

In order to prove himself successful in his tasks, the forensic Accountant should have curiosity, creativity, confidence, persistence and exercise professional judgment.

e. *Punishments*

The organization should design stringent punishments to deter the culprits and offenders from committing the crime again. A punishment is aimed to stop the offender from repeating the crime, deterring the offender and the public from doing the crime and also recoup the loss suffered by the organization. It should send signals to the people working in the organization about awarding serious and severe punishments to the offenders.

Conclusion

It is well accepted fact that the white

collar crimes are more dangerous to the organizations and some of the smaller ones may not be in a position to sustain the losses caused by such crimes. As such, they have to plan to curb them in the initial stages. In the process, the organizations need to take the helping hand of forensic Accountants and Auditors; organizations either appoint them or hire the services of the freelance forensic Accountants on a regular basis. With extended functions, experiences, expertise, they will be more helpful to the organizations in controlling and regulating the white collar crimes. They will be handier as they not only audit the accounts to trace the fraud and detect the criminals, but also help in various other functions such as investigation, preparation of preliminary reports, enquires and, support the lawyers during litigation.

GENDER JUSTICE – DOMESTIC VIOLENCE ACT – A CRITICAL STUDY

By

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Position of Women in General

The plight of women at the present day is none too satisfactory. The Constitution of India, the Grund norm of our country, has been in existence for a half century. In pursuance of the Grund norm of our nation. Several legislative measures had been undertaken for the protection of the welfare of the women. Alas! Despite all such measures the lot of women continues to be pathetic even at the present moment. Let us take for example the Dowry Prohibition Act, 1961. Under this Act, no one can take, give or demand dowry. In spite of stringent provisions not a single day burning or suicide of the bride for harassment from her husband or in-laws or other relatives. A few recent newspaper reports are cited below to highlight the seriousness of the problem of

atrocities being committed against women in society.

Bank employee D. Satish was booked under the protection of Women from Domestic Violence Act, 2005 for allegedly assaulting his wife for more dowry and allegedly kicked his baby daughter who later died on October 26, 2005, which is first case in A.P.

Andhra Pradesh tops the list of States and Union Territories (UTS) for the most number of crimes against women for the last two years followed by Uttar Pradesh (UP) and Madhya Pradesh (MP).

Unequal status of women being offensive of human dignity and volatile of human right, has emerged today as a fundamental crisis in human development the world over. The flight against unequal law and for equal

opportunities by the Western women in the late nineteenth century resulted in a series of international conventions. The first convention drawn up Hague (1902) referred to the marital rights in case of divorce and the right to exercise custody over minors. The Fifth International Conference held in Sanitiago in 1923, voiced their concern over the legal inequality of women and the Eighth Conference, held in Lima in 1938, declared that "women have the equal political treatment as men and recommended that Government urgently adapt appropriate legislation the political right to participate in elections was granted to women by various nations *viz.*, New Zealand, Australia, England, USA *etc.*

In spite of all such conventions, women are still a neglected lot. Today the vast majority of women are victims of exploitation of feudal and religious fundamentalists. Women are still being treated as a commodity and as a result more atrocities on women are on the rise due to greater bias, women are deprived of gender justice.

Violence against women has become a global problem. As according to U.N.'s report, *S.M. Jane Connors*, law lecturer and author of the report says, "it is a popular misconception that the home is a place of safety violence against women in the street does not occur, but the more likely place for it to happen is in the home. The person most likely to perpetrate the assaults is the husband. In almost all over the world in the recent past there has been persistent and frequent commission of crimes in different shape and size violating their basic right and outraging their dignity and modesty. India is no exception according to official information tabled in Lok Sabha, the reported rape cases in the country rose from 7,322 in 1986 to 11,117 in the year 1993.

In India equality on the basis of sex and individuality of women has been recognized by the Constitution. But neither, the Constitution nor the laws have been successful

in changing the status of women. Tradition, religion and law have conspired to make women subordinate to men.

Domestic Violence Act :

It is a new legislation backed by hefty penalties are prison sentences for men who abuse their wives.

The Domestic Violence Act 2005 aims to provide to protection to wives or female live-in-partners from violence at the hands of their husbands, male partners or relatives.

"Domestic Violence will include actual abuse or threat of abuse whether physical or sexual, verbal, emotional or economic.

"Harassment by way of unlawful dowry demands to the women or her relatives would also be covered under this definition. "The statement said adding if also covers sisters, widows and mothers of harassed wives the Act has come into effect recently.

There have been several enactments, which aim at protecting the life, safety and security of women and her dignity. Although it has been assumed that the woman is the weaker of the two sexes. Accordingly she has been the subject of several discriminating habits and customs since ages.

In India there existed long ago a horrible custom by which the widow was offering herself to be burnt along with her husband on his funeral pyre the Sati Prohibition has put an end to that practice.

Supreme Court has recently laid a judgment made law on sexual harassment of women at work places. Even Dowry Prohibition Act and Section 498 of the Cr.P.C. read with Section 498-A IPC aimed at punishing husband and his relatives to the offences connected with dowry.

The Supreme Court has lamented (In *Kundala Balasubramanyam v. State of A.P.*) (1993)

on the alarming increase in the cases relating to dowry death the following words.

“Of late there has been an alarming increase in cases relating to harassment, torture, abetted suicide and dowry deaths of young innocent brides. This growing cult of violence and exploitation of the young innocent brides, though keeps on sending shock waves to the civilized society whenever it happens, continuous unabated. There is a constant erosion of the basic human values of tolerance and the spirit of “Live and let live”. Lack of educational economic dependence of women have encouraged the greedy perpetrators of the crime.

Dowry killing is a crime of its own kind where elimination of daughter-in-law becomes immediate necessity if she or her parents are no more able to satiate the greed and avarice of her husband and their family members and make the boy available, once again in the money market. If such a practice is eliminated, the inhuman acts of dowry death may be distinguished automatically. The Supreme Court suggested that social reformists and legal jurists should evolve a machinery for debarring such a boy from remarriage irrespective of the member of family who committed the crime and in violation penalized the whole family including those who participate in it. Therefore social ostracisation is needed to curtail the increasing malady of bride burning. *Ashok Kumar v. State of Rajasthan*, 1991 (1) SCC 166.

Section 304-B punishes a husband or his relatives if his wife dies due to any burns, bodily injuries under abnormal circumstances within 7 years of her marriage and if it is shown that soon before her death she was subject as to cruelty or harassment by her husband or his relatives in connection with any demand for dowry.

From the far going analysis it is clear that protection for women against domestic violence is the desideratum, which is sought to be covered under the present Act.

Objects and reasons for the enactment :

1. Domestic Violence is undoubtedly a human right issue and serious deterrent to development the Vienna Accord of 1994 and the Beijing Declaration and the platform for action (1995) have acknowledged this. The United Nations Committee on this convention on elimination of all forms of discrimination against women. (CADAW) in its General Recommendation No.XII (1989) has recommended that State parties should act to protect women against violence of any kind especially that occurring within the family.

2. The phenomena of Domestic Violence is prevalent but has remained largely invisible in the public domain prevalent, where a woman is subjected to cruelty by her husband or his relatives, it is an offence under Section 498-A of the Indian Penal Code. The civil law does not however address this phenomena in its entirety.

3. It is, therefore, proposed to an act a law keeping in its view the rights guaranteed under Articles 14, 15 and 21 of the Constitution to provide for a remedy under the civil law which is intended to protect the women from being victims of Domestic Violence and to prevent the occurrence of Domestic Violence in the society.

4. The bill *inter alia* seeks to provide for the following :

- (i) It covers those women who are or have been in relationship with the abuser where both the parties have lived together in shared household and are related by consanguinity marriage or through a relationship in the nature of marriage or adoption. In addition relationships with family members living together as a joint family are also included even those women who are sisters, widows, mothers, single woman or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the bill

enables wives or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

- (ii) It defines the expression “Domestic Violence” to include actual abuse or threat or abuse that is 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.
- (iii) It provides the rights of the women to secure housing. It also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is asked by the Magistrate.
- (iv) It empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a work place or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from the domestic violence.
- (v) It provides for appointment of Protection Officers and registration of Non-Government Organizations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter, *etc.*

5. The Bill seeks to achieve the above objects.

Scope of the Act

The Act by itself does not punish the perpetrator of Domestic Violence against the woman aggrieved. But, if the case discloses any offences punishable under Penal Code or any other penal law, or under the Dowry Prohibition Act or under Section 498-A of the Cr.P.C., the Magistrate may frame appropriate charges against the respondent and try the case by himself or commit it to the Sessions Court as the case may be.

The Act as designed serves the purposes for which it is enacted *viz.* Protection of Women from Domestic Violence both explicit and dormant as widespread evil in several families. The victims may be wives, sisters, and mothers or any other female relative living in the shared household in domestic relationship. The respondent are males any may also be female relatives of the respondent when the complaining woman is the wife or a person living, in married relationship with the respondent. While woman only can complain, it is open to a male child to carry complaint under this Act provided he does so along with his mother.

The Act has created two novel agencies to help the implementation of its several provisions. The first one is, the post of a Protection Officer and the other is, an institution called Service Provider. They are both bound in duty to help the aggrieved woman right from the moment they learn of the occurrence of the domestic event. The functions of the Service Provider end with the filing of Domestic incident report with the Magistrate. The functions of the Protection Officer are widespread. He should not only continue to help the aggrieved woman in all possible manner and also carry out all the directions the Magistrate may give him from time to time. He is in addition, charged with the responsibility of securing that all facilities

and benefits the Act confers on her reach her in full measure. The Act thus having made him responsible for fulfilling what all the aggrieved woman can seek holds him also liable to be prosecuted if he commits a breach in complying with any specific instructions of the Magistrate.

The orders of the Magistrate are executed by the Magistrate himself and in the manner in which all such orders of the Magistrate are executed. If the orders are prohibitory orders, the respondent is directed not to interfere with the freedom of the aggrieved woman. If the order is for maintenance the same is executed by attachment of the movable properties of the respondent.

Implementation of the Act :

The Act is a Central enactment of which is entrusted to the State Government. It is the State Government, which appoints the Protection Officers, recognizes the Service Providers and authorizes the Medical Facility and Shelter-home to receive the aggrieved woman. The Magistrate and the Protection Officers are the active agents who enforce the provisions of this Act.

It is clear that the Magistrate who takes cognizance of the case is also invested with the responsibility of executing his own orders even without being moved for their execution, in the interests of the aggrieved woman in whose favour he issues them. The Protection Officer appointed under this Act apparently looks like a person to render voluntary public service without anybody approaching him with a complaint, he is made liable for prosecution if he commits any breach of his duties entrusted to him by the Magistrate.

Steps are being taken for effective implementation of the Act :

The State Government is planning to use women's self help-groups (SGHs) to implement the Prevention of Domestic Violence Act in villages.

Sources in the Rural Development Department said that this proposal had been placed before the Women's Development and Child Welfare Department, which is the main implementing agency for the Act.

There are about 80 lakhs members in women's self-help groups and they would be roped into help to implement the Act, to educate fellow women and also to rescue and rehabilitate victims of domestic violence.

The department will have to work out policy guidelines for this.

Critical evolution of the Act :

The provisions in Section 498-A of IPC and the various rulings by the Hon'ble Supreme Court of India are comprehensive enough to cover any atrocities and also to provide the necessary relief. However the one advantage under the Protection of Women from Domestic Violence Act, 2005 is that the aggrieved party can seek remedy wherever she resides. Whereas under Section 498-A of IPC relief can be sought only at the place where the offence is committed, unless the offence continues at the place of where she resides.

The other benefit women gets under Domestic Act is, she can seek relief against any person whether husband or not and against anyone who lived or living with her under the same roof. It need not being a husband. While under Section 498-A of IPC relief can be sought only against the husband.

Not only the New Act provides relief to a woman affected by matrimonial efforts, but it also provides remedy to any woman. For example even a mother-in-law or a sister-in-law if harassed by the daughter-in-law can seek relief under this Act.

The most important aspect of the Act is the relief is that it provides for the relief within 60 days from the date of 1st hearing.

All said that definitely the Protection of Women from Domestic Violence Act is boom for the women, but next it looks into regarding its feasibility. It should this Act from out congenial atmosphere in a matrimonial home.

Under the Act any offence committed against the women, we informed or complaint can be lodged by any person who has either seen or has knowledge about it without fear of being punished if such complaint or information is found to be incorrect.

Criticism of the Act :

1. The Act is not very clear as to whether a complaint should be given before a Police Officer or Protection Officer or Magistrate. Under the Act Section 4 enables any one to give information about the Domestic Violence to the concern Protection Officer. The words Police Officer or Magistrate are conspicuously missing.
2. It is also not very clear as to whether the application should be made to Protection Officer, Police Officer and Magistrate simultaneously or it will be sufficient if the complaint or information is lodged with any one of them. It is also not clear as to whether it is necessary to resent any application before the Magistrate even after giving complaint to the Police Officer. If however giving a complaint to the Police Officer is sufficient for putting the process in motion that would be a definite solice to the aggrieved party. But there is no clarity on this issue.
3. Most of the police stations including higher police officials are not aware of the existence of the Protection of Women in Domestic Violence Act 2005 even when they are reluctant to take action accordingly.
4. It may not be out of place in our evolution to state that the appointment

of Protection Officers has not been notified. It is worth mentioning that even though Police Officers are not aware of the existence of Protection Officers and also that the said complaint has to be forwarded to the Protection Officers.

5. Though the time fixed for providing the relief is fixed by the Act as 60 days from the date of 1st hearing, the first hearing itself is not seeing the light of the day because of reluctance of either Police Officer or the inaction of the Protection Officer.

Taking into consideration the above factors the author is constrained to suggest the following for the effective administration of the Act.

1. Complaint or information presented before a Police Officer or the Protection Officer or the Magistrate should set the process of prosecution rolling instead of driving the aggrieved party to run around to various places.
2. The appointment of Protection Officer area-wise should be notified conspicuously in Magistrate's Courts, Police Stations and also through the print media.
3. The executive personnel that the Police Officers at all levels and the Protection Officers should be trained and clearly instructed about the importance of the Act.
4. Necessary instructions should flow from the Magistrate's Courts as well as from the higher-ups in the Police Department regarding the importance of the execution of the Act.
5. Enough care and caution should be exercised by the Police Officers and also the Protection Officers to ensure that the provisions of the Act are not misused. Any laxity or undue exuberance exhibited by the executive would

render the matrimonial life a disaster and there is every possibility then the Court itself will be watered down.

The Protection of Women from Domestic Violence Act step in the right direction it cannot be gainsaid that women are at the

receiving end at the Domestic Level in the household matters. The Acts aims to alienate the flight and hardship. Such Women it is hoped that it provide the much needed protection to the unfortunate women who happened to fall under the clutches of unscrupulous relatives at the matrimonial house.

REASONS FOR CRUELTY BY WOMEN

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Criminology is a growing field in India. Research on female criminality has long been neglected. This subject-matter is of great importance and high social relevance. Crime in general is on the increase and in several instances women are the victims. Women are perpetrated towards crime as they cannot escape from the impact and influence of socio-economic conditions. Women are also human members of the same society. There is a significant differences in female psychology and attitudes as those of men, which creates different patterns of social behaviour and influence women as the reaction to their experiences and injustices caused to them.

In ancient times the great auther *Manu* and king *Ashoka* said that women should be kept under the care and supervision of men. But women should be treated in a respectable manner. They should be given a special and respectable position in society. But gradually their position is deteriorating due to various reasons.

The woman was excluded from succession to property is one of the root causes which gave the impression that Indian Women are backward, suppressed and treated almost as chattels.

There is an impression and it is distressing to note that a large number of crimes committed by females go undetected or unreported and the fact is that criminal

mentality in women is lesser than comparing to men. Generally offences committed by women do not usually involve physical strength and so are not easily detectable.

A general review of criminological theories is done with special stress or emphasis on female criminality. The factors which are co-related with female criminality like sex, age, marital status, religion *etc.*, are the factors of female criminal mentality. Women's mentality is naturally more sensitive, thoughtful and loving. In research by experts it was proved that women are smart than men. When their self respect is broken by some bad elements or damage occurs to their self respect, most of the women cannot be in a position to tolerate it and react in a cruel way. The status of a woman in previous history and during the time of Vedas and Manu where the women occupied a place of importance and the gradual degeneration in her status, which lead to the increase in female crimes. Various provisions are provided by the Constitution to safeguard their rights and for their enlftment.

While studying female crimes, Ahuja 1970 concluded that stressful family situation, marital mal-adjustment, conflict prone relationship with husband and other members of the family compel women to commit heinous crimes like murder.