

Indian Judiciary on Domestic Violence: Decoding Recent Trend*

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Abstract

The stark malignancy of domestic violence, which is also referred to as intimate partner violence in the state of womanhood, can be determined by its prevalence in the present society. It bears to push women to the brink and fringes of deemed societal ladders. The brunt of domestic violence leads to the exploitation of women, be it in the form of physical or be it mental, and occurs chiefly in their matrimonial homes. The detrimental effect of this abuse and exploitation regrettably imprints itself not only on the suffering females but on the entire family, including children, which in turn causes monetary, health, and societal issues and concerns. What separates domestic violence from other crimes and abuses is that in Domestic violence, there is familial interrelatedness, and hence, the victim is known of the complainant. In contrast to the modern trends of raising the bar of rights for women, domestic violence is considered a major roadblock and is waning as a precursor for society to bring female rights to par. However, on the other spectrum, an alarming fact has been observed by the judiciary about the registration of sham cases against the husband or his family members or both for the purposes of harassment or extorting money. To carry off the said object, the complaints are registered by overstating the facts, by addition of conjectures, overplaying the financial conditions of the husband or his family, and misrepresenting relevant facts and materials. The Supreme Court opined in *Rajesh Sharma v. State of U.P.* that the bulk of the cases are filed impetuously and over trifling matters. To comprehend the say of the Indian judiciary on instances of false domestic violence and sham complaints registered by the complainant, secondary data-based research is conducted. Landmark judgments from the apex court and different High Courts are also analyzed. Endeavor has been made to appreciate the liabilities and legal rights of both parties in the cases of intimate partner violence which is perpetrated towards one another.

Keywords: Interim Maintenance; Domestic Violence; Protection order; Residential order

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Peradilan India tentang Kekerasan Dalam Rumah Tangga: Menguraikan Tren Terkini

Abstrak

Maraknya kekerasan dalam rumah tangga, yang juga disebut sebagai kekerasan oleh pasangan intim di kalangan perempuan, dapat ditentukan oleh prevalensinya di masyarakat saat ini. Sungguh berat rasanya mendorong perempuan ke tepi jurang yang dianggap sebagai tangga sosial. Dampak kekerasan dalam rumah tangga yang paling parah mengarah pada eksploitasi perempuan, baik secara fisik maupun mental, dan terutama terjadi di rumah perkawinan mereka. Sayangnya, dampak buruk dari pelecehan dan eksploitasi ini tidak hanya berdampak pada perempuan yang menderita, namun juga seluruh keluarga, termasuk anak-anak, yang pada gilirannya menyebabkan permasalahan dan kekhawatiran mengenai keuangan, kesehatan, dan kemasyarakatan. Yang membedakan kekerasan dalam rumah tangga dengan kejahatan dan penganiayaan lainnya adalah bahwa dalam kekerasan dalam rumah tangga, terdapat keterkaitan dalam keluarga, sehingga korban dikenal sebagai pelapor. Berbeda dengan tren modern yang meningkatkan standar hak-hak perempuan, kekerasan dalam rumah tangga dianggap sebagai hambatan besar dan semakin berkurang sebagai upaya masyarakat untuk menyamakan hak-hak perempuan. Namun, di sisi lain, terdapat fakta yang mengkhawatirkan di lembaga peradilan mengenai pendaftaran kasus palsu terhadap suami atau anggota keluarganya atau keduanya dengan tujuan pelecehan atau pemerasan uang. Untuk menghilangkan objek tersebut, pengaduan didaftarkan dengan melebih-lebihkan fakta, menambahkan dugaan, melebih-lebihkan kondisi keuangan suami atau keluarganya, dan salah menyajikan fakta dan materi yang relevan. Mahkamah Agung berpendapat dalam *Rajesh Sharma v. State of U.P.* bahwa sebagian besar kasus diajukan secara terburu-buru dan hanya karena masalah sepele. Untuk memahami pendapat pengadilan India mengenai kasus-kasus kekerasan dalam rumah tangga palsu dan pengaduan palsu yang didaftarkan oleh pelapor, penelitian berbasis data sekunder dilakukan. Keputusan penting dari pengadilan tertinggi dan Pengadilan Tinggi yang berbeda juga dianalisis. Upaya telah dilakukan untuk menghargai tanggung jawab dan hak hukum kedua belah pihak dalam kasus kekerasan oleh pasangan intim yang dilakukan terhadap satu sama lain.

Kata Kunci: Pemeliharaan Interim; Kekerasan dalam rumah tangga; Perintah perlindungan; Tatanan tempat tinggal

Индийская судебная система по насилию в семье: расшифровка последних тенденций

Абстрактное

Острая злокачественность бытового насилия, которое также называется насилием близких партнеров в женском состоянии, может быть определена его распространенностью в современном обществе. Это приводит к тому, что женщины подталкиваются к краю общественных лестниц. Большая часть насилия в семье приводит к эксплуатации женщин, будь то в физической или психической форме, и происходит главным образом в их супружеских домах. К сожалению, пагубное воздействие этого жестокого обращения и эксплуатации сказывается не только на страдающих женщинах, но и на всей семье, включая детей, что, в свою очередь, вызывает денежно-кредитные, медицинские и социальные проблемы и проблемы. Что отличает бытовое насилие от других преступлений и злоупотреблений, так это то, что в бытовом насилии существует семейная взаимосвязь, и, следовательно, жертва известна заявителю. В отличие от современных тенденций повышения уровня прав женщин, бытовое насилие считается серьезным препятствием и становится прекурсором для общества в деле обеспечения равных прав женщин. Вместе с тем в другом спектре судебная власть заметила тревожный факт, касающийся регистрации дел о мошенничестве в отношении мужа или членов его семьи или обоих в целях преследования или вымогательства денег. Для осуществления вышеупомянутого объекта жалобы регистрируются путем переоценки фактов, добавления предположений, преувеличения финансового положения мужа или его семьи и искажения соответствующих фактов и материалов. Верховный суд постановил в деле *Раджеш-Шарма против штата У.П.*, что большая часть дел подается импульсивно и по мелочным делам. Для понимания того, что говорит индийская судебная власть о случаях ложного насилия в семье и мошеннических жалоб, зарегистрированных заявителем, проводится вторичное исследование, основанное на данных. Проанализируются также важнейшие решения Верховного суда и различных Верховных судов. Были предприняты усилия по оценке ответственности и законных прав обеих сторон в случаях насилия близких партнеров, которое совершается друг против друга.

Ключевые слова: Временное содержание; Насилие в семье; Приказ о защите; Жилищный приказ

A. INTRODUCTION

The fundamental cause of abuse can be traced back to the exploitation of power when establishing or preserving disparities within society. In instances of violence directed towards women, authority is wielded through various coercive means to reinforce their subjugation. In its most basic form, violence against women serves as both a reflection of and a contributor to the perpetuation of gender inequality. Indeed, the daily violence women endure quickly mirrors complex social hierarchies that are constructed not solely on gender, but also on factors such as age, marital status, religious beliefs, race, and ethnicity. Consequently, violence against women typically operates to uphold numerous forms of inequality, reinforcing the subordination of women within intricate systems of oppression. Violence against women also contributes to gendered disparities in various aspects of society, including economic and political realms. To truly comprehend the extent and prevalence of violence based on gender, it is necessary to consider the interplay of multiple forms of violence within the wider framework. (Rae & Manderson, 2003)

The concern of abuse against females has gained considerable prominence as a top priority for action on a global scale since 1975, both internationally and within individual countries and regions. Despite the gradual pace of change, initiatives like the UN Decade for Women and Women in Development, and subsequently, Gender and Development efforts, have successfully brought attention to concerns associated with violence against women, which were previously overlooked in the realms of development and human rights. A number of efforts, led by both governmental and non-governmental organizations, have been taken on to endorse that the rights of females are acknowledged as human rights. Although there is a global drive against violence pointed at females, there is not at all commonly agreed-upon definition of what qualifies as violence. A significant portion of the literature on violence committed towards women in the context of India has been predominantly fixated on physical manifestations of the form of violence. However, it is widely recognized that forms of violence, such as mental, psychological, and symbolic, are just as widespread as physical form violence. The meaning of "domestic violence" refers to any instances of physical or mental harm to which women or children are subjected by their husbands or in-laws, as reported by the aggrieved females. Physical violence refers to any deliberate action against women which causes them harm, injury, or pain. (Mathur, 2004)

The United Nations Declaration on the Elimination of Violence against Women (1993) enumerates ferocity against females as "any act of gender-based

violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life." It includes bodily, sensual, and psychological violence that occurs within families as well as in the broader community. It also includes instances of such violence that are perpetuated or tolerated by the state. (United Nations, 2014) The assault experienced by women leads to inequality in terms of gender. It represents a pervasive and inescapable violation of the important principles of human rights and poses a significant obstacle to achieving gender equality. This violence has been deeply entrenched in an age-old disparity between genders in terms of authority dynamics, with the overwhelming majority of perpetrators being men and the victims being females. The United Nations Committee on the Elimination of Discrimination against Women, in its general recommendation No. 19, emphasizes that the definition of "discrimination" encompasses gendered ferocity. This refers to assault targeted at a female solely because of her gender or that disproportionately affects women. Several countries have integrated the idea of non-discrimination, as outlined in universal basic rights treaties, into their national laws. (UN, 2014) However, despite numerous legal measures aimed at prevention, the rates of female abandonment and divorce have been on the rise in India. (Agarwal, 2001; Government of India, 2007) Furthermore, there is often a lack of awareness and attention given to the living conditions of women who have been separated or deserted, especially when they have children with them after matrimonial or abandonment.

B. METHODS

The research method used in this article is the qualitative research method. Approaches used include: Literary approaches, Juridic approaches, and empirical approaches. The author carried out a comprehensive literature review of a wide range of sources, including books, journals, articles, and relevant legal documents. This review of literature aims to understand the context and recent developments related to the role of Indian justice in dealing with cases of domestic violence. Through this approach, the author seeks to explore how laws are applied and interpreted in cases of domestic violence. The empirical approach is used to gather real data from the field. This data can come from interviews, surveys, or direct observations by authors of victims, perpetrators, legal practitioners, and other related institutions. This approach helps provide a clearer and deeper picture of their experiences and perceptions of the justice system in dealing with domestic violence.

C. RESULT AND DISCUSSION

1. Genesis of Domestic Violence Act, 2005

The first article of the UN Draft Declaration on the Elimination of Violence against Women includes the utmost inclusive and wide explanation of violence against females as was articulated in September 1992. Article-1 of the UN-declaration encompasses actions falling within the meaning of gender-based ferocity, affecting the lives and freedom of women in both community and personal domains. Article-2 of the UN-declaration outlines that cruelty against women includes violence within the family, including physical abuse such as pounding, sensual exploitation of woman children within the household, incidents related to dowry including violence associated with dowry, marital rape, female genital mutilation, other harmful traditional practices affecting women, non-spousal violence, and violence linked to exploitation. According to the 2005 Act, the term "violence" encompasses an extensive range of acts or any failure to act, directives, or behaviors by the accused that would constitute abuse if they meet the criteria outlined in the definition (Mathur, 2004). In the case of *Bhartiben Bipinbhai Tamboli* (2018), during a comprehensive discussion of the provisions of the Domestic Violence Act of 2005, certain remarks were made regarding domestic abuse throughout the nation.

Until the year 2005, victims of domestic violence had limited options for seeking remedies. Women had the option of either seeking a decree of divorce or filing criminal charges under Section 498A of the IPC. In both of these legal avenues, there were no immediate relief measures that the victim could have availed. Furthermore, extramarital relationships were not legally recognized. These circumstances often forced many women to endure domestic violence silently, not by choice, but due to compulsion. Recognizing the pressing need for a solution, the Indian Parliament enacted the Domestic Violence Act. The primary objective of this legislation is to protect women from violence, regardless of whether it is caused by a male or a female. This act is considered progressive, with its main aim being the safeguarding of women, irrespective of their relationship with the alleged abuser. The Act's definition of an aggrieved person is intentionally broad, recognizing even the live-in relationships.

2. Response of Indian Judiciary

Damanpreet Kaur (2013) ruled that a financially independent and a highly qualified woman is not eligible to receive financial support. In case the woman possesses the qualifications, skills, and capability to support herself through

work, and if she has a history of earning income in the past, she may not be granted maintenance by the respondent. This decision suggests that maintenance orders are typically based on the financial need and circumstances of the person seeking it, and an individual's qualifications and ability to earn a living are factors that can influence the court's decision regarding maintenance. *Chiranjeev Kumar Arya v. State of UP* (2016), in this case high court has observed that the revisional power of this Court under the Criminal Procedure Code (Cr.P.C.) remains intact and unaffected by the DV Act of 2005. The court determined that the absence of an appeal provision within the DV Act does not nullify or impact the power and jurisdiction of supervision and revision of the high court outlined in Sections 397 (1) and Section 401 of the Cr.P.C. 1973. The court emphasized that the DV Act 2005 does not envisage finality to orders passed under Section 29 of the Act, and the Cr.P.C. is not explicitly excluded. The high court opined that the revision power of the court, as regards orders under Section 29 of the Domestic Violence Act, rests "intact and unaffected." The Act does not expressly or impliedly exclude the High Court's supervisory power. Therefore, the session court's decisions could still be subject to revision by the jurisdictional High Court. The Bombay High Court, in the Dimple Khanna case (2015), held that to be charged with domestic violence, establishing a domestic relationship, usually in the context of marriage, is a fundamental requirement. Individuals who did not reside in the same household as the complainant cannot be implicated as respondents in such cases. This decision suggests that the notion of a "shared household" and a "domestic relationship" is crucial when determining who can be held liable under laws related to domestic violence. The Rajasthan High Court in the landmark decision of *Geeta Singh* (2016), ruled that as per Section 20(1) of the DV Act 2005, depriving an individual of the monetary support necessary for their essential requirements constitutes financial mistreatment. It was also laid down by the court that in instances involving maintenance, an "aggrieved person" must demonstrate that economic abuse has occurred due to the failure to meet their basic necessities. This decision underscores the significance of distinguishing financial mistreatment as an indicator of domestic abuse and highlights the requirement for establishing such abuse in cases related to maintenance under the act.

The apex court, in the landmark decision of S.R. Batra (2007), enumerated the connotation of the thought of "shared household" as provided in the DV Act, 2005, as its interpretation in section 2 (s) of the Act is unclear. It was further explained by the court that section 17 (1) gives a housing right merely in a property in the ownership of the husband or in a property taken on rent by the husband. It may also apply to an estate that is in the joint ownership of the

husband. In the specific case at hand, the property in question did not belong to the husband but rather to the mother of the husband. Therefore, the court determined that the property in dispute falls outside the scope of the "shared household" as provided in the Act. This ruling highlights the importance of property ownership and the specific circumstances in determining whether a particular residence qualifies as a "shared household" under the act. The Bombay high court in the landmark ruling of *Deepak @ Gajanan Ramrao Kanegao* (2014), laid down that when a woman knowingly resides with a married individual, even if not legally married to him, this relationship cannot be treated as a valid marriage.

Hence, the charges of domestic violence based on such a relationship cannot be established under the act. The apex court in *Vimlaben Ajitbhai Patel* (2008), ruled that when determining maintenance under the DV Act, 2005, read in conjunction with the HMA, 1956, it solely lays upon the shoulders of the husband to fulfill the requirements of the wife. The maintenance obligation of the husband cannot be satisfied by attaching the estate and belongings of the mother-in-law. On the contrary, throughout the lifetime of the male spouse, his estate could be attached to satisfy the maintenance order. This decision clarifies the legal stance regarding the attachment of property for maintenance purposes under these two Acts. In the ground-breaking decision of *D. Veluswamy v. D. Patchaiammal* (2010), the word "aggrieved person" under Section 2 (a) of the DV Act was analyzed in detail within the context of cohabiting relationships. The court outlined five essential ingredients that must be present to establish a live-in relationship:

- a. The individuals must cohabit and conduct themselves as husband and wife. They must be perceived as a couple by the general public and must be of a legal age for marriage.
- b. Both partners must be legally eligible to enter into a marital relationship. For example, neither of them should have a living spouse when entering into the current relationship.
- c. The concerned parties must have cohabited together of their own volition in a "shared household" for a significant period.

The court asserted that all live-in relations do not fall within the purview of domestic violence laws, but only those that meet the above criteria and are supported by evidence. Additionally, the court clarified the status of a "keep" stating that if a man financially supports a woman solely for sexual purposes, treating her as a servant, such a relationship could be considered akin to a marriage and may come under the relationship of marriage to fulfill the criteria

under the legislation of domestic violence. This ruling provides clarity on how different types of relationships are treated under the law and when they may be subject to domestic violence provisions. The term "palimony" was used to indicate the allowance of maintenance to a lady who has lived with a man for a significant time without a legal marriage and has been deserted was also mentioned in the court's judgment. In the case of *Indra Sarma v. V.K.V. Sarma* (2014), highlighted that all live-in relationships cannot be bracketed within relationships like a marriage.

The apex court in *Jagirkaur v. Jaswant Singh* (1963), in the course of deciding a petition filed by a wife for maintenance from her husband, analyzed the concept of "resides". The opinion in the present case was regarding the term "reside" and asserted that it connotes the meaning of not just a permanent place of habitation but a temporary residence as well. It can have various meanings, including domicile in the strictest and most technical sense, as well as transient residence. Moreover, it was also highlighted that "resides" does not encompass casual stays or momentary visits to a specified place. Instead, it implies more than a casual stay and suggests a noticeable association or commitment to stay at a specific location, but it does not denote a casual or brief visit. Consequently, it was observed that to meet the legal definition of "temporary resident," the stay must not fall under the category of a "casual stay" or visit. This interpretation was upheld in the case of *Advocate Ramesh* (2011), where the court reaffirmed that, especially in cases of domestic violence, temporary residing implies more than a casual stay. It suggests a substantial and meaningful association to the place of residence.

In the case of *Harpreet Kaur v. Sh. Dilvinder Singh Bedi* (2011), several key points were discussed:

- a. Right of Residence: It was contended that the shared residence in question belonged to the mother, and as a result, the complainant's plea for the right of residence was dismissed. This decision appears to be in line with the precedent set in the *S.R. Batra v. Taruna Batra* (2007) case, in which it was highlighted that the "shared household" generally needs to be possessed or rented by the male spouse or be in joint ownership with him.
- b. Quantum of Maintenance: The complainant admitted to having a part-time job, but the amount of her earnings was not disclosed in the petition. The court observed that her husband is currently unemployed and would not be able to maintain her and provide accommodation. The court observed that the financial well-being of the husband must be taken into consideration at the time of awarding the maintenance.

Hima Chugh v. Pritam Ashok Sadaphule (2013), it was laid down by the court that a protection order under the DV Act 2005 can only be acquired against an individual who was in a “domestic relationship” with the victim. This means that the order is applicable to individuals who share a specific type of relationship with the aggrieved party, such as a spouse, partner, or family member. On the other hand, in the case of *Hiral* (2016), it was determined that any woman has the right to file a complaint about incidents of domestic violence involving any relative who subjected her to such harm. The limitation for lodging such a complaint was enumerated as one year. In the case of *Seja Dharmesh Ved* (2011), the court observed that a complaint of domestic violence cannot be filed after separation between spouses for more than one year. In *Kiran Dutta v. State* (2014), the court affirmed that a domestic incident report is a compulsory requirement before issuing orders under Section 12 of the DV Act against the husband or relatives. In the *Koushik v. Sangeeta Koushik Gharami* case (2014), the court held that an order of maintenance can only be awarded to the wife or children under the DV Act if it is proved that domestic violence has been committed.

In the judgment of the *Nishant* case (2012), the court stated that a single isolated incident does not come within the ambit of domestic violence. Regarding the matter of investigating incidents of domestic violence, in the *Savitha* case (2009), the court ruled that an inquiry is necessary when the case is not resolved through an ex-parte decision by the court. In the case of *Pritam Ashok* (2015), the Supreme Court emphasized that if both Section 498A (pertaining to cruelty towards a married woman) and a domestic violence case are filed based on the same set of facts, they should not be adjudicated by separate courts but should be heard by a single court. *Sharad case* is a famous case in which the court ruled that jurisdiction would not be established if an aggrieved person deliberately relocates to a specific place solely for the purpose of lodging a domestic violence case against the respondent and if that place has no genuine relevance or connection to the case. In the case of *Sunil Kumar Gupta v. Shalini Gupta* (2012), the court ruled that the terms and conditions outlined in the divorce agreement would determine the right to residence after the divorce has been granted. In the case of *Suo Motu v. Ushaben Kishorbhai Mistry* (2015), the court thoroughly explored the civil and criminal jurisdiction related to Domestic Violence. The court permitted the quashing of the Domestic Violence application under Section 482 of Cr.P.C. In the case of *Vijay Verma* (2010), the court clarified that domestic violence could be established if a person committed violence within the shared household. It implies that acts of violence that occur outside the shared household may not be considered domestic violence under the law. In the *Anshu Gupta* (2010) decision, the judgment was determined on the premises of the

affidavits given by the concerned parties. However, the court observed that it is essential for parties to have the opportunity to cross-examine witnesses during the legal proceedings to ensure a fair and thorough examination of the evidence. Consequently, the court referred the case back to the trial court to finalize the legal proceedings.

3. Shifting undercurrents of the public and men's rights in India

The matter of fraudulent cases and legal provisions misused in marital disputes is intricate and delicate. While it is essential to address genuine cases of domestic violence and safeguard the entitlements of women, it is of equal eminence to prevent false allegations and misuse of the legal system. The Indian judiciary has indeed recognized the need to ensure fairness and justice for all parties involved in matrimonial litigations. In the case of *Rajan Parmar v. Mamta Parmar* (2015), the court ruled that due to the wife's superior education compared to the husband, the husband would be obligated to provide maintenance to the wife for a specific duration of one year. During this year, the wife was expected to make efforts to find employment or other means of livelihood for herself. In *Sanjay Bhardwaj's* (2010) case, the court ruled that an unemployed male spouse cannot be compelled to emolument to his wife. Additionally, it was mentioned that maintenance must be given as per Cr.P.C. 125 under the DV Act. In Shanavas's (2010) case, it was observed that in case of non-payment of maintenance, a non-bailable warrant could not be issued by the court. In the *Shashi case* (2012), the court ruled that if the complainant fails to disclose a crucial detail about her employment status, especially in an affidavit, it may be considered perjury. *Sumana Bhasin v. Neeraj Bhasin* (2010) is a landmark decision in which the court emphasized that individuals involved in frivolous matrimonial litigations should not gain an advantage.

The court took a strong stance against false cases filed against husbands or their families, and as a consequence, it annulled all interim orders and imposed a fine on the complainant for instituting a false legal case. In the case of *Amit Khanna* (2010) argued in the Delhi high court determined that simply claiming a high social or economic standing by the husband is not adequate grounds to grant interim maintenance. To tackle the problem of false cases, the court ruled that complaints of domestic violence cannot be filed after a divorce has been granted. In numerous instances, it has been noted that complainants involve every conceivable member of the husband's family in the legal proceedings to intimidate the husband or his family. To counter this practice, in the *Abdul Rub v.*

Razia Begum case (2010), the court ruled that not every individual member of the husband's family can be named as a respondent in the legal proceedings.

In the case of *Vijaya Baskar v. Suganya Devi* (2010), the court pronounced that magistrates ought not to indiscriminately take in all relatives as respondent parties in the legal proceedings. To defend the relatives of the male spouse, the court ruled that relatives of the male accused cannot be accused in the case if they are not living in the same house as the complainant. This ruling was made to prevent undue legal repercussions on family members who were not directly involved in the shared living arrangement. In the case of *Sunitha v. State of Kerala* (2011), it was determined that the respondent in a domestic violence case cannot be subjected to arrest unless they have violated a protection order that was previously issued against them. The court in the case of *Syed Nazim Husain v. Additional Principal Judge Family Court* (2002), affirmed that if there are allegations of perjury or false statements in a case, those allegations must be addressed and resolved by the court before the main case can proceed. Likewise, in the case of *Varinder Kaur v. Jitender Kumar* (2016), the court emphasized that family members of the husband cannot be implicated in a domestic violence case if they did not reside in the same household as the complainant. In the case of *Chaturbhuj v. Sita Bai* (2018), the highest court clarified that the term "unable to maintain herself" signifies the financial resources accessible to the abandoned wife during her cohabitation with her husband. This ruling interprets the phrase within the context of the wife's financial situation before desertion and does not consider efforts made by the wife post-separation to support herself.

In the case of *Reema Salkan v. Sumer Singh Salkan* (2016), the Delhi High Court established that a husband is legally obligated to support his wife if she is incapable of sustaining herself. This duty arises from personal laws and moral responsibilities, rather than being solely based on contractual obligations. The Karnataka High Court in *Dr. E. Shanti v. Dr. H.K. Vasudev* (2005), affirmed that the petitioner, who was a well educated qualified doctor, was dwelling with her parents. Additionally, her name was included on the board of her brother's medical clinic. The court considered these factors and precipitated that the trial court's decision to reject the maintenance application of the petitioner was legally reasonable and unerring. The court noted that before his marriage, the petitioner practiced as a doctor and earned money because of his well qualified. Thus, the court observed that section 24 of the HMA does not apply to the case and rejected the petition. The High Court of Allahabad in the case of *Manmohan Singh v. Mahindra Kaur* (1976), affirmed that the provision of 125(1)(a) of the Cr.P.C. 1973, which pertains to maintenance payments, is not applicable universally but specifically to situations where the woman is not in a position to support herself.

This judgment shadowed section 488 of the Cr.P.C. 1898 which provides the right to maintenance, no matter with her capacity to earn. In the case of *Mr. Gurudas Sanvalo Naik v. Mrs. Saanvi Gurudas Naik* (2018), the High Court of Bombay intended to that there was no sign of domestic ferocity committed by the male partner. As a result, the court set aside all impugned orders that were passed disfavoring the husband. Although there isn't a distinct law in India exclusively safeguarding men's entitlements from domestic violence, it is worth noting that the judiciary has recognized that men can also be victims of matrimonial abuse.

D. CONCLUSION

It is recognized that there have been concerns about the protection of men's rights in matrimonial issues, and there is a perception that men's rights may not always be safeguarded at the same level as women's rights in such cases. These concerns arise from instances where false cases have been filed, potentially out of anger, frustration, or a desire for retaliation. Family court judges are also anticipated to take this into account, as emphasized by the chief justice in the *Meena case*:

"The family judge is expected to be sensitive to the issues, for he is dealing with extremely delicate and sensitive issues pertaining to the marriage and issues ancillary thereto. When we say this, we do not mean that the Family Courts should show under haste or impatience, but there is a distinction between impatience and to be wisely anxious and conscious about dealing with a situation....."

The precedent of *Dilip Singh* (2009) case and *S.P. Chengawar Naidu v. Jagannath* (1994), highlight the judiciary's stance against cases that attempt to misuse or contaminate the justice system with false or fabricated claims. In such cases, where individuals attempt to tarnish the purity of justice or make false claims, the courts have taken a strong stand. In the cases of matrimonial disputes, the Indian judiciary has observed an increased number of cases with fabricated facts and mala fide intentions. It leads to the misuse of the legal provisions meant for the safety of females in society and generates an undue burden on the courts, which leads to the pendency of the cases. The result of the false and fabricated cases ends with the loss of merit or disclosure of malafide intention.

This paper has observed the notion of the award of maintenance to the estranged women is based on various parameters, including the marital status, earnings, and current financial position of the women. It was also summarized that the award and quantum of the maintenance would be one and given only the maximum of both the Cr.P.C. and D.V. Act. However, it is important to

mention that remedies other than maintenance under the Domestic Violence Act can be claimed if required. The rapid advancement of society and more attentiveness towards domestic violence and gender equality have compelled the Indian judicial system to attend to matrimonial cases with more care and caution. It is reflected in the language of the various judgments that the judiciary is not only adjudicating the case but also delivering the guidelines for future cases. Judicial mindset and verdicts have reflected the diverse mindset of the judiciary with activism. The dynamics of activism and judgments have raised a sign for the legislative reforms in Domestic violence and maintenance laws in India. It is required and desirable to reexamine the existing laws with the change of societal structure.

REFERENCES

- Advocate Ramesh v State of Maharashtra 2011 CRI. L. J. 4074
- Aggarwal, Amit Agarwal v. Sanjay. 2016 SCC Online P&H 4200
- Anshu Gupta v. State (NCT of Delhi) Criminal Appeal No. 15/2010 (Delhi District Court, 15/04/2011)
- Bhartiben Bipinbhai Tamboli v. State of Gujrat MANU/GJ/0025/2018
- Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353
- Bina, Agarwal. (2001). In Romila Thapar (ed). India, The Idea of Gender Equality: From Legislative Vision to Everyday Family Practice in India (pp. 36-66). Delhi, India: Penguin Books.
- Chaturbhuj v. Sita Bai 2018 VAD (Delhi) 481
- Chiranjeev Kumar Arya v. State of UP 2016 SCC Online All 486
- D.Veluswamy v. D. Patchaiammal (2010) (10) SCC 469
- Damanpreet Kaur v. Indermeet Juneja (2013) 1 JCC 306
- Deepak @ GajananRamraoKanegaonkar v. Soniya Depak Criminal Revision Application No. 341 OF 2014 (Bombay High Court, 01/07/2015)
- Department of Economic and Social Affairs. (2014). Guidelines for Producing Statistics on Violence against Women: Statistical Surveys. United Nations Publications.
- Dilip Singh v. State of Utter Pradesh 2009 (16) SCR 111

Dimple Khanna v. Anita Advani W. P.(Crl.) No.4196 (Bombay High Court,09/04/2015)

E. Shanti v. Dr. H.K. Vasudev AIR 2005 Kant 417

Geeta Singh v. Shri Omprakash Meena, S.B. Criminal Revision Petition No.670/2016 (High Court of Rajasthan, 17/11/2016)

Gurudev Gurav v. Jayashree, Criminal Writ Petition No. 531 /2010 (Karnataka High Court, 08/01/2014)

Harpreet Kaur v. Sh. Dilvinder Singh Bedi Criminal Appeal No. 15/11(Delhi Session Court, 30/07/2011)

Hemlataben v. State of Gujrat Special Criminal Application No. 2080 of 2010 (High Court of Gujarat, 21/10/2010)

Hima Chugh v.Pritam Ashok Sadaphule (2013) DMC 649 (Del.)

Hiral P. Harsora and Ors v. Kusum Narottamdas Harsora and Ors (2016) 10 SCC 165

Inderjit Singh Grewal v. State of Punjab, (2011) 12 SCC 588.

Indra Sarma v. V.K.V. Sarma AIR 2014 SC 309; 2013 (9) LRC 1 (SC).

Jagirkaur and another v. Jaswant Singh AIR 1963 SC 1541.

Khanna, Amit Khanna v. Priyanka. 2010 (119) DRJ 182

Kiran Dutta v. State CRL.M.C.3106/2008 (Delhi High Court, 11/02/2014)

Koushik v. Sangeeta Koushik Gharami, 2014 AL MR (Cri) 2398

Krishnamurthy Nookula v. Savitha, Criminal Revision Petition No. 815 of 2009 (Karnataka High Court,09/12/2009)

Linda Rae, Bennett., & Manderson Lenore (2003). *Violence Against Women in Asian Societies: Gender Inequality and Technologies of Violence* (pp.3-9): Routledge.

Manmohan Singh v. Mahindra Kaur 1976 AWC 335 All.

Marvin v. Marvin (1976) 18 C3d660.

Mathur, K. (2004). *Countering Gender Violence: Initiatives Towards Collective Action in Rajasthan*; Sage Publications.

Ministry of Women and Child Development. (2007). *A Handbook of Statistical Indicators on Indian Women*; Government of India.

- Ministry of Women and Child Development. (2007). A Handbook of Statistical Indicators on Indian Women. Government of India, Author
- Mr. Gurudas Sanvalo Naik v. Mrs. Saanvi Gurudas Naik 2018 ALL MR (Cri) 2375.
- Nishant Hussain v. Seema Saddique 2012 Law Suit (Raj) 1101.
- Prabhunath Tiwari v. State of UP, 2012 SCC Online All 3172
- Pritam Ashok Sadaphule v. State of Maharashtra, Criminal appeal No 487 of 2015 (Supreme Court, 19/03/2015)
- Rachna Kathuria v. Ramesh Kathuria 2010 (7) R.C.R. (Cr.) 1748; 173 (2010) DLT 289
- Rajan Parmar v. Mamta Parmar CC No.163/1/12 (Delhi District Court, 01/05/2015)
- Reema Salkan v. Sumer Singh Salkan 234 (2016) DLT 693
- Renu Mittal v. Anil Mittal (2010) DMC 775; 173 (2010) DLT 269
- Rub, Abdul & Ors. v. Razia Begum CrI. M. C. No. 4246/2009 (High Court of Delhi, 04/10/2010).
- S.P. Chngwar Naidu v. Jagannath 1994 1 SCC 1
- S.R. Batra & Another v. Smt. Taruna Batra AIR 2007 SC 1118
- Sanjay Bhardwaj & Ors. v. The State 171 (2010) DLT 644
- Seja Dharmesh Ved v. State of Maharashtra Criminal Application No.160 of 2011 (Bombay High Court, 07/03/2013)
- Shanavas v. Raseena Cri M C No.4843 of 2010 (High court of Kerala, 10/12/2010)
- Sharad Kumar Pandey v. Mamta Pandey 2010(7) RCR (Criminal) 1389
- Shashi v. Sunny Bhumbla F.A.O. No.M-133 of 2009 (High court of Punjab and Haryana, 09/01/2012)
- Sumana Bhasin v. Neeraj Bhasin [2010] INSC 195
- Sunil Kumar Gupta v. Shalini Gupta 2012(4) Crimes 199 (Uttar)
- Sunitha v. State of Kerala 2011 [1] KLT 210.
- Suo Motu v. Ushaben Kishorbhai Mistry LAWS(GJH)2015 1171
- Syed Nazim Husain v. Additional Principal Judge Family Court Writ petition no. (M/S) of 2002 (Lucknow Bench, Allahabad High Court, 09/01/2003)

United Nations. (2014). Handbook on Effective Prosecution Responses to Violence Against Women and Girls.: United Nations Office on Drugs and Crime. United Nations Vienna.

Varinder Kaur v. Jitender Kumar and Anr RSA-4398-2016 (Punjab and Haryana High Court, 21/10/2016)

Varun Malik v. Payal Malik 2011(1) Crimes (Del) 496

Vijay Verma v. State N.C.T. of Delhi 2010(3) LRC 291(DEL)

Vijaya Baskar v. Suganya Devi MANU/TN/3477/2010

Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel and ors (2008) (4) SCC 649