

# **PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT: A PROCEDURAL ASPECT**

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Whenever a new law comes it becomes the duty of the court to interpret it in such manner to promote the purpose and object of that Act. Protection of Women from Domestic Violence Act, 2005 came into effect from 26<sup>th</sup> October 2006. From coming into the effect of this Act, not only the litigants and advocates, but the judges also have faced many procedural and legal challenges while deciding the matters filed under the Domestic Violence Act. However, the law which came to protect the women of our country has matured considerably through judicial pronouncements. In order to have a better understanding of the procedural aspect, an attempt is made to analyze the relevant provisions of the Act in the light of judicial pronouncements which set out the legal position.

## **Applicability of The Act**

The Act extends to the whole of India except the State of Jammu And Kashmir.<sup>1</sup> The Andhra Pradesh High Court held that Indian courts can exercise jurisdiction even if parties reside in a foreign country as long as some incidents of domestic violence take place in India.<sup>2</sup>

## **Retrospective Effect of the Act**

The Supreme Court in *Lt. Col. V. D. Bhanot v. Savita Bhanot*<sup>3</sup> dealt with the matter of retrospective operation of the Act. It was held that the past conduct of the parties, even if prior to the Act coming into effect, were relevant for passing orders under Sections 18, 19 and 20 of the Act.

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\* Civil Judge (Senior Division), Haridwar

<sup>1</sup> Section 1(2) of Protection of Women from Domestic Violence Act, 2005

<sup>2</sup> A. Ashok Vardhan Reddy, (A-1), A. Jani Reddy, (A-2) and Smt. A. Vijayamma, (A-3) v. Smt. P. Savitha, D/o. Potula Krishna Reddy, CrI.P. No. 7063 of 2008, Decided On: 29.02.2012, Andhra Pradesh High Court.

<sup>3</sup> Special Leave Petition (CrI.) No. 3916 of 2010, Decided On: 07.02.2012

### **Who can file an application?**

An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate<sup>4</sup>. Aggrieved person is defined under section 2(a) which says that “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. The term women is not qualified with any condition, therefore, irrespective of age and marital status, an aggrieved woman may file application if she has lived in a domestic relationship in a shared household.

An aggrieved wife or female, living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner. The expression ‘domestic relationship’ includes not only the relationship of marriage but also a relationship ‘in the nature of marriage’. The question, therefore, arises as to what is the meaning of the expression ‘a relationship in the nature of marriage’. Supreme Court has said that ‘relationship in the nature of marriage’ is akin to a common law marriage. Common law marriages require that although not being formally married :-

- (a) The couple must hold themselves out to society as being akin to spouses.
- (b) They must be of legal age to marry.
- (c) They must be otherwise qualified to enter into a legal marriage, including being unmarried.
- (d) They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time.

A ‘relationship in the nature of marriage’ under the 2005 Act must also fulfill the above requirements, and in addition the parties must have lived together in a ‘shared household’. Merely spending weekends together or a one night stand would not make it a ‘domestic relationship’<sup>5</sup>.

The Act gives a very wide interpretation to the term ‘Domestic relationship’ as to take it outside the confines of marital relationship, and

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<sup>4</sup> Section 12 of Protection of Women from Domestic Violence Act, 2005

<sup>5</sup> D.Velusamy Vs D. Patchaiammal, 2010 AIR SCW 6731

even includes live-in-relationships in the nature of marriage. Therefore, women in live-in-relationships are also entitled to all the reliefs given under the said Act.<sup>6</sup>

It must be noted that an application filed under section 12 is not a complaint, therefore, recording of statement under section 200 and 202 Cr.P.C. is not required<sup>7</sup>.

Here the Act makes a distinction from section 198A Cr.P.C.<sup>8</sup> which authorizes only the relatives of the married women to file a complaint for offense of cruelty. It authorizes any other person to present the application even if that person is not a relative of the aggrieved. Thus, a neighbor, a friend or a social worker may also file an application before a magistrate.

Such application can be filed either directly to the magistrate or through protection officer<sup>9</sup> or service providers<sup>10</sup>. In an emergency, if a protection officer or service provider receives reliable information through e-mail or phone or the like, he shall seek immediate assistance of the police and prepare a domestic incident report and present the same to the magistrate without any delay for passing appropriate orders<sup>11</sup>.

Every aggrieved person must file her application in Form II or as nearly as possible thereto<sup>12</sup> for which she may take help of protection officer. If aggrieved person is not able to file it in Form II, then she can also file it by a simple application but such application must contain the required details which are mentioned in Form II, like, the details of respondent, relationship with respondent, nature of violence, description of relief etc.

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<sup>6</sup> Chanmuniya vs. Virendra Kumar Singh Kushwaha and another, (2011) 1 SCC 141

<sup>7</sup> Ajay Kant vs. Alka Sharma 2008 CrLJ 264 (MP)

<sup>8</sup> “198A. Prosecution of offences under section 498A of the Indian Penal Code. No Court shall take cognizance of an Offence punishable section 498A of the Indian Penal Code except upon a police report of facts which constitute such offence or Upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father’s or mother’s brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.

<sup>9</sup> Rule 4 & 5(1) of Protection of Women from Domestic Violence Rules 2006

<sup>10</sup> Rule 5(2) of Protection of Women from Domestic Violence Rules 2006

<sup>11</sup> Rule 9 of Protection of Women from Domestic Violence Rules 2006

<sup>12</sup> Rule 6(1) of Protection of Women from Domestic Violence Rules 2006

### **Place of Filing the Application-**

According to section 27, an application may be filed in the court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- (b) the respondent resides or carries on business or is employed; or
- (c) the cause of action has arisen.

Thus, an aggrieved person is given a convenient jurisdiction for hearing which may be the place of her permanent or temporary residence.

### **Against Whom Application can be Filed -**

An application shall be filed against the respondent. 'Respondent' has been defined under section 2(q). It means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act: Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.

Initially, it was understood that an application can be filed only against a male respondent and a proceeding could not be continued against a female but the Kerala High court<sup>13</sup> and the Delhi High court<sup>14</sup> have held that an aggrieved wife or a female living in a relationship in the nature of marriage may also file a complaint against a relative of the husband or the male partner. And it is finally settled by Supreme Court that in proviso to section 2(q), relative of husband or male partner includes female also and a female relative of husband or male partner may also be a respondent under the Act<sup>15</sup>. But, few females who may commit an act

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<sup>13</sup> Vijayalekshmi Amma Vs. Bindu [2010(1) KLT 79] D.B.

<sup>14</sup> Varsha Kapoor vs UoI & Ors., WP (Crl.) No. 638 of 2010, decided on 3 June, 2010 by Delhi High Court.

<sup>15</sup> Sandhya Manoj Wankhade vs. Manoj Bhimrao Wankhade and others, (2011) 3 SCC 650

of domestic violence are still not covered. For example, an aggrieved women cannot file application against her step-mother or maternal or paternal aunt.

It is necessary to have a clear understanding of domestic relationship. “Domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family<sup>16</sup>. Thus, a person who is not in a domestic relationship, cannot be a respondent under this Act.

### **Date of First Hearing and Mode of Service on Respondent**

The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court<sup>17</sup>. A notice of the date of hearing shall be given by the Magistrate to the Protection Officer, who shall get it served on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.

The rules provides for alternate modes of service. The notices shall be served by the Protection Officer or any other person directed by him to serve the notice, on behalf of the Protection Officer, at the address where the respondent is stated to be ordinarily residing in India by the complainant or aggrieved person or where the respondent is stated to be gainfully employed by the complainant or aggrieved person, as the case may be<sup>18</sup>. A declaration of service of notice made by the Protection Officer shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved<sup>19</sup>.

For serving the notices, the provisions under Order V of the Civil Procedure Code, 1908 or the provisions under Chapter VI of the

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<sup>16</sup> Section 2(f) of Protection of Women from Domestic Violence Act, 2005

<sup>17</sup> Section 12(4) of Protection of Women from Domestic Violence Act, 2005

<sup>18</sup> Rule 12(2)(a) of Protection of Women from Domestic Violence Rules 2006

<sup>19</sup> Section 13 of Protection of Women from Domestic Violence Act, 2005

Code of Criminal Procedure, 1973 as far as practicable may also be adopted<sup>20</sup>. Service of notice may be made by post or by a police officer as the circumstances requires. Since the time of two days is very short, so the protection officer may serve the notice by fax, phone or email but he has to make a declaration regarding service of notice.

### **Nature of Hearing-**

Section 28 says that Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 shall be governed by the provisions of the Code of Criminal Procedure, 1973 and court may lay down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23. Rule 6(5) says that the applications under section 12 shall be dealt with and the orders enforced in the same manner laid down under section 125 of the Code of Criminal Procedure, 1973.

Supreme Court in the matter of *Vijay Kumar Prasad versus State of Bihar and others*, has held that proceedings under Section 125 of Cr.P.C. are of civil nature<sup>21</sup>. A proceeding under Section 125 Cr.P.C. is quasi civil and quasi criminal. In so far as it decides the civil rights of the parties to claim maintenance, it is civil in nature. When the order is not obeyed by the person against whom the same has been made, then the court is empowered to impose a punishment of imprisonment of one month for each breach. To that extent, the proceeding is criminal<sup>22</sup>.

The Division Bench of the Kerala High Court stated that on an application filed under section 12 claiming reliefs either under section 18, 19, 20, 21 or 22, the Magistrate can pass an interim order under section 18 to 23 and all these reliefs are in respect of the civil liability and not the criminal liability<sup>23</sup>. So, an application under section 12 has to be disposed off in civil manner.

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<sup>20</sup> Rule 12(2)(c) of Protection of Women from Domestic Violence Rules 2006

<sup>21</sup> 2004(2) RCR (Criminal) 470 S.C.

<sup>22</sup> P. Vaithi vs Kanagavalli, Criminal Revision Case No.1237 of 2009 and M.P. No.1 of 2009, Madras High Court decided on 2 February, 2010

<sup>23</sup> Vijayalekshmi Amma Vs. Bindu [2010(1) KLT 79] D.B.

The Kerala High Court<sup>24</sup>, Bombay High Court<sup>25</sup>, Madhya Pradesh High court<sup>26</sup>, Allahabad High Court<sup>27</sup> and Delhi High Court<sup>28</sup> have held that proceedings under the Act cannot be quashed under section 482 Cr. P.C. The higher courts are of the view that proceedings under the said Act are civil in nature and a person may approach the higher court by filing an appeal as provided under the Act, therefore, such a proceeding cannot be quashed under section 482 Cr.P.C. However, in *Inderjit Singh Grewal Vs. State Of Punjab And Anr*<sup>29</sup>, the Supreme Court quashed the proceedings under the Act while dealing with them under section 482 Cr. P.C. But, the Apex Court has not touched the procedural aspect of the Act as discussed by the High Courts.

### **Procedure after appearance or non-appearance of Respondent**

A person to whom notice was issued by the Magistrate in a petition filed under section 12 of the Act can appear before the Magistrate and contend that the proceedings is not maintainable either on the ground that the person who filed the application is not an aggrieved person as defined under section 2(a) or the application is not filed for an aggrieved person. He is also entitled to contend that he is not a respondent, as defined under section 2(q) of the Act. He is also entitled to contend that there is no domestic violence as defined under section 2(g) or the reliefs sought for are not the reliefs provided under the Act. So long as the respondent is not an accused in a proceeding initiated under the Act and pending before the Magistrate, he is not obliged to apply for bail in respect of such proceedings and even his personal presence is not mandatory for hearing<sup>30</sup>.

The magistrate may after giving an opportunity of hearing to aggrieved person and the respondent and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass any order under sections 18, 19, 20, 21, 22 and 23. He may at any stage,

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<sup>24</sup> Ibid.

<sup>25</sup> Mangesh Sawant vs. Minal Vijay Bhosale and Anr, Criminal Writ Petition No. 905/2010, decided on 05-10-2011

<sup>26</sup> Ajay Kant vs. Alka Sharma 2008 CrLJ 264 MP

<sup>27</sup> Vinod Parashar vs. State of U.P. 2008 CrLJ (NOC) 837 All

<sup>28</sup> Maya Devi vs. State of NCT of Delhi, MANU/DE/8716/2007

<sup>29</sup> (2011) 12 SCC 588

<sup>30</sup> Infra note 23

direct for a counseling or take assistance of welfare expert<sup>31</sup>. Since, the proceedings are civil in nature and if respondent does not appear, the court may proceed ex parte and pass appropriate interim or ex parte orders under section 23.

### **What Orders That May Be Passed**

A magistrate may pass protection order<sup>32</sup>, residence order<sup>33</sup>, monetary reliefs<sup>34</sup>, custody orders<sup>35</sup> and compensation orders<sup>36</sup>. The magistrate may also pass interim and ex parte orders in the nature of protection order, residence order, monetary reliefs, custody orders and compensation orders.

**Protection Order:** A protection order may be passed to prohibit the respondent from committing the domestic violence and to prevent from aiding or abetting the commission of acts of domestic violence against aggrieved person or the dependents, or other relatives or any person giving assistance to aggrieved person. Respondent may also be restrained from entering into the place of employment of aggrieved, or school of aggrieved or any other place of frequent visit. He may be prevented from communicating to the aggrieved in any manner. The respondent cannot dispose of any joint asset or stridhan.

**Residence Order:** By passing the residence order, a magistrate may restrain the respondent from dispossessing or disturbing the possession of aggrieved person from the shared household and that may be ordered even if she has no legal or equitable interest. To protect the aggrieved, the respondent may be directed to remove himself from the shared household; restrained from entering into any portion of shared household; restrained from renouncing his rights in the shared household or to secure same level of alternate accommodation for the aggrieved or to pay the rent for the same. However, a female cannot be directed to be removed from the shared household. Magistrate may require the respondent to execute a

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<sup>31</sup> Section 14 & 15 of Protection of Women from Domestic Violence Act, 2005

<sup>32</sup> Section 18 of Protection of Women from Domestic Violence Act, 2005

<sup>33</sup> Section 19 of Protection of Women from Domestic Violence Act, 2005

<sup>34</sup> Section 20 of Protection of Women from Domestic Violence Act, 2005

<sup>35</sup> Section 21 of Protection of Women from Domestic Violence Act, 2005

<sup>36</sup> Section 22 of Protection of Women from Domestic Violence Act, 2005



bond or may impose additional conditions to prevent the domestic violence. Magistrate may also direct the respondent to return the stridhan or other property or valuable security to which she is entitled to.

The Act recognizes the right to reside in a shared household and provides that an aggrieved person shall not be evicted or excluded from the shared household or any part of it except with the procedure established by law.<sup>37</sup> Madras High Court in *V. Ramasubramanian J. in Vandhana v. T. Srikanth and Krishnamachari*<sup>38</sup> opined that a “healthy and correct interpretation of Sections 2(f) and 2(s) would be that the words “live” or “have at any point of time lived” would include within their purview the “right to live”. The judgment clarified that the woman’s right to protection under Section 17 of the Act, co-exists with her right to live in the Shared Household and is not dependent on whether or not she had marked her physical presence in the Shared Household. However, this right has been restricted by the judgment of Supreme Court in *S.R. Batra vs. Smt. Tarun Batra*.<sup>39</sup> The apex court held that ‘shared household’ means only the house belonging to or taken on rent by the husband or house which belongs to the joint family in which the husband is one of the members. It has also been observed therein that the property exclusively owned by the mother of the husband cannot be called ‘shared household’, as per the definition found in Section 2(s) of the Protection of Women from Domestic Violence Act, 2005. Therefore, she cannot claim a right to residence in that property. The impact of this judgment is that an aggrieved woman cannot claim a right of residence in the property of her in-laws. This will have a negative impact on those aggrieved persons who are widow because in light of the Batra’s judgment a women can claim the right of residence only in the house belonging to or taken on rent by the husband or house which belongs to the joint family in which the husband is one of the members. So an aggrieved widow living in the house of the relative of her deceased husband cannot get the protection.

**Monetary Relief:** The magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved and any child of the aggrieved which may include loss of earnings;

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<sup>37</sup> Section 17 of Protection of Women from Domestic Violence Act, 2005

<sup>38</sup> MANU/TN/7835/2007

<sup>39</sup> (2007) 8 SCC 2675

medical expenses; expenses for destruction, damage or removal of any property of aggrieved and maintenance. The monetary relief shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved is accustomed.

**Custody Order:** At any stage of hearing, magistrate may grant temporary custody of any child or children to the aggrieved and make the arrangements for visit of such child or children by the respondent.

**Compensation Order:** In addition to the other reliefs, the magistrate may also order to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence.

### **Importance of Domestic Incident Report**

Upon receiving the complaint, the protection officer is under duty to make a domestic incident report to the magistrate<sup>40</sup>. A protection officer is under supervision and control of magistrate, therefore, the magistrate may also call for any such report<sup>41</sup>. Service provider shall have power to record the domestic incident report if the aggrieved person so desires and forward the copy to the magistrate and protection officer<sup>42</sup>. However, this report is not mandatory for the filling of applications. It is not mandatory for the court to wait for the said report before issuing notice. The report is also not mandatory for passing an order. However, if the report has already been submitted, that should be considered, in view of the proviso to section 12(1)<sup>43</sup>.

### **Other Relief/Remedy not Barred**

Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court<sup>44</sup>. However, section 26(3) creates a positive obligation on the woman to disclose any reliefs obtained under another law to the Magistrate.

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<sup>40</sup> Section 9(1)(b) of Protection of Women from Domestic Violence Act, 2005

<sup>41</sup> Section 9(2) of Protection of Women from Domestic Violence Act, 2005

<sup>42</sup> Section 10(2) of Protection of Women from Domestic Violence Act, 2005

<sup>43</sup> Bhupendra Singh Mehra & Anr. vs. State of NCT of Delhi & Anr. 2010 (4) JCC 2939 Delhi High Court, D.B.

<sup>44</sup> Section 26 of Protection of Women from Domestic Violence Act, 2005

## **Breach of Protection Order**

A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both<sup>45</sup>. Whenever a respondent commits a breach of any protection order under this Act, he commits an offence which is cognizable and non-bailable<sup>46</sup>. A maintenance order including interim maintenance order passed under section 23, cannot be enforced through section 31<sup>47</sup> and it can be enforced in the same manner as laid down under section 125 Cr. P.C.<sup>48</sup> Section 20(4) provides the mechanism for compliance with the maintenance order.

The language of section 31 has used the term 'breach of protection order', so it appears that it is only the breach of section 18 which constitutes the offence because 'protection order' has been described in section 18. However, rule 15(7) says that any resistance to the enforcement of the orders of the Court under the Act by the respondent or any other person purportedly acting on his behalf shall be deemed to be a breach of protection order or an interim protection order covered under the Act. The language of this rule suggests that breach of any other order like residence order, custody order etc. shall also be an offence as defined under section 31. It would be of very restrictive meaning if operation of section 31 is accepted to cover only the protection order as mentioned in section 18. Under section 18 a magistrate may pass a protection in order to restrain the respondent from committing any act of domestic violence. Definition of domestic violence under section 3 of the Act is very wide in the sense that it covers any act, omission or commission or conduct which harms or injures or endangers the health or safety, life, limb or well being, whether mental or physical of aggrieved. An act of dispossession from the shared household may lead to endanger the safety, life, limb or well being of aggrieved person who is a woman. Residence orders are passed to protect the

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<sup>45</sup> Section 31 of Protection of Women from Domestic Violence Act, 2005

<sup>46</sup> Section 32 of Protection of Women from Domestic Violence Act, 2005

<sup>47</sup> Manoj Anand vs. State of U.P., Criminal Revision No. 635/2011 with Writ Petition No. 17658 of 2010, decided on 10-02-10

<sup>48</sup> Rule 6(5) of Protection of Women from Domestic Violence Rules 2006

aggrieved from the dispossession, therefore, a breach of residence order could also be an offence under section 31. With force of rule 15(7), it would be safe to say that except the breach of maintenance order, breach of any other order should also be an offence under section 31.

The offence shall as far as possible be tried by the magistrate who had passed the order and while framing charges under section 31, the magistrate may also frame charges under section 498-A of IPC or any other provision of that Code or the Dowry Prohibition Act, 1961, as the case may be, if the facts disclose the commission of an offence under those provisions.

The proceeding under this section shall be governed by the provisions of Criminal Procedure Code.<sup>49</sup> But an offence under section 31 shall be tried summarily and if any other offence under any other law is not summarily triable, the magistrate may separate the proceedings as prescribed in Criminal Procedure Code.<sup>50</sup>

An aggrieved person may in writing, report the breach of the protection order or an interim protection order to the protection officer who shall forward it to the Magistrate. She may also directly approach to the Magistrate. A breach of protection order or an interim protection order shall be reported to the local police station which shall be treated as cognizable. Court may, while enlarging the person on bail, impose the conditions to protect the aggrieved person.<sup>51</sup>

### **Penalty for not Discharging Duty by Protection Officer**

Under section 33, if any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both. Though a protection officer is under supervision and control of the Magistrate<sup>52</sup> but a protection officer is a public servant within the meaning of section 21 of

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<sup>49</sup> Section 28 of Protection of Women from Domestic Violence Act, 2005

<sup>50</sup> Rule 15(6) of Protection of Women from Domestic Violence Rules 2006

<sup>51</sup> Rule 15 of Protection of Women from Domestic Violence Rules 2006

<sup>52</sup> Section 9(2) of Protection of Women from Domestic Violence Act, 2005

IPC.<sup>53</sup> Therefore, no prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorized by it in this behalf.<sup>54</sup> Unlike section 32 which makes the offence under section 31 cognizable and non-bailable, the Act is silent regarding section 33, therefore, the provisions of Cr. P.C. will come in picture and as per the schedule of Cr. P.C. The offence under section 33 shall be non-cognizable and bailable.

### **Conclusion**

The Protection of Women from Domestic Violence Act, 2005 is enacted with a noble intention to provide effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family but protection of one must not result in harassment of other, therefore, while protecting the rights of aggrieved person courts has to make a balance between the conflicting interests. Courts have to address the areas which are still untouched and issues can be settled only by a positive approach so that we the people of India strive towards excellence.

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<sup>53</sup> Section 30 of Protection of Women from Domestic Violence Act, 2005

<sup>54</sup> Section 34 of Protection of Women from Domestic Violence Act, 2005