

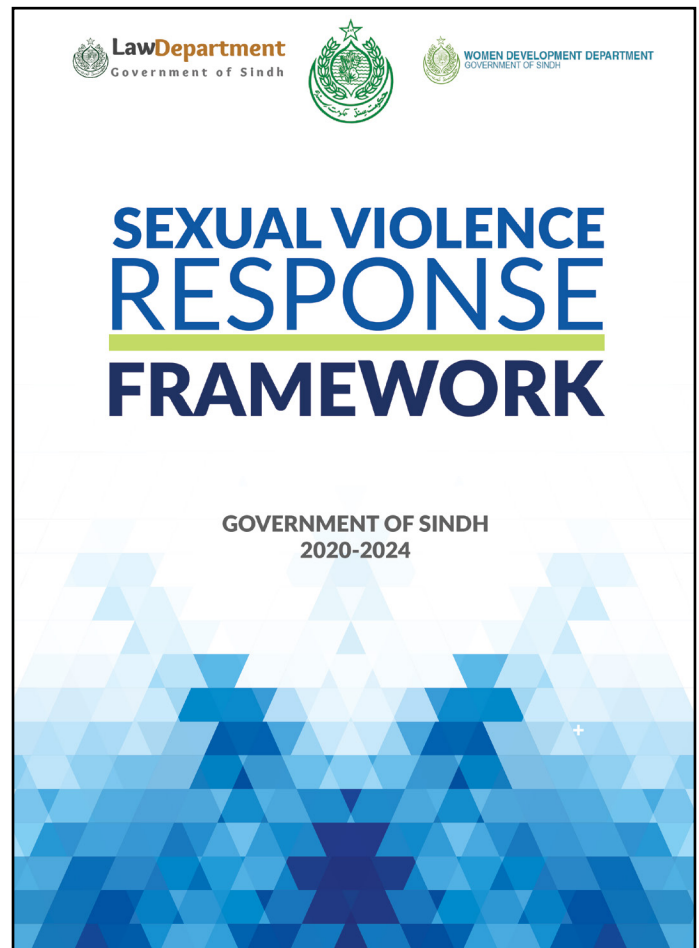
In a First: Civil Judge and Judicial Magistrate Takes Cognizance in Domestic Violence Case on the Basis of Emotional, Psychological, Verbal and Economic Abuse

~ Ms. Rida Tahir

Violence against Women and Girls (VAWG) has been rapidly rising at an alarming rate in Pakistan. In 2022, Pakistan ranked 145 out of 146 countries on the gender parity index. ¹ Additionally, it has been revealed that 90% of women in Pakistan have been subjected to some form of domestic violence throughout their lives. ² It is important to highlight that in a study conducted across Pakistan, 100% of men respondents admitted to verbal abuse, 33% to physical abuse and 78% to sexual abuse of their wives.³

Recently, the brutal murder of Sarah Inam allegedly by her husband has sent shockwaves across Pakistan. ⁴ There is an acknowledgment of the privilege which men in the patriarchal Pakistani society enjoy as usually they face no consequences for their actions in domestic violence (DV) cases. Unfortunately, women are often unable to take action due to sociocultural norms, their subordinate status in society, economic dependence on their husbands and lack of legal redress. Nevertheless, the LAS under its [Sexual Violence Response Framework \(SVRF\)](#)

Project ⁵ provides free legal aid and advice in cases of VAWG.



1. World Economic Forum, 2022, Global Gender Gap Report 2022
2. UNODC. Gender and Pandemic: Urgent Call for Action
3. Shaikh MA (2000). Domestic violence against women—perspective from Pakistan. Journal of the Pakistan Medical Association.
4. Khaleej Times, UAE: Friends, colleagues pay tribute to murdered Pakistani expat Sarah Inam. Available at <https://www.khaleejtimes.com/crime/uae-friends-colleagues-pay-tribute-to-murdered-pakistani-expat-sarah-inam>
5. Rida Tahir (2022), SVRF- A Revolutionary Framework to Eliminate Sexual Violence, Courting the Law. Available at <https://courtingthelaw.com/2022/03/13/news-events/svrf-a-revolutionary-framework-to-eliminate-sexual-violence/>

On 19.09.2022, in LAS Case No. 28, the VIII Civil Judge and Judicial Magistrate, Karachi South passed the Order. Through this Order, the Honorable Court took cognizance of the offence of DV under Sections 5(b) (assault, as defined in section 351 of the PPC), (f) (emotional, psychological and verbal abuse), (g) (harassment as defined in section 509 of the PPC), (j) (physical abuse), (o) (economic abuse) and Section 6 (punishment for the offences) of the Domestic Violence (Prevention and Protection) Act 2013 (DV Act 2013). The VIII Judicial Civil Judge and Judicial Magistrate also registered the case and required the Respondents No.1-4 (ex-husband, brother-in-law, mother-in-law and sister-in-law of the Petitioner) to furnish solvent surety in the sum of PKR Rs.10, 000/- and Personal Recognizance bond (PR bond) of the same amount till the next date of hearing (05. 10. 22). In case of failure, the Respondent No. 1-4 will be remanded in judicial custody for want of surety.

The brief facts of the case are that the Survivor/Petitioner had been subjected to various repeated acts of DV (emotional, psychological and verbal, physical and economic abuse along with assault and harassment) throughout her marriage period of over six (6) years by the Respondent no. 1-4.

The Respondent no. 1's father has a psychological disorder, due to which, he would roam around the house without wearing any clothes. This used to cause extreme distress and mental anguish to the Petitioner as he would come into her room. As a result, the Petitioner had to confine herself in the bathroom for several hours in order to protect herself from the Respondent no. 1's father. Upon making a complaint to the Respondent No.1-4, they would collectively put the Petitioner through extreme forms of DV.

On 25.02.2022, the Petitioner lodged a complaint at a Police Station in the South District regarding the DV faced by her at the hands of Respondent No.1-4. Nevertheless, the police officers refused to take action terming it a 'family dispute'. Thereafter, on 28.2.2022, the Petitioner visited the One-Stop Protection Centre (OSPC), where a LAS provided female High Court Advocate provided free legal advice to her and referred the case to the LAS for provision of free legal representation in the Courts.

The Petition was filed in the Court on 13.04.2022. The Petitioner was hindered by the sociocultural norms and the shame and stigma that is attached to a woman who takes her DV case to the Courts in Pakistan,

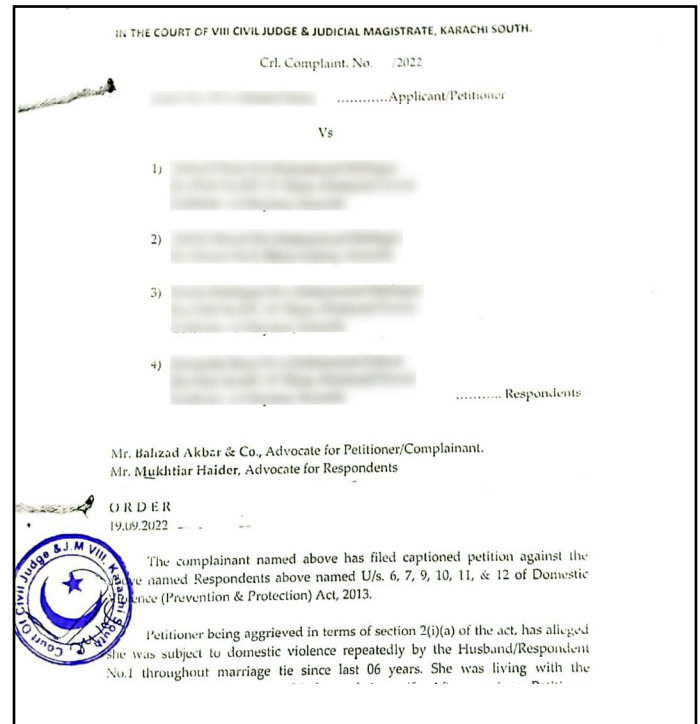


The OSPC intends to bring essential criminal justice stakeholders in close proximity to provide a multi-sectoral coordinated response to GBV victims and survivors. Currently, the OSPC is sheltered in the Women and Children Police Station providing police and legal services for expedited delivery of justice to women and children.

which caused the delay in the filing of the case as the Petitioner was initially hesitant in proceeding with the case. Nevertheless, upon receiving the notices from the Court, the Respondent no.1 pronounced divorce to the Petitioner in order to abuse her emotionally and psychologically. At the same time, he refused to provide maintenance to her. This was also mentioned in paragraph 6 of the order. "... after filing of the instant complain, the Respondent no.1 has pronounced divorce to the petitioner, it reflects conduct of the Respondents towards the petitioner (sic)".

Nevertheless, the biggest complication in proceeding with the case was that the Petitioner went into her Iddah period and could not come to the Court in order to proceed with the case. Nevertheless, LAS continued to represent the Survivor in the case, which led the Court to take cognizance of the offences under the DV Act 2013 on 19.09.2022. The Petitioner has expressed her contentment on the Order and assured that she will continue to attend the proceedings in the case.

The DV Act 2013 was passed by the Provincial Assembly of Sindh on 8th March 2013. Nevertheless, the first conviction under the DV Act 2013 was recorded in February 2019, six years after its enactment. ⁶ However, a Court



taking cognizance under the DV Act 2013 on the basis of emotional, psychological, verbal and economic abuse had been unheard of despite the passage of the DV Act 2013 almost 9 years ago. The operationalization of the Act in light of the increased levels of VAWG is the need of the hour.

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6. Sara Malkani (March 30, 2019), Getting the law to work, Dawn News. Available at <https://www.dawn.com/news/1472785>