

Domestic violence against men: need of special legislation

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Abstract:-

Human rights are those rights which we are getting by virtue of human being, so these rights should be gender natural rights for achieving the basic object of justice system i.e. to punish the guilty and protect the innocents. Updating of law as per the changes in the society is the basic requirement to protect them from any type of injustice. The term domestic violence is available in the Indian society from the time immemorial. It introduced in the law for the protection of women as well as their empowerment too but up to some extent they are using it to harass the men and try to blend them as they want. There are various types of violence those are unreported because of the false face of masculine power, social taboo and N other factor and that prevent them from justice.

Though the special law is not available for the men to protect them from the domestic violence but under the judicial activism, our judiciary system always provides justice to the victim without any bias between men and women. This paper will highlight reason for domestic violence against men and judicial guidelines for it.

Key Words : Domestic Violence, Social Taboo, Justice, Harassment.

Introduction:

The terms domestic violence is a known term in Indian society from time immemorial. Domestic violence is “pattern of offensive behaviour in any type of domestic relationship that is done by one partner against his or her spouse to gain or maintain power and control over another intimate partner” . It includes

not only physical violence but sexual, emotional and psychological abuse also and it will not fall under any type of discrimination like race, religion, caste, community, gender, etc. from the ancient days the domestic violence against women are always highlighted in the society upon the mistaken belief that being a male-controlled society. Women are considered as part of vulnerable group so any type of abuse or crime against them will get highlighted easily and even this was the true fact earlier where in women were considered inferior to men, denied her basic human rights and was considered to do only household work, upbringing of children and caring of family members but the current situation is totally changes as women are educated and independent. However due to the modernisation , women empowerment and related national and international laws the situation in the Indian society is changed to a great extent and now a day's women are getting more immunities than the men. The situation shows that women are liberal towards less commitment towards family, investing more time in workplace, no economic dependence on husband and becoming dominant in family resulting in domestic violence against men. The hidden and invisible fact of the society is Domestic violence against men but these cases are unreported because of embarrassment, society status and due to taboo or social stigma of being unable to control the

women where in the society will question upon his masculine power. There are various national and international laws which empowers the women against the violence made by husband and in-laws but it is very much unfortunate that no specific law is available for men to protect them from the harassment done by wife and her relatives. Domestic violence against men is infringing their basic human rights i.e. right to dignity, right to life and personal liberty. The domestic violence is directly affecting their confidence, self-esteem and their professional life too. The extreme level of harassment ends up with the suicide of the man. In such cases the parents of victim are also getting mentally harassed by the women and here relatives.

As the society changes, law also need to change. Reasons why laws may need to change is that the law needs to ensure it protects everyone against basic human injustices. One of the basic human rights under the law is the right not to be discriminated against. Repealing the existing domestic violence legislation which is gender biased and enacting a new gender-neutral legislation will help in creating deterrence upon both male and female who commits domestic violence and make them cooperate with the spouse which will then establish better families in India.

Aims and Objectives: -

1.To study the nature of female domestic violence against men

2.To study the responsible factors for domestic violence against men

3.To study the role of Judiciary in protecting the men from domestic violence by their spouses.

Hypothesis: -

Empowerment of women leads to domestic violence against men.

Research Methodology: -

This research is completed with help of Secondary data i.e. books, internet, magazines, journals, newspaper, Scholar articles, existing legislation, statue.

Meaning of domestic violence:-

Two types of terms are used by various author i.e. Domestic violence and Domestic abuse. The term domestic violence is considered for only Physical violence but domestic abuse includes emotional, sexual and physiological or any other type of abuse also, which directly effect on the dignity, life of the person, so considering the concept it should not be a gender bias system.

Laws are given to the women for their empowerment and protection from any type of violence and abuse, but up to some extent it is getting misused. Women are misusing the laws for their personal profit, prestige and immaturity in the behaviour never allowing them to take sensible decisions and that leads to the domestic

violence against men.Now days there are various cases are reported by the men also because they and their families are getting abused by his wife and her relatives. With the help of section 498A of Indian Penal Code and considering it as weapon, women are filing the false cases also and trapping the men and their family in it, even after harassment , just because of threat of 498 A's punishment men are always avoiding to lodge complaint against the women.

There are various types of abuses that made by women to men. In reality there are some kind of violence are often indicated by action, which may not see as domestic violence on the prima face but in fact shows a series of abuses against men as follows:-

Insulting men by using abusive language in form of other, which makes their moral down.

Not allowing him to take care of his own family and forcing him to stay away from his parents.

Always creating threat in his mind regarding the exposure of his personal information in front of his friends and other people.

To restrict him by spending his own finance even for basic needs also.

Showing him threat of laws available for the women empowerment.

Restricting him regarding the kids also.

Threatening harm to them-

selves or others as a way to "punish" him.

It is difficult to get exact no of cases of domestic violence against men because most of the cases are unreported and it is very tough to find the men those who are the victims of it , no one will admit and will ask justice for it.

Special law is not available for the protection of men against domestic violence but an Indian judiciary has also taken steps to protect the men against domestic violence committed by their wives which is evident as per the case study given below-

1. Rajesh Sharma vs. State of UP , Supreme Court has stated that it has become imperative for men's rights organisations to come up with their own arguments and get directly involved with the legal and judicial processes. Men's rights organisations can get involved with the PIL and implead themselves into such proceedings for protection of men's rights. If women's rights are human rights, then men's rights are also human rights. It must also be borne in mind that the object behind the enactment of Section 498-A IPC and the Dowry Prohibition 2005 Act is to check and curb the menace of dowry and at the same time, to save the matrimonial homes from destruction. Our experience shows that, apart from the husband, all family members are implicated and dragged to the police stations. Though arrest of those persons is not at all necessary, in a num-

ber of cases, such harassment is made simply to satisfy the ego and anger of the complainant. By suitably dealing with such matters, the injury to innocents could be avoided to a considerable extent by the Magistrates, but, if the Magistrates themselves accede to the bare requests of the police without examining the actual state of affairs, it would create negative effects thereby, the very purpose of the legislation would be defeated and the doors of conciliation would be closed forever. The husband and his family members may have difference of opinion in the dispute, for which, arrest and judicial remand are not the answers. The ultimate object of every legal system is to punish the guilty and protect the innocents."

2. In Narendra v. K. Meena , the Supreme Court held that if a wife were to ask her husband to live separately with her, instead of living in a joint family with her in laws would amount to cruelty.

In modern society where women is working as par as men, achieved equality in almost each and every field. Also the various laws which are gender biased in favour of women especially Protection of Women from Domestic Violence Act, 2005, The Dowry Prohibition Act, 1961, section 498A of IPC which are misused by women and is called 'Legislation Terrorism' against men, there is a need to enact a new domestic violence legislation which is gen-

der neutral. The executioner of domestic violence need to be appropriately punished irrespective of gender. On the ground of cruelty of wife due to the fact that their children will remain unsafe and they will have no access to their children. The greater fear to the men is that their wives will charge them under sec 498A of IPC dealing with dowry related harassment. The effect of it is that their health will be effected mentally as well as physically. They will go through low self-esteem, their confidence level and performance level at work place will be reduced, some of them may commit suicide. Domestic violence against men is infringing their basic human rights i.e. right to dignity, right to life and personal liberty.

Conclusion:-

Society changing in the drastic way in the context of thinking, personal abilities, way of expression and it needs the changes in the legislation also, which bridge the gap between the need and wants of the society and required legislation which will be based on gender-neutral laws. It is a high time that government should take in to consideration this matter seriously. Legislature should step in to recognize the hidden reality of this fact and make provisions to protect men from domestic violence. In India as well as at international level there are various social organization taking steps to protect men against this evil.

Some of them are Save Indian Family Foundation (SIFF), US based NGO Indian social awareness and Activism Forum, Purush Hakka Saurakshan Samiti (India's first registered Organization and Movement for protecting rights of Men), Vastaav Foundation Mumbai, Sahodar Trust Delhi, Sarkar, etc. These Organizations support the introduction of gender-neutral legislation and repeal of laws that are biased against men.

Suggestions:-

The Legislative authorities should work on war footing for the enactment of special legislation that creates threat in the mind of the women also about the law and before harassing the men they should think twice about their activity.

Public awareness is required especially for the men, which help them to remove the face of masculine power and come up with the words of violence against them.

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