Subject Name: Domestic Violence Act
Topic Name: Orders and Reliefs

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Protection orders - S. 18

After providing both the aggrieved person and the respondent with an opportunity to be heard, if the magistrate is convinced that a prima facie case of domestic violence has occurred or is likely to occur, they may issue a protection order in favor of the aggrieved person. This protection order prohibits the respondent from engaging in various acts, including:

1. Committing any acts of domestic violence.

2. Aiding or abetting in the act of domestic violence.

3. Entering the place of employment of the aggrieved person, or if the aggrieved person is a child, their school, or any other designated places.

4. Attempting to communicate in any form, including personal, oral, written, electronic, or telephonic contact.

5. Alienating any assets or operating bank accounts or bank lockers held or enjoyed jointly or individually by both parties, including any stridhan belonging to the aggrieved person.

6. Inflicting violence on any dependents, relatives, or individuals who provide assistance to the aggrieved person.

7. Committing any other acts specified by the protection officer.

This protection order aims to ensure the safety and well-being of the aggrieved person by restraining the respondent from engaging in behaviors that perpetuate domestic violence or pose a threat to the aggrieved person's safety and security.

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Residence orders - S. 19

Once the magistrate is convinced that domestic violence has occurred, they may issue a residence order to address the living arrangements of the aggrieved person. This order includes:

1. Restraining the respondent from dispossessing or disturbing the peaceful possession of the shared household.

2. Directing the respondent to vacate the shared household.

3. Prohibiting the respondent or their relatives from entering any part of the shared household where the aggrieved person resides.

4. Preventing the respondent from selling or encumbering the shared household.

5. Prohibiting the respondent from renouncing their right to the shared household.

6. Instructing the respondent to provide accommodation of a similar standard for the aggrieved person or to pay rent for alternative accommodation if necessary.

It's important to note that no residence order can be issued against women under this section. The magistrate may impose additional conditions and pass any other orders deemed necessary to ensure the safety of the aggrieved person or her child.

Additionally, the magistrate has the authority to direct the relevant police station to provide protection to the aggrieved person to assist in enforcing the order. Furthermore, the magistrate may require the respondent to return any stridhan or other property or valuable security rightfully belonging to the aggrieved person.

Monetary relief - S. 20

The magistrate has the authority to order the respondent to provide monetary relief to cover the expenses incurred by the aggrieved person and any children due to the domestic violence. This monetary relief may include:

1. Compensation for loss of earnings suffered by the aggrieved person.

2. Coverage of medical expenses arising from domestic violence.

3. Compensation for any losses incurred due to the destruction, removal, or damage of property.

4. Maintenance for the aggrieved person and her children, if any, including an order for maintenance under Section 125 of the Criminal Procedure Code or any other applicable law.

The amount of relief granted should be fair, reasonable, and consistent with the standard of living to which the aggrieved person is accustomed. The magistrate may also order a lump sum amount as monetary relief.

If the respondent fails to comply with the payment order, the magistrate may direct the respondent's employer or debtor to withhold a portion of the respondent's salary or wages and pay it directly to the aggrieved person or deposit it with the court.

Custody orders - S. 21

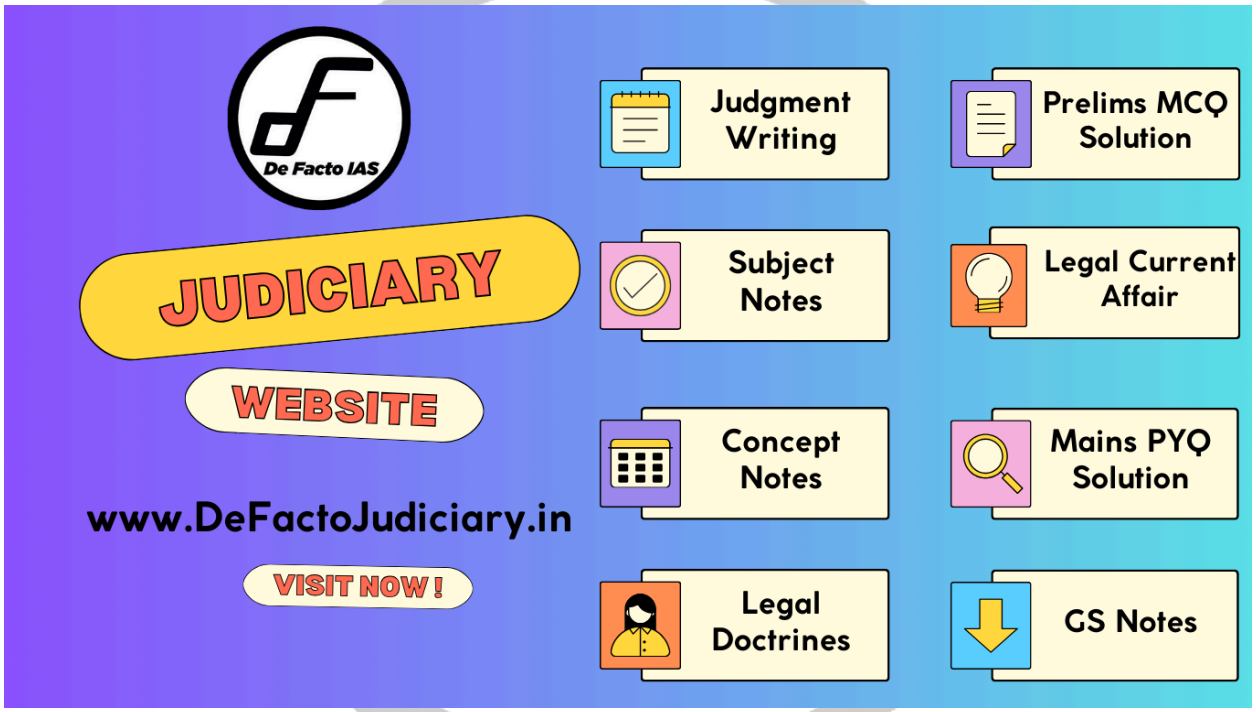
Under Section 21 of the Act, the magistrate is empowered to grant temporary custody of any child or children to the aggrieved person or to the person applying on her behalf. The magistrate may also specify arrangements for visitation by the respondent.

However, the magistrate has the discretion to refuse visitation rights to the respondent if it is deemed to be harmful to the interest of the child. This provision ensures that the welfare and safety of the child are given paramount consideration in cases of domestic violence.

Compensation order - S. 22

Under Section 22 of the Act, the magistrate has the authority to issue a compensation order directing the respondent to compensate the petitioner for any injuries, including mental torture and emotional distress, inflicted by the acts of domestic violence committed by the respondent. Copies of such orders passed by the magistrate must be provided free of cost to the concerned parties, as well as to police officers and service providers.

Moreover, any relief available under this Act can also be sought in other legal proceedings before civil, family, or criminal courts. Such relief may be pursued concurrently with any other legal action initiated in civil or criminal courts, thereby ensuring that victims of domestic violence have access to comprehensive legal remedies.



Penalty for breach of protection order by respondent

As per Section 31 of the Domestic Violence Act, any breach of a protection order or an interim protection order by the respondent constitutes an offence under this Act. The punishment for such an offence can include imprisonment for a term of up to one year, a fine of up to twenty thousand rupees, or both.

In the case of Anish Pramod Patel v. Kiran Jyot Maini, the Delhi High Court expressed the view that an individual cannot be summoned under Section 31 of the Protection of Women from Domestic Violence Act, 2005, solely for non-compliance with an order for payment of maintenance.

The Court noted that the primary focus of the enactment is to furnish prompt and efficient relief to victims of domestic violence through maintenance or interim maintenance orders. It emphasized that the intention is to promptly commence criminal proceedings against the defaulter for non-payment of maintenance and potentially incarcerate them.

The trial for this offence, as far as practicable, should be conducted by the Magistrate who issued the order that was breached by the accused.

Additionally, when framing charges under this section, the Magistrate may also frame charges under Section 498A of the Indian Penal Code or any other relevant provisions of the IPC or the Dowry Prohibition Act, if the facts indicate the commission of an offence under those laws. This provision ensures that breaches of protection orders are treated seriously and are addressed promptly by the legal system.

George Varghese v. Treesa Sebastian & Ors.

In the case of George Varghese v. Treesa Sebastian & Ors., the court observed that upon a comprehensive examination of various sections of the D.V. Act, including Sections 12(2), 17, 19, 20, 22, 23, 25, 26, and 28, it is evident that the proceedings under the D.V. Act and proceedings before civil, family, or criminal courts, as outlined in Section 26 of the D.V. Act, are distinct and independent.

These proceedings are akin to the proceedings under Section 125 of the Cr. P.C. for maintenance before the Magistrate or family court, as well as proceedings for maintenance before a civil or family court under the Hindu Adoption and Maintenance Act.

The court further elaborated that if a suit is filed by the wife of the plaintiff against the defendant seeking permanent injunction and also praying for reliefs under Section 19 (excluding Section 19(1)(b)) of the D.V. Act, such a suit would be entirely maintainable. The prayers in the suit can be encompassed by the reliefs envisaged in Section 19 read in conjunction with Section 26 of the Act, 2005. In such a scenario, the Civil Court retains the authority to consider the issues raised and may grant relief if the plaintiff succeeds in substantiating her case.