Subject Name: Domestic Violence Act
Topic Name: Complaint under DV Act

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Who can file a complaint?

Section 2(a) of the Domestic Violence Act defines "aggrieved person" as any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

However, the scope of the Domestic Violence Act extends beyond traditional spousal relationships. It also encompasses women who have cohabited in a shared household with the abuser and are connected by blood, marriage, or through a relationship akin to marriage or adoption. This broad definition ensures that legal protection is extended to a wide range of women who may find themselves in situations of domestic violence.

Furthermore, the Act acknowledges the diverse circumstances in which women may face abuse. It recognizes the vulnerability of sisters, widows, mothers, single women, and those in various other relationships with the abuser.

Regardless of their specific relationship with the respondent, these women are entitled to seek legal recourse and protection under the Domestic Violence Act. Thus, the Act adopts an inclusive approach to address the multifaceted nature of domestic violence and ensure that all affected women have access to the necessary legal remedies and support.

In the case of **Naimullah Sheikh And Another vs. State Of U.P.**, the Allahabad High Court ruled that an unmarried daughter is entitled to maintenance under the Protection of Women from Domestic Violence Act, 2005, regardless of her religion or age, provided she falls within the definition of an aggrieved person under Section 2(a) of the Act.

The Court clarified that if an individual seeks only maintenance, they may seek recourse under other laws. However, if the person qualifies as "aggrieved" under the Act, they possess an independent right under Section 20 of the Protection of Women from Domestic Violence Act, 2005.

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Against whom can the complaint be filed

Under the Domestic Violence Act, a complaint can be filed against a person defined as the "respondent" under Section 2(q) of the Act. The respondent is described as any adult male person who is currently or has been in a domestic relationship with the aggrieved person and against whom the aggrieved person seeks relief under the Act.

Additionally, the Act allows an aggrieved wife or a woman in a relationship akin to marriage to file a complaint against a relative of the husband or male partner.

Despite the specific reference to adult male persons in the definition of the respondent, there has been debate regarding whether female relatives of the husband, such as mother-in-law or sister-in-law, can be included in a complaint under the Domestic Violence Act.

However, the Supreme Court settled this issue in the case of ***Sandhya Wankhede vs. Manoj Bhimrao Wankhede*** (2011) 3 SCC 650, affirming that the proviso to Section 2(q) does not exclude female relatives of the husband or male partner from being named as respondents in a complaint under the Act.

Furthermore, while the Domestic Violence Act provides significant protection to women, instances of misuse have been reported, wherein women file complaints against numerous relatives of the husband without evidence of abuse against them.

The Supreme Court addressed this concern in the case of ***Ashish Dixit vs. State of UP & Anr.*** (AIR 2013 SC 1077), emphasizing that a wife cannot indiscriminately implicate all members of the husband's family in a domestic violence case. In this instance, the Court ruled against the inclusion of unnamed parties based on vague allegations without substantial evidence.

These judicial pronouncements highlight the importance of ensuring that complaints under the Domestic Violence Act are filed responsibly and based on genuine instances of abuse, rather than being misused as a tool for harassment or vendetta.

Shared Household

The term "shared household" as defined in the Domestic Violence Act encompasses a dwelling where the aggrieved person resides or has previously resided in a domestic relationship, either alone or with the respondent.

This definition extends to households jointly owned or rented by both the aggrieved person and the respondent, or solely owned or rented by either of them. It also includes households where the aggrieved person or the respondent, individually or together, hold any legal or equitable rights, titles, or interests.

Additionally, the concept of a shared household encompasses properties belonging to the joint family of which the respondent is a member, regardless of whether the aggrieved person or the respondent holds any specific rights or interests in the property.

However, in the case of ***S.R. Batra & Another Vs. Smt. Taruna Batra*** (AIR 2007 SC 1118), the Supreme Court noted that the definition of "shared household" under Section 2(s) of the Domestic Violence Act was not articulated in the most precise manner and required sensible interpretation due to its potentially ambiguous wording.

The Court clarified that under Section 17(1) of the Act, a wife is entitled to claim a right to reside in a shared household. However, the term "shared household" specifically refers to a dwelling owned or rented by the husband, or a property belonging to the joint family of which the husband is a member. In the case under consideration, the property in question did not fall under any of these categories. It was the exclusive property of the husband's mother and did not meet the criteria to be considered a shared household under the Act.

In the case of **Prabha Tyagi vs. Kamlesh Devi**, it was determined that it is not obligatory for the aggrieved person, when connected by blood, marriage, or in a relationship akin to marriage, adoption, or are family members living together as a joint family, to physically reside with those individuals against whom allegations of domestic violence have been made at the time of the occurrence of such violence.

If a woman has the entitlement to reside in the shared household as per Section 17 of the D.V. Act, and if she becomes an aggrieved person or a victim of domestic violence, she is empowered to seek remedies under the provisions of the D.V. Act, including the enforcement of her right to reside in a shared household.



Coverage of Live in Relationships

The Supreme Court, in the case of ***D. Veluswamy v. D. Patchaiammal*** (AIR 2011 SC 479), provided a broader interpretation of the term "aggrieved person" under Section 2(a) of the Domestic Violence Act, extending its coverage to women in live-in relationships. The Court laid down five criteria to determine the existence of a live-in relationship:

1. Both parties must conduct themselves as husband and wife and be recognized as such by society.
2. They must be of a legally valid age to marry.
3. They should be eligible to enter into marriage, meaning neither party has a living spouse at the time of entering the relationship.
4. They must have voluntarily cohabited for a significant period.
5. They must have lived together in a shared household.

However, the Court emphasized that not all live-in relationships would qualify as relationships in the nature of marriage under the Domestic Violence Act. To be eligible for protection under the Act, all five criteria must be met, and this must be substantiated with evidence.

Furthermore, the Court clarified that if a man maintains a woman financially and primarily uses her for sexual purposes or as a servant, without the intention of a marital relationship, it would not constitute a relationship in the nature of marriage.

Additionally, the Court introduced the term "palimony," which originated from a US court case (*Marvin v. Marvin*, 1976). Palimony refers to the granting of maintenance to a woman who has cohabited with a man for a significant period without marriage and is subsequently abandoned by him. This landmark judgment by the Supreme Court lays down the criteria for recognizing live-in relationships as akin to marriage under the Domestic Violence Act, ensuring that women in such relationships are afforded legal protection and recourse against domestic violence.