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Domestic violence against women: A breach of constitutional rights

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Abstract

“Domestic violence” means an abusive, violent, coercive, forceful or threatening act inflicted by the member against the other member of family or household. It results into constitutional rights of women resulting breach of Article 14, 15 and 21 of Constitution. The provisions of ‘The Protection of Woman from the Domestic Violence, 2015 enacted by Parliament of India provides comprehensive protection to the women or aggrieved person. It requires implementation in proper manner for positive results

Keywords: domestic, violence, women

Introduction

The expression “domestic violence” means “an abusive, violent, coercive, forceful or threatening act or word inflicted by one member of a family or household against the another ^[1]. The word “domestic violence” is also called as “domestic abuse” or “family violence”. The domestic violence which is committed by a spouse or partner in an intimate relationship against the other spouse or partner, and can take place in heterosexual or same sex relationship or between former spouse or partners. In more boarder sense, it involves violence against children, parents or the elderly ^[2]. It may take place in a number of forms such as physical, verbal, emotional, economic, religious, reproductive and sexual abuse, which can range from subtle, coercive forms to marital rape and to violent physical abuse such as choking, beating, female genital mutilation and acid

Throwing that results into disfigurement or death

“Domestic violence” against a woman in family results into violation of constitutional rights as well. The provisions of Article 21 of Constitution provides a valuation rights of ‘life and liberty’ to every citizen. The violence against women results into breach of rights under Article 21 of Constitution. The ‘domestic violence’ results lalso into violation of Article 15 as it denies the rights of equality.

Protection of women from Domestic Violence Act (PWDVA) Act, 2005

The Protection of women from ‘Domestic Violence’ Act, 2005 was enacted by Parliament of India to protect women from domestic violence. The definition of “domestic violence” includes not only physical violence but also other form of violence such as emotional, verbal, sexual and economic abuse. It is a civil law meant primarily for protection of rights of women and not meant to be enforced criminally ^[3].

The Act primarily meant to provide protection to the wife or female in live-in-relation from demic violence at the hands of husband or male live-in partner or his relatives. The provisions of law also extends its protection to women living in household such as sisters, widows or mothers. Domestic violence under the Act includes actual abuse or the threat of abuse whether physical, sexual, verbal, emotional or economic. Such violence includes within its amidst dowry demands to the women or her relatives also.

An application under the Act regarding domestic violence can be presented to the Magistrate of first class or metropolitan Magistrate by the aggrieved person or Probation Officer or any other person on behalf of aggrieved person. The definition of “aggrieved person” any woman who is or has been in a domic relationship with the respondent and who alleges to have been

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subjected to domestic violence by them. (Sec. 2(a)} The word respondent includes any adult male who has been or is in a domestic relationship with the aggrieved woman, and against whom woman has sought a relief or any male or female relative of the husband or male partner of a married woman or a woman or a woman in a relationship in the nature of marriage. "Domestic relationship" is any relation persons have lived together in 'shared house' and these people are related by consanguinity (blood relations) related by marriage, through a relationship in the nature of marriage (which would include live-in-relation) through adoption and any family member living in a joint family^[4].

Under section 18, the Magistrate may pass orders for safety of the victim and under section 19 may restrict the residence of the respondent. Magistrate may provide monetary relief to the aggrieved person under section 20 of the Act and provide custody of children under section 21 of the Act.

Conclusion

The women in society has right to live with dignity, integrity and right of equality. Any form of domestic violence may result into violation of Constitutional right of women under Article 14, 15 and 21 of Constitution. The Act 2005 provides comprehensive protection to the women.

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