



EXPANSIVE INTERPRETATION OF AFFIDAVIT OF ASSETS AND LIABILITIES

(As enumerated by the Hon'ble Supreme Court in Rajneesh vs Neha AIR 2021 SC 569)

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ABSTRACT

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) was enacted to provide a robust legal framework to protect women from domestic violence. This paper critically examines the effectiveness of the Act, with a particular focus on Sections 18, 19, and 22, which deal with protection orders, residence orders, and monetary relief, respectively. It explores how these provisions address violence linked to dowry demands and the specific challenges faced by women during pregnancy. Through a detailed analysis of case laws, legal interpretations, and the practical implications of these sections, this paper aims to shed light on the Act's strengths and weaknesses in safeguarding women's rights and well-being.

CHAPTER: 01 INTRODUCTION

Domestic violence remains a pervasive issue in India, cutting across socio-economic, cultural, and religious barriers. Recognizing the need for comprehensive legislation, the Indian government enacted the Protection of Women from Domestic Violence Act (PWDVA) in 2005. The Act aims to provide immediate and effective relief to women facing domestic violence. This paper delves into the critical sections of the Act, specifically Sections 18, 19, and 22, to evaluate their role in protecting women from violence related to dowry demands and during pregnancy.

CHAPTER: 02 HISTORICAL CONTEXT

EVOLUTION OF DOMESTIC VIOLENCE LAWS IN INDIA

Before the enactment of the Protection of Women from Domestic Violence Act, 2005, domestic violence in India was addressed under various provisions of the Indian Penal Code (IPC), 1860, such as Section 498A, and also which criminalizes cruelty by husband or relatives. However, these provisions were often found inadequate in providing comprehensive and immediate relief to victims. The need for a specific civil law to address domestic violence led to the formulation of the Protection of Women from Domestic Violence Act, 2005.

CHAPTER: 03 KEY FEATURES OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

The Protection of Women from Domestic Violence Act, 2005, provides a broad definition of domestic violence, encompassing physical, emotional, sexual, and economic abuse. It introduces various forms of relief for victims, including protection orders,

residence orders, and monetary relief. The Act also designates Protection Officers to assist victims and ensure the enforcement of orders.

Broad Definition of Domestic Violence: The Act provides a broad definition of domestic violence, including physical, sexual, verbal, emotional, and economic abuse.

Coverage of Domestic Relationships: It covers women in a wide range of domestic relationships, including wives, partners living in a shared household, mothers, sisters, and daughters.

Right to Reside in a Shared Household: Women have the right to reside in the shared household, regardless of whether they have any title or rights in the property.

Protection Orders: The Act empowers courts to issue protection orders to prevent further acts of domestic violence, including prohibiting the abuser from contacting or approaching the victim.

Residence Orders: Courts can also issue residence orders, preventing the abuser from dispossessing the victim or directing the abuser to remove himself from the shared household.

Monetary Relief: The Act provides for monetary relief to the victim to meet expenses incurred as a result of domestic violence, including medical expenses, loss of earnings, and maintenance for the victim and her children.

Custody Orders: Courts can grant temporary custody of children to the victim to ensure their safety and well-being.

Compensation Orders: The Act allows courts to order compensation for any physical or mental injuries suffered by the victim.

Counseling and Shelter Homes: The Act mandates the provision of counseling and the availability of shelter homes for victims of domestic violence.

Appointment of Protection Officers: Protection Officers are appointed to assist the victims by facilitating access to the police, legal aid, medical facilities, and safe shelter.

Speedy Relief: The Act aims to provide speedy relief to victims, with the court required to conduct hearings and pass orders as quickly as possible.

Penalties for Non-Compliance: The Act prescribes penalties for the abuser's non-compliance with protection orders, including imprisonment and fines.

CHAPTER: 04 ANALYSIS OF RELEVANT SECTIONS WITH THEIR PRACTICAL IMPLICATIONS

A. ANALYSIS OF SECTION 18: PROTECTION ORDERS

Legal Provisions

Section 18 of the Protection of Women from Domestic Violence Act, 2005 empowers the Magistrate to issue protection orders to prevent the respondent from committing any act of domestic violence. These orders can include prohibiting the respondent from contacting the victim, entering the victim's place of employment, or engaging in any form of communication with the victim.

Practical Implications

Protection orders under Section 18 have proven to be crucial in preventing further violence. However, challenges remain in their enforcement, particularly in rural areas where the reach of the legal system is limited. Additionally, there are concerns about the misuse of protection orders in matrimonial disputes.

B. ANALYSIS OF SECTION 19: RESIDENCE ORDERS

Legal Provisions

Section 19 allows the Magistrate to pass residence orders to secure the victim's right to reside in the shared household. This can include directing the respondent to remove himself from the shared household, restraining the respondent from alienating the property, or providing alternate accommodation to the victim.

Practical Implications

Residence orders have significantly contributed to the protection of women's housing rights. However, enforcement remains a challenge, especially in cases where the respondent refuses to comply with the orders. Additionally, the lack of awareness among women about their rights under Section 19 often hampers its effective implementation.

C. ANALYSIS OF SECTION 22: MONETARY RELIEF AND COMPENSATION

Legal Provisions

Section 22 of the Protection of Women from Domestic Violence Act, 2005 empowers the Magistrate to grant monetary relief to the aggrieved woman to meet expenses incurred and losses suffered as a result of domestic violence. This includes loss of earnings, medical expenses, loss caused due to the destruction of property, and maintenance for the victim and her children.

Practical Implications

While Section 22 aims to provide financial stability to victims, the actual disbursement of compensation often faces delays due to procedural complexities. Furthermore, the amount awarded is sometimes insufficient to cover the victim's needs, especially in cases involving severe physical and mental trauma..

CHAPTER: 05 DOWRY-RELATED VIOLENCE AND PREGNANCY: A FOCUSED EXAMINATION

Impact of Dowry Demands on Domestic Violence

Dowry demands remain a significant trigger for domestic violence in India. Women are often subjected to severe physical and mental abuse for failing to meet dowry expectations. The Protection of Women from Domestic Violence Act, 2005, through its various provisions, attempts to address this issue by providing immediate relief and long-term solutions to victims.

Challenges Faced During Pregnancy

Pregnancy often exacerbates the vulnerability of women to domestic violence. The physical and emotional toll of pregnancy, coupled with abuse, can have devastating effects on the health and well-being of both the mother and the unborn child. Sections 18, 19, and 22 of the Protection of Women from Domestic Violence Act, 2005 are particularly relevant in providing protection and relief to pregnant women facing domestic violence.

CHAPTER: 06 EFFECTIVENESS OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005: A CRITICAL ASSESSMENT

STRENGTHS

Comprehensive Definition: The broad definition of domestic violence under the Protection of Women from Domestic Violence Act, 2005, encompasses various forms of abuse, ensuring that victims receive protection and relief for all types of violence.

Multiple Forms of Relief: The Act provides for a range of reliefs, including protection orders, residence orders, and monetary relief, addressing the diverse needs of victims.

Role of Protection Officers: The designation of Protection Officers ensures that victims have access to legal and administrative support, facilitating the enforcement of orders.

WEAKNESSES

Enforcement Challenges: The enforcement of orders under the protection of Women from Domestic Violence Act, 2005 remains a significant challenge, particularly in rural areas where legal infrastructure is inadequate.

Awareness and Accessibility: Lack of awareness among women about their rights under the Act and the accessibility of legal resources often hinder its effective implementation.

Misuse of Provisions: Concerns about the misuse of the Act's provisions in matrimonial disputes have been raised, although such instances are relatively rare.

CHAPTER: 06 CONCLUSION

The Protection of Women from Domestic Violence Act, 2005, represents a significant advancement in the legal framework for protecting women from domestic violence in India. Sections 18, 19, and 22 play a crucial role in providing immediate and comprehensive relief to victims, particularly in cases involving dowry-related violence and during pregnancy. However, challenges in enforcement, awareness, and accessibility need to be addressed to ensure the Act's effectiveness. Continuous efforts to strengthen legal and administrative mechanisms, along with raising awareness about women's rights, are essential for realizing the full potential of the PWDVA in safeguarding women's dignity and well-being.

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