CHAPTER - IV
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PROTECTION OF WOMEN’S RIGHT WITH REFERENCE TO DOMESTIC VIOLENCE ACT

4.1. THE MEANING OF LEGAL SANCTIONS

The term 'legal sanctions' is fairly important in the context of the process of social control which has the aim of protecting the culture of the people and of promoting the social relations. The famous sociologist, Radcliff Brown, has defined the term 'sanction' as a social reaction to a mode of behavior that is thereby approved or disapproved. In his view the concept of 'sanctions' is of primary significance, in social relations, because sanctions provide an effective instrument to regulate the conduct of people so as to bring it in conformity with social customs, social usages and social practices. In other words, a sanction is a tool which helps the people in maintaining the fabric of social relations.¹

As regards the practical significance of a sanction it may be stated that a sanction has a deterrent function. It comes into operation when there is a breach of any norm. While it is generally used to illustrate a gesture of disapproval and a kind of penalty against the disapproved action, it is also a term used to express an appreciation, approbation or reward for the fulfillment of the norms of behaviour that are recognized and accepted.

A sanction thus indicates the appropriate step that is taken to redress the situation when a norm has been infringed or to express approbation when it has been complied with. The concept of 'sanction, plays a paramount role in the legal system in the sense that it manifests the form of penalties, remedies or modes of redress of the law, and they represent the means of enforcing conformity to the norms of behaviour.

The term 'sanction' in its widest sense, means any measure taken in support of a social order regulating human behaviour. The purpose of a sanction is to bring about a behaviour considered to

be in conformity with the goals and standards of a society and to prevent that behaviour which is inconsistent with these goals and standards. Consequently, in its widest sense, a sanction can have the objective of suppressing and terminating a particular form of undesirable behaviour and the objective of deterring or discouraging such behaviour in the future. The word 'sanction' originated in Roman law, where it meant a penalty imposed upon a person who violates the law. The word continues to be used in this narrow sense, particularly in municipal law.

In International relations, the term 'sanction' is customarily used in the wider sense. When we say, the Security Council is taking sanctions, what we mean to say is that the Security Council is using its powers to prevent the breach of international law by any State. The measures adopted by the organs of United Nations are sometimes of a penal nature and sometimes of a civil nature depending upon the nature of the violation of law. Sometimes, the sanctions are of an administrative nature.²

The relevance of the term 'Legal Sanctions' in relation to the problem of domestic violence is that they refer to the civil and criminal actions prescribed against the norms of behaviour in domestic environment. As far as this particular Act is concerned the norms are most of a civil nature. It is pertinent at this stage to explain a few of the important aspects of the laws relating to criminal and civil wrongs.

The distinction between civil and criminal law is a basic part of the Indian legal system. Civil laws deal with the rights and obligations of people and what is needed to protect them, while criminal law deals with offences and their punishment. In a criminal offence, the State takes upon itself the responsibility to investigate and collect evidence (through the police), to fight the case in court (through a public prosecutor) and enforce the punishment. Robbery, murder and kidnapping are examples of criminal offences. Criminal offences are dealt with by the Indian Penal Code (IPC).

The procedure by which a criminal trial is conducted is quite different from the processes involved in a civil trial. An important difference is that the "standard of proof required in criminal cases is much higher than in civil cases. Since criminal law is centrally linked with issues of punishment, allegations and facts must be proved "beyond reasonable doubt", so that innocent people are not punished. In civil cases, the courts scrutinize the "balance of probabilities" before deciding in whose favor to make a judgment.

However, there are some situations in which both civil and criminal law apply. Inflicting physical violence on a wife or daughter-in-law as well as subjecting her to cruelty - physical, mental or emotional - in a marriage is not only a civil offence and provides ground for divorce (a "matrimonial offence"), but is also a criminal offence under the Indian Penal Code, for which a person can be imprisoned. The laws dealing with marital abuse have been made very stringent through amendments in the Indian Penal Code and the Evidence Act.

In recent years, there have been lots of complaints and allegations regarding the abuse and misuse of these laws by unscrupulous families and the inability of genuine victims of violence to get redressal despite such strong laws in the woman's favor. Keeping in view the distinction between the civil and criminal law and the general idea of sanction explained above, the measures prescribed in the Protection of Women from Domestic Violence to prevent the problem of domestic violence and to provide remedies to aggrieved women have been discussed in this chapter. The Act is primarily meant to provide protection to the wife or female live-in partner from domestic violence at the hands of the husband or male live-in partner or his relatives, the law also extends its protection to women who are sisters, widows or mothers. Domestic violence under the act includes actual abuse or the threat of abuse whether physical, sexual, verbal, emotional or economic.
Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.³

4.2. SIGNIFICANCE AND NEED FOR THE ACT

The population of Women in India, according to 2011 census in about 900 million, which is nearly 50 per cent of India's total population. Despite such a huge margin, the status of Indian women in society is not very pleasant. The question is why? Human beings are born equal but are never treated equality. Unequal treatment to women or the gender bias is not a new phenomenon. Our mythology, if referred to, shows us the gender bias that was prevalent in India. Goddesses Sita or Epic depicted Draupadi both had to bow down before this biased treatment. Even today women continue to be victims of violence.

Violence means the use of force against somebody. While women create human being, the violence distresses them and violence against women is simply the destruction of creators. Violence against women is simply the destruction of creators. Violence against women, in different forms of biological and psychological has remained in practice, since thousands of years in India. The root cause of this phenomenon lies in the complete subordination and dependence of women on men in the male-dominated society. In the patriarchal family system, under the Hindu Law, the husband has full right to punish his wife, if she was not behaving according to the social norms.

The information regarding the events of violence in our country demonstrates the seriousness of the problem. The great majority, that is, 84 per cent of doctors are busy in abortions of female foetus. In 1986, a government study had reported that, one doctor examines 270 foetuses within a month on an average. And, the rate of abortion of female foetus was increasing by 20,000 every year.

Crime against women begins even before she is born and continues till her last breath. Today a girl child is not even allowed to be born. Female foeticide has become a normal issue.

³ D. Kurz, Battering and the Criminal Justice System: A Feminist View, 1992, p.21-40
After she is born throughout her childhood she has to adjust to the discrimination being made by her parents between her and her brothers. During adolescence she has to digest whatever is meted out.

After marriage she has to satisfy her family, attend on her household work and her children, should be in time at the work spot and fulfill expectations of the boss.

Crime against women like, molestation, bride burning, dowry deaths have become so common that a newspaper cannot be completed without such news. The life of some girls is not secure even at home. Father, Father-in-law, brother, brother-in-law, uncle and neighbor in many cases make the life of the girl a nightmare. The majority of the male community has become so merciless that an infant also cannot be assured security.

Gender crimes are not recent phenomena. Crimes against women have been committed since antiquity. Violence to wives, the central concern here, is found in all societies and across all economic and age groups. Any traditional custom that places women in subordinate positions within society or in family has the potential to turn violent. The putative sacredness of traditional marriage, rigid ideas of conjugality, and patriarchal traditions of structure take precedence over concerns for women or children. An alarming finding given by the World Development Report pointed out that globally rape and domestic violence account for about five per cent of the total disease burden amongst women in the age group of 15-44.\(^4\) Over here disease covers physical as well as non-physical ailments. It need hardly be pointed out that these figures possibly represent only a fraction of actual violence-induces physical and somatic disorder. Police records in India reveal that a woman is raped every 34 minutes, molested every 26 minutes, kidnapped every 43 minutes, and killed every 93 minutes.\(^5\)

\(^5\) *India Canada International Conference on Violence*, Vice Chancellor, S.N.D.T. University, Suma Chitnis Report, 1993
Little awareness and slow action on the part of the state governments are cited as the major reasons for the poor results of the Prevention of Domestic Violence Act, 2006, a year after it was enforced. According to the National Family Health Survey, about one-third women in the 15-49 age groups face physical violence and one-tenth sexual violence.\(^6\)

Parliament has considered the deteriorating conditions of women. The problems of women have been focused from different platforms. The wide range discussions have been held in Beijing and several resolutions have been passed to recognize the rights for women in 1995. The 21\(^{st}\) century has inspired the social reformers and the political thinkers to think about the women. In India the bad customs the orthodox, matrimonial system and the cost system forced the women to bow before their male relatives. The male dominate society has prevented the women from going to reach the stage from where they can challenge the domination of men folk. The political reservations or economic safeguards are not enough for women for their all round development. The social menace like dowry makes the women's life cheaper than animals. To fulfill their sexual thirst the men use women as pleasure dolls. To make women submissive the men use all kinds of violence against the women. In 2005 in State of Tamil Nadu the wife of a police officer has filed a complaint against her husband who had employed violence against her. He was adjudged as an offender and punished under IPC. This judgment and earlier adjudications have forced the Parliament to think for an enactment.

### 4.3. SALIENT FEATURES OF DOMESTIC VIOLENCE ACT, 2005:

A new dimension has been given to the concept of domestic violence including spousal violence and or matrimonial cruelty by the Protection of Women from Domestic Violence Act 2005 by giving an exhaustive definition of "domestic violence". The definition of domestic violence under the Act addresses violence perpetrated on women not only by their husbands or parents but even their siblings. In terms of Section 3 of the Act domestic violence is defined to

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\(^6\) National Family Health Survey, New Delhi, 2008
include actual abuse or threat of abuse that is physical or mental, sexual, verbal or emotional, or economic abuse, Harassment by way of unlawful dowry demands to the woman or her relatives are also covered under the definition. In determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence", the overall facts and circumstances of the case shall be a guiding factor. The definition does not take within its purview only "physical abuse", which means any act or conduct of such 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, but also "verbal and emotional abuse" as also "economic abuse". "Economic abuse" includes deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any lay 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, household 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 household and maintenance. The section also takes care to prevent the respondent from disposing of household effects, alienating 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. It further prohibits or restricts 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. Over and above, the definition of "domestic violence" has taken care to include 'sexual abuse', which includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman.

Section 3 envisages application of mind on the part of Magistrate in determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under the said section and requires the Magistrate to take into consideration the overall
facts and circumstances of the case. Mere matrimonial unhappiness caused by indifference, neglect, aversion from the society of spouse and cessation of intercourse, may be even in a chronic condition, and was never sufficient in itself to establish matrimonial cruelty. Only cases of extreme nature and absolute impossibility of compromise can be considered to establish such cruelty. Willful and unjustifiable conduct of such a character as to cause danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such danger may be said to fall within the realm of cruelty. In Halsbury's Laws of England, it has been stated thus, "If the Court finds that one spouse has, by reprehensible conduct or departure from the normal standards of conjugal kindness caused injury to health or a reasonable apprehension of it on the part of the other spouse then it is cruelty, if a reasonable person after taking due account of all the circumstances of the case would consider that the conduct complained of is of so grave and weighty in nature that the complainant should not be called upon to endure it...." Any course of conduct, even if it is not consciously aimed at the other spouse, may nevertheless amount to cruelty if it is intentionally pursued with a callous indifference to the feelings of the other spouse and, of course, if it is pursued to the point of endangering health. It may, however, be pointed out that to follow English decisions on all the aspects of cruelty will not be safe, because of the differences in social conditions and moral values, traditions and attitude towards life, economic standards and philosophy of life. Cumulative effect of the circumstances and facts of each case will decide the applicability viewed and assessed in accordance with the traditions, customs and usages of the society. Indian culture lays greater emphasis on duties and obligations whereas western outlook takes into consideration rights and privileges. In Umabai v. Chittar,⁷ pointing out this important factor, it has been rightly observed that, "The Courts should be extremely careful while seeking assistance and guidance from English decisions or even Indian decisions on any laws, now in force or previously in force, and should not follow them blindly, particularly when dealing with persons whose manners, customs and mode of life may be different in those of the parties concerned in those decisions."

⁷ AIR 2008 SC 236
Indian law does not recognize various types of cruelty, such as 'Muslim cruelty', Christian cruelty', Jewish cruelty' and so on. The test of cruelty, as observed is based on the universal and humanitarian standards, that is to say, conduct of the husband which would cause such bodily or mental pain as to endanger the wife's safety or health. The cruelty alleged may largely depend upon the type of life the parties are accustomed to or their economic and social conditions, their culture and human values to which they attach importance. Each case depends on its own facts and must be judged on these facts. The concept of cruelty has varied from time to time, from place to place, from individual to individual in its application according to social status of the persons involved and their economic conditions and other matters. The question whether the act complained of was a cruel act is to be determined from the whole facts and the matrimonial relations between the parties. In this connection the culture, temperament and status in the society and many other things or the factors which have to be considered. All these factors need to be considered for judging the conduct complained of in relation to the fact as to whether it amounts to matrimonial offence of cruelty."

Similar was the view taken in Putal Devi v. Gopi Mandal\(^8\). That on the face of it there may be good relations between the spouses, and the husband or the wife may not prima facie do anything directly against the other, nonetheless, the behavior may be such as to cause an extreme mental distress and consequent detriment to health. What acts will constitute such mental agony will obviously depend upon the circumstances of each case, taking in to account several factors, such as, environment, status in society, education, cultural development, local custom, social condition, physical and mental condition of the parties, etc.

While judging the question of cruelty one important ingredient comes for consideration, that is, whether it is an outcome of behavioural pattern or there is an intention behind such behavior. As Denning C.J., observed in Timmins v. Timmins\(^9\). "It is well settled that intent to injure, if not an element, is at any rate a most important element in cruelty. In the absence of intent to injure, judge

\(^{8}\) AIR 1963 Pat 93
\(^{9}\) 1953 WLR1, 757
may well be satisfied in refusing to find cruelty." However, depending on facts of case, at times even unintentional acts may amount to cruelty.

Lord Normand's observation in this respect seems to be very apt, when he says, "...actual intention to hurt is a circumstance of peculiar importance because conduct which is intended to hurt may strike with a sharper edge than conduct which is the consequence of more obtuseness or indifference." In the above case, Lord Merrimen was of the view that though actual intention to injure was not an essential factor but actual intention to hurt may have in doubtful cases a decisive importance. Justice Sheerman makes this point more clearly in Hedden v. Hedden10, "the question is not whether a spouse intended seeks the pride of winning the case. Here is that the court has carefully to bear in mind that the expression cruelty is employed in the Act in limited sense." The Court, as observed by the Supreme Court in Narayan Ganesh Dastame v. Sucheta Narayan Dastame11, in matrimonial cases is not concerned with ideals in family life or has to deal not with an ideal husband and an ideal wife but with the particular man and woman before it. The ideal couple or a near ideal one will probably have no occasion to go to a matrimonial court, for, even if they may not be able to drown their differences their ideal attitude may help them overlook or gloss over mutual faults and failures. Lord Reid has also observed in Gollins v. Gollins12

"In matrimonial affairs we are not dealing with objective standards; it is not a matrimonial offence to fall below the standard of the reasonable man. We are dealing with this man or this woman." Here, it will be apt to quote from American Jurisprudence.

"The question whether the misconduct complained of constitutes cruelty and the life for divorce purposed is determined primarily by its effect upon the particular person complaining of the acts. The question is not whether the conduct would be cruel to a reasonable person or a person of average or normal sensibilities, but whether it would have that effect upon the aggrieved spouse.

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10 1922 All ER 436
11 AIR 1943 SC 654
12 1929 All ER 265
That which may be cruel to one person may be laughed off by another and what may not be cruel to an individual under one set of circumstances may be cruelty under another set of circumstances."

Thus, while occasional outbursts of temper use of strong language, incompatibility of temperament or absence of reciprocal love and affection are not acts of such nature so as to constitute cruelty, instances such as refusal to fulfill matrimonial obligation or spouse slapping for disturbing in night or giving threat of suicide may amount to cruelty. The general rule in all questions of cruelty is that the whole matrimonial relations must be considered, that rule is of a special value when the cruelty consist not of violent act but injurious reproaches, complains, accusations or taunts. It may be mental such as indifference and frigidity towards wife, denial of a company to her, hatred and abhorrence for wife, or physical, like acts of violence and abstinence from sexual intercourse without reasonable cause. It must be proved that one partner in the marriage however mindless of the consequence has behaved in a way which the other spouse could not in the circumstances be called upon to endure and that misconduct has caused injury to health. There are two sides to be considered in case of cruelty. From the wife side, who is the petitioner before the Court, she is to be called on to endure the conduct? From the husband's side, was this conduct excusable? The Court has then to decide whether the sum total of reprehensible conduct was cruel. That depends on whether the cumulative conduct was sufficiently serious to say that from a reasonable person's point of view after a consideration of any excuse which the husband/respondent might have in the circumstances, the conduct is such that the petitioner ought not to be called upon to endure.

Cruelty which is a ground for dissolution of marriage under section 13(l) (i) (a) of Hindu Marriage Act 1955 may be defined as willful and unjustifiable conduct of such a character as to cause danger to life, limb or health, bodily or mentally or as to give rise to reasonable apprehension of such a danger. In other words, to amount to cruelty, there must be such willful treatment of the party which caused suffering in body or mind either as an actual fact or by way of apprehension in such a manner as to render the continued living together of the spouses harmful or injurious having
regard to circumstances of the case. Cruelty may thus be said to be course of conduct and one which is adversely affecting the other. However, what constitutes required mental cruelty for divorce does not depend upon the numerical count of such incidents or only on the continuous course of such conduct but really go by the intensity, gravity and stigmatic impact of it when meted out even once the deleterious effect of it on the mental attitude, would be necessary for maintaining a conducive matrimonial relation between the spouses.

- Absence of intention should not make any difference in case if by ordinary sense in human affairs, the act complained of, could otherwise be regarded as cruelty.

- Under section 18 of the Hindu Adoption and Maintenance Act 1956 a wife is entitled to maintenance during the lifetime of her husband and to claim from him separate residence and maintenance if her husband has deserted her without reasonable cause, against her consent or if he is willfully neglecting her or, treating her with such cruelty which convinces her that it would be harmful or injurious to stay with him. She may also claim her right under Section 18, if he keeps a concubine in the same house in which his wife is living or resides with a concubine elsewhere.

Section 17 of the Act lays down that irrespective of any contrary provision in any other law, every woman in a domestic relationship shall have the right to reside in the shared household and the aggrieved person shall not be evicted or excluded from the shared household by the respondent except in accordance with the procedure established by law. Clause (s) of Section 2 defines "shared household" as, "a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved persons has any right, title or interest in the shared household."
Section 19(1) of the Act lays down that while disposing of an application under sub-section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order restraining the respondent from disposing or 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. Section 19(1) further empowers the Magistrate to direct the respondent to remove himself from the shared household [Clause (b)] and to restrain the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides [Clause (c)]. Magistrate may also restrain the respondent from alienating or disposing of the shared household or encumbering the same [Clause (d)] and from renouncing his rights in such shared household except with the leave of the Magistrate [Clause (e)] or in the alternative the respondent may be directed 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. Sub-section (2) of Section 19 also empowers the Magistrate to impose additional conditions and pass any other directions in order to protect or for the safety of the aggrieved person or her child. Sub-section (3) of said section further provides for execution of a bond by the respondent for prevention of the domestic violence. Any such order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure 1973 and shall be dealt with accordingly.

Obligation of male to maintain his wife during her lifetime and his minor children is universal and acknowledged by all matrimonial statutes. This obligation is irrespective of the fact whether he possesses any property or not and arises from mere fact of the existence of the relationship between the parties. Law also requires him to maintain his wife who lives separately from him on a justifiable cause and if, she is unable to maintain herself. While matrimonial statutes recognize obligation of husband to maintain his wife, they also contemplate obligation of the wife to submit herself obediently to his authority and to remain under his "roof and protection". The husband has the right to decide where the spouses should live; and if the wife refuses to live at that
place, she was guilty of desertion, unless she could prove that she has just cause for her refusal. However, no matrimonial statute recognized the right of women to reside in the matrimonial home. The generally accepted notion is that it is the husband who is the Lord and Master of matrimonial house and it is for him to determine who will have the right of occupation.

As to right to wife to claim accommodation in the matrimonial home as of right or to ask for share in the matrimonial house the realm of law is not too clear. Section 27 of the Hindu Marriage Act 1955, vests the jurisdiction in the Court to effect division of properties that may have been presented to the spouses at or about the time of their marriage. This property may belong jointly to both the husband and wife and such a division must be part of the decree in the proceedings. However, application of this section is limited only to jointly owned properties of the spouses presented at or about the time of marriage. The Court has no power under said section to deal with the property exclusively belonging to either the husband or the wife and for such grievances, the remedy lies before the Civil Court by way of a separate suit. As observed by the Supreme Court in B.R. Mehta v. Atma Devi, whereas in England the rights of the spouses to the matrimonial home are governed by the Matrimonial Homes Act 1967, no such right exists in India. Section 4 deals with the rights of occupation in matrimonial home and Para 1047 deals with and provides that where one spouse is entitled to occupy a dwelling house by virtue of any estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation, and the other spouse is not so entitled, then the spouse not so entitled has certain rights that is to say if in occupation, a right not be evicted or excluded from the dwelling house or any part of it by the order spouse except with the leave of the Court given by an order, if not in occupation, a right with the leave of the Court so given to enter into and occupy the dwelling house. But such rights are not granted in India. However, the Supreme Court in the same decision observed, "...it may be that with change of situation and complex problems arising it is high time to give the wife or the husband a right of

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13 AIR 1998 SC 452
occupation in a truly matrimonial home, in case the marriage breaking up or in case of strained relationship between the husband and the wife."

The above observation, as rightly observed by the Supreme Court in the recent decision in S.R. Taruna Batra, however, is merely an expression of hope and it does not lay down any law. It is only the legislature which can create a law and not the Court. The Courts do not legislate, and whatever may be the personal view of a judge, he cannot create or amend the law, and must maintain judicial restraint. There is no such law in India, like the British Matrimonial Homes Act 1967, and in any case, the rights which may be available under any law can only be as against the husband and not against the father-in-law or mother-in-law.

In cases, particularly, where wife seeks protection against domestic violence, claim for right to matrimonial home is generally viewed as a conflicting claim. It is argued that when she apprehends violence in her matrimonial home, how then she can claim the right of accommodation in the matrimonial home. At best she must leave her matrimonial home and then file divorce on ground of cruelty. But relinquishing her claim to matrimonial home may often mean a life of destitution, if she is not having any other alternative accommodation or means to survive at her own. It is in such cases that protecting the right to matrimonial home becomes crucial. What is needed is not to view the two claims, right to protection against domestic violence or bodily injury or right to life liberty and freedom and right to matrimonial home or right to shelter and survival, conflicting, but two separate claims, emanating from the inherent in the contract of marriage. It is for the Court to safeguard both rights, which have their basis in our Constitution. The Court cannot prefer one at the cost of another. Armed with a protective order from Court she may continue to stay in her matrimonial home. Though there was no such statutory protection as such, till the enactment of present Act of 2005, there have been path-breaking judgments that have acknowledged and secured such right of women on the basis of concept of "community of property", which implies that the spouses have an equal share in all assets, which accrued during
the subsistence of marriage. Acknowledge women's contribution to the matrimonial home by way of services rendered as 'housewife', it has been expressly held that in case of matrimonial dispute or even after grant of divorce, a wife can continue to take residence in her errant husband's house till the time the terms and conditions of maintenance and property are sorted out. The Calcutta High Court in a recent decision in the matter of Mala Viswanathan v. P.B. Viswanathan,\textsuperscript{15} while upholding the right of the wife to reside in the matrimonial home has observed.

"When a question relating to grant of injunction restraining one of the spouses from entering into the matrimonial house comes before the Court, the Court has to deal with the same with utmost care and caution. Once a person becomes part of the house by reason of marriage, her right to reside in matrimonial house cannot be denied. Marriage confers a right to reside in the matrimonial home on both spouses as well as their offspring. Such a right is a joint and indivisible right which cannot be taken away. The marriage carries a liability and right to maintenance and maintenance includes residence. Hence the spouse who has title to the house cannot deny the other the right in the matrimonial home."

In Anu Seth v. Rohit Narain Seth\textsuperscript{16}, Delhi High Court has held that there is a legal obligation on the husband to provide a residence for his wife and that the wife also needs access to her matrimonial home. It has further been held that the mere fact that the husband shifts out of matrimonial home to set up a home somewhere else does not, in all cases, mean that his new place of residence becomes the matrimonial home.

The A.P. High Court in the matter of B.H.P.V. Ltd., V. Workers Union Visakhapatnam\textsuperscript{17}, ruled that the husband is under an obligation to provide shelter to his wife and children. While upholding an order restraining Company, instrumentality of State, pending suit from evicting wife and children of its employee from Company quarters, the High Court observed that since the injunction order provided for deducting the amount of rent from the salary of the husband from and

\textsuperscript{15} II (2003) DMC 809 (DB)(Cal)
\textsuperscript{16} 1992 MLJ 205 (Del)
\textsuperscript{17} AIR 1972 A.P 231
out of the amount of maintenance awarded to the wife and the children, neither the company nor the husband can be said to suffer any irreparable injury by the interlocutory order maintaining continued possession of the company quarter by the wife. The High Court, further observed that the Courts in Socialist Democratic Republic cannot supply public force to the exercise of ownership rights without examining the destruction such exercise of ownership rights without examining the destruction such exercise of ownership might cause to the rights of other persons to pursue their happiness. It would not only amount to supplying public force for the destruction of a constitutionally recognized basic right, but it would also amount to working contrary to the fundamental purposes of the Constitution as enumerated in the preamble and other parts of the Constitution. Courts must, therefore, consider in each case whether the exercise of ownership rights is unjustifiably affecting others' rights to pursue their own happiness and whether such exercise is causing undeserving suffering and sorrow to others. Courts, therefore, must examine the motive and the purpose behind the exercise of ownership rights on a case to case basis as they arise.

In Abdul Rahim Undre v. Padma Abdur Rahim Undre\textsuperscript{18}, suit was filed for declaration that marriage stood dissolved by talaq and for injunction restraining the wife from entering the matrimonial house. The Bombay High Court finding that marriage was subsisting in law but had broken down beyond repair, held that since the husband has not provided an alternate accommodation to the wife, it is just and fair that the flat, the question of ownership of which also was pending in court, be partitioned and the wife be allocated a specific portion thereof, for her residence. The Court also observed that if the parties were allowed to live though separately in the same house, the children will be in a position to enjoy the company of their parents when they come home. In A. vs B\textsuperscript{19}. The High Court ruled that while deciding a matrimonial home, the courts have the power to grant injunction restraining the husband from entering the matrimonial home.

\textsuperscript{18} AIR 1962 Cr.LJ 1299
\textsuperscript{19} 1977 Mah. LJ 66
In Ajit Bhagwandas Udehi v. Kumud Ajit Udehi\(^{20}\), the spouses having been married for about 20 years, the husband filed for divorce. While granting decree the Family Court awarded maintenance to the wife and upheld her right of residence in part of the matrimonial home. In appeal, the High Court while upholding order of family court held that since the wife had also contributed for "Pagadi' while acquiring the property, and since she had no alternative accommodation, her right of residence had to be secured while granting the divorce. The High Court, therefore, ruled that the order securing, her right to shelter cannot be held to be perverse or unjustified. In Sunita Shankar Salvi v. Shankar Laxman Salvi\(^{21}\), both spouses had filed for divorce and subsequently agreed for a divorce by mutual consent. But the dispute concerning the residential premises remained unresolved. While contention of the wife was that the flat, which constituted matrimonial home, was acquired jointly and hence, both had equal right, title and interest in the flat, the family court concluded that the wife not having paid any consideration or cost for acquisition of property and her name having been added at the request of the husband, she acquired no right title or interest in the said flat. In appeal against decree of family court rejecting claim of wife for 50 per cent share in the flat as being devoid of any substance, the Bombay High Court held that in view of the fact that the flat was acquired after relinquishing tenancy rights in an earlier flat, though there was no tenancy in the wife's name in respect of the premises vacated by the husband, the same was for the benefit of the family. The wife was also occupying the premises along with the husband as a member of the family. The flat was in joint names of both spouses and the husband had also admitted in unambiguous and unequivocal terms that it was at his request that the wife's name was added as co-owner and that wife was to be treated as co-owner. Having made such an admission, he was precluded from contending to the contrary. The Court declaring the wife as a joint owner having an equal share in the matrimonial home observed that from the very fact that the name of the wife was joined as one of the owners in the title deed, it will have to be presumed that the wife was entitled to an equal share in the said flat and, therefore, the family court

\(^{20}\) AIR 1996 Bom. 351
\(^{21}\) AIR 1992 Cal. 231
was not justified in refusing to recognise the wife's 50 per cent share in the right, title and interest in
the flat. The High Court further directed that if the property could not be divided, it should be sold
and the proceeds should be derived equally between the spouses.

Section 17 read with Section 19 of the present Act, by enabling wife to obtain an injunction
against dispossession and restraining husband to drive his wife out, has expanded the realm of law
in India in this regard and given statutory recognition to right of shelter and survival of a wronged
wife. The right having been given statutory force, it no longer remains subjective or dependent on a
sympathetic and sensitive judge. The statutory protection provided to her under the Act will go a
long way in empowerment of women. If the husband or his relatives tried to harm her, while she
was living in shared household, he will have to pay a fine and may be subjected to imprisonment.

Review

The Dignity of Women and its protection from Indecent Representation

The parliament has passed legislation, called the indecent representation of women
(prohibition) Act of 1986. It is the duty of society to treat women with dignity and decency without
reducing them to objects of ridicule and filthy comments. A body of a woman has a dignity of its
own and people shall not view her physical shape into an object of sexual pleasure and sexual
indulgence. Women’s body structure is naturally attractive to member of the opposite sex which is
likely to kindle sexual feelings and amorous thoughts. It is natural but entrapment of the same shall
be discouraged.

The Act, in sec 2(c) defines as follows: “Indecent Representation of women means
depiction of in any manner of the figure of a women her form of body or any part thereof in such a
way as to have the effect of being indecent or derogatory to or denigrating women or his likely to
deprieve, corrupt or injure the public morality or morals”.
By such depiction both men and women of the society could feel disturbed by immoral thoughts and feelings and many occasions. Disturbs public mortality and morals such is the effect indecent representation of women.

Sec3 prohibits advertisements containing indecent representation of women shall not be published or exhibited through any advertisement.

Sec4 prohibits publication or sending by post or books or pamphlets etc, containing indecent representation of women. The Act provides that women being indecently represented shall be prohibited. The reason behind the legislation is that the figures of women is depicted and exhibited mostly by commercial concerns and trading operation to attract more customers at the cost of decency of womanhood. The idea of attracting customers is predominant in the minds of commercial persons and they are of the confirmed opening that the attractive, sexually appealing figures of women would make the general public not only to look at them and consequently be curious to know the trading products. The unscrupulous method followed by these people is greatly disturbing to the society as a whole and women member in general. Therefore, the act provides for seizure of those representation and destruction of the same. Further.

Sec 6 Provides for penalty that should be imposed on any person who contrivance the provisions of sec 3 or sec 4 which prohibit indecent representation of women. It is provided that on conviction the offender shall be sentenced to imprisonment of a period not more than 2 years and to fine which may extend to two thousand rupees for subsequent convictions the sentences shall be enhanced.

Sec 7 punishes companies for commission of offence and every person who at the time of when the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company and the company also shall be deemed to be guilty of commission of offence and shall be liable to be proceeded against and punished. Where a company has committed an offence and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any Director, Manager, Secretary or
other officer of the company such Director, Manager, Secretary or other officer shall be proceeded against and punished accordingly. The offences are cognizable and bailable.

However sec 9 protects action taken in good faith where anything was done in good faith then no suit, prosecution or other legal proceeding shall lie against Central Government or any State Government or their officers.

Therefore the Act is well intended but the Act of indecent representation of women cannot be curbed since, the general public does not seem to co-operate in the matter of implementation of the Act. Where an average citizen looks at an indecent representation, then more often than not they seem to enjoy the same and refuse to lodge any protest against them to any public authority. There is total non-co-operative by the general public in this regard.

Forgetting for a moment the general public fail to seek the help of public authority. It is almost certain that the law enforcement agency with all the facilities of intelligence and police informers have failed to take necessary steps for monetary gain have indulged in whole scale arrest of innocent people. Therefore, this peace of legislation has come a long way to protect the dignity and status of women. It is also suggested that the police shall patrol the city and take necessary action so that the people would be free from filthy and obscene representation of women.

**Protection of Women’s Right:**

The rights possessed by are innumerable and the problem of Law Makers is to identify those rights in the context of the society or community in which women are placed. In some societies women may have already possessed with certain right to a particular way of living which may be considered to be not noticeable ones. Certain conduct of women may be considered to be unimportant and routine in a particular society. But the same kind of conduct in a different society may be considered to be different and unacceptable to a different society. Whether a conduct of women is acceptable or not depends upon the religions social and economic doctrines and concepts adopted and accepted in a particulars society. There are rules already framed are customs already
established in every society concerning the conduct of a women in a society. Therefore, women are permitted or forbidden to do certain things as may be allowed by a particular society. But the concepts of women’s right as understood generally and universally stand above the narrow societal concept. The right to grow in peace and choose the life and lead a family life according to wishes of women in conformity with the general women right shall be viewed with circumspection. Where there is a conflict between women’s rights as recognized universally and the conduct of the women in a particular society then the former prevails.

Right to Education, Right to employment and similar rights are universally recognized and where a particular society denies or abridges them we say that the women’s rights have ceased to exist. Therefore the legislature steps into rectify the defect as a restore. Such rights to women where a society insists that the wedded life of women shall be determined and decided by the elders of the community, without obtaining the consent of women then there is a clear violation of right to choose her life partner, with whom she can live till the end of her time. In this case the law states that no women shall be compelled to marry a man against her wishes. However, taking into consideration of lack of knowledge of the world, she may be advised by the elders to facilitate her choice of her husband. Here, whatever may be the religious or customary laws the same shall not be followed if they are inconsistent with a women’s right to marry.

As per certain Religious Law Women has no right to neither possess nor inherit property nor acquire the same. Since, the concept was that she shall not be economically or financially independent but should always be depended on man namely father, husband & son at various stages of her life. Such a denial of her right to property is against violation of her right to live independently and take care of her personal needs. Therefore a legislator shall nullify the said religious prohibition and recognize her right to property. Similar instances may be cited whereby women’s rights are restored to them notwithstanding the periodical concepts.
In this context it shall be considered that granting permission to a woman to indulge in such conduct which may be against the orderliness of the society and well being of its components, the rights conferred on the women shall be beneficial to be existence of the society in which they live. The right to education and employment shall be considered as important ones since these two spheres ensure the women to live a confident life. Lack of education, subjugates her place in society in which case she has to dependent upon others for her very existence, since education leads to employment and separate income. Without education employment is a nullity and beyond the grasp of women. There are societies which forbid education and employment reduces them to mere automated animals, absence of income would deprive the women of independent living. Since an un employed woman has to be at the care and custody of a man whose slave she becomes. The women shall also be permitted to take part in public life they shall by inducted in the affairs of state administration and they may thus be in a position to own the country along side with men. They may also contribute their knowledge and service to the nation and women in general could be benefitted thereby. Therefore recognition of women’s right with reference to particular society shall be welcomed.

The Protection of women from Domestic Violence Act 2005

This legislation provides for more effective protection of rights of women guaranteed under the constitution of India. Women are proving to be defenseless victims of every kind of violence within the four walls of the family home. The perpetration of violent acts is usually men and equally women who are contemporary members of the family. International community has taken lot of measures through various resolutions, Declaration, accord to preserve the safety and security of women in the family fold

Section-3 defines domestic violence where any act harms or injures or endangers the health safety life, limb or mental or physical wellbeing cause, physical abuse sexual abuse verbal and
emotional abuse and economic abuse are called domestic violence. Further, harassment of any kind meted out to any women or to any person related to her to meet any unlawful demand for any dowry or other property or valuable security.

This turns the above as a wider connotation than normally understood of these abuses economic abuse cause, deprivation of economic are financial resources to which the aggrieved person is entitled under any law or customs. Misappropriation of house hold effects and other belongings of value will also amount to economic abuse. To prevent and deal with protection of these kinds of violence the law provides for appointment of officers such as protection officer besides regular police officer service providers and magistrate to come to the rescue of victim of domestic violence and also redress the grievances and assure protection in future and take action against the offenders.

Section 9 provides for duties and function of protection officers. It provides that he has to assists the magistrates in the discharge of his function and to make domestic incident reports to him and the protection officers shall make a thorough enquiry into the complaint of domestic violence and forward copies thereof to the police officers concern. Since simultaneously he shall move the magistrate for issuance of protection order to aggrieved person claiming any relief. Further, he shall ensure that aggrieved person is provided legal aid under the legal services authorities Act 1997.

Similarly, he shall arrange for medical examination of the body of the aggrieved person to sustain bodily injuries and forward a copy of the medical report to the police station as well as to the magistrate concern. Monetary relief shall also be provided to the aggrieved person by speedy execution in accordance with to the procedure prescribed under the code of criminal procedure.

Sec 10 provides for service providers any voluntary association registered under the Society Registration, or companies registered under the companies Act are entrusted with the tasks of protecting the rights and entrust of women by any lawful means including providing legal dial,
medical, financial and other assistance. Such organization shall register itself with the state Government as a service provider for the purpose of the Act. He has power to record domestic incident report and forwards a copy to the magistrate and protection officer. He shall arrange for medical examination of the affected person and send the medical report to the protection officer and police station concern. He must take steps to provide accommodation facilities if necessary.

Sec 11 prescribes duties of the Government the state or central Government shall take all measures to ensure that the provision of the Act is given wide publicity through public media. The police officer and member of judicial services shall be given five periodic sensitization and awareness training or the issues addressed by this Act. Therefore, the concerning Government shall take active part in the implementation of the provision of this Act. Redressal of grievances and claims for relief’s chapter IV of the act provides for the procedure for obtaining order of relief.

Section 12 empowers a magistrate to entertain complaints of violation of women’s protection such complaint may be given by an aggressive person, or a protection officer or any other person on behalf of an aggrieved person may present an application to the magistrate seeking one or more religious under this act. Thereupon the magistrate shall take into consideration any domestic incident report from the protection officer of the service provider. While independently considering the complaint the assistance of a protection officer or service provider shall be sought for so, that he may conduct inquiry more appropriately.

The reliefs contemplated under this section may include a relief for issuance of an order for payment of compensation or damages, such payment of shall made without prejudice to the right of the applicant to institute a suit for compensation or damages for the injuries sustained by acts of domestic violence. The application shall be heard within a period of 3 days from the date of receipt of the application and the magistrate shall endeavour to dispose of the application within 60 days from the date of receipt of the application. The notice of date of hearing shall be served through the protection officer.
Sec 14 provides for counseling while considering the application the magistrate may direct the aggrieved person or the respondent either or both to undergo counseling with any member of the service provider. Such service provider shall person require knowledge of the issues involved as required by the facts and circumstances of the inquiry.

Sec 15 provides for assistance of a welfare officer, similarly the magistrate conducting an enquiry may secure the services of a person preferably a woman whether related to the aggrieved person or not for the purpose of assisting him in discharge of his function he may also seek the assistance of any person who is engaged in promoting family welfare.

Thus, the magistrate may require all such help and assistance so that he may have a comprehensive and correct view of the case before him. A magistrate in appropriate cases conduct an in camera proceeding if, such a case has to be adopted.

Sec 17 provides the aggrieved person has a right to reside in a shared household. Every women in a domestic relationship shall have the right to reside in a shared household it is not necessary that she must have a right, title or beneficial interest in such a household. However, such women shall not be evicted or excluded from the shared household or any part of it without availing legal procedure there for.

Sec 18 provides for protection orders. The magistrate while conducting an enquiring shall give an opportunity of being heard to the aggrieved person or the respondent and holds after such hearing that a prime facie case has been made out he may pass a protection order in favor of the applicant and require the respondent to absorb the following direction.

The respondent may be prohibited from any act of committing domestic violence. He may be prohibited from aiding or abetting in the commission of such Act from domestic violence. The respondent may again be prohibited from entering the place of enjoyment of the aggrieved person. If the aggrieved person is a child the respondent shall be prohibited from entering its school or any other place frequented by the aggrieved person. The respondent shall be prohibited from attempting to communicate in any form with the aggrieved person which include personal oral or written or
electronic or telephonic contact. The respondent may be prohibited from alienating assets, as it operating bank locker or bank account used or held or enjoyed by both the partner jointly by then or singly by the respondent.

Thus includes a women’s Shridhana or any other property held jointly by them. If it is not to be operated by the parties then the magistrate prohibition or leave shall be obtained.

The respondents shall be prohibited from causing violence to the dependents of the aggrieved person or other relatives or any person who give the aggrieved person assistance from domestic violence. The respondent may further be generally prohibited from committing any other act as specified in this protection order. This provision of law is a profound example of the real concern of the legislature to safeguard the aggrieved person from any further violation of a right from or through conceivable angles.

Section 19 provides for residence order. The magistrate while disposing her application may pass a residence order to the following effect. The respondent may be restrained from this possessing the aggrieved person or disturbing the possession thereof from the shared household. The respondent need not necessarily have a legal or equitable interest in the shared household. He may be directed to remove himself from the shared house hold. He may be retrieved his relatives may be restrained from entering into any shared household. He may be restrained from alienating or disposing of the shared household. He may be restrained from entering the same. He may be restrained from renouncing without the leave of the magistrate his rights in the shared household. He may be directed to secure the same level of alternate accommodation for the aggrieved person or as enjoyed by her in the shared household or to pay the rent for the same.

However, if the aggrieved person is a woman she shall not be directed to remove herself from the shared household. Besides, the above the magistrate may impose any additional condition or pass any other direction which is necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.
The magistrate may require the respondent to execute a bond with or without sureties for preventing the commission of domestic violence and such an order shall be deemed to be an order under chapter VIII of Cr.P.C. The magistrate may also pass simultaneously an order directing officer in-charge of nearest police station to give protection to the aggrieved person or to assist her or other person on her behalf in the implementation of the order.

The magistrate while making an order as afore said may impose on the respondent obligation relating to the discharge of rent or other payments having regarded to the financial needs and resources of the parties. The magistrate may further direct the officer in charge of the police station to assist in the implementation of the protection order. The magistrate many direct the respondent to return to the possession of the aggrieved person her shridhana or any other property or valuable security to which she is entitled.

Sec 20 of the act deals with monetary relief. The magistrate while dealing with or disposing of an application under section 12 (1) may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and also any child of the aggrieved person caused due to domestic violence. The relief may include loss of earnings and medical expenses loss due to destruction, damage or removal of any property from the custody of the aggrieved person besides it may include maintenance for the aggrieved person and their children which may include an order in addition to an order or maintenance under sec 125 of Cr.P.C or any similar law in force.

However, such relief shall not only be adequate but fair and reasonable and also consistent with the living standard to which the aggrieved person is accustomed. In certain situation the magistrate may order appropriate lump sum payment monthly payments of maintenance to enforce all or any of the order passed under the section, the magistrate shall send such order for monetary relief to the respective parties of the application and also to concern, police station within whose limits the respondent resides. Then thereafter it becomes the duty of the respondent to obey the order and pay the monetary relief within the period fixed by the magistrate.
Sec 21 deals with the custody order. Custody of the child is an important issue in the relationship between the husband and wife. Therefore, notwithstanding any legal provision contained in any other law for the time being in force. The magistrate may at any stage of proceedings of application for protection order or any other order under the Act he may pass an order regarding the custody of the child. He may pass an order granting temporary custody of any child or children to the aggrieved person or any other person applying on behalf of the aggrieved person in such custody order he may make provisions for arrangement of visitation rights to the respondents for the purpose of having periodical axis to the child. However, if the child in likely to be harmed or disturbed by such visits by the responded he may refuse to allow such visits.

Sec 22 provides for passing of compensation orders. Where an aggrieved person makes an application for the payment of compensation and damages for the injuries which may include mental torture and emotional distressed passed by acts of domestic violence. He may make such order for a payment of compensation and damages to the respondent.

Section 25 provide for direction and alternative of protection orders made under section 18.

A protection order shall be in force until the aggrieved person applies for discharge. Even the respondent may apply for such discharge thereupon if the magistrate after due enquiry is satisfied that there exists a change in circumstances of the case. He may make an order of alternative modification or even revocation of any order that has been made and passed under the act while making such alternation etc he shall record his reasons for the same.

Sec 23 provides for grant of interim orders or exparte order, where the magistrate is satisfied then an application prima facie discloses that the respondent is committing or has committed or is likely to commit an act of domestic violence then the magistrate has power to grant an exparte order on the basis of the affidavit presented by the aggrieved person either under section 18,19 or 20, 21, 22 an exparte order may be passed. This is to facilitate the aggrieved person and an instant relief so that her interest may be instantaneously protected and relief enjoyed.
Sec 24 provides for supply of copies of the order made under the Acts free of cost. Section 24 provides that the relief provided under the Act will not be similar reliefs that may be available under other laws. Any relief which is available under section 18 or 19, 20, 21, 22 may also be obtained from any other legal proceedings in a civil court or a family court or a criminal court. Whether affecting the aggrieved person or respondent. Even such proceedings was initiated before the commencement of this act of the after. Such reliefs can be obtained. Any relief may be obtained either in addition to or along with …. then relief which the aggrieved person may claim in a legal proceedings before civil court or a criminal court. Where an aggrieved person has obtained an order from such other court then it becomes the obligation of the aggrieved person to inform the same to the magistrate acting under this Act.

Sec 27 deals with the Jurisdiction of the court. Court of Judicial Magistrate of I class or metropolitan magistrate has jurisdiction to try the case under this Act, where the aggrieved person permanently or temporarily resides or carries on business or is employed with in the local limit or where the respondent resides or carries on business of is employed or where the cause of action arose. Any order made under this Act shall be enforceable in part of India.

Sec 28 provides for the procedure of the proceedings, it says all the proceedings under sec 12, 18, 19, 20, 21, 22 and 23 and also offences under section 31, shall be governed by the provisions of Cr.P.C However, the court may lay down its own procedure for disposal of an application under section 12, 23 (2). Therefore, the procedure and proceedings are more of a criminal nature governed by criminal Trial.

Sec 29 provides for appeal. There shall be an appeal to the Court of Session against the order made by the magistrate. The limitation period for appeal is 30 days from the date of the service of the order of the magistrate on the aggrieved person or respondent whichever is later. Chapter V of the Act deals with miscellaneous matters. As per section 30 protection officer and member of service provides shall be deemed to be public servants within the meaning of sec 21 of
the IPC they shall be so deemed only while they one acting or purporting to Act in pursuance of any of the provision of the Act or under any rules or orders made there under.

Sec 31 provides for penalty for breach of protection order by respondent. Breach of protection order or interim protection orders by the respondent shall be an offence punishable with imprisonment of either description for a term which may extend to one year or with fine which may extend to 20,000 Rs or with both. Such an offence shall be, as far as practicable tried by the magistrate who has passed the order and the breach of which has been alleged to have been caused by the accused. Before the commencement of the trial the magistrate shall frame charges and while so doing, he may also frame charges under section 498 A, of the IPC or any then provision of the same code or the dowry prohibition Act as the case may be. But he must satisfy himself that the facts prima facie disclose commission of these offences.

Sec 32 refers to cognizance and proof. The offence under section 31 (1) of DV Act shall be cognizable and non-bailable and the provisions for Cr.P.C. shall not be deemed to be prohibiting such character of the offence.

No particular number of witnesses shall be required to prove any fact even a sole testimony of the aggrieved person if, found to be believable would be sufficient for the court to conclude that an offence under section 31 (1) has been committed by the accused.

Sec 33 provides for penalty for failure to discharge duty by the protection officer where any protection officer fails or refuses to discharge the duties assigned to him by the magistrate as indicted in the protection order and if the officer does not adduce sufficient cause for such failure, the he shall be liable to be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to 20,000/- Rs or with both.

Sec 34 Deals with protection of the protection officer, it is possible that even a protection officer may commit certain acts which may be interpreted as offences on punishable violations and such contact may justify initiation of a criminal prosecution or other legal proceedings against him in such a case the protection officer is given legal protection. Where a person intense to take legal
action against him the move of the complaint shall approve the state Government of all the facts and seeks permission for legal action. The state Government will consider the facts and if satisfied that there exists a prima facie case for prosecution. It may accord sanction to the aggrieved person. The sanction may be given either by the State Government or an officer confirming latter.

In the presents treaties I have endeavoured to explain and expose the travels and tribulation experienced by womanhood at large and such of these unfortunate women who are entangled the mighty web of domestic life. It is misfortune of the history of man that he seems to have been ordained by invincible forces of nature and spirit that he shall be the lord and ruler of women. The physical witness and mental delusion force upon women in taken advantage of by men and therefore she had given up all her rights with the sense of spiritual resignation that she shall live and continued to live under the powerful hegemony of man. She has become an object of sensual pressure and thereby she was reduced to the status of servitude which in no better than slavery. Man was very unkind to woman notwithstanding all the positive aspects bestowed upon him.

As the years of rolled by in the infinite period of history some great thinkers gave serious thought about emancipation and freedom of women from the man. This task becomes very ineffective because the subjugation of women was based upon the tenets and command of religion which was assumed to be founded or established by the divine force. The religious tenets imposed plentiful restriction on the life of women and everyone was told that the some shall be protected and preserved or else, the society shall incur the wrath of god religion has imposed many rules to curb the freedom of women.

After all god cannot be held the author of restriction it is man again who invented certain prohibitory measures to keep the women under his constant control than attributed the same to religion and then on and god himself. He invented stories and circulated amongst the member of the societies and infused in their minds the superiority of over women and their by prevented any measures to free women from this subjugated position in the society.
The force of religion was so powerful that ironically women accepted the stringent religious tenets even entertained the idea of any attempts to dilute the rules even in her favor would be against the process of the salvation of her soul. She was made to which that the promised good life is the next world in sufficient to bear all the inequities in this life therefore a social informer had to convince the women that the changes were for her own benefits and upliftment. We note with great perplexity that it was women who became hostile to reforms and also her consequent emancipation therefore a social reformer had to fight act two fronts namely 1. The religious social practice which uppers women and also who strong opposition from the women herself who in sought to be liberated.

The various laws which were enacted for the emancipation of women were not carried out properly on the reason that there had been great obstacles in legislation and there after the women for whose benefits it was enacted did not evince any intents in them and therefore the implementation of the same become impracticable.

We have seen instances were a senior diplomat of large nation remarking that when asked chose between the proposition of freedom and grant electoral rights to women he said he would not be against grant of such right to Negros slaves rather than to white women. It was another great man who instigated women to agitate against the enactment of law which is intended to give property rights to women who pass resolution that women shall have no right to acquire wealth either by succession or employment. Since she has to live under the protection and control of a male in all three stages namely under his father, a male as her husband, a male as her son in her old age.

The subjugation of women had initially religious sanction and subsequently political backing it may be agitated unless there is a change of attitude in men in favour of recognition of right and dignity of women can never be attained. But this statement is not feasible since it is the nature of human conducts that one does not give up their cherished pias either voluntarily or by any other unilateral decision it thus becomes necessary that there shall be a force able law to compel
men to recognize a right an dignity of women hood for the law must be made in such a manner that man shall not take it as some kind of ethical persuasion. When two brother on sisters fight with one another for establishing rights of whatever nature they might have inherited or acquire they do not allow family sentiments to enter into their disputes, likewise the man shall be made to recognize the right of women as against him, under pain of incurring certain liability.

The legislation shall be considered the areas of societal activities where the interests of man and woman coming to conflicts. However care should be taken that the law protects the right of women against any power including her husband, so much so a man will not be placed at a stronger level than that of a women.

The present laws give a glaring picture of severity of enforcement more against the erring man when in favour of the protection of women therefore the balance shall be struck between the interest and safety of women and the security of man the law must of strive first to educate man to have cordial relation with women under whatever circumstances she may have contact with him. He should be diplomatically dealt with, so that man shall fear that the laws are made more to protect the interest of women than to punish the erring man the present.

Sec 34.

Authorized by it in this behalf therefore the complainant is duty bound to satisfy the state government whether there exists a case against the protection officer from simultaneously a protection officer is also protected against frivolous vexatious or motivated legal action against him.

Sec 35.

Protects the protection officer to protect himself for any act done by him in good faith. A protection officer while discharging his duties may commit any act which may result in causing damage to somebody or which may be likely to cause damage to some other person regarding which prima facie case may exists for initiation of civil suit or prosecution or other legal proceedings against him. The prima facie case may be strong calling for such action but where
such questionable act has been committed by him. In good faith without intending any harm while discharging his duty then the protection officer may not be held liable for such prosecution suit or other legal proceedings. Even though damage has been caused by such protection officer if that was a result of a diligent discharge of his official duty in good faith he is protected by law. In other words, acts done in good faith or recognized by law for protecting the protection officer against any legal action.

**Sec.36**

This act shall not be derogation of any other existing law the provision of the act shall not be inconsistent or in derogation of the provision of any other law in force. The provision shall be in addition to the provisions of any other law. In other words this act shall be complementary to other laws and not contradictory to them.

**Sec. 37**

Empowers the Central Government to frame rules. The purpose behind making rules which are given to the central government is to facilitate better interpretation of the legal provisions of this Act. That is why the central Government may make such rules for carrying out and implementing the Provision of this Act for better and effective enforcement, However, the following subject are enumerated regarding which rules may be framed apart from the general rules.

1) Rules prescribing qualifications and experience which a protection officer shall posses under Section 8(2)

2) The terms & conditions of service of the protection officer & such other officer who are subordinate to him under sec 8(3).

3) The Form and Manner in which a domestic incident report to be made under section 9 (1) (b).

4) The form & manner in which an application for protection order may be made to the under Section 9(1) (c).

5) The form in which a complaint is to be filed under Section 9 (i) (d)
6) The other duties to be performed by the protection officer under section 9 (1) (e)

7) The rules regulating Registration of service provider under section 10 (1)

8) The form in which an application under section 12 (1) seeking reliefs under this act may be made and such form shall contain particulars as provided under section 12 (3).

9) The means & manner of serving notices under section 13 (1)

10) The form of declaration of service of notice to be made by the protection officer under section 32

11) The qualification and experience in counseling matters which a member of the service provider Posses under section 14 (1).

12) The form in which an affidavit may be filed by the aggrieved person under section 23/2

13) Any other matter which has to be or may be prescribed.

14) Subject (3) provides as follows

   Where a rule has been made under this act it shall be laid before each house of the parliament. While it is in session for a total period of 30 days. It may be comprised in one session or in 2 or in more successive sessions. A report shall be laid as soon as it is made ready.

   If the rule is laid before the expiry of the session immediately following session or successive sessions aforesaid both houses agree that rule should not be made then rule shall thereafter have effect only in such modified form or will be of no effect on the case may be. However any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. in making any modification in the rule or if both houses free that rule should not be need then rule shall through have effect only in such modified form or will be of no effect as the case may be.

   However, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. The protection of women from DV rules 2006. Introduction to the parent act provides by sec 37 for conferring power on the central government to make such rules as may be necessary for carrying out the provision of the act (sub section 2 of
section 37) 37 (2) indicates certain matter to be taken care of with special care. In excuse of the powers, so, conferred by sec 37, of the act the Central Government, have made certain rules and the above title namely the protection of women from DV rules 2006, and ordained that it shall come into force on 26.10.2006.

Rule 2 defines certain terms such as complaint, councilor etc.

Complaint means any allegation made orally or in writing by any person whether she or anybody is or is not an aggrieved person to a protection officer.

Councilor- that means a member of a service provider competent to give counseling under rule 14(1) rule 3 provides for qualifications and experience of protection officer.

a. A protection officer appointed by the state government may be a govt. servant or a member of non government organization women shall be given preference in the matter of appointments as protection officer.

b. Protection officer shall have had a minimum of three years of experience in social order and sec 3 provides the tenure of the office would be a minimum period of three years.

Rule 3(4): The state government shall provide to the protection officer necessary office assistance for the efficient discharge of their duties.

Rule 4: deals with information to protection officer any person who has reason to believe that an act of domestic volume have been committed or is being committed or it likely to be committed may give such information orally or in writing to the protection officer having jurisdiction over the area to which the offence relates. If the information is given orally it shall be reduced to in writing and shall be signed from the informant.

Where the informant is unable to furnish written information then the protection officer shall satisfy and keep the record of the identity of the information and shall simultaneously give a copy of the same to the informant free of cost.
Domestic Incidental Reports:-

Rule 5 deals with the object for receipt of complaints on Dv the protection officer shall prepare a domestic incident report and (form 1) and submit the same to the magistrate formed the copies there of to the local police officer. Upon request of any aggrieved person the service provider may record a domestic incident report (in form-1) and forward the copy thereof to the magistrate the protection officer having jurisdiction in the area where the domestic violence is alleged to have taken place.

Rule 6. States that every application of the aggrieved person under sec 12 of the act shall be in form 2 or as nearly as possible there to while preparing such application the assistance of the protection officer may be sort force and the same may be informed to the magistrate. In case an aggrieved person is an illiterate, the protection officer shall read over the application and explain the contents there of.

The affidavit to be filed under sec 23 of the ac t shall be in (form 3)

The application under sec 12 of the act shall be dealt with and the orders there upon shall be enforced in the manner said down under section 125 of the code of civil procedure.

Exparte order of the magistrate:

Rule 7 provides that every affidavit for obtaining exparte orders under sec 23 (2) of the act shall be filled in form 3.

Duties & functions of protection officer;

Rule 8 elaborately deals with duties and functions of protection officer.

The protection officer shall perform the following duties.

1. Assist the aggrieved person in making a complaint.

2. Provide the aggrieved person information on her nights as given in (form 4) and which shall be in English or in a vernacular local language.

3. Assist the person in making any application either under sec 12 or sec 23 (2) of the act 2005 or any other provisions of the act or the rules thereof.
4. Prepare a safety plan including measures to prevent occurrence of further domestic violence in consultation with the aggrieved person in form 5.

5. He/She shall do so of on making an assessment of the damages involved in the situation and on an application being moved under section 12.

6. Provide legal aid to the aggrieved person through state legal aid authorities.

7. Assist the aggrieved person and any child in obtaining medical aid at a medical facility.

8. He/She shall provide for transportation to set to the medical facility.

9. Assist in obtaining transportation of the aggrieved person of any child to the shelter.

10. Inform the service providers who are registered under the act that there services may be required in the proceedings under the act.

11. She may invite application from service providers seeking particulars of their members to be appointed as councilors in proceedings under the act under section 14 (1) of the act or welfare experts under section of the act.

12. Scrutinize the application for appointment as councilor and forward a list of available councilors to the magistrate.

13. Revise once in three years the list of available councilors by inviting the fresh application and forward revised list of councilors on the basis on to the concern magistrate

14. In a period and copies of the documents forwarded under section 9,12,20,21,22 & 23, of the act or any other provision of the act and there rules.

15. Provide all possible assistance to the aggrieved person and children so that they are not victimized or pressurized as a consequence of reporting the incident of domestic violence.

16. Act as intermediary between the aggrieved person /persons, police and service provider in the manner provided for under the act & rules.

17. Maintain proper records of the service provider medical facility and shelter homes in the area of his jurisdiction.
In addition to the above duties sub rule (2) provides the following duties of function assigned to a protection officer under section 9(1), of the act.

i. The protection officer shall be duty bound to protect the aggrieved person from Dv in accordance with the provisions of the act and this rules.

ii. He/she shall take all reasonable measures to prevent the recurrence Dv against the aggrieved person in accordance with the provisions of the act of their rules action to be the taken in case of emergency.

Rule 9 provides for taking necessary action in cases of emergency

A protection officer or a service provider receives an information through e-mail or a telephone call or similar such communication regarding commission of Domestic Violence. The informant may be an aggrieved person or he may be any other person who has reason to believe that an act of Domestic Violence is being committed or likely to be committed in such an emergency situations the said officer shall seek the immediate assistance of the police and thereupon such policy officer shall accompany the protection officer or the service provider to the place of occurrence at that place he shall record the domestic incident report and shall forward or present it to the magistrate without any delay praying for immediate action and appropriate orders under the act.

Other Duties of Protection Officers.

Rule 10 providers for certain other duties to be discharged by the protection officer. The protection officer shall discharge the following action if so directed in writing by the magistrate. They are as follows;

1. Conduct a home visit of the shared house hold premises and make preliminary enquiry if the court requires clarification in respond to granting exparte interim relief to the aggrieved party and the magistrate shall pass an order for such home visit.

2. After making appropriate enquiry file a report on the involvement assess, bank accounts or any other documents as may be directed by the court.
3. Restore the possession of the personal effect including gifts and jewellery of the aggrieved person and the shared house hold to the aggrieved person.

4. Assist the aggrieved person to regain custody of the children and secure rights to visit there under his supervision as may be directed by the court.

5. Assist the court in enforcement of order in the proceedings under act in the manner directed by the magistrate such orders may be under sections 12, sec 18, 19,20,21, or 23 in such manner as may be directed by the court. Take assistance of the police if required in confiscating any weapon involved in the alleged Domestic Violence.

6. In addition to the above the protection officer shall also perform such other duties as may be assigned to him by the State Government or the magistrate in giving effect to the provisions of the act and also the rules.

7. A magistrate may in addition to the orders for effective relief in any case also gives the collection relating to general practice for better handling of the cases to the protection officer within his jurisdiction.

Thereupon the protection officer shall be bound to carry out the same.

**Registration of Service Providers:**

Rule 11 provides for the procedure for registration of service providers there are voluntary associations registered under the societies registration act or the company registered under companies act.

There may be any other law for the time being in force with the objective of protecting the rights and interest of the women by any lawful means including providing of legal aid medical financial or other assistance and desirous of providing as a service provider of act. Such service provider shall make an application under sec 10 (1) of the act 2005 to registration of the service provider in (form 6) to the State Government.
The State Government shall make necessary enquiring and after satisfying itself about the suitability of the applicant register it as a service provider of issue a certificate of such registration. However, if the application is sort to be rejected then an opportunity to the applicant must be given or being heard. The association of the company seeking registration under section 10 (1) of the act 2005 shall possess the following eligibility criteria.

1. It should have been rendering such kind of services contemplated under section for at least three years prior to the date of application. In case, the application in winning a medical facility or a psychiatric counseling centre n a vocational training institution then the State Government shall ensure that the applicant fulfill the requirement for running such a facility or institution has laid down by the registering regulatory authority.

2. In case the applicant is running a shelter house the State Government shall with help of an officer or any authority or agency authorized by it inspect the shelter home prepare a report of attach its findings on the report. The report shall contain the details about the maximum capacity of such shelter home for intake of persons seeking shelter.

About the place that it is secured for running a shelter home for women and that adequate security arrangement can be put in place for the shelter home. It must also contain the facts whether the shelter home has a second of maintaining the functional electronic connection on other communication media for the use of inmates. Further the State Government shall provide a list of service providers in various localities to the concerned protection officer. It should also publish such first in the newspaper on its website. The protection officer shall maintain proper records by way of maintenance of register duly indexed containing details of service provider.
 Means of Service of Notices:

Rule-12 Notices for appearance and means of service have been provided under the rule any person may be required to appear in respect of the proceedings under the act such notice shall contain the names of the person alleged to have committed domestic violence nature of domestic violence and such other details which may facilitate the identification of the person concern.

Service of notices shall be made in the following manner.

1. Notices shall be severed by the protection officer or any other person directed by him. I shall be served at the address where the respondent is stated to be ordinarily residing in India by the complainant or aggrieved person. It may be served at the address where the respondent is stated to be originally employed. The notice may be delivered to any person in charge of such place and if such delivery is not possible it shall be pasted at the conspicuous place on the premises, serving the notices under section 13 on any other provision of the act. Then the provisions under order 5 of C.P.C or the provisions under chapter 6 A Cr.P.C as for practicable may be ordered.

2. Any order passed for such service of notice shall curtail the same consequence as an order passed under order V of the C.P.C 1908 (5 of 1908) or chapter VI of the code of Cr.P.C 1973 (2 of the 1974) respectively, depending upon the procedure fund efficacious from making an order for such service under section 13 or any other provision of the act. In addition to the procedure prescribed under order V or chapter VI the court may direct any other steps necessary with a view to expediting the proceedings to adhere to the time limit provided in the act.

3. The statement to the effect that a date was fixed for appearance of the respondent or a report of the serving person that service has been effected. Upon such statement or a report. The court shall pass appropriate order on any pending application for interior relief after hearing the compliment or the respondent or both.
4. Where a protection order is passed restraining respondent from entering the shared house hold or the respondent is ordered to stay away from the house hold or was ordered not to contact the petitioner and no action on the aggrieved person including an invitation by the aggrieved person shall be considered as waving the restrained imposed on the respondent but where such protection order is duly modified in accordance with the provisions of sec 25(2) after act 2005 then such invitation may be considered as waving the restrained.

**Rule-13 appointment of counsellors.**

Provides for the procedure for appointment of counsellors, the following steps shall be observed.

1. Protection officer maintains a list of available counsellors and from which a person who is available shall be appointed as a counsellor.
2. The appointment of counsellor shall be intimated to the aggrieved person (Sub Rule (1))
3. The counsellor so appointed shall as for as possible be women.
4. The following persons shall not be eligible to be appointed as counsellor in any proceedings. (Sub Rule (2))
   - Any person who is interested or connected with the subject matter of the dispute.
   - Any person who is related to any one of the parties or to those who requested them but such prohibition may be lifted if all the parties to the proceedings state in writing that they have waived their objection. To such interested or related parties.
   - Any legal practitioner who has appeared for the respondent in the case or any other suit or proceedings connected there within.

**Rule-14 Procedure to be followed by the Counsellors.**

1. The Counsellor shall work under the general supervision of the court or the protection officer or both. (Sub Rule (1))
2. The Counsellor shall convene a meeting at a place convenient to the aggrieved person or both parties. (Sub Rule (2))

3. Whether the facts and circumstances require in request of counselling. The Counsellor shall include the fact that.
   - The respondent shall furnish an undertaking that he would refrain from causing such domestic violence as compiled by the complainant.
   - An undertaking that he will not try to meet or communicate in any manner through letter or telephone, electronic mail or through any medium with the complainant but such contact may be made in the counselling proceedings before the Counsellor or as permissibly by law or by an order of a court of a competent jurisdiction.

4. The Counsellor shall conduct the counselling proceedings while so conducting he shall have in mind that the counselling shall be in the nature of getting an assurance that the incidence of domestic violence shall not be repeated.

5. The respondent shall not be allowed any counter justification as per the alleged act of domestic violence in the counselling proceedings and during which the fact that any justification for the act of Domestic violence by the respondent is not allowed to be a part of the counselling proceedings and the same shall be made known to the respondent before the proceedings.

6. The respondent shall be required to furnish an undertaking to the Counsellor that he would refrain from causing such domestic violence as the complaint by the agreed person and in appropriate cases the respondent shall give a undertaking that he will not try to meet or communicate in any manner through letter telephone e-mail or through any other medium except in Counsellor proceedings. (Sub Rule (6))

7. If the aggrieved person so desires the Counsellor shall make efforts to enable the parties to arrive at a settlement of the dispute.
8. The efforts of the Counsellor shall be limited in scope and he shall Endeavour to understand the grievance of the aggrieved person and the best possible redressal of our grievances. His efforts shall be focused on the evolving remedies or measures by such redressal.

9. The Counsellor shall strive to arrive at an settlement of their dispute by suggesting measures for the redressal of grievance of the aggrieved person and for then it shall take into account the measures or remedies suggested by the parties for counselling and for the nullifying the terms for a settlement wherever required.

10. The Counsellor shall not be governed by the provision of

- The Indian evidence Act 1872
- The code of civil procedure 1908
- The code of criminal procedure 1973
- His action shall be guided by the principles of fireman & justice and aimed at finding a way to end domestic violence to the satisfaction of the assured person. In making such an effort the Counsellor shall give due regard to the wishes and sensibilities of the aggrieved person.

11. The Counsellor shall submit report to the magistrate as expediously as possible for appropriate action.

12. In the event where the Counsellor arise at a resolution of the dispute he shall record the terms of settlement and the same shall be endorsed by the parties.

13. If the court in satisfied about the efficacy of the solution it shall make a preliminary enquiry of the parties and record reasons for such satisfaction. The reason may include undertaking by the respondent to refrain from repeating the acts of domestic violence. Admitted to have been committed by the respondents. He may accepts the terms with or without conditions.

14. The court shall on being so satisfied with the report of conselling pass an order, in the order terms of settlement shall be incorporated or an order modifying the terms of settlement on being so requested by the aggrieved person with the consent of the parties.
15. In cases where a settlement cannot be arrived at in the conselling proceedings the Counsellor shall report failure of such proceedings to the court. Thereupon the court shall proceed with the case in accordance with the provision of the Act.

16. The record of proceedings shall not be deemed to be material on the record in the case, and no inference shall be drawn or an order may be passed solely based on the record of failure.

17. The court shall be satisfy that the application for such an order under section 25

Sub-rule: 4

If the aggrieved person so chooses he may make a complaint of breach of protection order or interim Protection Order directly to magistrate or to the police.

Sub-rule: 5

If a aggrieved person seek the assistance of the protection officer, at any time after the protection order has been reached then the protection officer shall the immediately rescued the aggrieved person by seeking help from the local police station and also assist the aggrieved person to lodge a report the local police authority in appropriate case.

Sub-rule: 6

When charges are framed under station 31 of the act or in respect of offences under section 498 A of IPC or any other offence which is not summarily triable by the court.

(a) May separate the proceedings for such offences to be tried in the manner prescribed is not vitiated by force, fraud or coercion or any other factor. The reason for such satisfaction shall be recorded in writing in the order. Such an order may include many undertaking or surety given by the respondent. These are the condition which shall be observed before passing an order under section 25 of the Act. (sub-rule:(7))
**Breach of Protection Orders.**

Rule-15 provides for the procedure to be followed in case of breach of protection order.

1. The aggrieved person play report a breach of protection order or an interior protection order, to the protection officer. Every report of breach of the order shall be in writing by the informant and it shall be duly signed by her.

2. The protection officer shall forward to her copy of the compliment of breach together with a copy of protection order of which a breach has been alleged to have been taking place, to the concerned magistrate for appropriate order under the Cr.P.C and,

(b) Proceed to summarily trial offence for the breach of protection order under station 31 in accordance with provision of chapter 21 of the Cr.P.C

**Sub-rule: 7**

Any resistance to enforcement of the order of the court under the act or by any other person purportedly acting on his behalf shall be demand to be a breach of protection order or an interim protection order.

1) The breach of a protection order or an interim protection order shall immediately be reported in the local police station having territorial jurisdiction such report shall be dealt with as a cognizable offence as provided under sec 31 32 of the Act.

2) While enlarging the person on bail who is arrested under the Act the court may by an order impose certain condition. Such conditions shall be to protect the aggrieved person and to ensure the presence of the accused before the court such conditions may further include an order restraining the accused from returning to commit or committing an act of domestic violence. An order preventing the accused from harassing, telephoning or making any contact with the aggrieve person.

- An order directing the accused to vacate and stay away from the residence of the aggrieved person or any place she is likely to visit.
➢ An order prohibiting the possession or use of fire arm or any other dangerous weapon.
➢ An order prohibiting the consumption of alcohol or other drug.
➢ Or any other order required for the protection, safety and adequate relief to the aggrieved person.

**Rule 16 Shelter to the Aggrieved Persons.**

1. Upon a request being made by the aggrieved person the protection officer or a service provider may make a request under sec 6 of the Act. By virtue of this section the request may be made to the person in charge of a shelter home such request shall be in writing clearly stating that application is being made under sec 6.

2. When a protection officer makes a request under (sub rule (1)) the request shall be accompanied by a copy of the domestic incident report registered under section.9 or sec 10 of the Act. The Shelter Home to which request was made shall not be a refrain shelter to an aggrieved person under the Act for not having launched a Domestic incident report prior to the request made for shelter in the Shelter home.

3. If the aggrieved person so desirers the shelter home shall not disclose the identity of the aggrieved person in the shelter home or communicate the same to the person against whom the complaint was made.

**Rule 17 Medical Facility to the Aggrieved Person.**

1. Rule 17 deals with the medical facility to be accorded to the aggrieved person under section 7 of the Act the request under section 7 may be made to a person in charge of the medical facility such request shall be in writing clearly stating that the application is being made under section 7 such request can be made either by the Protection Officer or by the service provider or by the aggrieved person.

2. When a protection officer makes a request for medical facility such request shall be accompanied by a copy of domestic incident report.
3. The medical facility shall not refuse medical assistance to an aggrieved person under the act merely on the ground that the aggrieved person had not lodged a domestic incident report prior to making a request to the medical facility for medical assistance or examination. If no domestic incident report had been made the person in charge of the medical facility shall fill in form one and forward the form to the local protection officer.

4. The Medical facility shall supply a copy of the medical examination report to the aggrieved person at free of cost.