

Maintenance

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [\[1\]](#), domestic violence act maintenance

Women from Domestic Violence Act , 2005 (for short 'the Domestic Violence Act ') claiming relief of maintenance. It was alleged that ... Domestic Violence Act, then and then only, an application under Section 31 of the Domestic Violence Act

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [\[1\]](#), Main Petitions and Claim therein

The husband filed a petition for divorce before the Court at Fatehabad, which was dismissed and the appeal against the said judgment was also dismissed by this High Court. Since the act and conduct of the petitioner-husband was such, the respondent-wife filed a petition against the petitioner herein invoking provision of the Domestic Violence Act claiming maintenance.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [\[1\]](#), Whether the petition under DV Act is barred and my the maintenanc enhancement petition may be file under CRPC section 125

whether the petition filed by the respondent-wife under the provision of the Domestic Violence Act is barred by limitation; secondly whether the respondent-wife can claim maintenance under the Domestic Violence Act, in view of the fact that she is already receiving maintenance under Section 125 of the Code of Criminal Procedure or a petition for enhancement has to be instituted under section 127 of the Code of Criminal Procedure?

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [\[1\]](#), Claiming enhancement of maintenance and even maintenance under diferent laws

the respondent wife would be entitled to claim maintenance under Section 20 of the Domestic Violence Act, even though she is already getting maintenance under Section 125 of the Code of Criminal Procedure. There is no requirement for the aggrieved person, the respondent herein, to file an application under Section 127 of the Code of Criminal Procedure seeking enhancement of maintenance and to prove that they are changed circumstances.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [\[1\]](#), Petition and Appeal Sections

petition under Section 12 of the Domestic Violence Act and directed the petitioner to pay maintenance @ '3,000/- per month from the date of filing the petition. Aggrieved against the said order, an appeal was preferred under Section 29

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [\[1\]](#), Revision of maintenance application sections and conditions

It is also submitted that once maintenance has been allowed under Section 125 of the Code of Criminal Procedure, enhancement, if any, could be claimed on instituting an application under Section 127 of the Code of Criminal Procedure and that too if there is change in circumstances

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [\[1\]](#), Referred Case

Madras High Court B. Prakash Vs. Deepa and another 2016 (1) RCR (Criminal) 524.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [1], No limitation is under DV Act

No limitation has been prescribed for seeking any such relief.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [1], There is limitation, if the protection order is breached

when there is a breach of any protection order on an application under Section 12 or on any of the reliefs under Sections 18 to 22 of the Domestic Violence Act, then and then only, an application under Section 31 of the Domestic Violence Act is to be filed within one year from the date of such breach and not thereafter.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [1], Domestic Violence is a continuing offence and so not barred

any act of domestic violence is a continuing offence and would not be barred by the law of limitation.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [1], maintenance under DV Act, condition

Similar provision has been made under the provisions of the Domestic Violence Act if it can be substantiated that there is 'economic abuse'.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [1], Maintenance under DV Act and condition, responsibility of husband

Similar provision has been made under the provisions of the Domestic Violence Act if it can be substantiated that there is 'economic abuse'. It is trite to say that a husband is duty bound to maintain his wife.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [1], modification of order under Section 125 of CRPC

the order made under Section 125 of the Code can be modified or varied only by the same Magistrate, who passed the earlier order.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [1], Subsequent act of husband to make a separate application under Section 20 of DA Act for maintenance

wife had proved either neglect or refusal on the part of the husband. If the wife wants an order under Section 20 of the Act, in addition to the order under Section 125 of the Code, she has to prove fresh acts of the husband constituting the domestic violence subsequent to the passing of the earlier order under Section 125 of the Code.

In Sanjay Gulati vs Harsh Lata on 26 April, 2018 [1], Conditions of additional maintenance under DV ACT

previous order made under Section 125 of the Code is not a bar for an aggrieved wife to approach a Magistrate under Section 20 of the Act, for monetary relief as an additional relief of maintenance, provided subsequent to the passing of the earlier order under Section 125 of the Code, the husband has committed domestic violence

resulting loss to the wife."

In Sanjay Gulati vs Harsh Lata on 26 April, 2018
additional relief

[1], Relief under DV Act is an

section 20 (d) provides for maintenance to the aggrieved person as well as her children, if any, which would be in addition 11 of 13
::: Downloaded on - 06-05-2018 04:46:53 ::: CrI. Revision No. 783 of 2017 12 to an order of maintenance under Section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force

In Sanjay Gulati vs Harsh Lata on 26 April, 2018
and not excessive

[1], Amount passed is necessary

The respondent herein has been awarded '4,000 per month as maintenance allowance in proceedings under Section 125 Code of Criminal Procedure and a sum of ' 3,000/- under the impugned order making it a total of '7,000/- per month, which is not excessive given that medical treatment is highly expensive.

References

1. Sanjay Gulati vs Harsh Lata on 26 April, 2018