

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 19TH DAY OF MARCH, 2024
BEFORE
THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO. 101857 OF 2023

BETWEEN:

1. **SHRI. ARUNKUMAR**
S/O. KALLAPPA KOTAMBARI, AGE. 34 YEARS,
OCC. WARDEN AT HINDALGA JAIL, BELAGAVI,
R/O. CENTRAL PRISON, HINDALGA, BELAGAVI-591108,
TQ & DIST. BELAGAVI.
2. **SHRI. ANANDKUMAR**
S/O. KALLAPPA KOTAMBARI, AGE. 35 YEARS,
OCC. ASSISTANT TEACHER, GOVERNMENT HIGH SCHOOL, BIJJAHALLI,
R/O. BIJJAHALLI, TQ. KANAKAPURA, DIST. RAMANAGARA, PIN CODE-562119.
3. **SOU. SHIVAGANGA**
W/O. KALLAPPA KOTAMBARI, AGE. 59 YEARS,
OCC. HOUSEWIFE,
R/O. KALLATI GALLI, AT. TERDAL, JAMKHANDI, DIST. BAGALKOT-587315.
4. **SHRI. KALLAPPA**
S/O. CHANNAPPA KOTAMBARI, AGE. 63 YEARS,
OCC. RETIRED SCHOOL TEACHER,
R/O. KALLATI GALLI, AT. TERDAL, JAMKHANDI, DIST. BAGALKOT-587315.
5. **MISS. GEETA**
D/O. KALLAPPA KOTAMBARI, AGE. 37 YEARS,
OCC. PRIVATE SCHOOL TEACHER,
R/O. GURUBRAHMANANDNAGAR, NEXT TO JADI GODOWN, AT. TERDAL,
JAMKHANDI, DIST. BAGALKOT-587315.

(BY SRI. DIWAKAR G. BHAT, ADVOCATE)

AND:

1. **STATE OF KARNATAKA**
R/BY STATION INCHARGE, WOMEN POLICE STATION,
BELAGAVI CITY, BELAGAVI-590001,
R/BY STATE PUBLIC PROSECUTOR, HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD-590011.
2. **SOU. VIJAYALAXMI**
W/O. ARUNKUMAR KOTAMBARI, EARLIER TO MARRIAGE KNOWN AS
VIJAYLAXMI D/O BHIMAPPA GARADALE, AGE. 31 YEARS,
OCC. WARDEN IN HINDALAGA JAIL,
R/O. C/O. ESHWAR GAVADE, 1ST FLOOR, MANJEREKAR COLONY,
HINDALAGA, TQ & DIST. BELAGAVI, KARNATAKA-591108.

(BY SRI. PRAVEEN K. UPPAR, AGA FOR R1; SRI. PRASHANT F. GOUDAR, ADVOCATE FOR R2)

ORDER

1. The petition is filed by the accused Nos. 1 to 5 praying to quash all proceedings including the complaint, FIR, and charge sheet in C.C. No. 718/2023 pending on the file of II JMFC Court, Belagavi, registered for the offences punishable under Section 498(A), 323, 354, 504, 506 r/w 34 of IPC.
2. Heard learned counsel for petitioners and learned AGA for respondent No.1-State and learned counsel for respondent No.2.
3. A case was registered on the first information filed by respondent No.2 in Crime No.3/2023 of Belagavi City Women Police Station for the offence punishable under Sections 498(A), 323, 354, 504, 506 r/w 34 of IPC. The police, after investigation, filed a charge sheet against the petitioners for offences punishable under Section 498(A), 323, 354, 504, 506 r/w 34 IPC. On the basis of the said charge sheet, learned Magistrate has taken cognizance and registered a case in C.C. No.718/2023. The proceedings of the said criminal case are prayed to be quashed in the present case.
4. The learned counsel for petitioners contended that the marriage between petitioner No.1 and respondent No.2 was performed on 20.08.2021 at Belagavi. Immediately after some months of marriage, petitioner No.1 filed a petition seeking divorce in FR.MC No.148/2022, which was rejected as premature by order dated 20.04.2022. Thereafter, he filed a divorce petition in MC No.432/2022 on 17.09.2022, which is pending. He submits that the averments in the divorce petitions indicate no coordination and cooperation between husband and wife, and respondent No.2 is a quarrelsome lady. Therefore, the husband sought divorce on grounds of cruelty.
5. Learned counsel for the petitioners further submits that conciliation has been held, which failed, indicating that both husband and wife stayed together only for two to three days, and their marriage was consummated. Earlier, respondent No.2 approached the Police on two occasions for minor disputes. Respondent No.2 also requested the superior officer of petitioner No.1 to prevent his transfer, fearing he might marry another lady. Respondent No.2 has initiated proceedings under the Protection of Women from Domestic Violence Act, and there is a Domestic Violence report enclosed, indicating she is ready to join her husband. He contends that the complaint lacks a specific date for the alleged incident and was filed with a delay of over a year. Respondent No.2, an educated lady working as a warden, has filed the complaint on grounds that petitioner No.1 refused to take her back and married another lady. He argues that the complaint is an abuse of process and seeks to quash the proceedings.
6. Counsel for respondent No.2 contends that specific allegations exist against each petitioner for mentally and physically harassing respondent No.2. Earlier, respondent No.2 approached the police twice. The complaint and statements from her relatives indicate a prima facie case against the petitioners for the alleged offences. He argues that there are no grounds for quashing the proceedings.

7. Learned HCGP contends that respondent No.2, a divorcee, agreed to marry petitioner No.1 at his insistence, but quarrels began shortly after marriage. The police are also investigating the alleged second marriage of petitioner No.1.
8. Learned counsel for respondent No.2 argues that the second marriage of petitioner No.1 amounts to cruelty.
9. Respondent No.2 was a divorcee, and both parties worked as wardens at District Prison, Belagavi. Their marriage was performed on 20.08.2021. The respondent No.2 stayed with petitioner Nos.1 to 4 initially and later with petitioner No.1 in Belagavi. Petitioner No.1 filed a divorce petition on 22.03.2022, dismissed as premature, and another petition on 17.09.2022, which is pending. Conciliation reports indicate petitioner No.1 is not willing to take respondent No.2 back, though she is ready to join him.
10. The respondent No.2 approached the police twice regarding minor disputes and requested that petitioner No.1 not be transferred. She also initiated proceedings under the Protection of Women from Domestic Violence Act. The Domestic Violence report indicates respondent No.2 is ready to join her husband, but alleges that petitioner Nos.2 to 5 harassed her.
11. The complaint lacks specific dates of the alleged incidents and indicates that harassment occurred before December 2021. The complaint was filed on grounds of petitioner No.1's refusal to reunite and his second marriage. The delay in filing the complaint suggests it may be an afterthought. The charge sheet material and documents indicate the filing of the complaint is an abuse of process.
12. Therefore, proceedings against the petitioners are quashed.

ORDER

Petition is allowed. Proceedings against the petitioners in C.C. No.718/2023 (Belagavi City Women Police Station at Crime No.03/2023) pending on the file of II JMFC Court, Belagavi are hereby quashed.

Sd/-

JUDGE

HMB CT

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF MARCH, 2024

PRESENT:

THE HON'BLE MRS. JUSTICE K.S. MUDAGAL

AND

THE HON'BLE MR. JUSTICE T.G. SHIVASHANKARE GOWDA

MFA NO. 255 OF 2023 (MC)

BETWEEN:

SRI. K. K. APPAINAH (MANJU)

S/O K A KUTTAPPA

AGED ABOUT 39 YEARS

R/AT THADACHIKAD ESTATE

AITHUR VILLAGE AND POST

VIRAJPET TALUK

KODAGU DISTRICT - 571 215

... APPELLANT

(By Sri. S.V. Suryavanshi, Advocate for Sri. Sachin B.S., Advocate)

AND:

SMT. TEENA C. N.

D/O NANJAPPA (GANESH)

W/O K K APPAIAH

TEENA COTTAGE

NANGALA VILLAGE AND POST

RENUKAMBA VIRAJPET TALUK

KODAGU DISTRICT - 571 215

... RESPONDENT

(Served and Unrepresented)

THIS MFA IS FILED UNDER SECTION 28(1) OF THE HINDU MARRIAGE ACT, CHALLENGING THE JUDGMENT AND DECREE DATED 09.09.2022 PASSED IN MC NO. 27/2015 ON THE FILE OF THE SENIOR CIVIL JUDGE, VIRAJPET, ALLOWING THE PETITION FILED UNDER SECTION 13(1)(IA) OF THE HINDU MARRIAGE ACT, FOR DISSOLUTION OF MARRIAGE WITH COST.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, K.S. MUDAGAL J., DELIVERED THE FOLLOWING:

JUDGMENT

1. Heard.

2. Challenging the award of permanent alimony of Rs.10,00,000/- to the respondent in M.C.No.27/2015 on the file of Senior Civil Judge, Virajpet, the petitioner has preferred this appeal.
3. The appellant was the petitioner and the respondent was the respondent in MC No.27/2015 before the Trial Court. For the purpose of convenience, the parties are referred to henceforth according to their ranks before the Trial Court.
4. The marriage of the petitioner and the respondent was solemnized on 05.02.2012. The marriage did not proceed smoothly. The respondent filed Cr.M.C.No.331/2015 before the Civil Judge and JMFC, Ponnampet, alleging that the petitioner and his family members subjected her to domestic violence. Accepting her allegations, the Civil Judge and JMFC, Ponnampet awarded monthly maintenance of Rs.15,000/- with escalation at 5% every year, along with compensation of Rs.2,00,000/- for misappropriation of jewelry and Rs.5,00,000/- as compensation for domestic violence.
5. The petitioner filed M.C.No.27/2015 before the Trial Court seeking a decree for dissolution of marriage on the grounds of cruelty. The respondent contested the petition, denying the allegations of cruelty and claiming that the petitioner was guilty of cruelty. The Trial Court allowed the petition for dissolution of marriage and granted Rs.10,00,000/- as permanent alimony to the respondent and litigation expenses of Rs.30,000/-. The Court held that upon payment of such permanent alimony and litigation expenses, the petitioner need not pay future maintenance as per the Cr.M.C.No.331/2015 order.
6. The respondent has not challenged the decree for dissolution of marriage or the quantum of permanent alimony. The petitioner/appellant challenges only the judgment and decree regarding the grant of permanent alimony. The respondent/wife, though served, remains unrepresented.
7. Learned counsel for the petitioner/husband argues that the petitioner owns only 3 acres 60 cents of land and his qualification is only PUC, whereas the wife is an MBA graduate and employed. Hence, the permanent alimony awarded is claimed to be excessive.
8. Records show that despite the respondent seeking permanent alimony and filing her assets and liabilities statement, the petitioner did not file his assets and liabilities statement or produce evidence regarding his qualification. In his cross-examination, he admitted that he was a Coffee Planter with a family-owned 23 acres of Coffee Plantation and deals in vehicles, receiving commissions. He has claimed that his property was sold, but no material was produced to substantiate this.
9. The petitioner admitted during cross-examination that he married the respondent because she matched his status. His contention that he is less qualified compared to the respondent was rightly rejected by the Trial Court. He had not challenged the maintenance awarded in the Protection of Women from Domestic Violence Act proceedings and deposited the compensation awarded in those proceedings.
10. Evidence shows the appellant did not submit his assets and liabilities statement, and an adverse inference regarding his paying capacity was drawn. The Trial Court's award of Rs.10,00,000/- as permanent alimony was based on a judicious appreciation of evidence. There are no grounds to interfere with this decision.

ORDER

The appeal is dismissed.

Sd/-
JUDGE

Sd/-
JUDGE

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF MARCH, 2024

BEFORE:

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 5821 OF 2018

BETWEEN:

1. **SRI. GOPAL D.H.**
S/O LATE DALI HANUMANNA,
AGED ABOUT 66 YEARS
2. **SMT. LAKSHMI**
W/O GOPAL D.H.,
AGED ABOUT 59 YEARS

ALL RESIDING AT:

26/2, CAR STREET,
DODDABALLAPURA TOWN,
BANGALORE RURAL DISTRICT - 561 203

(By Sri. Subash Reddy V., Advocate)

PETITIONERS

AND:

SMT. PADMASHREE

W/O D.G. MANJUNATH,
AGED ABOUT 31 YEARS,
PRESENT RESIDING AT:
NO.1050, CHANDRASHEKARAPURA,
DODDABALLAPURA TOWN,
BANGALORE DIST - 561 203

(By Sri. B.S. Murali, Advocate)

RESPONDENT

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE PETITION FILED BY THE RESPONDENT UNDER SECTIONS 12, 18, 19, 20, AND 22 OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 AND THE ENTIRE PROCEEDINGS ON THE FILE OF CRL.MISC.NO.92/2018, PENDING BEFORE THE PRINCIPAL CIVIL JUDGE AND JMFC DODDABALLAPURA.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioners seek the following reliefs:

(a) To quash the petition filed by the respondent and the entire proceedings in C.Misc. No. 92/2018, pending before the Principal Civil Judge & JMFC, Doddaballapura, and

(b) To award costs and pass other orders or directions as deemed fit by the Court to meet the ends of justice.

2. A memo dated 15.03.2024 has been filed and signed by the counsel for the petitioners, stating:

"The petitioners most respectfully submit this Hon'ble Court that in view of the settlement arrived between the petitioner and the respondent, and with the matter being disposed of by order dated 21.03.2023 in M.F.A.No.7355/2020 (M.C.), this criminal petition will no longer survive for consideration. There is no domestic relation between the petitioner and the respondent. Hence, it is prayed that this Hon'ble Court dismiss this criminal petition as having become infructuous in the interest of justice and equity."

3. Accepting the memo and the submission of the counsel for the petitioners, the petition is dismissed as settled out of Court.

Sd/-

JUDGE

GJM CT: SNN

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 14TH DAY OF MARCH, 2024

BEFORE:

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CIVIL PETITION NO. 100012 OF 2024

BETWEEN:

SMT. DEEPIKA W/O. ABHISHEK BAGRECHA

D/O. CHOPARNENMAL,
AGED ABOUT 36 YEARS,
NO.7, CHAMUNDI VIHAR LAYOUT,
BEHIND CHAMUNDI VIHAR STADIUM,
NAZARABAD - 570010.

(By Miss. P. Pooja, Advocate)

PETITIONER

AND:

SRI. ABHISHEK BAGRECHA

S/O. RAMESH KUNAL,
AGED ABOUT 35 YEARS,
NO.94, 2B, 2C, FORT MAIN ROAD,
NEAR JAIN TEMPLE,
TQ AND DIST: BALLARI - 583102.

RESPONDENT

(Notice to respondent served)

THIS CIVIL PETITION IS FILED UNDER SECTION 24 OF CPC, 1908, PRAYING TO CALL THE RECORDS IN M.C.NO.186/2023 ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT AT BALLARI AND TO TRANSFER THE PETITION IN M.C.NO.186/2023 TO THE PRINCIPAL FAMILY JUDGE AT MYSURU AND ETC.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. This petition is filed under Section 24 of CPC seeking to transfer MC No.186/2023 pending before the Principal Judge, Family Court, Ballari to the Principal Judge, Family Court, Mysuru.
2. Heard Miss P. Pooja, learned counsel for the petitioner. Though notice of this petition is served on the respondent, he remains absent and is placed ex-parte.

3. The petitioner's counsel submits that the marriage between the petitioner and respondent was solemnized on 6.12.2014. The respondent allegedly left the petitioner at her parents' house and has since neglected her. The couple has a male child born on 6.5.2022. The petitioner claims the respondent has subjected her to cruelty, forcing her to live with her parents in Mysuru. Given that the petitioner has an 18-month-old baby, traveling to attend proceedings at Ballari is challenging.
4. On reviewing the records, it is clear that the petitioner is residing with her parents in Mysuru and lacks the means to travel to Ballari. The petitioner is a homemaker with no independent source of income. The respondent has initiated proceedings under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights, while the petitioner has filed proceedings under the Protection of Women from Domestic Violence Act, 2005, seeking maintenance and other reliefs in Mysuru.
5. Considering the convenience of the parties and the pendency of related proceedings in Mysuru, it is appropriate to transfer MC No.186/2023 from Ballari to Mysuru.

ORDER

a) The Civil Petition is allowed.

b) MC No.186/2023 pending before the Principal Judge, Family Court, Ballari is withdrawn and transferred to the Principal Judge, Family Court, Mysuru for trial in accordance with the law.

Sd/-

JUDGE

JTR

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

DOMESTIC VIOLENCE

3. Definitions of domestic violence.

CHAPTER III

POWERS AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, ETC.

4. Information to Protection Officer and exclusion of liability of informant.
5. Duties of police officers, service providers and Magistrate.
6. Duties of shelter homes.
7. Duties of medical facilities.
8. Appointment of Protection Officers.
9. Duties and functions of Protection Officers.
10. Service providers.
11. Duties of Government.

CHAPTER IV

PROCEDURE FOR OBTAINING ORDERS OF RELIEFS

12. Application of Magistrate.
13. Service of notice.
14. Counselling.
15. Assistance of welfare expert.
16. Proceedings to be held *in camera*.
17. Right to reside in a shared household.
18. Protection orders.
19. Residence orders.
20. Monetary reliefs.
21. Custody orders.
22. Compensation orders.
23. Power to grant interim and ex parte orders.
24. Court to give copies of order free of cost.
25. Duration of orders.
26. Relief in other suits and legal proceedings.
27. Jurisdiction.
28. Procedure.

SECTIONS

29. Appeal.

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MISCELLANEOUS

- 30. Protection Officers and members of service providers to be public servants.
- 31. Penalty for breach of protection order by respondent.
- 32. Cognizance and proof.
- 33. Penalty for not discharging duty by Protection Officers.
- 34. Cognizance of offence committed by Protection Officer.
- 35. Protection of action taken in good faith.
- 36. Act not in derogation of any other law.
- 37. Power of Central Government to make rules.

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

ACT NO. 43 OF 2005

[13th September, 2005.]

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and formatters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.

(2) It extends to the whole of India ^{1***}.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(b) “child” means any person below the age of eighteen years and includes any adopted, step or foster child;

(c) “compensation order” means an order granted in terms of section 22;

(d) “custody order” means an order granted in terms of section 21;

(e) “domestic incident report” means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;

(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(g) “domestic violence” has the same meaning as assigned to it in section 3;

(h) “dowry” shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961);

(i) “Magistrate” means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973(2 of 1974) in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;

(j) “medical facility” means such facility as may be notified by the State Government to be a medical facility for the purposes of this Act;

(k) “monetary relief” means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;

(l) “notification” means a notification published in the Official Gazette and the expression “notified” shall be construed accordingly;

(m) “prescribed” means prescribed by rules made under this Act;

1. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

2. 26th October, 2006, *vide* notification No. S.O. 1776(E), dated by 17th October, 2006, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).

(n) “Protection Officer” means an officer appointed by the State Government under sub-section (1) of section 8;

(o) “protection order” means an order made in terms of section 18;

(p) “residence order” means an order granted in terms of sub-section (1) of section 19;

(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;

(r) “service provider” means an entity registered under sub-section (1) of section 10;

(s) “shared household” means 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 person has any right, title or interest in the shared household;

(t) “shelter home” means any shelter home as may be notified by the State Government to be as shelter home for the purposes of this Act.

CHAPTER II

DOMESTIC VIOLENCE

3. Definition of domestic violence.—For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.—For the purposes of this section,—

(i) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) “verbal and emotional abuse” includes—

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

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

(iv) “economic abuse” includes—

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited

to, house hold necessities for the aggrieved person and her children, if any, *stridhan*, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance;

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

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

Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.

CHAPTER III

POWERS AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, ETC.

4. Information to Protection Officer and exclusion of liability of informant.—(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

5. Duties of police officers, service providers and Magistrate.—A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person—

(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;

(b) of the availability of services of service providers;

(c) of the availability of services of the Protection Officers;

(d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);

(e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant:

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

6. Duties of shelter homes.—If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

7. Duties of medical facilities.—If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

8. Appointment of Protection Officers.—(1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed.

9. Duties and functions of Protection Officers.—(1) It shall be the duty of the Protection Officer—

(a) to assist the Magistrate in the discharge of his functions under this Act;

(b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;

(d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;

(e) to maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

(f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;

(g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;

(h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);

(i) to perform such other duties as may be prescribed.

(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

10. Service providers.—(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

(2) A service provider registered under sub-section (1) shall have the power to—

(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

11. Duties of Government.—The Central Government and every State Government, shall take all measures to ensure that—

(a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;

(b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;

(c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;

(d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

CHAPTER IV

PROCEDURE FOR OBTAINING ORDERS OF RELIEFS

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

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

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

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.

(5) The Magistrate shall Endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

13. Service of notice.—(1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.

(2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

14. Counselling.—(1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed.

(2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

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

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

17. Right to reside in a shared household.—(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

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

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;
- (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;
- (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her *stridhan* or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;
- (f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;
- (g) committing any other act as specified in the protection order.

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

- (a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;
- (b) directing the respondent to remove himself from the shared household;
- (c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;
- (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;
- (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or
- (f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

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

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her *stridhan* or any other property or valuable security to which she is entitled to.

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

(a) the loss of earnings;

(b) the medical expenses;

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

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

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the officer in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

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

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

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

23. Power to grant interim and *ex parte* orders.—(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

(2) If the Magistrate is satisfied that an application *prima facie* discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an *ex parte* order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

24. Court to give copies of order free of cost.—The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

25. Duration and alteration of orders.—(1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.

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

26. Relief in other suits and legal proceedings.—(1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

27. Jurisdiction.—(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which—

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.

28. Procedure.—(1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

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

CHAPTER V

MISCELLANEOUS

30. Protection Officers and members of service providers to be public servants.—The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

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

(2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.

(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions.

32. Cognizance and proof.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.

(2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.

33. Penalty for not discharging duty by Protection Officer.—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.

34. Cognizance of offence committed by Protection Officer.—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 authorised by it in this behalf.

35. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

36. Act not in derogation of any other law.—The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

37. Power of Central Government to make rules.—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the qualifications and experience which a Protection Officer shall possess under sub-section (2) of section 8;

(b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of section 8;

(c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9;

(d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9;

- (e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9;
- (f) the other duties to be performed by the Protection Officer under clause (i) of sub-section (1) of section 9;
- (g) the rules regulating registration of service providers under sub-section (1) of section 10;
- (h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section;
- (i) the means of serving notices under sub-section (1) of section 13;
- (j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13;
- (k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14;
- (l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23;
- (m) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.