

The Domestic Violence on Women (Prevention) Bill 1994. Lawyers Collective. 14(2) February 1999.p.29-30.

The Domestic Violence to Women (Prevention) Bill, 1994

The Committee of Experts constituted by the National Commission for Women recommended a Draft Bill to provide legal remedies to victims of domestic violence. The Draft is published for discussion.

The Domestic Violence to Women (Prevention) Bill, 1994.

A Bill

To provide for the prevention of domestic violence to women and for matters connected with or incidental thereto.

Be it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:

Short title, extent and commencement.

This Act may be called the Domestic Violence to Women (Prevention) Act, 1994. It extends to the whole of India.

Definitions

In this Act, unless the context otherwise requires.

a "Court" means, in any are of which there is a Family Court established under the provisions of the Family Courts Act. In the Court, and in any other area, the principle civil court of original jurisdiction and includes any civil court or a Mahila Panchayat consisting of three women members of a Gram Panchayat which the State Government may, by notification, specify as the court component to deal with all or any of the matters specified in this Act.

b "domestic violence" means any of the following acts committed on a woman her husband or any of his or her relatives, namely,

(i) any willful conduct which –

(a) is of such a nature as is likely to drive the woman out of the house or commit suicide or injure herself; or

(b) causes injury or danger to the life, limb or health (whether mental or physical) of the woman; or

(ii) harassment which causes distress to a woman; or.

(iii) Any act which compels the woman to have sexual intercourse against her will with the husband or any of his relatives or with any other person; or

(iv) any act which is unbecoming of the dignity of the woman; or

(v) any other act of omission or commission which is likely to cause mental torture or mental agony to the woman;

(vi) "notification" means a notification published in the Official Gazette;

(vii) "Prescribed" means prescribed by rules made under this;

(viii) "Protection Officer" means an officer appointed by the State Government in relation to or for the purposes of this Act and includes any institution or organisations designated by the Government to perform the functions of a Protection Officer under this Act, in relation to an area;

f "Protection Order" means an order made under this Act for the protection of a woman subject to domestic violence and for such other provisions like separate stay, maintenance and the prevention of further domestic violence;

h "relative" includes any person related by blood, marriage or adoption.

3 Act not in derogation of any other law;

The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force, present a petition to the court for the passing of a Protection Order.

1 A petition presented under sub-section(1) shall among other things, contain the following particulars namely;

a the name and particulars of the woman subject to domestic violence or if the petition is presented by any other person, the particulars also of such other person;

b the name and address of the husband or the relative who has committed domestic violence;

c the nature of domestic violence;

d all other particulars which would be necessary for the issue of a Protection Order.

3 On receipt of a petition under sub-section(1) and on consideration of the statements made is satisfied that a Protection Order may properly be made forthwith, it may make such order ex parte, and shall fix a date for further consideration of the petition.

4 If, on consideration of the petition under sub-section(3), the Court is not so satisfied, it shall fix a date for further consideration of the petition without making any Protection Order.

5 The notice of the date fixed under sub-section (3) or sub-section(4), which shall be more than seven days from the date of issue of such notice, shall be given to petitioner, or if the petitioner is not the woman subject to violence, to the woman and the Protection Officer, her husband or the relative who has been committing domestic violence and to any other person to whom in the opinion of the court, such notice shall be given.

6 A notice given under sub-section(3) or sub-section(4) shall be served on all the persons to whom it is intended, sufficiently in advance of the date of hearing, and if not possible for any reason to serve such notice on any of the parties, it shall be pasted on the main

door of the premises in which the person to whom the notice is intended is known to have last resided or worked for pay, in accordance with the provisions specified in the Code of Civil Procedure, 1908 for such service, and any notice so served shall be deemed to have been validly served on the party to whom it is intended to be served and shall not be called in question in any court on the ground that the notice had not been validly served.

7 On the date fixed under sub-section(3) sub-section(4) or on such date or dates to which the bearing may be adjourned and after hearing the parties the court is satisfied that the woman is subjected to domestic violence, it may pass a Protection Order, and if it is not so satisfied, it shall dismiss the petition setting forth the reasons for such dismissal;

Provided that the court may extend any Protection Order issued under sub-section(3) with or without any alteration or modification or where no such order is issued, it may issue such order, pending disposal of the petition.

8 Every endeavour shall be made by the court hearing the petition under this Act to dispose it of expeditiously and in any case not later than three months from the date of presentation of the petition.

9 Where any of the parties to the petition desire, the court shall on an application made by such party, conduct the proceedings in Camera.

10 A copy of the Protection Order shall be forwarded to the Protection Officer and to all the parties concerned.

11 A Protection Order made under the Section shall be in force such period not exceeding four years as the court may fix.

12 Contents of Protection Order

The Protection Order shall contain, among other things, the following matters, namely;

a directing the husband or the relative to desist from committing any domestic violence;

b direction in all cases that the wife live separately from her husband, along with the children, if any, and the matrimonial home be given to the wife for her separate living;

Explanation. For the purpose of this clause, "matrimonial home" means the accommodation in which the husband and the wife lived together immediately before presentation of the petition, and if such accommodation happens to be rented or belonging to a joint family in which the husband is a member, that house or part of the house;

c where the woman subject to domestic violence is unmarried, widow divorcee or deserted, directing that separate accommodation to provided for her living along with the children, if any;

d directing that the expenses of such separate living be borne by the husband or relative;

e directing the husband or relative to pay such maintenance to the wife or any children staying with her;

f such other matters as may be considered necessary.

Explanation. For the removal od bouts, it is hereby declared that in the cases covered under clause (e), no maintenance will be provided under any other law for the time being in force.

6. Duties of the Protection Officer

1 It shall be the duty of the Protection Officer to make himself aware of all the domestic violence being committed in the area for which he is appointed and try to settle it peacefully and amicably between the parties.

2 With out prejudice to sub-section(1), it shall be within the competence of the Protection Officer, on an application presented to him by the woman subject to domestic violence or any other person or her behalf to arrive at any settlement, to file a petition to the court under this Act.

3 It shall also be the duty of the Protection Officer to see that the provisions of the Protection Order are complied with.

7. Protection Officer to be a public Servant.

The Protection Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

8. Power to call for information of document

The Protection Officer may, for the purpose of efficient performance of his duties specified in section 6, require any person or authority to furnish any information or document and it shall be the duty of such person or authority to furnish such information or document.

9. Consequential amendment to the Indian Penal Code and the Code of Criminal Procedure 1973.

1 In Chapter XX-A of the Indian Penal Code, 1860, after Section 498-A the following section shall be inserted, namely, 498-B Husband or relative of husband or of the woman subjecting her to domestic violence.

Whoever, being the husband or the relative of the husband or of the woman, subject such woman to domestic violence shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

10. Power to made rules

The State Government may be notification make rules to carry out the provisions of this Act.