

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 3

2022

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Domestic Violence against Women: Judicial Approach of Indian Courts

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ABSTRACT

Countries, including India, had adopted the Universal Declaration on Human Rights (1948) and the Convention on the Elimination of All Forms of Discrimination to protect women from any kind of violence. India had taken many human rights in their constitution from these documents like the right to equality, life, Freedom of expression, right to marry; the state cannot discriminate based on sex, etc. Violence is the major problem of the world which affects the human rights of a woman. It also impacts the mental health of women. Domestic violence is one of the significant types of violence. Domestic violence is also called “domestic abuse” or “intimate partner violence.” It means a pattern of behaviour in any relationship used to gain or maintain power and control over an intimate partner. It includes domestic abuse, economic abuse, sexual abuse, and physical abuse. Recently the National Commission for Women(NCW) said that domestic violence cases have been increasing in India. In most domestic violence cases, men are the perpetrator, and women are the victims. The Constitution of India and the legislatures have given various laws and protections to women; still, they face domestic violence. The Protection of Women from Domestic Violence Act, 2005 [“DV Act” or “DVA” “the Act” for short] was passed by the Indian Parliament in the year 2005 ie, 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 for matters connected therewith or incidental thereto. The DV Act came into force w.e.f. 26.10.2006. DV Act is a civil law remedy to the affected women in their matrimonial life. The higher judiciary in India ie, the Supreme Court and High Courts in India have made some significant interventions and interpretations in the operation of this law. The scope of this paper is to provide an overview of the judicial perspective of protection of women from domestic violence with important provisions and the courts interpretations.

Keywords: Domestic violence, higher judiciary, civil law remedy, human rights

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I. INTRODUCTION

Domestic Violence [“DV” for short] against women is wide spread phenomena across different economic, age groups, culture and society in any country. Women are most vulnerable and marginalized sections of the society. They are the soft targets for various unlawful and suppressive activities in different spheres of social life. DV is a significant problem for those whose life is affected by this issue, the social, health and criminal justice agencies that respond to it, and wider society must bear the costs². DV against women is understood as to situation supported and reinforced by gender norms and values that place women in a subordinate position in relation to men.³ DV is linked to women’s disadvantageous position in the society, especially in matrimonial homes. Therefore, DV is recognized as the significant barriers of the empowerment of women, with consequences of women’s health, their health-seeking behaviour and their adoption of small family norm.⁴

The object of the DV Act is to provide more effective protection to helpless and shelterless victims and to ensure the rights of women guaranteed under the Constitution. The title of the enactment is highly suggestive. DV Act has been enacted keeping the view Articles 14, 15 and 21 of the Indian Constitution. Article 15(2) of the Constitution of India says that the State can make special provisions for women and children. DV Act is not intended to break-up the relationship but in fact to boost-up, maintain and continue with the relationship. DV Act is like ‘Balm’ to a wound. It is a laudable piece of legislation.

II. TYPES OF DOMESTIC VIOLENCE

1. Physical violence

It means that the perpetrator uses force against the victim, which causes injury and hurt. The general definition of physical violence is that an act or conduct causing bodily pain, harm, or danger to life, limb, or health—for example, slapping, criminal force, and assault, etc. It also includes sleep deprivation, forcing wives to take drugs or alcohol, denial of medical care by their husbands. According to World Health Organisation, 38% of females are murdered by their intimate partners. During pregnancy, women are facing a lot of physical violence in India.

2. Emotional abuse

² Dr John Devaney, “Research Review: The Impact of Domestic Violence on Children” Irish Probation Journal, Vol. 12, October 2015, available at <https://scholar.google.co.in>; accessed on 17.08.2019.

³ Rakesh Choudhary, Manish Kaithwas and Gaurav Rana, “Domestic Violence Against Women’s In India: A Study” PANACEA International Research Journal; ISSN 2347-369X; Vol. 1, No.2, available at <https://papers.ssrn.com>; accessed on 17.08.2019

⁴ Harihar Sahoo and Mamas Ranjan Pradhan “Domestic Violence in India: An Emperical Analysis” available at <https://isical.ac.in>; accessed on 17.08.2019.

According to the Istanbul convention, psychological violence means the intentional conduct of seriously impairing a person's psychological integrity through coercion or threat. It includes threats, criticism, separation, public modification, steady personal devolution, controlling behaviour, harassment, verbal abuse, etc. Due to the emotional abuse, women face anxiety, fear, emotional distress, depression, suicidal thoughts, eating disorders, etc.

3. Sexual assault

According to the World Health Organization, it means a sexual act, an attempt to obtain a sexual act. It includes sexual/reproductive coercion, marital rape, sexual lewd gestures /remarks or non-physical events, etc.

4. Economic abuse

Economic abuse is also called financial abuse. It means one partner has control over the other partner's access to economic resources. During the covid 19 lockdown in India in 2020, women faced economic abuse because they lost their jobs and increased their dependency on the perpetrator's income. It includes exploiting the resources of victims (valuable things, money, etc.), forcing or pressurizing the family members of the victims to sell the properties, preventing the victims from obtaining education, etc.

III. DV ACT - CIVIL AND CRIMINAL: IN BRIEF

DV Act consists of totally 37 sections with five chapters. First chapter is preliminary of Ss.1 and 2. Second chapter with S.3 defines the words 'domestic violence'. Third chapter deals with the power and duties of Protection Officers, Service Providers etc. through Ss.4 to 11. Fourth chapter is important one, which deals the procedure for obtaining orders of reliefs viz. Ss.12 to 29. Last and fifth chapter is a miscellaneous from Ss.30 to 37. To carry out the provisions of the DV Act, in exercise of powers conferred by S.37, the Central Government has passed the Protection of Women from Domestic Violence Rules, 2006⁵. There are 17 Rules to aid and implement the DV Act. Any order passed u/s 12 is civil in nature, but power is vested with the Magistrate. The Act has been enacted to provide a remedy in civil law for the protection of women who are victims of DV and to prevent the occurrence of DV in the society u/s 18 to 23. The commendable provisions in the DV Act is S.18, which deals with protection orders in tune with the object of the Act. There are two provisions of Ss.31 and 33 which prescribe penalty for breach of protection order by respondent and for not discharging duty by Protection Officer respectively. It is implied that if the other order passed u/s 19 to 23 are not complied it would

⁵ Vide G.S.R. 644(E), dated 17.10.2006 and published in the Gazette of India, Ext., Pt. II, S.3(i), dated 17.10.2006

not attract as penalty. The important provisions in the DV Act are Ss.3, 12, 18 to 23, 29 and 31. S.3 deals with definition of DV. Next, S.12 deals with application to Magistrate for the reliefs under various provisions of Ss.18 to 23⁶. Section 29 deals with appeal procedure before the Sessions Court.

Procedures to Approach the Court

Nature of proceedings under the DV Act are predominately of civil nature and it is only when there is breach of protection orders by the respondent and failure or refusal to discharge duty without any sufficient cause by Protection Officer, proceedings assume character of criminality.⁷ In *Suo Motu v. Ushaben Kishorbhai Mistry*,⁸ a reference was made by a Single Judge to a Division Bench. The reference was answered by the Division Bench of the Gujarat High Court as follows:-

- The provisions of the DV Act provides for remedial measures for civil rights of women but the machinery provided is through criminal court.
- Initiation of proceedings u/s 12 or 18 or 19 or 20 or 21 or 22 or 23 or 31 of DV Act would begin only when the Magistrate has passed any judicial order including of issuance of notice for hearing.
- Any person affected by any proceedings under the Act, prior to initiation of proceedings u/s 12 of the Act, may prefer special criminal application u/Art 226, if as per him, the proceedings are beyond the scope and ambit of the Act or without any authority in law. But the court entertaining the petition u/Art 226 may decline entertainment of the petition by way of self-imposed restriction in exercise of the judicial powers or may decline entertainment of the petition in exercise of its sound judicial discretion.
- Once proceedings are initiated u/s 12 / 18 / 19 / 20 / 21 / 22 / 23 / 31 either independently or jointly on account of any judicial order passed by the learned Magistrate including issuance of notice, such proceedings shall be governed by the CrPC coupled with the power of the court u/s 28(2) of DV Act to lay down its own procedure for disposal of an application u/s 12 or u/s 23(2) of the Act.
- Once the applicability of the CrPC has started on account of any judicial order passed by the Magistrate including issuance of notice either u/s 12 / 18 / 19 / 20 / 21 / 22 / 23 / 31 of the Act independently or jointly, remedial measures to the aggrieved person as

⁶ S.18 – Protection Orders; S.19 – Residence Orders; S.20 – Monetary Orders; S.21 – Custody Orders; S.22 – Compensation Orders; S.23 – Power to grant interim and ex-parte orders

⁷ *Nandkishor Pralhad Vyavahare v. Sau. Mangala*, Bombay High Court Judgment dated 03.05.2018 by B.P.DHARMADHIKARI, J.

⁸ Gujarat High Court Judgment dated 27.11.2015 by JAYANT PATEL & N.V. ANJARIA, JJ

provided under the Code can be said as available. But the higher forum under the Code may be the Court of Session or High Court, may decline entertainment of such proceedings considering the facts and circumstances of the case and as per the settled principles of law and in accordance with law.

Duty of the Courts

The Apex Court in *Krishna Bhattacharjee*,⁹ case elucidated the duty of the courts while deciding applications under the DV Act stated that:

- It is the duty of the court to scrutinize the facts from all angles whether a plea advanced by the respondent to nullify the grievance of the aggrieved person is really legally sound and correct.
- The principle “*justice to the cause is equivalent to the salt of ocean*” should be kept in mind. The Court of Law is bound to uphold the truth which sparkles when justice is done.
- Before throwing out an application at the threshold, it is obligatory to see that the person aggrieved under such a legislation is not faced with a situation of non-adjudication, for DV Act as it is a beneficial as well as assertively affirmative enactment for the realization of the constitutional rights of women and to ensure that

they do not become victims of any kind of DV.

IV. RECENT JUDGMENTS OF THE SUPREME COURT OF INDIA PERTAINING TO DOMESTIC VIOLENCE ACT, 2005

SC on Domestic Violence: Aggrieved wife may also file a complaint against a relative of the husband or the male partner, as the case may be [Date - 05-06-2019]

A division bench of Supreme Court of India comprising of Justice Dr Dhananjaya Y. Chandrachud and Justice Hemant Gupta have passed the judgement in the case titled as **Ajay Kumar v. Lata alias Sharuti** dated on April 8, 2019 reported in **(2019) 15 SCC 352** and held that in accordance with the proviso to the section 2(q) of the Protection of Women from Domestic Violence Act, 2005, it indicates that both, an aggrieved wife or a female living in a relationship in the nature of marriage may also file a complaint against a relative of the husband or the male partner, as the case may be.

⁹ *Krishna Bhattacharjee. Sarathi Chodbury & Anr* (2016) 2 SCC 705 : [\(2015\) 4 MLJ \(Cri\) 623](#) (SC), dated 20.11.2015 by DIPAK MISRA and PRAFULLA C. PANT, JJ

Supreme Court: Answering important question pertaining to the interpretation and working of the Protection of Women from Domestic Violence Act, 2005 (DV Act) in relation to right of residence in the shared household, the 3-judge bench of Ashok Bhushan, R. Subhash Reddy and MR Shah, JJ in the case of **Satish Chander Ahuja v. Sneha Ahuja, reported in 2020 SCC OnLine SC 841, decided on 15.10.2020**

has held that

“The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household.”

In the judgment running into over 150 pages, the Court elaborately discussed and interpreted the provisions and scheme of DV Act. Overruling the law laid down in **SR Batra v. Taruna Batra, (2007) 3 SCC 169**, the Court held that respondent in a proceeding under Domestic Violence Act can be any relative of the husband and in event, the shared household belongs to any relative of the husband with whom in a domestic relationship the woman has lived, the conditions mentioned in Section 2(s) are satisfied and the said house will become a shared household.

In **SR Batra v. Taruna Batra, (2007) 3 SCC 169**, a two judge-bench had held that where it was held that the wife is entitled only to claim a right under Section 17(1) to residence in a shared household and a shared household would only mean the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member.

(A) Key Takeaways From The Judgment

What Is A Shared Household?

“Means and includes”

The definition of shared household in Section 2(s) of the DV Act is an exhaustive definition. The first part of definition begins with expression “means” which is undoubtedly an exhaustive definition and second part of definition, which begins with word “includes” is explanatory of what was meant by the definition.

The use of both the expressions “means and includes” in Section 2(s) of Act, 2005, thus, clearly indicate the legislative intent that the definition is exhaustive and shall cover only those which fall within the purview of definition and no other.

Conditions to be fulfilled for a shared household

(i) person aggrieved lives or at any stage has lived in a domestic relationship.

(ii) (a) includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent and 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

(b) 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.

“At any stage has lived”

The use of the expression “at any stage has lived” immediately after words “person aggrieved lives” has been used to protect the women from denying the benefit of right to live in a shared household on the ground that on the date when application is filed, she was excluded from possession of the house or temporarily absent.

The shared household is contemplated to be the household, which is a dwelling place of aggrieved person in present time.

“... shared household referred to in Section 2(s) is the shared household of aggrieved person where she was living at the time when application was filed or in the recent past had been excluded from the use or she is temporarily absent. .”

Further, Section 2(s) read with Sections 17 and 19 of Act, 2005 grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not.

Hence, the words “lives or at any stage has lived in a domestic relationship” have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household. The intention of the parties and the nature of living including the nature of household have to be looked into to find out as to whether the parties intended to treat the premises as shared household or not.

(B) Is Right To Residence Under Section 19 An Indefeasible Right?

The right to residence under Section 19 is not an indefeasible right of residence in shared household especially when the daughter-in-law is pitted against aged father-in-law and mother-in-law. The senior citizens in the evening of their life are also entitled to live peacefully not haunted by marital discord between their son and daughter-in-law.

“While granting relief both in application under Section 12 of Act, 2005 or in any civil proceedings, the Court has to balance the rights of both the parties.”

(B) Who Can Be A Respondent?

There are two conditions for a person to be treated to be respondent within the meaning of Section 2(q), i.e.,

- in a domestic relationship with the aggrieved person, and
- against whom the aggrieved person has sought any relief under Act, 2005.

For the purposes of determination of right of defendant under Sections 17 and 19 read with Section 26 in the suit in question the plaintiff can be treated as “respondent”, but for the grant of any relief to the defendant or for successful resisting the suit of the plaintiff necessary conditions for grant of relief as prescribed under the Act, 2005 has to be pleaded and proved by the defendant, only then the relief can be granted by the Civil Court to the defendant. Hence, **“To treat a person as the “respondent” for purposes of Section 2(q) it has to be proved that person arrayed as respondent has committed an act of domestic violence on the aggrieved person.”**

NOTE: The Court in **Hiral P. Harsora v. Kusum Narottamdas Harsora, (2016) 10 SCC 165**, where the Court has struck down the expression “adult male” from the expression “any adult male person” and held that restricting the meaning of respondent in Section 2(q) to only “adult male person” is not based on any intelligible differentia having rational nexus with object sought to be achieved. *Hence, it is now permissible under definition of Section 2(q) to include females also.*

(C) Is There Any Exception To The Right To Reside In Shared Household?

The expression “save in accordance with the procedure established by law”, in Section 17(2) of the Act, 2005 contemplates the proceedings in court of competent jurisdiction. Thus, the provision itself contemplates adopting of any procedure established by law by the respondent for eviction or exclusion of the aggrieved person from the shared household.

“In appropriate case, the competent court can decide the claim in a properly instituted suit by the owner as to whether the women need to be excluded or evicted from the shared household.”

For example, when the aggrieved person is provided same level of alternate accommodation or payment of rent as contemplated by Section 19 sub-section (f) itself.

Further, the embargo under Section 17(2) of Act, 2005 of not to be evicted or excluded save in accordance with the procedure established by law operates only against the “respondent”, i.e., one who is respondent within the meaning of Section 2(q) of Act, 2005.

Can An Order Under Section 19(1)(B) Be Passed Against A Woman?

Section 19 (1)(b) of DV Act provides that 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 directing the respondent to remove himself from the shared household.

The Court held that while passing the order of residence under Section 19, more particularly under sub-section 19(1)(b) as per the proviso to Section 19(1), no order under clause(b) shall be passed against any person who is a woman.

Are Proceedings Under The Dv Act And Proceedings Before A Civil Court, Family Court Or A Criminal Court, As Mentioned In Section 26 Of The Dv Act Independent Proceedings?

The proceedings under the D.V. Act and proceedings before a civil court, family court or a criminal court, as mentioned in Section 26 of the D.V. Act are independent proceedings, like the proceedings under Section 125 of the Cr. P.C. for maintenance before the Magistrate and/or family court and the proceedings for maintenance before a civil court/family court for the reliefs under the Hindu Adoption and Maintenance Act. However, the findings/orders passed by the one forum has to be considered by another forum.

Conclusion

- The pendency of proceedings under Act, 2005 or any order interim or final passed under D.V. Act under Section 19 regarding right of residence is not an embargo for initiating or continuing any civil proceedings, which relate to the subject matter of order interim or final passed in proceedings under D.V. Act, 2005.
- The judgment or order of criminal court granting an interim or final relief under Section 19 of D.V. Act, 2005 are relevant within the meaning of Section 43 of the Evidence Act and can be referred to and looked into by the civil court.
- A civil court is to determine the issues in civil proceedings on the basis of evidence, which has been led by the parties before the civil court.

[Satish Chander Ahuja v. Sneha Ahuja, 2020 SCC OnLine SC 841, decided on 15.10.2020

3) A reference to the judgment in *Neelam Gupta v. Mahipal Sharan Gupta* reported in (2020) 11 SCC 232 goes to show that in the matrimonial matters, the Supreme Court has held that women would be entitled to a shared residence in lieu thereof husband should provide her with a suitably reasonable accommodation. The protection order was granted but disposed of way back on 17-6-2008 by Mahila Court. The Supreme Court disposed of the appeal with certain directions as the matter was mediated and the parties have decided to part away by filing a petition under Section 13-B of the Hindu Marriage Act. This shows that mediation is an alternative remedy applicable to such litigation also.

4) In *Shyamlal Devda v. Parimala* reported in (2020)3 SCC 14, the Supreme Court has once again reiterated that provisions of Section 482 of CrPC can be invoked for quashing the complaints under the Domestic Violence Act. The person aggrieved has been explained and the maintainability of the complaint makes it clear that domestic violence complaint can be lodged or filed in the Court where the person aggrieved permanently or temporarily resides or carries out his business or is employed. Objections, so as to challenge the jurisdiction of the Metropolitan Court of Bangalore, were turned down against the husband and parents-in-law.

5) **Lalita Toppo vs The State of Jharkhand and Anr reported in (2019) 13 SCC 796**

The Supreme Court observed that a live-in partner can seek maintenance under the provisions of the Protection of Women from Domestic Violence Act, 2005.

A three-judge bench comprising the then CJI Ranjan Gogoi, Justice Uday Umesh Lalit and Justice KM Joseph was considering the questions referred to it in Lalita Toppo vs. State of Jharkhand.

The Reference

Before the apex court, an order of Jharkhand High Court, which held that Section 125 CrPC does not provide for the grant of maintenance to a woman who is not legally married to the person to whom such maintenance is claimed, was assailed. In this case, it was admitted that it was a live-in relationship.

A two-judge bench, comprising Justice TS Thakur and Justice Kurian Joseph, referred the following questions to a larger bench.

-> Whether the living together of a man and woman as husband and wife for a considerable period of time would raise the presumption of a valid marriage between them and whether such a presumption would entitle the woman to maintenance under Section 125 CrPC?

-> Whether strict proof of marriage is essential for a claim of maintenance under Section 125 CrPC having regard to the provisions of the Domestic Violence Act, 2005?

-> Whether a marriage performed according to the customary rites and ceremonies without strictly fulfilling the requisites of Section 7(1) of the Hindu Marriage Act, 1955, or any other personal law would entitle the woman to maintenance under Section 125 CrPC?

Referring to provisions of Domestic violence Act, the bench observed that the petitioner, in this case, would have an efficacious remedy to seek maintenance under the Act even assuming that she is not the legally wedded wife and, therefore, not entitled to maintenance under Section 125 of the Code of Criminal Procedure, 1973. It also said that economic abuse also constitutes domestic violence as per the provisions of the Act.

In fact, under the provisions of the DVC Act, 2005 the victim i.e. estranged wife or live-in-partner would be entitled to more relief than what is contemplated under Section 125 of the Code of Criminal Procedure, 1973, namely, to a shared household also, the court said.

Declining to answer the questions referred to it, the bench said: “The questions referred to us by the Referral Order were formulated on the basis of the decisions of this court rendered in *Yamunabai Anantrao Adhav vs. Anantrao Shivram Adhav and another* and *Savitaben Somabhai Bhatiya vs. State of Gujarat and others* which were rendered prior to the coming into force of the DVC Act, 2005. In view of what has been stated herein before, it is, therefore, our considered view that the questions referred would not require any answer.”

The bench disposed of the appeal directing the appellant to approach the appropriate forum under the provisions of the Domestic Violence Act.

6) In the landmark case of **Rupali Devi vs State of Uttar Pradesh reported in (2019) 5 SCC 384** the Supreme Court has said explicitly that women can file criminal charges related to cruelty from the location where they have sought refuge after leaving or being pushed out of their matrimonial home. The Supreme Court ruled that Section 498A of the Indian Penal Code (IPC) covers both the wife’s mental and physical health. Even if a wife leaves her matrimonial home and returns to her parental home, the acts performed by the husband in the matrimonial home that constitute cruelty within the meaning of Section 498A can have negative consequences for her mental health in the parental home

7) **In the case of Sangita Saha vs. Abhijit Saha And Others reported in (2019) 18 SCC 81, the Apex Court has held that petitioner is entitled to relief under the DV Act only in case she establishes domestic violence. in absence of the proof of the**

ingredients of domestic violence, the wife is not entitled to relief provided under the DV Act

8) Maintenance and Welfare of Parents and Senior Citizens Act has no overriding effect over the right of residence of a woman in a shared household within the meaning of the Protection of Women from Domestic Violence Act was decided by the Supreme Court in the case of **S Vanitha vs. Deputy Commissioner, Bengaluru Urban District [Civil Appeal No. 3822 of 2020]** reported in **2020 SCC Online SC 1023** presided over by *Hon'ble Justice DY Chandrachud, Justice Indu Malhotra and Justice Indira Banerjee*

In this case, a senior citizen couple had filed an application under the provisions of the Senior Citizens Act seeking eviction of their daughter in law and grand-daughter from a residential house. Their application was allowed by the Assistant Commissioner and Karnataka High Court had given the orders to the appellant to evict the said house. Appellant filed a writ appeal in SC stating that she can't be evicted from the shared household because of the protection given to her u/s 17 of the Protection of Women from Domestic Violence Act 2005. She also argued that the old couple has not right to order her eviction under Senior Citizens Act, 2007, referring to the judgment of **Satish Chandra Ahuja vs. Sneha Ahuja**.

SC considered both the above mentioned legislations and noted that according to Senior Citizens Act, Senior citizens may have the authority to order an eviction but only if it is necessary to ensure the maintenance of the senior citizens or the parents. The court said *"In the event of a conflict between special acts, the dominant purpose of both statutes would have to be analyzed to ascertain which one should prevail over the other"*.

SC contended that the law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their children or relatives and on the other hand, the purpose of the PWDV Act 2005 can't be ignored by a sleight of statutory interpretation.

It was decided that both the statutes should be harmoniously construed. Therefore, the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act 2007.

Hence, SC observed that since both the legislations are important in the case, neither of them can be ignored and it would be appropriate for the Tribunal constituted under the Senior Citizens Act 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV Act 2005 and Senior Citizens Act 2007.

Hence, the decision was taken that Section 3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride and nullify other protections in law, particularly that of a woman's right to a "shared household" under Section 17 of the PWDV Act 2005

9) Shalu Ojha vs Prashant Ojha reported in (2018)8 SCC 452

Amount of interim maintenance to be decided after evidence is led on same.

Protection of Women from Domestic Violence Act, 2005 - Section 12 - Amount of Interim Maintenance depends on income of husband. Final view there about can be taken only after evidence is led by both the parties and the veracity of their respective stands is tested with their Cross Examination, in the light of material which both parties want to produce.

V. CONCLUSION

This Domestic Violence Act ,2005 is a two tier mechanism to save the marital relationship by giving a chance to the respondent to understand the need of the aggrieved person before aggravating the issue through the police and criminal prosecution. The court should keep the scales of justice balanced by considering the marital relationship or shared household or DV.

S.31 of DVC Act gives the power to execute only the protection order. If the protection order is complied pending criminal case the accused may be discharged on application from the aggrieved person. For other reliefs, one has to go to the civil court for execution of the order under CPC. Now, the judiciary recognized live-in-relationship partner's right to invoke the DV Act for any relief. It is highly a welcome move. In order to bring an action and to get a relief under the Act the aggrieved person has to show that she is in domestic relationship with the respondent or has been in a domestic relationship with him. Despite efforts made by various stakeholders of society and NGOs dealing with women's rights to curb menace of DV there is a rise in DV. It is, therefore, necessary that every member of the society and other organizations are duty bound to ensure that every woman lives a voice full or joyful life than violence faced life.
