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INTERNATIONAL NEWS

The Provisions Of Code Of Criminal Procedure, 1973 Made Applicable To All Proceedings Under The Protection Of Women From Domestic Violence Act, 2005

22 September, 2005

All proceedings undertaken under section 12, 18,19,20,21,22 and 23 and offences under Section 31 of the Protection of Women from Domestic Violence Act, 2005 shall be governed by the provisions of the Code of Criminal Procedure, 1973. An appeal can be made to the Court of Sessions within 30 days from the date on which the protection order made by the Magistrate is served on the aggrieved person or the respondent (adult male person) as the case may be, whichever is later.

The offence under sub-section(1) of section 31 shall be cognizable and non-bailable. Section 31(1) read as " a breach of protection order, or of an interim protection order, by the respondent (adult male person) shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to Rs.20,000/-, or both". While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code or any other provision of that Code or the Dowry Prohibition Act, 1961, as the case may be, if the facts disclose the commission of an offence under those provisions (Section 31(3)).

Section 32(2) makes a provision that the sole testimony of the aggrieved person may be enough for the court to conclude that an offence under sub-section(1) of Section 31 has been committed by the accused.

Section 12 deals with disposing of an application within 60 days of the first hearing. First hearing has to be fixed within three days of the date of receipt of the application by the Court.

Section 18 deals with the prohibition of the adult male person from aiding or abetting or committing any act of domestic violence, entering the place of aggrieved person or aggrieved child, attempting to communicate with aggrieved person, alienating any asset, causing violence to dependents, other relatives or any other person who give the aggrieved person assistance from domestic violence and committing any other act as specified in the protection order.

Section 19 deals with passing a residence order i.e. directing the adult male person to remove himself from the shared household.

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Section 20 deals with the payment of monetary relief to be granted to the aggrieved person.

Section 21 deals with granting temporary custody of any child or children to the aggrieved person or the person making an application on her behalf. The Magistrate shall refuse to allow the adult male member to visit his children.

Section 22 deals with passing an order directing the respondent to pay compensation or damages for the injuries, including mental torture and emotional distress, caused by the acts of Domestic Violence committed by that respondent.

Section 23 deals with the grant of an ex parte order against the adult male person.

It is specified in the Act that if any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both (Section 33). No prosecution or other legal proceeding can be started against the protection officer unless a complaint is filed with the previous sanction of the State Government.

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