

## **Domestic violence,divorce and maintenance**

Among all the crimes against women, domestic violence tops the chart as it accounts for the highest percentage in affecting women. If one thinks that over the years the crimes would have reduced, think again! Between the year 2003 and 2013, there had been a 134% rise in domestic violence cases in India and a total number of 426 cases in 2014, 461 cases in 2015 and 437 cases in 2016 were registered for domestic violence, according to the National Crime Records Bureau (NCRB).

### **What kinds of activities are termed as 'domestic violence'?**

Any actual abuse, harm or threat that is of physical, emotional, social, verbal, and sexual or of economic origin is termed as domestic violence. It also includes grave injury, severe damage to her limb or hampering her physical or mental wellbeing. Not providing her day to day needs or food are also categorised under domestic violence.

Protection of Women from Domestic Violence Act, 2005 aims to protect women from all sorts of violence by her male partner/husband and his family members. In a broader prospect, this act aims to protect sister, mothers and women in live-in relationships from being abused by their husbands, male live-in partner and their relatives.

This act is devised to protect women from different types of violence that are either explicit or dormant but continue to threaten their day-to-day lives. Madras High Court has recently said that, under this act, filing complaint is not limited only against male meaning that women are treated badly not just from men but also from other women such as mother-in-law, sisters, etc.

### **Intensity of Violence**

How much violence can be termed as 'violence'? There is no specific answer for it. It differs depending upon the social standing, economic dependency, or the way the victim perceives it. The degree of violence differs in every wilful act against women. Repeated verbal abuse by the husband to coerce the woman, hurt her feelings enough to commit suicide, such abuse is considered violence.

### **Who can file a complaint under the Act?**

The victim of the domestic violence or any other person, who has witnessed the act, can file a complaint before the Magistrate's court. The complaint can also be received by a police officer, protection officer and must inform the aggrieved woman of her rights. The victim is also eligible to opt for free legal services and she should be directed to file a complaint under section 498A of the Indian Penal Code on the ground of cruelty.

### **Reliefs available for the victim under the Act:**

As the said act is civil in nature, the reliefs available are protection order, monetary relief, compensatory order, residence order, custody order. Any additional grant of relief may also be passed by the magistrate, as deem fit. Section 22 of the Act Domestic Violence Act empowers a magistrate, on an application made by the aggrieved person, to pass an order directing the respondent to pay compensation and damages for injuries, including mental torture and emotional distress, caused by acts of domestic violence committed. Under Section 20, the magistrate may direct the perpetrator to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person/ victim and any child of hers as a result of the domestic violence.

**Maintenance under this Act:** The Courts have, in recent cases, established that a maintenance application under Section 125 of Criminal Procedure Code (CrPC) and maintenance under the Domestic Violence Act are independent of each other. The High court has observed that “an order under Section 20 DV Act is not restricted by an order under Section 125 CrPC”, as Section 20 of the Act provides for monetary relief to meet the expenses incurred and losses suffered including the loss of earnings, medical expenses.

### **Can a divorced woman seek maintenance under domestic violence?**

Complaint of Domestic Violence can be filed even after divorce. The Supreme Court has said that, a woman can lodge a complaint under the domestic violence law against the excesses committed by her husband even after the dissolution of marriage. Divorce does not absolve the husband from liability under this Act.

### **Does any limitation exist under the domestic violence act?**

There is no limitation for the aggrieved woman to seek reliefs under the Act. Subsistence of domestic relationship is sufficient and if those in such a relationship live together or have lived together in a shared household, it would entitle the relief of maintenance under the Act. The domestic relationship must be there between the aggrieved person and respondent to invoke Domestic Violence Act.

### **Rights of Muslim women**

Although Muslim marriages are governed by separate laws, Domestic violence Act still applies to Muslim women to protect them from violence and provide relief. A Muslim woman can claim maintenance under the domestic violence act and is entitled to all the relief measures as applicable.

### **Mediation in Domestic Violence cases**

Mediation is a widely accepted disputed resolution mechanism in resolving matrimonial issues contemplated under section 89 of the civil procedure code. In several ways, mediation is sought after due to its cost-effectiveness, informal

procedures, power of control, mutuality, full freedom of the parties, etc. while a case on domestic violence should be disposed within 60 days, mostly it is not possible to do so especially when it is involved in settling property. Also, since mediation gives importance in safeguarding familial relationships especially considering the children involved, perpetrators of violence mostly escape without being punished.

Of all the crimes against women, domestic violence holds the first place in affecting largest number of women amounting to 1,18,866 reported cases in 2013 in our country according to the National Crime Records Bureau. Women are subjected to some or the other sort of violence in their homes without even realising it but endure it as the way of life. When it comes to domestic violence cases, unless the facts are identical, each case should be treated as unique and analysed depending upon its magnitude and the grievances caused to the victim.