laws whichever are applicable to her situation.

Expression “at any stage has lived” refers to living of aggrieved person in a household at the time of filing of application under S. 12 or passing of order under S. 19 or her living in recent past prior to her exclusion from possession or on her remaining temporarily absent. Expression does not contemplate that wherever aggrieved person lived with relatives of husband, all such houses shall become shared household, *Satish Chander Ahuja v. Sneha Ahuja*<sup>7</sup>.

#### **Domestic Violence:-**

“Domestic violence” is a broad term that entails not only physical beating but also other forms of violence such as emotional violence, mental violence, sexual violence, financial violence and other forms of cruelty that may occur within a household. The definition provided in **Section 3** of the DV Act includes the following as acts of domestic violence: “Any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it— (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.”

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<sup>7</sup> (2021) 1 SCC 414.

The Section also defines the meaning of terms physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse. It further enunciates that the overall facts and circumstances of the case shall be taken into consideration in order to determine whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under the said section.

View that one or two beatings not sufficient in ordinary course for a woman to commit suicide is not acceptable. Assault on woman cannot be accepted as social norm. What impact an assault will have on a woman would depend upon circumstances of each case and court cannot proceed with any fixed rule. Court should be sensitive to women's problems, *Vajresh Venkatray Anvekar v. State of Karnataka*<sup>8</sup>. When a woman after 31 years of marriage, having no children, compelled to live alone at advanced age of 63 years without any means of sustenance situation falls within definition of “domestic violence” *V.D. Bhanot v. Savita Bhanot*<sup>9</sup>.

Relationship between same sex partners (gay and lesbian), held, not covered under Section 2(f), *Indra Sarma v. V.K.V. Sarma*. It was further held that (i) relationship between unmarried adult woman and unmarried adult male who lived or, at any point of time lived together in a shared household, will fall under Section 2(f); (ii) unmarried woman unknowingly entering into relationship with married adult male, such a relationship, may be a relationship in the “nature of marriage”, and may, in a given situation, fall within Section 2(f).

“Economic abuse” includes prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of domestic relationship including access to shared household, *Saraswathy v. Babu*<sup>10</sup>.

### **Who can seek help or can claim reliefs under the Domestic Violence Act?**

According to the provisions of this Act, any aggrieved woman who is in a domestic relationship with the respondent and who alleges to have been subjected to the act of domestic violence by the respondent can seek help. A woman can file a complaint against any adult male perpetrator who commits an act of violence. She can also file a complaint against any male or female relatives of the husband/ male partner (for example in a live-in relationship) who has perpetrated violence.

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<sup>8</sup> (2013) 3 SCC 462

<sup>9</sup> (2012) 3 SCC 183

<sup>10</sup> (2014) 3 SCC 712



A petition under the provisions of the DV Act is maintainable by a woman who has stopped living with the respondent, or by a woman who alleges to have been subjected to any act of domestic violence prior to coming into force of the Act on 26-10-2006. If the legislative intent was to keep a person not living with the respondent at the time of coming into force of the Act out of the purview of the Act, there was no necessity for using the words “or has been” in Section 2(a), *Savita Bhanot v. Lt. Col. V.D. Bhanot*<sup>11</sup>.

The amount or period of time lived together by the petitioner and respondent is not necessary in terms that the petitioner and respondent should live or have lived together for a particular period of time. Hence, application by lady, for maintenance, from a man with whom she shared a close relationship is maintainable, *M. Palani v. Meenakshi*<sup>12</sup>.

The Hon’ble Supreme Court had observed in one of the cases that judicial separation does not change the status of the wife as an “aggrieved person” under Section 2(a) read with Section 12 and does not end the “domestic relationship” under Section 2(f). It stated that judicial separation is mere suspension of husband-wife relationship and not a complete severance of relationship as happens in divorce, *Krishna Bhattacharjee v. Sarathi Choudhury*<sup>13</sup>.

Act or omission defining domestic violence is broad enough to include all “aggrieved persons” including a not legally wedded wife and, those not entitled to maintenance under Section 125 CrPC, *Lalita Toppo v. State of Jharkhand*<sup>14</sup>.

#### **Persons against whom reliefs can be sought:-**

The term respondent is defined under **Section 2(q)** of the DV Act and according to the definition “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.

The Hon’ble Supreme Court in the case of *Hiral P. Harsora v. Kusum Narottamdas Harsora*<sup>15</sup>, struck down ‘adult male’ from the definition of “respondent” stating that it is not based on any intelligible differentia having rational nexus with object sought to be achieved. The Hon’ble Supreme Court also explained in the said case that the categories of persons

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<sup>11</sup> 2010 SCC OnLine Del 1278.

<sup>12</sup> 2008 SCC Online Mad 150

<sup>13</sup> (2016) 2 SCC 705

<sup>14</sup> (2019) 13 SCC 796

<sup>15</sup> (2016) 10 SCC 165

against whom remedies under the DV Act are available include women and non-adults. Expression “respondent” in Section 2(q) or persons who can be treated as perpetrators of violence against women/against whom remedies under the DV Act are actionable cannot be restricted to expression “adult male person” in Section 2(q). Thus, remedies under the DV Act are available even against a female member and also against non-adults.

“Relative” of husband or the male partner include females. Legislature never intended to exclude female relatives from ambit of complaint that could be made under 2005 Act. Though expression “female” is not used in provision to Section 2(q), but no restrictive meaning can be given to expression “relative” nor has said expression been defined to make it specific to males only, *Sandhya Manoj Wankhade v. Manoj Bhimrao Wankhade*<sup>16</sup>.

## **TYPES OF RELIEFS**

Chapter IV is the heart and soul of the Act which provides for various reliefs that can be granted by Magistrate to an aggrieved woman. These reliefs as available to aggrieved woman under Sections 12(2), 18 to 22, discussed, *Indra Sarma v. V.K.V. Sarma*. The reliefs that are available for the aggrieved person under the DV Act are enshrined under Sections 18 to 23 and they are as follows:-

- I. Protection orders (Section 18)
- II. Residence order (Section 19)
- III. Monetary Relief (Section 20)
- IV. Custody orders (Section 21)
- V. Compensation orders (Section 22)

### **I. PROTECTION ORDERS**

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

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;

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<sup>16</sup> (2011) 3 SCC 650.

(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 dependants, 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.

► **Conduct of parties.**—Conduct of parties even prior to coming into force of 2005 Act can be taken into consideration while passing the order for protection-cum-residence and monetary relief, *V.D. Bhanot v. Savita Bhanot*<sup>17</sup>.

► **Opportunity of hearing.**—Two things are required before passing an order in favour of aggrieved person, (i) opportunity of hearing to the parties; and (ii) on being prima facie satisfied with regard to happening of the domestic violence or likely to happen thereof. It cannot be accepted that only upon providing an opportunity of hearing such orders are required to be passed, *Madhusudan Bhardwaj v. Mamta Bhardwaj*<sup>18</sup>.

► **Grant of relief.**—Conduct of parties even prior to commencement of DVA, 2005, reiterated, can be taken into consideration while passing an order under Sections 18, 19 and 20, *Saraswathy v. Babu*<sup>19</sup>.

## II. RESIDENCE ORDER

The Magistrate may pass a residence order

a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

(b) directing the respondent to remove himself from the shared household;

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<sup>17</sup> (2012) 3 SCC 183

<sup>18</sup> 2009 SCC OnLine MP 228

<sup>19</sup> (2014) 3 SCC 712

- (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. The proviso appended to the section states that no order shall be passed under clause (b) against any person who is a woman.

The High Court of Madras opined that the Act contemplates two types of reliefs viz. (a) right to reside in shared household; and (b) right to seek residence orders under Section 19 of the Act—Section 19(1) of the Act empowers Magistrate to pass variety of residence order. Shared household would come into picture only when relief is sought in terms of Sections 19(1)(a) to (e) of the Act. Aggrieved woman can seek orders to enable her to continue to reside in shared household or protection order to enable her to reside in shared household, then property, which is subject-matter, should be shared household. Aggrieved woman can seek relief of alternate accommodation in terms of Section 19(1)(f) of the Act and in such case concept of shared household would not be attracted. Expression “shared household” occurring in Section 19(1)(f) of the Act is just for purpose of enabling aggrieved woman to seek alternative accommodation, which would be on par with shared household that she enjoyed at some point of time, *M. Muruganandam v. M. Megala*<sup>20</sup>. Right of residence is in addition to maintenance under Section 125 CrPC, *Rajnish v. Neha*<sup>21</sup>.

► **Alternative accommodation**—Wife's claim for alternative accommodation in terms of Section 19(1)(f) can only be made against her husband and not against her in-laws or other relatives of the husband, *S.R. Batra v. Taruna Batra*<sup>22</sup>.

► **Alternate equivalent accommodation**—“Similar” does not mean identical. Direction of court to husband to pay monthly rent of alternate suitable accommodation for wife which should be “similar” to accommodation of husband, held, does not mean that it has to be identical in terms of area, facilities and luxuries.

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<sup>20</sup> 2010 SCC Online Mad 6012.

<sup>21</sup> (2021) 2 SCC 324

<sup>22</sup> (2007) 3 SCC 169

Word “similar” has to be construed as providing same degree of luxury and comfort as is available in accommodation to which it is to be similar, *Jaidev Rajnikant Shroff v. Poonam Jaidev Shroff*<sup>23</sup>.

► **Distribution of the assets**—The right of the wife under Section 19 does not require to deal with the equality in distribution of the assets and properties of the husband. It is a protective legislation for an enabling purpose to allow a wife to reside exclusively and peaceably in such alternative premises which, of course, should be of the same level. Besides, since it would be unencumbered residence, exclusive for the wife, it would require to be about half the area of the shared residence of the parties, *Sabah Sami Khan v. Adnan Sami Khan*<sup>24</sup>.

► **Relief under the Act.**—Act contemplates two types of reliefs viz. (a) right to reside in shared household; and (b) right to seek residence orders under Section 19 of the Act—Section 19(1) of the Act empowers Magistrate to pass variety of residence order. Shared household would come into picture only when relief is sought in terms of Sections 19(1)(a) to (e) of the Act. Aggrieved woman can seek orders to enable her to continue to reside in shared household or protection order to enable her to reside in shared household, then property, which is subject-matter, should be shared household. Aggrieved woman can seek relief of alternate accommodation in terms of Section 19(1)(f) of the Act and in such case concept of shared household would not be attracted. Expression “shared household” occurring in Section 19(1)(f) of the Act is just for purpose of enabling aggrieved woman to seek alternative accommodation, which would be on par with shared household that she enjoyed at some point of time, *M. Muruganandam v. M. Megala*<sup>25</sup>.

### III. MONETARY RELIEF

Under Section 20 of DV Act, an order for monetary relief can be passed by the court in case a woman has incurred expenditure as a result of violence. This may include expenses incurred by a woman on obtaining medical treatment, any loss of earnings, damage to property, etc. The aggrieved person can also claim for maintenance from her male partner. 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

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<sup>23</sup> (2022) 1 SCC 683

<sup>24</sup> 2010 SCC OnLine Bom 1629

<sup>25</sup> 2010 SCC OnLine Mad 6012

may include, but is 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 or any other law for the time being in force.

Further, it has also been provided in the section that the monetary relief provided should be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed. In case there is a failure in part of the respondent to make payment in terms of the monetary order, 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.

#### **IV. CUSTODY ORDERS**

The Magistrate may grant temporary custody of the children to the aggrieved woman or any person making an application on her behalf. This is to prevent a woman from being separated from her children, which itself is an abusive situation. Section 21 also states that 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. However, the Magistrate may refuse such visit to such child or children, if it feels that any visit to the child or children by the respondent may be harmful.

#### **V. COMPENSATION ORDERS**

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.

Magistrate's power to grant **interim and ex parte orders (Section 23)**:- Section 23 gives power to the Magistrate to pass such interim order as he deems just and proper and also 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.

## **EXECUTION OF ORDERS UNDER DV ACT**

### **A. EXECUTION OF PROTECTION ORDER(SECTION 20):**

**Relevant provisions are as follows:-**

1. Section 31 of Domestic Violence Act,2005
2. Section 19(7) of DV Act
3. Rule 15 of Domestic Violence Rules, 2006

**1. Section 31** provides for the relief of orders under section 18 and section 23 of Domestic Violence Act: Penalty for breach of protection order by respondent. —(1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

**2. Section 19(7)** categorically states that Magistrate can direct officer-in-charge of the police station to assist the implementation of Protection Order.

*“(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.”*

**3. Rule 15. Breach of Protection Orders:**

(1) An aggrieved person may report a breach of protection order or an interim protection order to the Protection Officer.

(2) Every report referred to in sub-rule (1) shall be in writing by the informant and duly signed by her.

(3) The Protection Officer shall forward a copy of such complaint with a copy of the protection order of which a breach is alleged to have taken place to the concerned Magistrate for appropriate orders.

(4) The aggrieved person may, if she so desires, make a complaint of breach of protection order or interim protection order directly to the Magistrate or the Police, if she so chooses.

(5) If, at any time after a protection order has been breached, **the aggrieved person seeks his assistance, the protection officer shall immediately rescue her by seeking help from the local police station and assist the aggrieved person to lodge a report to the local police authorities in appropriate cases.**

(6) When charges are framed under section 31 or in respect of offences under section 498A of the Indian Penal Code, 1860 (45 of 1860), or any other offence not summarily triable, the Court may separate the proceedings for such offences to be tried in the manner prescribed under Code of Criminal Procedure, 1973 (2 of 1974) and proceed to summarily try the offence of the breach of Protection Order under section 31, in accordance with the provisions of Chapter XXI of the Code of Criminal Procedure, 1973.

**(7) Any resistance to the enforcement of the orders of the Court under the Act by the respondent or any other person purportedly acting on his behalf shall be deemed to be a breach of protection order or an interim protection order under the Act.**

(8) A breach of a protection order or an interim Protection order or an interim protection order shall **immediately be reported to the local police station having jurisdiction and shall be dealt with as a cognizable offence as provided under Sections 31 and 32.**

#### **B.EXECUTION OF MONETARY RELIEF(Section 20):**

**Relevant Provision:** Section 20(6) of DV Act.

Section 20(4) of DV Act, contemplates that copy of the order under section 20(1) must be forwarded to the concerned police station.

*(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.*

**Section 20(6) categorically provides for the relief in case of breach of order of Monetary relief which states the Magistrate may direct *the employer or a debtor of the respondent***



*to pay directly to the aggrieved person or to deposit such portion of wages or salaries or debt due to the respondent.*

*(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.*

### **EXECUTION OF RESIDENCE ORDER (Section 19 of DV Act)**

**Relevant provision:- Section 19(3), 19(5) and 19(7) of DV Act**

As per **Section 19(3)** in order to ensure the execution of residence order, the magistrate may require the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

**By virtue of Section 19(5)**, 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.

Further, as per **Section 19(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 protection order.

**Procedure to be followed in implementation of orders:**

As per **Section 28** of the 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).

### **CONCLUSION**

Although the major objective of this law, being to protect the women against domestic violence has been secured, certain portions of the law still remains to be developed. This law provides civil remedies to the victims of domestic violence. Before enactment of this law, in order to seek any civil remedies such as divorce, custody of children, injunctions in any form or maintenance, a woman only had the option of taking recourse to the civil courts.

Therefore, the DV Act has certainly brought about the required and necessary change in the system. Although the Act provides exhaustive remedies to counter the issue of domestic violence certain terms and its interpretation needs to develop. The Act falls short in providing

any relief to the male members in the community who are subjected to domestic violence, being one of the areas where the law falls short.

However, it also needs to be considered that no crime can be abolished from the society completely, it is only with stringent reforms and mechanism that it can be curbed.