**IN THE COURT OF \_\_\_\_\_\_\_\_\_\_\_\_\_, LEARNED METROPOLITAN MAGISTRATE, MAHILA COURT, \_\_\_\_\_\_\_\_\_\_ COURTS, NEW DELHI**

**COMPLAINT CASE NO. \_\_\_\_ OF 20\_\_**

**IN THE MATTER OF :**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COMPLAINANT

**VERSUS**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ RESPONDENT

**WRITTEN ARGUMENT ON BEHALF OF THE COMPLAINANT IN APPLICATION U/S 12 R/W SECTION 17, 18, 19, 20, 22 OF PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 FOR GRANT OF RIGHT TO CONTINUE RESIDING IN THE MATRIMONIAL HOUSE WITHOUT INTERFERENCE AND THREAT, PROTECTION ORDERS, MONETARY RELIEF, COMPENSATION AND ANY OTHER RELIEF WHICH THIS HON'BLE COURT MAY DEEM FIT AND PROPER.**

**MOST RESPECTFULLY SHOWETH:**

1. That the above noted complaint is pending adjudication before this Hon'ble Court and is fixed for hearing on \_\_\_\_\_\_\_\_\_\_\_\_.

2. That the summons of the complaint has already been issued to the defendants and the defendants have also put in appearance in the matter.

3. That the Defendant has filed his reply to the complainant and the Complainant has filed rejoinder to it on \_\_\_\_\_\_.

4. That the Complainant has filed affidavit showing income and expenditure as per the format prescribed by the Hon'ble High Court of Delhi in ***Kusum Sharma Vs. Mahinder Kumar Sharma*** on \_\_\_\_\_\_\_.

5. That the Defendant has also filed his affidavit showing income and expenditure on \_\_\_\_\_\_\_\_\_\_, but not filed copy of Latest Income Tax Return i.e. for Financial Year \_\_\_\_\_\_\_\_\_\_).

6. The Complainant most respectfully submit the following written arguments in support of contentions, submissions and facts already placed and submitted on the records and the oral arguments so adduced.

7. That the Complainant got married to the Respondent on \_\_\_\_\_\_\_\_\_\_\_\_ in accordance with Hindu rites and ceremonies at \_\_\_\_\_. No issue was born from this wedlock.

8. That the Respondent is working as Manager with \_\_\_\_\_\_\_\_\_\_\_ India Ltd at \_\_\_\_\_\_\_\_\_\_. The Complainant came to live in the matrimonial home at New Delhi with the Respondent after Marriage.

9. The father of the Complainant had given Rs. \_\_\_\_\_\_ in Tilak to the Respondent. In addition to this, an \_\_ car was given. The marriage was a lavish affair. Lots of gifts, jewellery etc was given by her father who is a retired school teacher and had to sell some property, borrow from others and exhaust all his savings to arrange the marriage of the complainant.

10. That the respondent husband, his father and sister were not happy with the Dowry and other gifts. They have showed their annoyance soon after marriage.

11. The Respondent started tormenting her almost immediately after marriage. He used to poke and provoke her and instigated her to react to his misdemeanor and later record the same on his mobile phone.

12. That as per the affidavit the Respondent is earning Gross income of Rs. \_\_\_\_\_\_\_\_\_/- per year. The Respondent not yet produced his income tax Return for the Financial Year \_\_\_\_\_ to ascertain his current income. Even though the Respondent is earning huge salary the complainant had to starve for money even for her basic needs. Her father used to help her by sending money even for the daily necessaries.

13. That the Complainant had no history of illness of any kind before marriage. The Respondent/husband by his cruel and atrocious behavior, assisted by his sister tormented her so much that she went into depression.

14. That the complainant was the target of unprovoked physical and mental abuse by the Respondent. The father in law of the complainant had also created very embarrassing and inexplicable situations at times.

15. That the respondent constantly made indecent and vulgar comments about the sister of the complainant, who still leaves with her as she has not come out of depression completely and the doctor advised that she should not be left alone.

16. That the Respondent has denied conjugal relations to the Complainant. He says that the complainant does not meet his level of liking. The respondent picks up quarrels on the flimsiest of excuses.

17. That on \_\_\_\_\_\_\_, the respondent / husband picked up a quarrel and started slapping the complainant. He pulled her by hair and kicked her in the abdomen. She somehow called PCR and a DD entry was registered at \_\_\_\_\_\_\_\_\_\_\_ Police Station.

18. That in \_\_\_\_\_\_\_\_, the respondent and his sister came together in the night and thrashed the complainant in black and blue alleging falsely that she blamed him of incest.

19. That the respondent, in order to avoid his own liability has filed a petition u/s 13(1)(ia) of Hindu Marriage Act against the complainant wherein he made all kinds of baseless allegations against her.

20. That the above said petition was withdrawn when the parties entered into a settlement agreement dated \_\_\_\_\_\_\_ in HMA Suit No. \_\_\_\_ titled "\_\_\_\_\_\_\_\_\_\_\_", which was to be executed on \_\_\_\_\_\_\_, but it was never executed. In fact the Complainants lawyers had prepared a mutual consent divorce petition as per the agreement and handed over to the Respondent for his signatures. The Respondent kept the petition for few months in his custody and returned back it to the complainant without his signature.

21. That the Complainant has already submitted before this Hon'ble Court in her rejoinder that even now she is ready to settle the issue as per the settle agreement dated \_\_\_\_\_\_\_\_\_\_\_\_\_, under the supervision of this Hon'ble Court, if the Respondent is ready to execute the terms of the agreement.

22. That the Respondent has not disclosed full information about his educational qualification in the affidavit filed by him showing income and expenditure as per the format prescribed by the Hon'ble High Court of Delhi in ***Kusum Sharma Vs. Mahinder Kumar Sharma.***

23. That the Respondent has shown huge amount of expenses i.e. Rs. \_\_\_\_\_\_\_\_/- per month against his net income of Rs. \_\_\_\_\_\_\_\_/- to avoid his liability to pay maintenance, medical expenses, compensation and other claims to the Complainant.

24. That the Respondent is giving only Rs. \_\_\_\_\_/- to Rs. \_\_\_\_\_/- per week to the Complainant for household expenses from which the expenses of Respondent also is being managed. The other expenses being born by the Respondent is rent of Rs. \_\_\_\_\_\_/- per month.

25. That the Respondent has claimed huge amount of monthly expenses in his affidavit, but he is not spending any amount except mentioned about for the maintenance or expenses of the Complainant.

26. That the Affidavit filed by the Respondent shows his lavish life style. The Complainant also deserves to live her life according to the life standard of the Respondent. So the amount of maintenance and other claim made in the petition is justifiable.

27. That the Complainant is totally dependent on her parents for her daily needs of life and she has none to support, except the complainant/wife.

28. That the cause of action for filing the present petition arose immediately after marriage and continued thereafter because there was not even a single day without an act of emotional or physical violence. It arose on \_\_\_\_\_\_\_ when a DD entry was registered at PS \_\_\_\_\_\_\_ pursuant to a PCR call made by the complainant. Again on \_\_\_\_\_\_\_, when the respondent and his sister came together, beat her up and in sheer anger the respondent husband broke a few things give vent to his anger. The cause of action still persists because the cruelties have not ceased and continue unabated.

29. That the complaint is residing at Delhi within the territorial limits of the Court, hence the Ld. Court has the Jurisdiction to try and adjudicate this petition.

30. That many Judgments of the Hon'ble Supreme Court of India support the prayer of the Complainant.

31. That in ***V.D. Bhanot v. Savita Bhanot (2012) 3 SCC 183*** the Hon'ble Apex Court upheld the maintenance allowed to the Respondent and directed to provide a sum of Rs. 10,000/- per month towards rental charges for acquiring accommodation of her choice. The Hon'ble Supreme Court held that:

*"11. Accordingly, in terms of Section 19 of the PWD Act, 2005, we direct the Petitioner to provide a suitable portion of his residence to the Respondent for her residence, together with all necessary amenities to make such residential premises properly habitable for the Respondent, within 29th February, 2012. The said portion of the premises will be properly furnished according to the choice of the Respondent to enable her to live in dignity in the shared household. Consequently, the sum of Rs.10,000/- directed to be paid to the Respondent for obtaining alternative accommodation in the event the Petitioner was reluctant to live in the same house with the Respondent, shall stand reduced from Rs.10,000/- to Rs.4,000/-, which will be paid to the Respondent in addition to the sum of Rs.6,000/- directed to be paid to her towards her maintenance. In other words, in addition to providing the residential accommodation to the Respondent, the Petitioner shall also pay a total sum of Rs.10,000/- per month to the Respondent towards her maintenance and day-to-day expenses."*

Copy of the Judgment of Supreme Court of India in V.D. Bhanot v. Savita Bhanot is annexed as **Annexure WA-1**

32. That in **Saraswathy v. Babu (2014) 3 SCC 712** the Hon'ble Apex Court directed to pay compensation and damages to the extent of Rs.5,00,000/- in favour of the appellant-wife. The Hon'ble Supreme Court held that:

*"15. We are of the view that the act of the respondent-husband squarely comes within the ambit of Section 3 of the PWD Act, 2005, which defines "domestic violence" in wide term. The High Court made an apparent error in holding that the conduct of the parties prior to the coming into force PWD Act, 2005 cannot be taken into consideration while passing an order. This is a case where the respondent-husband has not complied with the order and direction passed by the Trial Court and the Appellate Court. He also misleads the Court by giving wrong statement before the High Court in the contempt petition filed by the appellant-wife. The appellant-wife having being harassed since 2000 is entitled for protection orders and residence orders under Section 18 and 19 of the PWD, Act, 2005 along with the maintenance as allowed by the Trial Court under Section 20 (d) of the PWD, Act, 2005. Apart from these reliefs, she is also entitled for compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by the respondent-husband. Therefore, in addition to the reliefs granted by the courts below, we are of the view that the appellant-wife should be compensated by the respondent-husband. Hence, the respondent is hereby directed to pay compensation and damages to the extent of Rs.5,00,000/- in favour of the appellant-wife.*

*16. The order passed by the High Court is set aside with a direction to the respondent-husband to comply with the orders and directions passed by the courts below with regard to residence and maintenance within three months. The respondent-husband is further directed to pay a sum of Rs.5,00,000/- in favour of the appellant-wife within six months from the date of this order. The appeal is allowed with aforesaid observations and directions. However, there shall be no separate order as to costs."*

Copy of the Judgment of Supreme Court of India in Saraswathy v. Babu is annexed as **Annexure WA-2**

33. That in ***Smt. Rashmi Kumar vs Mahesh Kumar Bhada (1997) 2 SCC 397*** the Hon'ble Apex Court held that the properties gifted to the wife before the marriage, at the time of marriage or at the time of giving farewell or thereafter are her stridhana properties. The Hon'ble Supreme Court held that:

*"It is thus clear that the properties gifted to her before the marriage, at the time of marriage or at the time of giving farewell or thereafter are her stridhana properties. It is her absolute property with all rights to dispose at her own pleasure. He has no control over her stridhana property. Husband may use it during the time of his distress but nonetheless he has a moral obligation to restore the same or its value to his wife. Therefore, stridhana property does not become a joint property of the wife and the husband and the husband has no title or independent dominion over the property as owner thereof."*

Copy of the Judgment of Supreme Court of India in Smt. Rashmi Kumar vs Mahesh Kumar Bhada is annexed as **Annexure WA-3**

34. That the Complainant requests the Hon'ble Court to permit and allow the Complainant to submit the present Written Arguments on record of matter in the interest of justice.

The Complainant prays that she may kindly be provided the following relief under the said Act.

**1 Relief**

a) Under the said Act, the complainant may be given protection, residence, the possession of her stridhan, jewelry and clothes etc.

b) To stop further acts of domestic violence on her by the respondent.

c) To allow her to live in the flat and to restrain the respondent from disposing her or threatening her directly and through his friends with physical harm.

**2. Protection Orders**

The Complainant may kindly be granted protection and prohibit the respondents from:

a. Committing any act of domestic violence.

b. Aiding and abetting in the commission of acts of violence.

c. Attempting to communicate in any form, whatever, with the complainant, oral or written or electronic or telephonic contact, just to torture or torment her.

d. Alienating any assets, including her stridhan, jewellery or any other property.

e. Causing violence to relatives or any person who give the complainant assistance from the domestic violence.

f. Committing any other act as specified in the protection order.

**3. Residence Orders**

The complainant humbly prays for pass a residence order:

a) Restraining the respondent or any of his relatives from entering any portion of the household in which the complainant resides.

**4. Monitory Relief**

The complainant humbly prays for passing an order as under:

a. The medical expenses wherever necessary for the complainant.

b. The maintenance of complainant considering the fact that the respondent has no other liability except the complainant, she should be given a maintenance allowance of Rs. \_\_\_\_\_ /- per month, considering the fact that the respondent earns gross salary of Rs. \_\_\_\_\_\_ /- per month.

**5. Compensation Orders**

The complainant prays in addition to other relief as may be granted under this Act, to pay Rs. \_\_\_\_\_\_ /- and damages for injuries including mental torture, depression and emotional distress caused by the Acts of Deomstic Violence committed by the Respondent and the litigation expenses.

**PRAYER**

In the light of the submissions made above the complainant most humbly prays for the following reliefs:

(a) Right to reside in the shared household U/s 17 of the said Act.

(b) Protection orders U/s 18 of the Act.

(c) Residence order U/s 19 of the Act in the flat.

(d) Monetary reliefs U/s 20 of the Act.

(e) Compensation order U/s 22 of the Act.

Any other relief which this Hon'ble Court may deem fit in the eyes of law and in the interest of justice.

**COMPLAINANT**THROUGH

**ADVOCATE FOR THE COMPLAINANT**

NEW DELHI

\_\_/\_\_/20\_\_