

LAW AREA NAME : WOMAN
SECTION NAME : DOMESTIC VIOLENCE CIVIL REMEDIES
SUB SECTION NAME : DOMESTIC VIOLENCE

LAW IN BRIEF

Criminal Law remedies for domestic violence provided in the Indian Penal code are enforceable after the commission of the offence. The new Act on domestic violence namely, Protection from Domestic Violence Act, 2005 provides for civil law remedies in the form of preventive measures and interim relief's to check harassment of women through domestic violence.

LAW IN DETAIL

An aggrieved person under the Act means a woman who is the wife of the accused and also includes a woman who is the sexual partner of the male whether she is his legal wife or not. The daughter, mother, sister, child, widowed relative of the male respondent are also covered under the Act.

The testimony of the aggrieved person is enough for the court to conclude that an offence has been committed by the accused. The offence is cognizable and non-bailable.

The reliefs available to the aggrieved person are :-

- (a) She can stay in her husband's house and cannot be evicted by him.
- (b) Even if she has no legal claim or share in the property, the court can order that a part of the house be allotted to her.
- (c) The respondent cannot dispossess her or disturb her possession or enter her place of work.
- (d) He may be restrained from communicating with her whether orally, through telephone, written or any electronic means.
- (e) He may be asked to pay for her monthly maintenance and for any expenses and losses suffered by her due to domestic violence.
- (f) Compensation and damages may be imposed for mental torture & emotional distress.
- (g) Penalty up to one year imprisonment and / or fine up to Rs. 20,000/- may be imposed for an offence.

Protection officers are appointed in each district under the Act to guide and help the victims of domestic violence in the district.

PROCESS FOR SOLUTION

Complaint Under which Section ?

Section. 9 & 14 of the Protection of Women from Domestic Violence Act, 2005.

Whom to complain / where to complain?

1. The aggrieved person or any other person on her behalf may make an application to the concerned Magistrate under Section 9 seeking relief under Section 14

How to file the Case ?

1. The court has to start the proceedings & have the first hearing within 3 days of the complaint being filed.
2. Notice will be served on the respondent regarding the date of hearing fixed by the Magistrate
3. At any stage of the proceedings, the Magistrate may direct the parties to undergo mandatory counseling.
4. After hearing both the parties, the Magistrate makes the protection order giving necessary directions to the respondent.
5. During the proceeding the Magistrate may also issue an interim Protection order restraining the respondent from engaging in acts of Domestic Violence (or) Execute a bond for maintaining domestic peace .
6. The protection order shall be valid for a period upto 2 years.
7. Every case must be disposed of within 60 days of the first hearing.

What Next ?

1. Within 30 days from the date of receipt of the order, appeal to the court of session.
2. To the High Court against sessions court order
3. To the Supreme Court against High Court decree.

ALTERNATE REMEDIES

1. Before making an application to the Magistrate, any person may inform the protection officer in the district about the commission of acts of Domestic Violence.
2. The protection officer enquires in to the matter and may either
 - a. Ask the aggrieved person to apply to the Magistrate
 - b. Approach any voluntary association in the District for legal, Medical or financial and
 - c. Approach the legal services authority for legal aid.
 - d. Endeavour to amicably settle the issue.