

Cognizance/Notice to Respondent – Views of different High Court

Title	Citation	Question involved	Held
Saraswathy Vs Babu	2014 (1) RCR (CrI) 167 (SC)	Cognizance/Notice to Respondent	Whether DV Act has retrospective effect, held - conduct of the party prior to coming into force of DV Act can be taken into consideration while passing an order. Where husband had turned out his wife from the matrimonial house prior to coming into force of the Act and did not allow her to enter the house, husband was held liable for his action under the Act on the ground that the offence continued after the coming into force the Act. The complained act fell under the definition of the DV Act.
Ravi Dutta Vs Kiran Dutta and anr	2014 (5) RCR (CrI) 178 (DELHI HC)	Cognizance/Notice to Respondent	Domestic Incident Report (DIR) – court cannot bypass the mandate of Section 12 which requires consideration of DIR prior to passing any order u/s 12 of the Act.
Bhupinder Singh Mehra Vs St. of NCT Delhi	CrI.M.C.No. 1766/2010 DOD 08.10.2010, 2010 (4) JCC 2939 (DELHI HC)	Cognizance/Notice to Respondent	<ul style="list-style-type: none"> • Before passing an order on application, the magistrate has to take into consideration the domestic incident report received from him by Protection Officer or Service Provider. • Notice can be issued to respondent only after taking into consideration DIR.
Rakesh Sachdeva Vs St. of Jharkhand	2011 (7) RCR (CrI) 2073 (Jharkhand HC)	Cognizance/Notice to Respondent	Obligatory on the magistrate to take into consideration DIR if any at the time of passing any order on application. Not obligatory to call for DIR before issuing notice to respondent or passing any order on application.
Md. Basit Vs St. of Assam	CrI. Petition No.175/2011 1 DOD 09.07.2011 (Guwahati HC)	Cognizance/Notice to Respondent	Note obligatory for magistrate to call for report of protection officer or service provider at the stage of taking cognizance. However, if report available before magistrate, the same should be taken into consideration.

Ajay Kant & Others Vs Alka Sharma	2007 (4) RCR (CrI) 930 (MP HC)	Cognizance/Notice to Respondent	Obligatory on the magistrate to take into consideration DIR if any at the time of passing any order on application. Note obligatory to call for DIR before issuing notice to respondent or passing any order on application.
Logical Conclusion - Magistrate, before passing any order on petition, ex-parte or final, should take into consideration DIR if any recorded by PO. But where no report recorded by PO, then he can pass orders even without waiting for the report. Discretion to be excused judicially.			