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GOVERNMENT OF INDIA  
  
LAW  
COMMISSION  
OF  
  
INDIA  
  
Section 498A IPC  
  
Report No.243  
  
AUGUST 2012  
  
  
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(gd wa, sea a sero eA) FORT: 29019465 (R)  
‘Justice P. V. REDDI 25984475 (0)  
Former Judge, Supreme Court of India) Sr/Fax 23792745 (8)  
  
sare a fst arab  
Chairman  
Law Commission of India  
20 August 2012  
Der Minister Sri Salman Khurshid,  
  
‘The 243% Report of the Law Commission on S.498A of Indian Penal Code is  
‘enclosed herewith. The subject has been taken up pursuant to the ference made by the  
Home Ministry and the observations of Supreme, Court ia Pree Gupta Vs. State of  
Tharkhand (AIR 2010 SC 3363}, in the wake of complaints of misuse of the Section  
Whether any amendments are needed to this Section and other allied provisions in Cr.PC  
‘and in tho alternative what posible measures could be tazen to check the alleged misuse  
‘Sad the dieruption of fama have been examined.  
  
2. ‘The Commission has reiterated the recommendation made in the 237% Report that  
the offonce should be made compoundable with the peraisezm of the Court, ‘There i  
‘overwhelming view in favour of making it compoundabl. Certain precautions to be taken  
‘fore granting permission are suggested. Howeter, the Commision has recommended  
that should remain aoa-bailable. The misuse che extent of which isnot established by  
‘empirical data) by itself shall not be a ground to denude the provision ofits efficacy,  
keeping in view the larger societal interest  
  
3, \_ The Commission has pointed out that proper observance ofthe statutory guidelines  
‘equcding acest and sit lentipaton to vey the genuineness ofthe allegations nd  
Fesorting to arrest only in cases of seous magnitude such ag valence coupled with the  
Steps taken for effecting coneiintion through the media of professional conelos, ned  
inolistor, local respected persons (professionals and reed oficial), ety wuld go  
{ng way in inpeoring the stanton The addition of sub-section (9) t0 Section 4] of Ce  
FC {dealing with ares) prescribing statutory requirement for efleting arent 8, 496A  
{hoes has been recommended to impart cast The amendment of 3.88 Cr. PC to  
‘enhance the compensation amount haa also been recommended, It in felt that the  
‘troduction of separate provaion for providing pusiahanent for alse complaints in  
‘S984 cases is or required’ The protective meatures and assistance to be gen tothe  
sggreved women have aloo been suggested  
  
‘With regards and good wishes,  
  
(PN. Read)  
‘Sri Salman Khurshid, MP.  
  
Hon'ble Union Minister for Law and Justice  
  
Shastri Bhavan  
  
New Delhi  
  
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Section 498A IPC  
1. Introduction  
  
1.1 Keeping in view the representations received from various quarters and  
observations made by the Supreme Court and the High Courts, the Home  
Secretary, Government of India through his 0.0. letter dated 1% September,  
2009 requested the Law Commission of India to consider suggesting  
‘amendment, if any to s.498A of Indian Penal Code or other measures to check  
the alleged misuse of the said provision. Thereatter, in the case of Preeti Gupta  
vs. State of Jharkhand, (2010) the Supreme Court observed that “serious re-  
look of the entire provision is warranted by the Legislature. It is a matter of  
‘common knowledge that exaggerated versions of the incident are reflected in a  
large number of complaints. The tendency of over-implication is also reflected  
in a very large number of cases". Copy of the Judgment has been directed to  
be sent to the Law Commission and Union Law Secretary for taking appropriate  
steps. The Law Commission of India after intense deliberations released a  
Consultation Paper-cum-Questionnaire which is attached to this report as  
  
Annexure-.  
  
1.2. $.498A was introduced in the year 1983 to protect married women from  
being subjected to cruelty by the husband or his relatives. A punishment  
extending to 3 years and fine has been prescribed. The expression ‘cruelty’ has  
been defined in wide terms so as to include inflicting physical or mental harm  
to the body or health of the woman and indulging in acts of harassment with a  
  
view to coerce her or her relations to meet any unlawful demand for any  
  
  
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property or valuable security. Harassment for dowry falls within the sweep of  
  
latter limb of the section. Creating a situation driving the woman to commit  
suicide is also one of the ingredients of ‘cruelty’. The offence under s.498A is  
cognizable, non-compoundable and non-bailable. The section is extracted  
below:  
  
498A. Husband or relative of husband of a woman subjecting her to  
  
cruelty-Whoever, being the husband or the relative of the husband of a  
woman, subjects such woman to cruelty shall be punishable with  
imprisonment for a term which may extend to three years and shalll also  
be liable to fine.  
  
Explanation.-For the purpose of this section, “cruelty” means-  
  
(a) any willful conduct which is of such a nature as is likely to  
drive the woman to commit suicide or to cause grave injury or  
danger to life, limb or health (whether mental or physical) of  
woman; or  
  
(b) harassment of the woman where such harassment is with a  
view to coercing her or any person related to her to meet any  
unlawful demand for any property or valuable security or is  
‘on account of failure by her or any person related to her to  
‘meet such demand.”  
  
1.3. Several enactments and provisions have been brought on the statute  
book during the last two or three decades to address the concerns of liberty,  
dignity and equal respect for women founded on the community perception  
that women suffer violence or deprived of their constitutional rights owing to  
several social and cultural factors. Meaningful debates and persuasions have  
led to these enactments. The insertion of Section 498A IPC is one such move  
and it penalizes offensive conduct of the husband and his relatives towards the  
married woman. The provision together with allied provisions in Gr. P.C. are so  
  
designed as to impart an element of deterrence. In course of time, a spate of  
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reports of misuse of the section by means of false / exaggerated allegations and  
implication of several relatives of the husband have been pouring in. Though  
there are widespread complaints and even the judiciary has taken cognizance  
of large scale misuse, there is no reliable data based on empirical study as  
regards the extent of the alleged misuse. There are different versions about it  
‘and the percentage of misuse given by them is based on their experience or  
ipse dixit, rather than ground level study.  
  
2. Judicial decisions  
  
2.1 In the case of Preeti Gupta Vs. State of Jharkhand! (supra) decided in  
2010, the Supreme Court observed that a serious relook of the provision is  
warranted by the Legislature. The Court said: “It is a matter of common  
knowledge that exaggerated versions of the incidents are reflected in a large  
umber of complaints". The Court took note of the common tendency to  
implicate husband and all his immediate relations. The Supreme Court  
directed the Registry to send a copy of judgment to the Law Commission and  
Union Law Secretary so that appropriate steps may be taken in the larger  
interests of society. In an earlier case also - Sushil Kumar Sharma Vs. UOF  
(2005), the Supreme Court lamented that in many instances, complaints under  
498A were being filed with an oblique motive to wreck personal vendetta and  
observed. “It may therefore become necessary for the Legislature to find out  
  
ways how the makers of frivolous complaints or allegations can be  
  
"ni 2oro so 2360  
\* 2005 600 281  
  
  
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‘appropriately dealt with". It was also observed that “by misuse of the  
provision, a new legal terrorism can be unleashed’  
22 Various High Courts in the country have also noted that in several  
instances, omnibus allegations are made against the husband and his  
relations and the complaints are filed without proper justification. The need to  
exercise caution in the case of arrest of the husband and his relatives has been  
stressed while observing that by such a step, the possibility of reconciliation  
becomes remote and problematic. In some of the cases, directions were given  
by the High Courts for regulating the power of arrest and for taking necessary  
steps to initiate conciliatory effort at the earliest point of time. Reference may  
bbe made in this context to the decision of Delhi High Court in Chandrabhan Vs.  
State (order dated 4.8.2008 in Bail application No.1627/2008) and of the  
Madras High Court in the case of Tr. Ramaiah Vs. State (order dated 7.7.2008  
‘and 4.8.2008 in MP No.1 of 2008 in Cri. O.P. No.10896 of 2008). In the former  
case, it was observed that “there is no iota of doubt that most of the complaints  
are filed in the heat of the moment over trifling fights and ego clashes. It is also  
a matter of common knowledge that in their tussle and ongoing hostility, the  
hapless children are the worst victims”. The following directions were given to  
the police authorities:  
i) “FIR should not be registered in a routine manner.  
) Endeavour of the police should be to scrutinize complaints carefully  
‘and then register FIR.  
i) No case under section 498-A/406 IPC should be registered without  
the prior approval of DCP/Addl. DCP.  
  
iv) Before the registration of FIR, all possible efforts should be made for  
reconciliation and in case itis found that there is no possibility of  
  
  
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settlement, then, necessary steps should, in the first instance, be  
taken to ensure return of sthridhan and dowry articles to the  
complainant.  
  
v) Arrest of main accused be made only after thorough investigation has  
been conducted and with the prior approval of the ACP/DCP.  
  
vi) In the case of collateral accused such as in-laws, prior approval of  
DCP should be there on the file.”  
  
‘The other directions given were =  
  
The Delhi Legal Services Authority, National Commission for Women,  
NGOs and social workers working for upliftment of women should set up a  
desk in Grime Against Women Cell to provide them with conciliation services,  
0 that before the State machinery is set in motion, the matter is amicably  
settled at that very stage. The need to explore the possibility of reunion and  
conciliation when the case reaches the Court was also stressed. In conclusion,  
it was observed that in these matters, the parties themselves can adopt a  
  
conciliatory approach without intervention of any outside agency.  
  
2.3 In an earlier judgment of Delhi High Court in the case of “Court on its  
‘own in Motion vs. CBI", reported in 109 (2003) Delhi Law Times 494, similar  
directions were issued to the police and courts regarding arrest, grant of bail,  
  
conciliation etc. It appears that these procedural directions issued by the High  
  
Court are being followed in Delhi as stated by senior police officers of Dell  
though according to the version of some lawyers, there are many instances of  
violation at the police station level. It is to be mentioned that after the order in  
  
Chander Bhan's case, (supra), the Commissioner of Police of Delhi issued  
  
  
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Standing Order No.230 of 2008 compiling the “Guidelines for Arrest” as laid  
down by the Supreme Court and Delhi High Court. The judgments relevant to  
Section 498-A and the directions issued therein were referred to in the  
Standing Order. It is learnt that the practice of obtaining the permission of  
AGP/DCP level officers before effecting arrest of husband/relatives is being  
followed in Delhi. In many States, according to information received by the  
  
Chairman of t  
  
Commission, there are no systemic guidelines and there is no  
regular monitoring of this type of cases by the higher officials. Ad-hoc  
practices and procedures are in vogue.  
  
2.4 The directives given by the Madras High Court in the case of Tr. Ramiah  
  
are as follows:  
  
i) Except in cases of dowry death/suicide and offences of  
serious nature, the Station House Officers of the All Women Police  
Stations are to register F.L.R. only on approval of the Dowry  
Prohibition Officer concerned:  
  
li) Social workers/mediators with experience may \_be  
nominated and housed in the same premises of All Women Police  
  
Stations along with Dowry Prohibition Officers.  
  
Arrest. in matrimonial disputes, in particular arrest of  
  
‘aged, infirm, sick persons and minors, shall not be made by the  
  
Station House Officers of the All Women Police Stations.  
  
iv) Mf arrest is necessary during investigation, sanction  
must be obtained from the Superintendent of Police concerned by  
forwarding the reasons recorded in writing  
  
v) Arrest can be made after filing of the final report  
before the Magistrate concerned if there is non-cooperation and  
abscondance of accused persons, and after receipt of appropriate  
order (Non-Bailable Warrant)  
  
vi) Charge sheet must be filed within a period of 30 days  
from the date of registration of the F.ILR. and in case of failure,  
extension of time shall be sought for from the jurisdiction  
Magistrate indicating the reasons for the failure.  
  
vil) No weapon including lathis/physical force be used while  
handling cases at the All Women Police Stations.  
  
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vili) Complainants/victims should be provided with adequate  
secutity/accommedation at Government Home and interest of the  
children must be taken care of  
  
ix) Stridana properties/movables and immovable to be restored  
at the earliest to the victims/complainants and legal aid may be  
arranged for them through Legal Services Authority for immediate  
redressal of their grievances.  
  
2.5 Pursuant to this order, the Director-General of Police, Tamil Nadu,  
  
issued a circular to the effect that the said orders of the Court should be  
  
Strictly followed. In the further order dated 4.8.2008, the Court observed that  
  
when the LO. seeks remand of the accused, the Magistrate must examine the  
  
necessity therefor and the remand should not be ordered mechanically on the  
mere request of the LO. The Magistrate should be satisfied that sufficient  
grounds exist for directing remand. Further, the Court deprecated the practice  
  
‘of conducting lengthy panchayats in police stations.  
  
2.6 As regards the decisions of Delhi and Madras High Courts referred to  
  
above, there are a few comments which we consider appropriate to make. The  
  
decisions make the offence practically bailable by reason of various  
qualifications and restrictions prescribed. The decision of Madras High court  
0e8 to the extent of saying that arrest can be made only after filing of the final  
report before the Magistrate and on the basis of non-bailable warrant issued by  
the Magistrate. Whether this judicial law-making based on experience and  
expediency of restraining the power of arrest in matters arising out of  
matrimonial problems, is legally sound is one question that arises. Secondly,  
whether the registration of FIR can be deferred for sometime i... till initial  
  
investigation and reconciliation process is completed, is another point that  
7  
  
  
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arises. In Bhajan Lal's case®, the Supreme Court observed, “It is therefore,  
manifestly clear that if any information disclosing a cognizable offence is laid  
before an officer in charge of a police station satisfying the requirements of  
  
Section 154(1) of the Code, the sai  
  
police officer has no other option except to  
  
enter the substance thereof in the prescribed form, that is to say, to register a  
case on the basis of such information.”  
  
2.7 However, in a recent case of Lalita Kumari v. State of Uttar Pradesh’, the  
question whether a police officer is bound to register the FIR when a cognizable  
offence is made out or he has the discretion to conduct some kind of  
preliminary inquiry before registration of FIR, has been referred to a larger  
bench of Supreme Court in view of the apparent divergence in views. The law  
fn this point is therefore in an uncertain state. In this situation, the police in  
various States have to follow the law laid down or directives issued by the  
respective High Courts in regard to registration of FIR till the law is settled by  
the Supreme Court. Shri Amarjit Singh, Id. Member of the Commission has  
suggested that except in cases of physical violence, the FIR need not be  
  
registered instantaneously without any enquiry being made. Whether there  
  
should be a legislative provision in this regard specifically with reference to  
F.LRs under S, 498-A is a matter on which a fresh look could be taken after  
  
the Supreme Court interprets the relevant Sections in the above case.  
  
® sate of Haryana v. Bhajan Lal, A 1962 604  
“AIR2012 90 1815.  
  
  
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3. Some data regarding Prosecutions u/s 498-A  
3.1. The complaint of over-implication noticed by the Courts is borne out by  
the statistical data of the cases under $,498A. According to informations  
received from the Hon'ble High Courts (during the year 2011), 3,40,555 cases  
Under Section 498-A IPC were pending trial in various courts towards the end  
of 2010. There were as many as 9,98,809 accused implicated in these cases.  
This does not include cases pertaining to Punjab and Haryana (statistics not  
available). The implication of the relatives of husband was found to be  
Unjustified in a large number of decided cases. While so, it appears that the  
women especially from the poor strata of the society living in rural areas rarely  
take resort to the provision, though they are the worst sufferers. However,  
according to Delhi Police officials, with whom the Commission had interacted,  
  
women from poor background Ii  
  
ing in slums are also coming forward to file  
complaints.  
  
3.2 According to the statistics published by National Crime Records Bureau  
for the year 2011 (Tabled), 3,39,902 cases under $,498A were pending trial in  
various courts at the end of the year and 29,669 cases under S,04-B of IPC.  
The conviction rate in $,498A cases is 21.2% and in $,304-B cases, itis 35.8%.  
Number of cases reported under $,498A in the year 2011 are 99,135 and  
uring the two previous years, they were 94,041 and 89,546. Thus, there is  
slight increase (about 5%) in the reported cases every year. As stated earlier,  
many cases go unreported. The statistics relating to reported incidents may  
  
not therefore furnish a reliable comparative indicator of the actual incidence of  
  
  
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crimes in the States. For instance, when compared to other cities, the  
percentage share of incidents reported under S, 498-A is the 2°¢ highest in  
Delhi. It may be because that the percentage of reporting is apparently high.  
‘The dowry-death cases (S,804-B) reported during the years 2009-11 are: 8,383,  
8,391 and 8,618. There is a view-point that if the offence under S,498A is  
made bailable or non-cognizable, it will cease to be a deterrent against cruelty  
inflicted on married women and the dowry-deaths may increase.  
3.3 As noticed earlier, the conviction rate in respect of the cases under  
s.498A is quite low ~ it is about 20%. It is learnt that on account of  
‘subsequent events such as out-of-court settlement, the complainant women do  
not evince interest in taking the prosecution to its logical conclusion. Further,  
ineffective investigation is also known to be one of the reasons for low  
conviction rate.  
4. Arguments: Pro & Contra  
4.1. The arguments for relieving the rigour of s.498A by suitable amendments  
(which find support from the observations in Court judgments and Justice  
Malimath Committee's report on Reforms of Criminal Justice System) are:  
The harsh law, far from helping the genuine victimized women, has  
become a source o blackmail and harassment of husbands and others.  
Once @ complaint (FIR) is lodged with the Police under s.498A/406 IPC, it  
becomes an easy tool in the hands of the Police to arrest or threaten to  
arrest the husband and other relatives named in the FIR without even  
considering the intrinsic worth of the allegations and making a preliminary  
investigation. When the members of a family are arrested and sent to jail,  
with no immediate prospect of bail, the chances of amicable re-coneiliation  
or salvaging the marriage, will be lost once and for all. The possibility of  
reconeiliation, it is pointed out, cannot be ruled out and it should be fully  
  
explored. The imminent arrest by the Police will thus be counter-  
productive. The long and protracted criminal trials lead to acrimony and  
  
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bitterness in the relationship among the kith and kin of the family.  
Pragmatic realities have to be taken into consideration while dealing with  
‘matrimonial matters with due regard to the fact that it is a sensitive family  
problem which shall not be allowed to be aggravated by over-  
zealous/tallous actions on the part of the Police by taking advantage of  
the harsh provisions of s.498A of IPC together with its related provisions in  
CrPC. It is pointed out that the sting is not in s.498A as such, but in the  
provisions of CrPC making the offence non-compoundable' and non-  
bailable.  
4.2 The arguments, on the other hand, in support of maintaining the status  
quo are briefly  
S.498A and other legislations like Protection of Women from Domestic  
Violence Act have been specifically enacted to protect a vulnerable section of  
the society who have been the victims of cruelty and harassment. The social  
purpose behind it will be lost if the rigour of the provision is diluted. The  
abuse or misuse of law is not peculiar to this provision. The misuse can  
however be curtailed within the existing framework of law. For instance, the  
Ministry of Home Affairs can issue ‘advisories’ to State Governments to avoid  
unnecessary arrests and to strictly observe the procedures laid down in the law  
governing arrests. The power to arrest should only be exercised after a  
reasonable satisfaction is reached as to the bona fides of a complaint and the  
complicity of those against whom accusations are made. The “Crime Against  
Women Cells” should be headed by well trained and senior lady police officers.  
These steps would go a long way in preventing the so-called misuse. Side by  
side, steps can be taken to effect conciliation between the spouses in conflict  
  
and the recourse to filing of a charge-sheet under s.498A shall be had only in  
  
cases where such efforts fail and there appears to be a prima facie case.  
"  
  
  
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Counselling of parties should be done by professionally qualified counsellors  
land not by the Police. These views have been echoed among others by the  
Ministry of Women and Child Development  
  
43° Further, it is pointed out that a married woman ventures to go to the  
Police station to make a complaint against her husband and other close  
relations only out of despair and being left with no other remedy against  
cruelty and harassment. In such a situation, the existing law should be  
allowed to take its own course rather than over-reacting to the misuse in some  
cases, There is also a view expressed that when once the offending family  
members get the scent of the complaint, there may be further torture of the  
complainant and her life and liberty may be endangered if the Police do not act  
swiftly and sternly. It is contended that in the wake of ever increasing crimes  
leading to unnatural deaths of women in marital homes, any dilution of Section  
498-A is not warranted. Secondly, during the process of mediation also, she is  
vulnerable to threats and harassment. Such situations too need to be taken  
care of  
  
5. Thus, the triple problems that have cropped up in the course of  
implementation of the provision are:(a) the police straightaway rushing to  
arrest the husband and even his other family members (named in the FIR), (b)  
tendency to implicate, with little or no justification the in-laws and other  
relations residing in the marital home and even outside the home, overtaken by  
  
{feelings of emotion and vengeance or on account of wrong advice, and (0) lack  
  
  
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of professional, sensitive and empathetic approach on the part of the police to  
  
the problems of woman under distress.  
  
6. View of National Commission for Women  
  
6.1 The view point of National Commission for Women represented by  
  
Member-Secretary placed before the Parliamentary Committee on Petitions  
  
(Rajya Sabha) (report presented on 07.09.2011) has been summarized in the  
  
report of the Committee as follows:  
  
“  
  
(iy  
  
iw  
  
(a)  
  
Section 498A, IPC, provisions of the Dowry Prohibition Act 1961  
and the Protection of Women from Domestic Violence Act 2005  
have an element of commonality and need to be harmonized and  
uniformly implemented:  
  
Police should in the interest of the protection of the constitutional  
rights of a citizen ensure that no arrest should be made without a  
reasonable satisfaction after some investigation as to the  
genuineness and bonafide of a complaint and the need to effect  
arrest:  
  
Creation of Mahila Desks at police station and Crime Against  
Women (CAW) Cell, at least at the district level which would  
specifically deal the complaints made by women. When a wife  
moves to file a complaint to a women cell, a lot of persuasion and  
conciliation is required. The Legal Service Authorities of the States  
7 UTs, National Commission for Women, NGO and social workers  
should set up a desk in CAW Cell to provide conciliation services to  
the women so that before the state machinery is set in motion the  
matter is amicably settled at that every stage;  
  
In case of matrimonial disputes, the first recourse should be  
effective conciliation and mediation between the warring spouses  
and their families and recourse of filing charges under Section  
498A, IPC may be resorted to in cases where such conciliation fails  
and there appears a prima facie case of Section 498A of IPC and  
other related laws; and  
  
Counseling mechanism envisaged under the PWDVA should be  
implemented by State Governments and counseling of parties  
should be done only by professionally qualified counselors and not  
by the police. The police may consider empanelling professional  
counselors with CAW Cells.  
  
  
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7. The Approach and views of the Commission broadly  
  
7.1 The Commission is of the view that the Section together with its allied  
Cr-PC provisions shall not act as an instrument of oppression and counter~  
harassment and become a tool of indiscreet and arbitrary actions on the part of  
the Police. The fact that s.498A deals with a family problem and a situation of  
marital discord unlike the other crimes against society at large, cannot be  
forgotten. It does not however mean that the Police should not appreciate the  
grievance of the complainant woman with empathy and understanding or that  
the Police should play a passive role. $.498A has a lofty social purpose and it  
should remain on the Statute book to intervene whenever the occasion arises.  
Its object and purpose cannot be stultified by overemphasizing its potentiality  
for abuse or misuse. Misuse by itself cannot be a ground to repeal it or to take  
away its teeth wholesale. The re-evaluation of Section 498-A merely on the  
ground of abuse is not warranted. Besides that, while courts are confronted  
with abusive dimensions, sometimes very visibly in Section 498A prosecutions,  
we cannot close our eyes to a large number of cases which go unprosecuted for  
a variety of reasons.  
  
7.2. Section 498-A has to be seen in the context of violence and impairment  
‘of women’s liberty and dignity within the matrimonial fold. Mindless and  
senseless deprivation of life and liberty of women could not have been dealt  
with effectively through soft sanctions alone. Even though values of equality  
  
and non-discrimination may have to gain deeper roots through other social  
  
  
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measures, the need to give valuable protection to vulnerable sections of women  
cannot be negated.  
  
7.8 While the Commission is appreciative of the need to discourage  
Unjustified and frivolous complaints and the scourge of over-implication, it is  
not inclined to take a view that dilutes the efficacy of s.498A to the extent of  
defeating its purpose especially having regard to the fact that atrocities against  
women are on the increase. A balanced and holistic view has to be taken on  
weighing the pros and cons. There is no doubt a need to address the misuse  
situations and arrive at a rational solution ~ legislative or otherwise, while  
maintaining the efficacy of law. While we acknowledge diverse points of view,  
‘some with extreme emphasis and connotations, the point to be noted is that  
the value to be attached to the rights of women are no less than the value to be  
attached to the family as a unit and vice-versa. The challenge before the  
‘community is to ensure the promotion of both values. The emphasis should  
therefore be on wise moderations without overlooking the need and relevance of  
the retention of penal sanctions necessary to protect and promote women's  
rights and interests.  
  
7.4 There is also a need to create awareness of the provisions especially  
‘among the poor and illiterate living in rural areas who face quite often the  
problems of drunken misbehavior and harassment of wives. More than the  
women, the men should be apprised of the penal and other provisions of law  
protecting the women against harassment at home. The easy access of  
  
aggrieved women to the Taluka and District level Legal Service Authorities  
  
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Page 19:  
and/or credible NGOs with professional counsellors should be ensured by  
‘appropriate measures. There should be an extensive and well-planned  
campaign to spread awareness on right lines. Presently, the endeavour in this,  
direction is quite minimal. Visits to few villages once in a way by the  
representatives of LSAs, law students and social workers is the present  
scenario.  
  
7.5 There is an all-round view that the lawyers whom the aggrieved women  
  
or their relations approach in the first instance should act with a clear sense of  
  
ity and give suitable advice consistent with the real  
problem diagnosed. Exaggerated and tutored versions and unnecessary  
implication of husband's relations should be scrupulously avoided. The correct  
advice of legal professionals and the sensitivity of Police officials dealing with  
the cases are very important, and if these are in place, undoubtedly, the law  
will not take a devious course. Unfortunately, there is a strong feeling that  
‘some lawyers and police personnel have failed to act and approach the problem  
  
in a manner ethically and legally expected of them,  
  
8. Compounding the Offence  
  
8.1. There is preponderance of opinion in favour of making the offence under  
$,498-A compoundable with the permission of the court. Even those  
(individuals, officials and organizations) who say that it should remain a non-  
bailable offence, have suggested that the offence should be made  
  
compoundable, subject to the permission of court. Some States, for eg  
  
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Page 20:  
Andhra Pradesh have already made it compoundable. The Supreme Court, in  
the case of Ramgopal v. State of M. P. in SLP (Cri,) No, 6494 of 2010 (Order dt.  
July 30, 2010), observed that the offence under S, 498-A should be made  
compoundable. However, there is sharp divergence of views on the point  
whether it should be made a bailable offence. It is pleaded by some that the  
offence should be made bailable at least with regard to husband's relations and  
in respect of the cases failing under second part of the Explanation Clause (b)  
to Section 498-A,  
8.2. As regards compoundability, the Commission has given a comprehensive  
report (287! Report) under the title of “Compounding of IPC Offences". The  
Commission recommended that the offence under Section 498A should be  
made a compoundable offence with the permission of Court. The Commission  
has suggested the inclusion of the following sub-section in 8,320 Gr.PC:  
After the application for compounding an offence under S.498A of  
Indian Penal Code is filed and on interviewing the aggrieved woman,  
preferably in the Chamber in the presence of a lady judicial officer or @  
representative of District Legal Services Authority or a counsellor or a close  
relation, if the Magistrate is satisfied that there was prima facie a  
voluntary and genuine settlement between the parties, the Magistrate shall  
make a record to that effect and the hearing of application shall be  
adjourned by three months or such other earlier date which the Magistrate  
‘may fix in the interests of Justice. On the adjourned date, the Magistrate  
shall again interview the victim woman in the like manner and then pass  
the final order permitting or refusing to compound the offence after giving  
opportunity of hearing to the accused. In the interregnum, it shall be open  
  
10 the aggrieved woman to file an application revoking her earlier offer to  
compound the offence on sufficient grounds.  
  
The relevant part of Commission's report is furnished in Annexure-|  
  
  
  
Page 21:  
8.4 In the 154% Report of the Law Commission also, there was a clear  
recommendation to make the offence compoundable. Justice Mallimath  
Committee on Criminal Justice Reform also recommended that it should be  
made compoundable as well as bailable. The Committee of Petitions (Rajya  
Sabha) in the report presented on 7.09.2011, observed thus at para 13.2 under  
the heading “Making the offence under Section 498A IPC compoundable’:  
  
“The Committee notes that the offence under Section 498A IPC is  
essentially a fallout of strained matrimonial relationship for which there  
might be various considerations. Since there can be various causes  
leading to an offence under Section 498A, IPC and parties to the marriage  
could be responsible for the same in varying degrees, it would be  
appropriate if the remedy of compromise is kept open to settle a  
matrimonial dispute. In this context, the Committee feels that in case of  
any marital discord which has reached the stage of a complaint under  
Section 498A, IPC, it would be better if the parties have the option of a  
compromise whereatter they can settle down in their lives appropriately for  
a better future rather than diverting their energies negatively by pursuing  
Iitigation. The Committee recommends to the Government to consider  
whether the offence under Section 498A, IPC can be made compoundable."  
  
8.5 These observations and recommendations of the Parliamentary  
Committee reinforces the view taken by the Law Commission in 237% Report  
  
which is annexed herewith (Annexure  
  
In the 111 report of the  
Department related Standing Committee on Home Affairs on the Criminal Law  
‘Amendment Bill, 2003 (report of 2005), the Committee categorically  
recommended that the offence under Section 498-A should be made  
compoundable. The Committee of Petitions (Rajya Sabha), recommended that  
the offence under Section 498A should continue to be cognizable and non-  
bailable while “strongly recommending” that “the ileffects and miseries of the  
  
provision should be checked.” The Committee observed further: “the Committee  
18  
  
  
Page 22:  
fears that failure to do so may leave no option except to dilute the law by making  
the same non-compoundable and bailable.” Certain measures to check misuse  
were suggested which will be referred to at the appropriate juncture  
  
2. Domestic Violence Act  
  
9.1 In the context of the issue under consideration, a reference to the  
provisions of Protection of Women from Domestic Violence Act, 2005 (for short  
PDV Act) which is an allied and complementary law, is quite apposite. The  
said Act was enacted with a view to provide for more effective protection of  
rights of women who are victims of violence of any kind eccurring within the  
family. Those rights are essentially of civil nature with a mix of penal  
provisions. Section 3 of the Act defines domestic violence in very wide terms. It  
encompasses the situations set out in the definition of ‘cruelty’ under Section  
498A. The Act has devised an elaborate machinery to safeguard the interests of  
women subjected to domestic violence. The Act enjoins the appointment of  
Protection Officers who will be under the control and supervision of a Judicial  
Magistrate of First Class. The said officer shall send a domestic incident report  
to the Magistrate, the police station and service providers. The Protection  
Officers are required to effectively assist and guide the complainant victim and  
provide shelter, medical facilities, legal aid ete. and also act on her behalf to  
present an application to the Magistrate for one or more reliefs under the Act  
The Magistrate is required to hear the application ordinarily within 3 days from  
the date of its receipt. The Magistrate may at any stage of the proceedings  
  
direct the respondent and/or the aggrieved person to undergo counseling with  
  
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Page 23:  
‘a service provider. ‘Service Providers’ are those who conform to the  
  
requirements of Section 10 of the Act. The Magistrate can also secure the  
  
services of a welfare expert preferably a woman for the purpose of assisting  
him. Under Section 18, the Magistrate, after giving an opportunity of hearing to  
the Respondent and on being prima facie satisfied that domestic violence has  
  
taken place or is likely to take place, is empowered to pass a protection order  
  
prohibiting the Respondent from committing any act of domestic violence  
and/or aiding or abetting all acts of domestic violence. There are other powers  
  
vested in the Magistrate including granting residence orders and monetary  
  
reliefs. Section 23 further empowers the Magistrate to pass such interim order  
fas he deems just and proper including an ex-parte order. The breach of  
protection order by the respondent is regarded as an offence which is  
cognizable and non-bailable and punishable with imprisonment extending to  
fone year (vide Section 31). By the same Section, the Magistrate is also  
empowered to frame charges under Section 498A of IPC and/or Dowry  
  
Prohi  
  
er who f  
  
ion Act. A Protection Of  
  
or neglects to discharge his duty  
‘as per the protection order is liable to be punished with imprisonment (vide  
Section 23). The provisions of the Act are supplemental to the provisions of any  
other law in force. The right to file a complaint under Section 498A is  
specifically preserved under Section § of the Act.  
  
9.2 An interplay of the provisions of this Act and the proceedings under  
s.498A assumes some relevance on two aspects: (1) Seeking Magistrate's  
  
expeditious intervention by way of passing a protective interim order to prevent  
  
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Page 24:  
secondary victimization of a complainant who has lodged FIR under s.498A. (2)  
Paving the way for counseling process under the supervision of Magistrate at  
the earliest opportunity  
  
10. Responses - an overview  
  
10.1 As many as 474 persons, organizations/institutions and officials (listed  
  
in Annexure-IIl) have sent their responses to the Consultation Paper-cum-  
  
Questionnaire. A broad analysis of these replies are given in Annexure III-A.  
  
Some of the important and typical responses are compiled in Annexure II-B.  
‘As many as 244 Judicial Officers from various States including Registrars and  
Directors of Judicial Academies and Officials (most of them are Police Officers)  
land members of legal academia have sent their responses. 100 of them  
‘suggested that the offence should be made bailable. However, 119 of them have  
clearly stated that it should remain non-bailable. Among the 24  
organizations/institutions, 12 of them pleaded for bailability and 5 have  
expressed the view that it should remain non-bailable. Among the individuals,  
fa vast majority of them suggested that it should be made bailable. Some have  
expressed an extreme view that the Section should be repealed or it should be  
made gender neutral. There are three Non-Resident Indians among the  
representationists ~ two of them individuals and the other an organization.  
They consider it as a harsh law against husbands and it shall be revisited.  
The tales of woes and harassment caused on account of false complaints have  
been narrated in many representations while pleading that the complainant  
  
woman should be made accountable for such false and frivolous complaints.  
  
at  
  
  
Page 25:  
Some State Governments and Union Territories also gave their suggestions.  
  
Their views are compiled in Annexure  
  
.C. Most of the respondents including  
those who are not in favour of change emphasized the need for verification of  
facts by way of preliminary/initial investigation and not to rush through the  
process of arrest. The need to facilitate reconciliation through counseling and  
mediation at the earliest stage has been stressed by a large number of  
respondents. The active participation of Legal Service Authorities as a  
facilitator of conciliation and mediation processes and the need for closer  
coordination between the police and LSAs in this regard has also been pointed  
out by many of them. It is also stated that LSAs can play a greater role in  
  
spreading awareness in the rural areas.  
  
10.2 The Chairman of the Commission in the company of Vice-Chairman and  
other Id. Members and officials of the Commission had occasions to interact  
with Judicial Officers of various ranks (including lady judges). In. such  
Conferences, the general consensus was that the offence under Section 498-A  
should be made compoundable with the permission of the Court and it should  
continue to remain nor-bailable. At the same time, they expressed some  
concern over complaints filed with false allegations or over implication and  
stressed on the duty of Police to act with sensitivity and responsibility in  
matters of this nature. So also, the plight of the aggrieved women who go to the  
Police Stations and who in a state of emotion and confusion tend to file  
complaints with exaggerated versions has been highlighted. Senior Police  
Officers in Delhi have stated that the percentage of misuse is minimal and  
  
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Page 26:  
most of the complaints are quite genuine though at times the complaints are  
instigated to make some exaggerated and untrue allegations. They gave details  
of the practices that are being followed by Delhi Police especially in regard to  
conciliation by qualified counselors. They have also highlighted the problem  
caused by NRI women filing dual complaints i.e., in Delhi under , 498-A as  
well as the relevant laws in force governing domestic violence in the country  
where they last resided with the accused husband. In regard to misuse  
dimensions, there were different versions from the Police Officers in some other  
States. There was a divided opinion among the lawyers and judges (who  
attended the Conferences) at Visakhapatnam (A.P.), Chennai, Aurangabad and  
Bengaluru on the question whether it should remain non-bailable, However,  
the lawyers, both men and ladies in one voice stated that it should be made  
compoundable and reconciliation process should be put in place without loss  
of time. The same was the opinion expressed at the conferences in Judicial  
  
‘Academies in several States.  
11. Diagnosis of the problem and reasonable solution  
  
11.1 That Section 498A has been misused in many instances admits of no  
doubt. This has been taken judicial notice of in several cases. The  
Parliamentary Committee has also adverted to this aspect. The inputs received  
by the Law Commission and the representations made to the Home Ministry.  
also confirm this fact. However, there is no reliable data to reveal the extent of  
  
abuse or misuse. The data/information reveals that urban and educated  
  
  
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women are mostly coming forward to file the complaints under this section.  
The data also reveals that in most of the cases, apart from the husband, two of  
his relations (especially in-laws) are being prosecuted. At the same time, the  
Commission feels that misuse arising from exaggerated versions and over  
implication should not by itself be a ground to dilute the provision by making  
it bailable. Depriving the police of the power to arrest without warrant in order  
to have proper investigation would defeat the objective of the provision and may  
be counter-productive. The element of deterrence will be irretrievably lost, once  
it is made bailable. It is to be noted that the misuse did not flow from the  
section itself but the roots of misuse were grounded on the insensitive police  
responses and irresponsible legal advice. The victim/complainant deprived of  
her cool and objective thinking, quite often, unwittingly signs a complaint  
containing such exaggerated or partially false allegations. By the time she  
  
realizes the implications thereof, it would be too late.  
  
11.2 In the Commission's view, the misuse could be minimized by taking  
such measures as would ensure the strict observance of the law governing  
arrest as evolved in D.K. Basu’s case and incorporated in the statute i.e., in  
Chapter-V of Cr. P.C. The police at present either overact or adopt indifferent  
attitude in many a case. They are expected to act with due sensitivity and  
with the realization that they are dealing with an alleged offence arising out of  
strained matrimonial relations. and that nothing should be done to disrupt the  
cchanees of reconciliation, or to cause trauma to the children. While launching  
of investigation ~ preliminary or otherwise, without delay is desirable, the  
  
24  
  
  
Page 28:  
arrest and such other drastic measures should not close the doors for  
reconciliation and amicable settlement. The Law Commission has already  
recommended that the offence under Section 498-A should be made  
compoundable. This is the minimum that could be done to promote the  
restorative, not merely penal goal of the law. It may be noted that even under  
the Prevention of Domestic Violence Act, a specific provision is enacted  
  
providing for conciliation at the earliest on the intervention of Magistrate.  
12. Power of Arrest ~ a balanced approach  
  
12.1. Power of arrest vested with the Police Officer in a cognizable offence is no  
doubt a potent weapon to enforce the penal provision. However, this weapon  
should be sparingly drawn out of its sheath and wielded only if necessary. It  
shall not be used at the whim and fancy of the LO. or be treated as a panacea  
for checking such offences. The attitude to arrest first and then proceed with  
the rest is despicable. Mechanical, casual and hasty application of the power  
of arrest is counter-productive and negates the fundamental right enshrined in  
Art. 21, Such attitude is at the root of misuse of S. 498A. The provisions in  
  
Cr.PC regulating and channel  
  
ing the power of arrest should act as guiding  
star to the police and their spirit and purpose should be foremost in their  
minds. Overreach is as bad as inaction. The need for caution in exercising the  
<Grastic power of arrest in the context of cases u/s 498-A has been emphasized  
time and again by the Courts and the parliamentary Committee. Similarly, the  
  
need to keep the doors for reconciliation open and to restore the family ties if  
  
  
Page 29:  
possible has also been highlighted in many judgments and even in statutory  
provisions dealing with matrimonial disputes and domestic violence. Arbitrary  
and indiscriminate arrests are an anathema to the rule of law and values of  
criminal justice. In the context of Section 498-A complaints, it tends to become  
‘a handy tool to the police officers who lack sensitivity or act with oblique  
motives. The objective of the provision is not better subserved by viewing  
arrest as the most effective tool. Arrest pending investigation or thereafter  
should never be viewed as a well deserved punitive measure and it should be  
exercised on an objective appraisal of the statutorily laid down conditions and  
  
criteria,  
  
12.2. The value of proportionality permeates the newly introduced. provisions  
relating to arrest. If these provisions are scrupulously followed, the potential  
for arbitrary action on the part of police is minimized. Needless to say that  
the power of arrest is coupled with the duty to act reasonably. S. 498-A admits  
of various degrees of cruelty which can be broadly categorized as less serious  
land more serious. Uniformity of approach in exercising the power of arrest is  
  
bound to result in undue hardship and unintended results.  
  
12.3. It is apposite at this juncture to recall the following significant  
observations made in Joginder Kumar's case: “The horizon of human rights is  
expanding. At the same time, the erime rate is also increasing. Of late, this Court  
has been receiving complaints about violation of human rights because of  
  
indiscriminate arrests. How are we to strike a balance between the two? A  
  
2%  
  
  
Page 30:  
realistic approach should be made in this direction. The law of arrest is one of  
balancing individual rights, liberties and privileges, on the one hand, and  
individual duties, obligations and responsibilities on the other: of weighing and  
balancing the rights, liberties and privileges of the single individual and those of  
individuals collectively: of simply deciding what is wanted and where to put the  
weight and the emphasis; of deciding which comes first the criminal or society,  
the law violator or the law abider; of meeting the challenge which Mr. Justice  
Cardozo so forthrightly met when he wrestled with a similar task of balancing  
  
individual rights against society's rights".  
  
12.4 The need to balance personal liberty with law enforcement has been  
stressed in Nandini Satpathy’s case by quoting Lewis Mayers: The paradox has  
been put sharply by Lewis Mayers: “To strike the balance between the needs of  
law enforcement on the one hand and the protection of the citizen from  
oppression and injustice at the hands of the law-enforcement machinery on the  
other is a perennial problem of statecraft. The pendulum over the years has  
  
‘swung fo the right’  
  
13. Analysis of the provisions relating to arrest and the duty of police  
  
13.1 Now, let us analyse the provisions relating to arrest in Chapter-V and  
evolve some guidelines as to how the police is expected to act when a FIR  
  
disclosing an offence u/s 498-A is received,  
  
Fain 1979s  
  
  
Page 31:  
13.2 Section 41, Cr. P.C., as recast by Act 5 of 2009, lays down certain  
conditions and restrictions for arresting a person without an order from the  
Magistrate and without a warrant. There are three situations dealt with by  
Section 41. Clause (a) speaks of a person committing a cognizable offence in  
the presence of a police officer. He can be arrested straight away. We are more  
concerned with clauses (b) and (ba). Clause (ba) relates to power of arresting a  
person against whom credible information has been received that he has  
committed a cognizable offence punishable with imprisonment for a term which  
may extend to more than seven years or with death sentence. Thus, the more  
serious cognizable offences are within the ambit of clause (ba). The conditions  
for arrest without warrant as set out in clause (ba) are (i) receipt of credible  
information of cognizable offence; and (2) on the basis of such information, the  
police officer ‘has reason to believe’ that the such person has committed the  
offence. The preceding clause (b) governs cognizable offences punishable with  
imprisonment for a term extending to seven years®. More stringent conditions  
for arrest have been laid down in Cl.(b). A reasonable complaint’ or ‘a credible  
information’ or ‘a reasonable suspicion’ that a person has committed a  
cognizable offence triggers the application of this part of section 41. In such a  
case, the power of arrest is subject to two conditions which operate  
cumulatively. First the police officer should have ‘reason to believe’ on the  
basis of such complaint, information, or suspicion that a person has  
  
committed the offence. Apart from the condition of formation of reasonable  
  
"The punishment prescribed by S498 is imprisonment extending to three years an in.  
28  
  
  
Page 32:  
belief on the basis of the complaint or information, the police officer has to be  
satisfied further that the arrest is necessary for one or more of the purposes  
envisaged by sub-clauses (a) to (e) of clause (ii) of section 41(1)(b). For ready  
  
reference, the said sub-clause  
  
) is extracted hereunder:~  
  
(id the police officer is satistied that such arrest is necessary —  
(a) to prevent such person from committing any further offence: or  
() for proper investigation of the offence; or  
(6) fo prevent such person from causing the evidence of the  
offence to disappear or tampering with such evidence in any  
‘manner; or  
  
(@) to prevent such person from making any inducement, threat  
or promise to any person acquainted with the facts of the case  
s0 as to dissuade him from disclosing such facts to the Court  
or to the police officer; or  
  
(@) as unless such person is arrested, his presence in the court  
whenever required cannot be ensured,  
and the police officer shall record while making such arrest,  
his reasons in writing.  
  
These conditions are in the nature of mandatory prescriptions to be  
{followed by the police officer before resorting to the drastic power of arrest. The  
conditions in other clauses of Section 41 are not relevant for our purpose and  
hence not discussed.  
  
13.3 When a suspect is arrested and produced before a Magistrate for  
extension of police custody, the Magistrate has to address the question whether  
specific reasons have been recorded for arresting the person and if so, prima  
facie, those reasons are relevant and secondly a reasonable conclusion could at  
all be reached by the police officer that one or the other conditions stated above  
are attracted. To this limited extent, there could be judicial scrutiny at that  
stage. If this scrutiny is there, the wrong committed by the police officer —  
  
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Page 33:  
intentionally or unwittingly, could be reversed at the earliest. In Section 498-A  
cases, it is not too easy to reach the satisfaction that one or more of the clauses  
in Section 41 are attracted. What could be achieved by custodial interrogation  
could very well be achieved by interrogating the accused in the course of initial  
or preliminary investigation. The husband and other male relations can be  
called upon to appear before the ILO. on the specified date as laid down in  
Section 41-A. The 1.0. cannot proceed on the assumption straightaway that  
arrest is the best way to extract truth, especially in matrimonial offences. He  
must always bear in mind that arrest is not the rule and it should be resorted  
to only on the satisfaction of the conditions statutorily prescribed. There are  
reports that many arrests in S. 498-A cases are made by police on extraneous  
considerations or without proper application of mind. At the same time, there  
are also reports that the complaints under section 498-A do not receive serious  
attention of police and the victim is always viewed with suspicion. Such police  
inaction too has to be disapproved.  
  
13.4 The Explanation to Section 498-A which defines cruelty is in two  
parts. Clause (a) of the Explanation deals with aggravated forms of cruelty  
which cause grave injury. Firstly, wilful conduct of such a grave nature as is  
likely to drive the woman to commit suicide falls within the ambit of clause (a).  
The second limb of clause (a) lays down that willful conduct which causes  
grave injury or danger to life, limb or health (whether mental or physical) of  
the woman is to be regarded as ‘cruelty’. Dowry related harassment is within  
  
clause (b) of the Explanation. When the FIR coupled with the statement of the  
  
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Page 34:  
victim woman discloses cruelty of grave nature falling within clause (a), the  
police officer has to act swiftly and promptly especially if there is evidence of  
physical violence. In the first instance, proper medical aid and the assistance  
of counselors shall be provided to the aggrieved woman and the process of  
investigation should start without any loss of time. The need for arresting the  
husband may be more demanding in such a situation in a case of cruelty  
falling under clause (b). We are adverting to this fact in order to make it clear  
that our observations earlier do not mean that under no circumstances, the  
power of arrest shalll be initially resorted to or that the ILO. should invariably  
postpone the arrest/custodial interrogation till the reconciliation process  
comes to close. We would like to stress that the discretion has to be exercised  
reasonably having due regard to the facts of each case. Of course, the  
conditions subject to which the power of arrest has to be exercised should  
always guide the discretion to be exercised by the police officer. While no hard  
and fast rule as to the exercise of power of arrest can be laid down, we would  
like to point out that a balanced and sensitive approach should inform the  
decision of the ILO. and he shall not be too anxious to exercise that power.  
‘There must be good and substantial reasons for arriving at the satisfaction that  
imminent arrest is necessary having regard to the requirements of clause (ii) of  
Section 41(1)(b) of Cr. P.C. In this context, the Commission would like to stress  
that the practice of mechanically reproducing in the case diary all or most of  
the reasons contained in the said clause for effecting arrest should be  
  
discouraged and discontinued. The Head of Police department should issue  
  
at  
  
  
Page 35:  
necessary instructions in this regard which will serve as a safeguard against  
  
arbitrary arrests in $,498-A cases.  
  
13.5 The investigating officers should remind themselves of the pertinent  
observations made by the Supreme Court in Joginder Kumar vs. State of U.P’.  
After referring to the 3 report of National Police Commission, the Supreme  
  
Court placed the law of arrest in a proper perspective by holding  
  
“The above guidelines are merely the incidents of personal liberty  
guaranteed under the Constitution of India. No arrest can be made  
because it is lawful for the police officer to do so. The existence of the  
power to arrest is one thing. The justification for the exercise of it is quite  
another. The police officer must be able to justify the arrest apart from his  
power to do so. Arrest and detention in police lock-up of a person can  
cause incalculable harm to the reputation and self-esteem of a person. No  
arrest can be made in a routine manner on a mere allegation of  
commission of an offence made against a person. It would be prudent for a  
police officer in the interest of protection of the constitutional rights of a  
citizen and perhaps in his own interest that no arrest should be made  
without a reasonable satisfaction reached after some investigation as to  
the genuineness and bona fides of a complaint and a reasonable belief  
both as to the person's complicity and even so as to the need to effect  
arrest. Denying a person of his liberty is a serious matter. The  
recommendations of the Police Commission merely reflect the constitutional  
concomitants of the fundamental right to personal liberty and freedom. A  
person is not liable to arrest merely on the suspicion of complicity in an  
offence. There must be some reasonable justification in the opinion of the  
officer effecting the arrest that such arrest is necessary and justified.  
Except in heinous offences, an arrest must be avoided if a police officer  
issues notice to person to attend the Station House and not to leave the  
Station without permission would do. Then, there is the right to have  
‘someone informed. That right of the arrested person, upon request, to have  
‘someone informed and to consult privately with a lawyer was recognised  
by Section 56(1) of the Police and Criminal Evidence Act, 1984 in England”.  
  
13.6. In Siddaram Satlingappa vs. State of Maharashtra, it was observed:  
  
7 AiR 1994 9 1949; (1994) 4 S00 260  
\* AMR2011 8 912 Para 123)  
  
  
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“The arrest should be the last option and it should be restricted to  
those exceptional cases where arresting the accused is imperative in the  
facts and circumstances of that case”.  
  
14. Certain guidelines / prescriptions to mitigate misuse  
  
14.1 Certain Dos and Don'ts to the police personnel by the Head of the police  
  
dept. in order to inculcate the sense of responsibility and sensitivity is the need  
  
of the hour. The abuse of the provision by resorting to the power of arrest  
  
Indiscriminat  
  
ly should be checked at all cost. The following  
prescriptions/guidelines shall be kept in view by the IOs and be incorporated  
  
in the Circular to be issued by the Head of Police Department.  
  
14.2 The FIR has to be registered as per law if it discloses an offence and the  
Police Officer has reason to suspect the commission of offence (as laid down in  
Section 157}. However, on the point of registration of FIR, the police officials  
  
have to necessarily follow the decisions/directives of High Court on the point.  
  
14.3. On receiving the FIR, the police officer should cross-check with the  
complainant the correctness of the contents and whether she voluntarily made  
all the allegations. For this purpose, she may be interviewed/questioned  
preferably in the presence of a lady official or a respectable lady or a Counsellor  
attached to a reputed NGO.  
  
14.4 Then, without delay, the police officer must initiate the process of initial  
investigation by visiting the house of the husband and have a first hand  
‘account of the version of husband and other relations and take such measures.  
‘as may be necessary to ensure that the accused do not indulge in acts  
  
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calculated to endanger the safety and liberty of the complainant. Both sides  
should be counseled not to precipitate the situation. Thereafter, steps should  
be taken to refer the matter to the Mediation Centre if any or District Legal aid  
Centre or a team of Counselors/coneiliators if any attached to the Police  
District. In the absence of professional counsellors, the SP of the District or the  
DCP can form a team or panel of mediators/counselors. It may consist of IAS  
oF other Civil Service Officers (preferably lady officers) and lady IPS Officers  
(unconnected to the case) or respected members of media, legal or other  
professions. If the parties choose to have specified persons as  
mediators/conciliators, they must be referred to such persons. The police may  
obtain the report of mediators or conciliators within a maximum period of  
thirty days and then, depending on the outcome, they may proceed further in  
the matter. If the situation demands, investigation shall be completed and at  
that stage, if custodial interrogation is found necessary for the relevant reasons  
to be recorded in writing, the husband and others can be arrested on taking  
the permission of DCP/SP level officer. Then LO. shall also take such action as  
  
is necessary to restore the valuable belongings of the complainant woman.  
  
These rules or guidelines if followed would prevent misuse while fostering  
  
a valued based approach  
  
14.5 In the case of Non-Resident Indians, it is reported that the passports are  
seized when they come to India at the stage of investigation or they are sent to  
  
the Passport Officer for passing an order of impounding. During the pendency  
  
  
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of the case in the Court, the prosecutor often requests the Court to direct  
depositing of the passport as a condition for granting bail. This should not be  
done in all cases mechanically as it will cause irreversible damage to the  
husband/accused and he will be exposed to the risk of losing the job and the  
visa being terminated. Ultimately, there may be amicable settlement and/ or  
quashing of proceedings or acquittal/discharge but the damage has already  
been done. The prospect of the accused remaining unemployed would not be in  
the interests of both as the loss of earnings will have a bearing on the  
maintenance claims of the wife, apart from depriving him of the means of  
livelihood. The proper course would be to take bonds and sureties for heavy  
‘amounts and the prosecution taking necessary steps to expeditiously complete  
the trial. This aspect should also be brought to the notice of concerned police  
  
officers by means of circulars issued by the DGPs.  
15. Home Ministry's advisory and further action to be taken  
  
15.1 In the Commission's view, the approach of Ministry of Home Affairs in  
the Advisory issued by it in No.9/5/2008-Judl.Cell dt. 20" October, 2009 is  
the correct approach and the instructions issued therein need to be reiterated  
after convening a conference of DGPs of every State so that follow up circulars  
will be issued by them for guidance of police officials within their jurisdiction.  
  
This is what the Home Ministry said in the said Circular:  
  
“To comply with the procedure as laid down In D.K. Basu’s case, the  
Hon'ble Supreme Court in its judgement dated 18.12.96 in CRL CWP  
No.539/86 - DK Basu vs. State of West Bengal has stated that the power  
  
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of arrest without warrant should be exercised only after a reasonable  
satisfaction is reached, after some investigation as to the genuinness and  
bonafides of a complaint and a reasonable belief as to both the person's  
complicity as well as the need to effect arrest. Therefore, in any  
matrimonial dispute, it may not necessary in all cases to immediately  
exercise the powers of arrest. Recourse may be initially taken to dispute  
settlement mechanism such as conciliation, mediation, counseling of the  
parties etc.”  
  
15.2 The views of the National Commission for Women (extracted in 140!"  
Report of the Rajya Sabha Committee on Petitions) substantially accords with  
the instructions issued by the Ministry of Home Affairs in the advisory issued  
  
by it  
  
15.3 We have indicated earlier what the police is expected to do (vide paras 13  
supra). These aspects should also form the subject matter of the  
Circular/Standing order to be issued by the DGPs/Police Commissoners  
for the guidance of the police personnel. A mechanism to monitor the  
observance of the guidelines/instructions should be put in place. Regular and  
dedicated supervision by high level officers would go a long way in ensuring  
  
enforcement of this provision on right lines.  
  
15.4 In some States, as noticed earlier, there are directives of the High Courts  
2s to how the police should handle the complaints under Section 498-A. Based  
fon these directives, it is noticed that certain instructions have already been  
issued by the DGPs. It is needless to state that the High Court's directives are  
binding and a fresh circular cannot be issued by the DGP superseding the  
instructions based on the High Court's judgment. In such a situation, the  
  
proper course would be to apprise the High Court of the decision taken at the  
  
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conference of DGPs and to request the High Court to modify the directions  
appropriately in the light of the decision taken so that there will be uniformity  
  
in approach all over the country.  
16. Amendment of Section 41 Cr.PC by the addition of sub-section (3)  
  
16.1 At the same time, in the interest of uniformity and certainty, it is  
desirable that the essential guidelines are placed within legislative framework,  
to the extent necessary. We therefore suggest that sub-section (3) may be  
added to Section 41 of Cr.PC on the following lines:  
  
(3): Where information of the nature specified in clause(b) of sub-  
section(1) of Section 41 has been received regarding the commission of  
offence under section 498-A of Indian Penal Code, before the police officer  
resorts to. the power of arrest, shall set in motion the steps for  
reconciliation between the parties and await its outcome for a period of 30,  
days, unless the facts disclose that an aggravated form of cruelty falling  
under clause (a) of Explanation to S, 498-A has been committed and the  
  
arrest of the accused in such a case is necessary for one of the reasons  
specified in clause (b) of Section 41  
  
16.2 We would like to add that this proposed sub-section is not something  
‘materially different from the existing law and perhaps its utility lies in making  
explicit what is really implicit in light of the peculiar problems related to  
enforcement of S, 498-A. It is a procedural amendment which may act against  
inappropriate use of provision while at the same time not diluting the  
  
importance of life and liberty protection to women.  
  
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17. $, 358 of Cr.PC - raising the compensation limit  
  
17.4 Another legislative change which the Commission recommends to  
discourage false and frivolous complaints leading to the arrest and  
prosecution of the suspect/accused is to amend Section 358 of Cr.PC so as to  
raise the compensation from rupees one thousand to rupees fifteen thousand.  
The words “not exceeding one thousand rupees” shall be substituted by the  
words “not exceeding fifteen thousand rupees”. This amendment is necessary  
to check to some extent the false and irresponsible FIRs/complaints in  
general, not merely confined to S, 498A. This is without prejudice to the  
Provision in IPC (Section 211) under which falsely charging a person of an  
  
offence is punishable.  
  
17-A. Punishment for misuse - no specific provision necessary  
  
The suggestion of some respondents (in some Articles also, such a  
suggestion was made) that there must be a specific provision to punish women  
who file complaints for extraneous reasons is rather misconceived. There is  
no reason why only for S,498A cases, such a special provision shall be made.  
In any case, the existing provisions, viz. $,182, 211 of IPC and S,250 of Gr.PC  
  
can take care of malicious accusations ete, apart from Section 358 Cr.PC.  
  
18. State's obligation to take care of estranged women in distress  
  
‘One more important aspect on which attention should be bestowed by  
  
the states and Union Territories is providing necessary aid and assistance to  
  
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the hapless women who having gone to the Police Station with a genuine  
grievance and in a state of distress do not venture to go back to marital home  
or even unable to stay with relatives. Either they do not have parents who can  
take care of or maintain them during the period of trauma or there is  
reluctance on the part of even close relations to allow her to stay with them  
without hassles. The process of reconciliation and compromise may take  
some time and there is no knowing what will be its outcome. Further, the  
Victim woman in distress would need immediate solace in the form of medical  
assistance and a temporary abode to stay, apart from proper counseling. In  
the circumstances in which she is placed, only the State or its  
instrumentalities can take care of her immediate needs. At present, even in  
cities, there are no Hostels and Shelter Homes worth mentioning which are  
catering to the welfare of victimized women. Even if there are a few, no proper  
facilities are in place. There are no Crisis Centres attached to Women Police  
Stations even in major cities (excepting few) which can immediately provide  
succour and relief to the women in distress. The Commission would therefore  
like to emphasize the obvious that every Government should treat it as a  
paramount obligation on their part to cater to the immediate needs of  
victimized women leaving the matrimonial home and not in a position to stay  
with their relatives for various reasons. The women who are worst hit if  
assistance is not provided are those from the poor and middle class  
  
background. The States should consider this problem on a priority basis and  
  
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initiate necessary steps to alleviate the suffering of women in need of help as a  
  
part of the welfare goal ingrained in our Constitution.  
  
19. Summary of Recommendations  
19.1. Misuse of Section 498-A in many cases has been judicially noticed by the  
apex court as well as various High Courts. This has also been taken note of by  
Parliamentary Committee on Petitions (Rajya Sabha). However, misuse (the  
extent of which is not established by any empirical study) by itself is not a  
ground to abolish $,498-A or to denude the Section of its teeth. The social  
objective behind the Section and the need for deterrence should be kept in view  
while at the same time ensuring that the complaints filed with false or  
exaggerated allegations out of ulterior motives or in a fit of emotion should be  
curbed  
  
19.2 The need to spread awareness of the provision and available remedies  
especially in rural areas both among women and men is necessary and in this  
regard the District and Taluka Legal Services Authorities, the media, the NGOs.  
and law students can play a meaningful role.  
  
19.3 All endeavours shall be made for effecting reconciliation at the earliest  
with the help of professional counsellors, mediation and legal aid centres,  
retired officials/medical and legal professionals or friends and relations in  
whom the parties have faith. An action plan has to be drawn up for forming  
the panels in every district as well as extending necessary help to he aggrieved  
  
women. The 1.0. should refrain from participating in the conciliation process.  
  
  
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19.4 The law on the question whether registration of FIR could be postponed  
for a reasonable time is in a state of uncertainty. Some High Courts have been  
directing that FIR shall not be registered under S, 498A (except in cases of  
Visible violence, and the like) till the preliminary investigation is done and  
reconciliation process is completed. The issue has been referred to a larger  
Bench of Supreme Court recently. In this regard, the police has to follow the  
law laid down by the jurisdictional High Court until the Supreme Court decides  
the matter.  
19.5 The offence under S, 498-A shall be made compoundable, with the  
permission of Court and subject to cooling off period of 3 months, as already  
recommended by this Commission in 237"Report. The preponderance of view  
is to make it compoundable.  
19.6. The offence should remain non-bailable. However, the safeguard against  
arbitrary and unwarranted arrests lies in strictly observing the letter and spirit  
of the conditions laid down in Sections 41 and 41-A of Cr. PC relating to power  
of arrest and sensitizing the Police on the modalities to be observed in cases of  
this nature. The need for custodial interrogation should be carefully assessed.  
COver-reaction and inaction are equally wrong. Police should take necessary  
steps to ensure safety of the complainant and to prevent further acts of  
harassment.  
19.7 The Home Ministry's Advisory dated 20" October 2009 on the subject of  
Misuse of Section 498-A of IPC” as well as the guidelines / additional  
  
precautions set out in para 14 of this Report should be compiled and at a  
  
4a  
  
  
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conference of DGPs specially convened for this purpose by the Home Secretary,  
they must be apprised of the need to follow the said principles and guidelines  
and to issue circulars / standing orders accordingly. There should be a  
monitoring mechanism in the police Dept. to keep track of S, 498A cases and  
the observance of guidelines.  
  
19.8 Without prejudice to the above suggestions, it has been recommended  
that as set out in para 16 above, sub-section (3) shall be added to Section 41  
Cr. PC to prevent arbitrary and unnecessary arrests. The legislative mandate  
which is not materially different from the spirit underlying Sections 41 and 157  
Gr. PC should be put in place in the interests of uniformity and clarity  
  
19.9 The compensation amount in Section 358 of Cr. PC shall be increased  
from one thousand rupees to fifteen thousand rupees and this proposed  
change is not merely confined to the Section under consideration,  
  
19.10 The women police stations (under the nomenclature of Crimes Against  
Women Cell) should be strengthened both quantitatively and qualitatively  
Well trained and educated lady police officers of the rank of Inspector or above  
shall head such police stations. Ws should be established in every district  
with adequate trained personnel. Panels of competent professional counsellors  
land respected elders / professionals who can counsel and coneiliate should be  
maintained by SP/SSP for every district. There shall be separate room in the  
police stations for women complainants and the accused women in S, 498-A  
  
related cases.  
  
  
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19.11 Hostels or shelter homes for the benefit of women who would not like to  
0 back to marital homes should be maintained in cities and District  
headquarters with necessary facilities. The assistance given to them shall be  
treated as a part of social welfare measure which is an obligation of the welfare  
State.  
  
19.12. The passport of non-resident Indians involved in Section 498-A cases.  
should not be impounded mechanically and instead of that, bonds and sureties  
  
for heavy amounts can be insisted upon  
  
19.13 Above all, the need for expeditious disposal of cases under section 498A,  
  
should be given special attention by the prosecution and Judiciary  
  
[ustice (Retd.) P. V. Reddi]  
Chairman  
  
(Justice (Retd.) Shiv Kumar Sharma] {Amarjit Singh]  
Member Member  
  
New Delhi  
29 August 2012  
  
  
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Annexure -  
[refer para 1.1of the Report]  
  
LAW COMMISSION OF INDIA  
  
Consultation Paper-cum-Questionnaire regarding Section 498-A  
of Indian Penal Code  
  
1. Keeping in view the representations received from various quarters  
and observations made by the Supreme Court and the High Courts, the  
Home Ministry of the Government of India requested the Law  
Commission of India to consider whether any amendments to s.498A of  
Indian Penal Code or other measures are necessary to check the alleged  
misuse of the said provision especially by way of over-implication.  
  
2. S.498A was introduced in the year 1983 to protect married women  
from being subjected to cruelty by the husband or his relatives. A  
punishment extending to 3 years and fine has been prescribed. The  
expression ‘cruelty’ has been defined in wide terms so as to include  
inflicting physical or mental harm to the body or health of the woman  
and indulging in acts of harassment with a view to coerce her or her  
relations to meet any unlawful demand for any property or valuable  
security. Harassment for dowry falls within the sweep of latter limb of  
the section. Creating a situation driving the woman to commit suicide is  
also one of the ingredients of ‘cruelty’. The offence under s.498A is  
cognizable, non-compoundable and non-bailable.  
  
3. In a recent case of Preeti Gupta v. State of Jharkhand, the  
Supreme Court observed that a serious relook of the provision is  
warranted by the Legislature. “It is a matter of common knowledge that  
exaggerated versions of the incidents are reflected in a large number of  
complaints. The tendency of over-implication is also reflected in a very  
large number of cases". The Court took note of the common tendency  
to implicate husband and all his immediate relations. In an earlier case  
also - Sushil Kumar Sharma v. UOI (2005), the Supreme Court lamented  
that in many instances, complaints under s.498A were being filed with  
an oblique motive to wreck personal vendetta. “It may therefore become  
necessary for the Legislature to find out ways how the makers of  
frivolous complaints or allegations can be appropriately dealt with", it  
was observed. It was also observed that “by misuse of the provision, a  
new legal terrorism can be unleashed”.  
  
4, The factum of over-implication is borne out by the statistical data  
of the cases under s.498A. Such implication of the relatives of husband  
was found to be unjustified in a large number of decided cases. While  
80, it appears that the women especially from the poor strata of the  
society living in rural areas rarely take resort to the provision.  
  
5. The conviction rate in respect of the cases under s.498A is quite  
low. Itis learnt that on account of subsequent events such as amicable  
  
“4  
  
  
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settlement, the complainant women do not evince interest in taking the  
prosecution to its logical conclusion.  
6. The arguments for relieving the rigour of s.498A by suitable  
amendments (which find support from the observations in the Court  
judgments and Justice Malimath Committee's report on Reforms of  
Criminal Justice System) are: Once a complaint (FIR) is lodged with the  
Police under s.498A/406 IPC, it becomes an easy tool in the hands of the  
Police to arrest or threaten to arrest the husband and other relatives  
named in the FIR without even considering the intrinsic worth of the  
allegations and making a preliminary investigation. When the members  
of a family are arrested and sent to jail without even the immediate  
prospect of bail, the chances of amicable re-conciliation or salvaging the  
marriage, will be lost once and for all. The possibility of reconciliation, it  
is pointed out, cannot be ruled out and it should be fully explored. The  
imminent arrest by the Police will thus be counter-productive. The long  
and protracted criminal trials lead to acrimony and bitterness in the  
relationship among the kith and kin of the family. Pragmatic realities  
have to be taken into consideration while dealing with matrimonial  
matters with due regard to the fact that it is a sensitive family problem  
which shall not be allowed to be aggravated by over-zealous/callous  
actions on the part of the Police by taking advantage of the harsh  
provisions of s.498A of IPC together with its related provisions in CrPC.  
It is pointed out that the sting is not in s.498A as such, but in the  
provisions of CrPC making the offence non-compoundable and non-  
bailable.  
7. The arguments, on the other hand, in support of maintaining the  
status quo are briefly:  
S.498A and other legislations like Protection of Women from.  
Domestic Violence Act have been specifically enacted to protect a  
vulnerable section of the society who have been the victims of  
cruelty and harassment. The social purpose behind it will be lost if  
the rigour of the provision is diluted. The abuse or misuse of law  
is not peculiar to this provision. The misuse can however be  
curtailed within the existing framework of law. For instance, the  
Ministry of Home Affairs can issue ‘advisories’ to State  
Governments to avoid unnecessary arrests and to strictly observe  
the procedures laid down in the law governing arrests. The power  
to arrest should only be exercised after a reasonable satisfaction is  
reached as to the bona fides of a complaint and the complicity of  
those against whom accusations are made. Further, the first  
recourse should be to effect conciliation and mediation between the  
warring spouses and the recourse to filing of a chargesheet under  
s.498A shall be had only in cases where such efforts fail and there  
appears to be a prima facie case. Counselling of parties should be  
done by professionally qualified counsellors and not by the Police.  
  
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7.1. These views have been echoed among others by the Ministry of  
Women and Child Development.  
  
7.2 \_ Further, it is pointed out that a married woman ventures to go to  
the Police station to make a complaint against her husband and other  
close relations only out of despair and being left with no other remedy  
against cruelty and harassment. In such a situation, the existing law  
should be allowed to take its own course rather than over-reacting to the  
misuse in some cases.  
  
7.3 There is also a view expressed that when once the offending family  
members get the scent of the complaint, there may be further torture of  
the complainant and her life and liberty may be endangered if the Police  
do not act swiftly and sternly. It is contended that in the wake of ever  
increasing crimes leading to unnatural deaths of women in marital  
homes, any dilution of Section 498-A is not warranted. Secondly, during  
the long-drawn process of mediation also, she is vulnerable to ‘threats  
and torture. Such situations too need to be taken care of  
  
8 There is preponderance of opinion in favour of making the said  
offence compoundable with the permission of the court. Some States,  
for e.g, Andhra Pradesh have already made it compoundable. The  
Supreme Court, in a recent case of -"---, observed that it should be  
made compoundable. However, there is sharp divergence of views on the  
point whether it should be made a bailable offence. It is pleaded by some  
that the offence under s.498A should be made bailable at least with  
regard to husband's relations."Ramgopal v. State of M. P. in SLP (Crl.)  
No. 6494 of 2010 (Order dt. July 80, 2010.  
  
8.1 Those against compoundability contend that the women especially  
from the rural areas will be pressurized to enter into an unfair  
compromise and further the deterrent effect of the provision will be lost.  
  
9. | The Commission is of the view that the Section together with its  
allied CrPC provisions shall not act as an instrument of oppression and  
counter-harassment and become a tool of indiscreet and arbitrary  
actions on the part of the Police. The fact that s.498A deals with a family  
problem and a situation of marital discord unlike the other crimes  
against society at large, cannot be forgotten. It does not however mean  
that the Police should not appreciate the grievance of the complainant  
woman with empathy and understanding or that the Police should play a  
passive role.  
  
10. S.498A has a lofty social purpose and it should remain on the  
Statute book to intervene whenever the occasion arises. Its object and  
purpose cannot be stulttied by overemphasizing its potentiality for abuse  
for misuse. Misuse by itself cannot be a ground to repeal it or to take  
away its teeth wholesale.  
  
11. While the Commission is appreciative of the need to discourage  
unjustified and frivolous complaints and the scourge of over-implication,  
it is not inclined to take a view that dilutes the efficacy of s.498A to the  
extent of defeating its purpose especially having regard to the fact that  
  
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atrocities against women are on the increase. A balanced and holistic  
view has to be taken on weighing the pros and cons. There is no doubt a  
need to address the misuse situations and arrive at a rational solution ~  
legislative or otherwise.  
  
42. There is also a need to create awareness of the provisions  
especially among the poor and illiterate living in rural areas’ who face  
quite often the problems of drunken misbehavior and harassment of  
women folk. More than the women, the men should be apprised of the  
penal provisions of law protecting the women against harassment at  
home. The easy access of aggrieved women to the Taluka and District  
level Legal Service Authorities and/or credible NGOs with professional  
counsellors should be ensured by appropriate measures. There should  
be an extensive and well-planned. campaign to. spread awareness  
Presently, the endeavour in this direction is quite minimal. Visits to few  
villages once in a way by the representatives of LSAs, law students and  
social workers is the present scenario,  
  
18. There is an all-round view that the lawyers whom the aggrieved  
women or their relations approach in the first instance should act with a  
Clear sense of responsibility and objectivity and give suitable advice  
consistent with the real problem diagnosed. Exaggerated and tutored  
versions and unnecessary implication of husband's relations should be  
scrupulously avoided. The correct advice of the legal professionals and  
the sensitivity of the Police officals dealing with the cases are very  
important, and if these are in place, undoubtedly, the law will not take a  
devious course. Unfortunately, there is a strong feeling that some  
lawyers and police personnel have failed to act and approach the  
problem in a manner morally and legally expected of them,  
  
44. Thus, the triple problems that have cropped up in the course of  
implementation of the provision are:(a) the police straightaway rushing to  
arrest the husband and even his other family members (named in the  
FIR), (b) tendency to implicate, with litle or no justification, the in-laws  
land other relations residing in the marital home and even outside the  
home, overtaken by feelings of emotion and vengeance or on account of  
wrong advice, and (c) lack of professional, sensitive and empathetic  
approach on the part of the police to the problem of woman under  
distress.  
  
45. \_ In the context of the issue under consideration, a reference to the  
provisions of Protection of Women from Domestic Violence Act, 2005 (for  
Short POV Act) which is an allied and complementary law, is quite  
apposite. The said Act was enacted with a view to provide for more  
effective protection of rights of women who are victims of violence of any  
kind occurring within the family. Those rights are essentially of civil  
nature with a mix of penal provisions. Section 3 of the Act defines  
domestic violence in very wide terms. It encompasses the situations set  
out in the definition of ‘cruelty’ under Section 498A. The Act has devised  
fan elaborate machinery to safeguard the interests of women subjected to  
  
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domestic violence. The Act enjoins the appointment of Protection  
Officers who will be under the control and supervision of a Judicial  
Magistrate of First Class. The said officer shall send a domestic incident  
report to the Magistrate, the police station and service providers. The  
Protections Officers are required to effectively assist and guide the  
complainant victim and provide shelter, medical facilities, legal aid etc.  
and also act on her behalf to present an application to the Magistrate for  
‘one or more reliefs under the Act. The Magistrate is required to hear the  
application ordinarily within 3 days from the date of its receipt. The  
Magistrate may at any stage of the proceedings direct the respondent  
and/or the aggrieved person to undergo counseling with a service  
provider. ‘Service Providers’ are those who conform to the requirements  
of Section 10 of the Act. The Magistrate can also secure the services of a  
welfare expert preferably a woman for the purpose of assisting him.  
Under Section 18, the Magistrate, after giving an opportunity of hearing  
to the Respondent and on being prima facie satisfied that domestic  
violence has taken place or is likely to take place, is empowered to pass a  
protection order prohibiting the Respondent from committing any act of  
domestic violence and/or aiding or abetting all acts of domestic violence.  
There are other powers vested in the Magistrate including granting  
residence orders and monetary reliefs. \_ Section 23 further empowers  
the Magistrate to pass such interim order as he deems just and proper  
including an ex-parte order. The breach of protection order by the  
respondent is regarded as an offence which is cognizable and non-  
bailable and punishable with imprisonment extending to one year (vide  
Section 31). By the same Section, the Magistrate is also empowered to  
frame charges under Section 498A of IPC and/or Dowry Prohibition Act.  
A Protection Officer who fails or neglects to discharge his duty as per the  
protection order is liable to be punished with imprisonment (vide Section  
33). The provisions of the Act are supplemental to the provisions of any  
‘other law in force. A right to file a complaint under Section 498A is  
specifically preserved under Section 5 of the Act.  
  
15.1 An interplay of the provisions of this Act and the proceedings  
under s.498A assumes some relevance on two aspects: (1) Seeking  
Magistrate's expeditious intervention by way of passing a protective  
interim order to prevent secondary victimization of a complainant who  
has lodged FIR under s.498A. (2) Paving the way for the process of  
counselling under the supervision of Magistrate at the earliest  
opportunity.  
  
16. With the above analysis and the broad outline of the approach  
indicated supra, the Commission invites the views of \_ the  
public/NGOs/institutions/Bar Associations etc. on the following points,  
before preparing and forwarding to the Government the final report:  
  
  
  
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Questionnaire  
  
1) a) What according to you is ideally expected of Police, on receiving the  
  
FIR alleging an offence u/s 498A of IPC? What should be their  
approach and plan of action?  
  
b) Do you think that justice will be better meted out to the aggrieved  
  
woman by the immediate arrest and custodial interrogation of the  
  
husband and his relations named in the FIR? Would the objective of  
s.498A be better served thereby?  
  
a) The Supreme Court laid down in D.K, Basu (1996) and other cases  
  
that the power of arrest without warrant ought not to be resorted to in  
  
‘a routine manner and that the Police officer should be reasonably  
  
satisfied about a person's complicity as well as the need to effect  
  
arrest. Don't you agree that this rule applies with greater force in a  
  
situation of matrimonial discord and the police are expected to act  
  
more discreetly and cautiously before taking the drastic step of  
arrest?  
  
b) What steps should be taken to check indiscriminate and  
  
unwarranted arrests?  
  
Do you think that making the offence bailable is the proper solution  
  
to the problem? Will it be counter-productive?  
  
There is a view point supported by certain observations in the courts’  
  
judgments that before effecting arrest in cases of this nature, the  
  
proper course would be to try the process of reconciliation by  
counselling both sides. In other words, the possibility of exploring  
reconciliation at the outset should precede punitive measures. Do  
you agree that the conciliation should be the first step, having regard  
to the nature and dimension of the problem? If so, how best the  
conciliation process could be completed with utmost expedition?  
  
Should there be a time-limit beyond which the police shall be free  
  
to act without waiting for the outcome of conciliation process?  
  
5) Though the Police may tender appropriate advice initially and  
facilitate reconciliation process, the preponderance of view is that the  
Police should not get involved in the actual process and their role  
should be that of observer at that stage? Do you have a different  
view?  
  
6) a) In the absence of consensus as to mediators, who will be ideally  
  
Suited to act as mediators/coneiliators - the friends or elders known  
to both the parties or professional counsellors (who may be part of  
NGOs), lady and men lawyers who volunteer to act in such matters, a  
Committee of respected/retired persons of the locality or the Legal  
Services Authority of the District?  
b) How to ensure that the officers in charge of police stations can  
easily identify and contact those who are well suited to conciliate or  
mediate, especially having regard to the fact that professional and  
competent counsellors may not be available at all places and any  
delay in initiating the process will lead to further complications?  
  
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2)  
  
3)  
  
4)  
  
  
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7) a) Do you think that on receipt of complaint under S.498A,  
immediate steps should be taken by the Police to facilitate an  
application being filed before the Judicial Magistrate under the PDV  
Act so that the Magistrate can set in motion the process of  
counselling/conciliation, apart from according interim protection?  
  
b) Should the Police in the meanwhile be left free to arrest the  
accused without the permission of the Magistrate?  
  
©) Should the investigation be kept in abeyance till the conciliation  
process initiated by the Magistrate is completed?  
  
8) Do you think that the offence should be made compoundable (with  
the permission of court)?  
  
Are there any particular reasons not to make it compoundable?  
  
9} Do you consider it just and proper to differentiate the husband  
from the other accused in providing for bail?  
  
10) a) Do you envisage a better and more extensive role to be  
played by Legal Services Authorities (LSAs) at Taluka and District  
levels in relation to s.498A cases and for facilitating amicable  
settlement? Is there a need for better coordination between LSAs  
and police stations?  
  
b) Do you think that aggrieved women have easy access to LSAs at  
the grassroot level and get proper guidance and help from them at  
the pre-complaint and subsequent stages?  
  
cjAre the Mediation Centres in some States well equipped and  
better suited to attend to the cases related to S,498-A?  
  
11) What measures do you suggest to spread awareness of the  
protective penal provisions and civil rights available to women in  
rural areas especially among the poorer sections of people?  
  
12) Do you have any informations about the number of and  
conditions in shelter homes which are required to be set up under  
PDV Act to help the aggrieved women who after lodging the  
complaint do not wish to stay at marital home or there is none to  
look after them?  
  
13) What according to you is the main reason for low conviction  
rate in the prosecutions u/s 498A?  
  
14) (a) Is it desirable to have a Crime Against Women Cell (CWC)  
in every district to deal exclusively with the crimes such as  
S.498A? If so, what should be its composition and the  
qualifications of women police deployed in such a cell?  
  
(b) As the present experience shows, itis likely that wherever  
a CWC is set up, there may be substantial number of unfilled  
vacancies and the personnel may not have undergone the requisite  
training. In this situation, whether it would be advisable to  
entrust the investigation etc. to CWC to the exclusion of the  
jurisdictional Police Station?  
  
  
  
Page 54:  
Annexure -  
refer para 8.3 of the Report}  
  
Extracts from the 237" Report of the Law Commission of India on  
‘Compounding of (IPC) Offences’  
  
5. Compoundability of Certain Offences  
  
5.1 Now, we shall consider the question of compoundability of certain specific  
offences.  
  
Section 498A,  
  
1c  
  
5.2 Whether the offence specified in Section 498A should be made  
‘compoundable, and, if yes, whether it should be compoundable without or with  
the permission of the Court, is the two-fold question.  
  
5.3 Section 498A penalizes the husband or the relatives of the husband for  
subjecting a woman to cruelty. The definition of cruelty as given in the Section  
is in two parts: 1) Willful conduct of such a nature that is likely to drive the  
woman to commit suicide or to cause grave injury or danger to life, limb or  
health (mental or physical), 2) Harassment of the woman with a view to  
coercing her or her relatives to meet an unlawful demand for any property or  
valuable security. Thus the dowry related harassment as well as. violent  
conduct on the part of the husband or his relations by causing injury or danger  
to her life, imb or health, are comprehended within the scope of Section 498A  
Quite often, the prosecution under Section 498A IPC is coupled with  
prosecution under Sections 3 and 4 of Dowry Prohibition Act, 1961 as well  
  
5.4 Normally, if the wife is prepared to condone the ill-treatment and  
harassment meted out to her either by reason of change in the attitude or  
repentance on the part of the husband or reparation for the injury caused to  
her, the law should not stand in the way of terminating the criminal  
proceedings. However, the argument that is mainly advanced against the  
‘compoundability is that the dowry is a social evil and the law designed to  
punish those who harass the wives with demand of dowry should be allowed to  
take its full course instead of putting its seal of approval on the private  
compromises. The social consciousness and the societal interest demands that  
such offences should be kept outside the domain of out-of-court settlement, it  
is argued. There can be no doubt that in dealing with this aspect, the impact of  
the crime on the society and the degree of social harm that’ might result,  
should be duly considered. At the same time, undesirable consequences that  
follow if compounding is not allowed, ought to be kept in view because the  
social harm or societal interest cannot be considered in vacuum. A holistic and  
rational view has to be taken. While no impediments shall be placed against  
  
st  
  
  
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the effective operation of law enacted to curb a social evil, it should not be  
forgotten that the society is equally interested in promoting marital harmony  
and the welfare of the aggrieved women. A rational and balanced approach is  
all the more necessary for the reason that other avenues are open to the  
reconciled couple to put an end to the criminal proceedings. One such course  
is to file a ‘quash’ petition under Section 482 of CrPC in the High Court.  
Whether it is necessary to drive them to go through this time consuming and  
costly process is one pertinent question. If a wife who suffered in the hands of  
the husband is prepared to forget the past and agreeable to live amicably with  
the husband or separate honourably without rancor or revenge, the society  
would seldom condemn such move nor can it be said that the legal recognition  
of amicable settlement in such cases would encourage the forbidden evil i.e.  
the dowry. Section 498A should not be allowed to become counter-productive.  
In matters relating to family life and marital relationship, the advantages and  
beneficent results that follow from allowing the discontinuance of legal  
proceedings to give effect to a compromise or reconciliation would outweigh the  
degree of social harm that may be caused by non-prosecution. If the  
proceedings are allowed to go on despite the compromise arrived at by both  
sides, either there will be little scope for conviction or the life of the victim  
would become more miserable. In what way the social good is achieved  
thereby? We repeat that a doctrinaire and isolated approach cannot be adopted  
in dealing with this issue. The sensitivity of a family dispute and the individual  
facts and circumstances cannot be ignored. Hence, the Commission is not  
inclined to countenance the view that dowry being a social evil, compounding  
should not be allowed under any circumstances. Incidentally, it may be  
mentioned that many offences having the potentiality of social harm, not  
merely individual harm, are classified as compoundable offences. Further, the  
gravamen of the charge under Section 498-A need not necessarily be dowry-  
related harassment. It may be ‘cruelty’ falling only within clause (a) of the  
Explanation and the demand of dowry is not an integral part of that clause.  
  
5.5 Another argument against compoundability is that the permission to  
‘compound would amount to legal recognition of violence against women and  
that the factum of reconciliation cannot be a justifiable ground to legally  
condone the violence. The acceptance of such an argument would imply that  
the priority of law should be to take the criminal proceedings to their logical  
end and to inflict punishment on the husband irrespective of the mutual desire  
to patch up the differences. It means ~ reconciliation or no reconciliation, the  
husband should not be spared of the impending prosecution and’ the  
punishment if any; then only Section 498A would achieve its objective. We do  
ot think that the objective of Section 498A will be better achieved by allowing  
the prosecution to take its own course without regard to the rapprochement  
that has taken place between the couple in conflict. As observed earlier, a  
balanced and holistic approach is called for in handling a sensitive issue  
affecting the family and social relations. Reconciliation without compounding  
will not be practically possible and the law should not ignore the important  
  
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event of reconciliation. The emphasis should not be merely on the punitive  
aspect of the law. In matters of this nature, the law should not come in the way  
‘of genuine reconciliation or revival of harmonious relations between the  
husband and estranged wife. Wisdom behind all prosecutions and  
punishments is to explore a judicious mix of deterrence, deprivation of liberty  
and repentance and reformation. Any emphasis on one aspect alone, as has  
been found in the working of harsh and cruel punishment regimes, may  
become a pigeonhole model.  
  
5.6 The other argument which is put forward against compounding is that  
hapless women especially those who are not much educated and who do not  
have independent means of livelihood, may be pressurized and coerced to  
withdraw the proceeding and the victim woman will be left with no option but  
to purchase peace though her grievance remains unsolved. However, this  
argument may not be very substantial. The same argument can be put forward  
in respect of compoundable offences wherever the victims are women. The  
safeguard of Court's permission would, by and large, be a sufficient check  
against the possible tactics that may be adopted by the husband and his  
relations/friends. The function of the Court in this matter is not a mere  
formality. The Judicial Magistrate or Family Court Judge is expected to be  
extra-cautious and play an active role. In this regard, the judge can take the  
assistance of a woman lawyer or a professional counselor or a representative of  
Legal Services Authority and the woman concerned can be examined in his/her  
chambers in the presence of one of them. Alternatively, the assistance of a lady  
colleague can also be sought for examining a woman victim in the chambers.  
Normally the trial Magistrates/Judges are sensitized in gender- related issues  
in the course of training at the Judicial Academies. In cities like Delhi,  
Bangalore, Chennai etc. competent and trained mediators are involved in the  
process of bringing about an amicable settlement in marital disputes. Though  
the Court is expected to act with due care and caution in dealing with the  
application for compounding the offence under Section 498A, we are of the view  
that it is desirable to introduce an additional safeguard as follows:-  
  
After the application for compounding an offence under S.498A of  
Indian Penal Code is filed and on interviewing the aggrieved woman,  
preferably in the Chamber in the presence of a lady judicial officer or a  
representative of District Legal Services Authority or a counselor or a  
close relation, if the Magistrate is satisfied that there was prima facie a  
voluntary and genuine settlement between the parties, the Magistrate  
shall make a record to that effect and the hearing of application shall be  
adjourned by three months or such other earlier date which the  
Magistrate may fix in the interests of Justice. On the adjourned date, the  
Magistrate shall again interview the victim woman in the like manner and  
then pass the final order permitting or refusing to compound the offence  
after giving opportunity of hearing to the accused. In the interregnum, it  
  
  
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shall be open to the aggrieved woman to file an application revoking her  
earlier offer to compound the offence on sufficient grounds.  
  
5.7 Accordingly, it is proposed to add sub-section (2A) to Section 320 CrPC.  
‘The proposed provision will ensure that the offer to compound the offence is  
voluntary and free from pressures and the wife has not been subjected to ill-  
treatment subsequent to the offer of compounding. Incidentally, it underscores  
the need for the Court playing an active role while dealing with the application  
for compounding the offence under Section 498-A.  
  
5.8 The other points which deserve notice in answering the issue whether the  
offence under Section 498A should be made compoundable, are the following:—  
5.8.1 The Law Commission of India in its 154""report (1996) recommended  
inclusion of S. 498A in the Table appended to Section 320(2) so that it can be  
‘compounded with the permission of the Court. The related extracts from the  
Report are as follows: “Of late, various High Courts have quashed criminal  
proceedings in respect of non-cognizable offences because of settlement between  
the parties to achieve harmony and peace in the society. For instance, criminal  
proceedings in respect of offences under Section 406, IPC, relating to criminal  
breach of trust of dowry articles or Istridhan and offences under section 498A,  
IPC relating to cruelty on woman by husband or relatives of husband were  
quashed in Arun Kumar Vohra v. RituVohra, Nirlap Singh v. State of Punjab.”  
  
5.8.2 In continuation of what was said in the 154""Report, we may point out  
that the apex court, in the case of B.S. Joshi vs. State of Haryana". has firmly  
laid down the proposition that in order to subserve the ends of justice, the  
inherent power under Section 482 CrPC can be exercised by the High Court to  
quash the criminal proceedings at the instance of husband and wife who have  
amicably settled the matter and are desirous of putting end to the acrimony.  
‘The principle laid down in this case was cited with approval in Nikhil Merchant  
vs. CBI'". However, a coordinate Bench'’ doubted the correctness of these  
decisions and referred the matter for consideration by a larger Bench.  
According to the referring Bench, the Court cannot indirectly permit  
‘compounding of non-compoundable offences.  
  
5.8.3 The recommendation of the Law Commission in the 154" Report  
regarding Section 498A was reiterated in the 177 Report (2001). The  
Commission noted that over the last several years, a number ofrepresentations  
had been received by the Law Commission from individuals and organizations  
to make the said offence compoundable.  
  
5.8.4 Further, Justice Malimath Committee's Report on Reforms of Criminal  
Justice System strongly supported the plea to make Section 498 A a  
‘compoundable offence. The Committee observed:  
  
  
Page 58:  
“A less tolerant and impulsive woman may lodge an FIR even on a trivial act. The  
result is that the husband and his family may be immediately arrested and there  
may be a suspension or loss of job. The offence alleged being non-bailable,  
innocent persons languish in custody. There may be a claim for maintenance  
adding fuel to fire, especially if the husband cannot pay. Now the woman may  
change her mind and get into the mood to forget and forgive. The husband may  
also realize the mistakes committed and come forward to turn over a new leaf for  
@ loving and cordial relationship. The woman may like to seek reconciliation. But  
this may not be possible due to the legal obstacles. Even if she wishes to make  
amends by withdrawing the complaint, she cannot do so as the offence is non  
‘compoundable. The doors for returning to family life stand closed. She is thus left  
at the mercy of her natal family.  
  
This section, therefore, helps neither the wife nor the husband. The offence being  
nor-bailable and non-compoundable makes an innocent person undergo  
stigmatization and hardship. Heartless provisions that make the offence non-  
bailable and non-compoundable operate against reconciliations. It is therefore  
necessary to make this offence (a) bailable and (b) compoundable to give a  
chance to the spouses to come together.”  
  
Though this Commission is not inclined to endorse the entirety of observations  
made in the above passage, some of them reinforce our conclusion to make it  
‘compoundable.  
  
5.8.5 The views of Malimath Committee as well as the recommendations in the  
154"Report of Law commission were referred to with approval by the  
Department-Related Parliamentary Standing Committee on Home Affairs in its  
111"Report on the Criminal Law (Amendment) Bill 2003 (August 2005). The  
Standing Committee observed thus: “It is desirable fo provide a chance fo the  
estranged spouses to come together and therefore it is proposed to make the  
offence u/s 498A IPC, a compoundable one by inserting this Section in the Table  
under sub-section(2) of Section 320 of CrPC”. 5.8.6 The 128'Report of the said  
Standing Committee (2008) on the Code of Criminal Procedure (Amendment)  
Bill, 2006 reiterated the recommendation made in the 111""Report. 5.8.7 The  
views of Supreme Court and High Courts provide yet another justification to  
treat the offence under Section 498A compoundable.  
  
The Supreme Court in a brief order passed in Ramgopal vs. State of MP.  
observed that the offences under Section 498A, among others, can be made  
‘compoundable by introducing suitable amendment to law. The Bombay High  
Courtt4, as long back as in 1992, made a strong suggestion to amend Section  
320 of CrPC in order to include Section 498A within that Section.  
  
In the case of Preeti Gupta vs. State of Jharkhand", the Supreme Court,  
speaking through Dalvir Bhandari, J. exhorted the members of the Bar to treat  
every complaint under Section 498A as a basic human problem and to make a  
  
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serious endeavour to help the parties in arriving at amicable resolution of that  
human problem. The Supreme Court then observed that the Courts have to be  
extremely careful and cautious in dealing with these complaints and must take  
pragmatic realities into consideration. Further, it was observed: “Before parting  
with the case, we would like to observe that a serious relook of the entire  
provision is warranted by the legislation. It is also a matter of common  
knowledge that exaggerated versions of the incident are reflected in a large  
number of complaints. The tendency of over implication is also reflected in a very  
large number of cases”. The Supreme Court then made these observations: "It is  
imperative for the legislature to take into consideration the informed public  
opinion and the pragmatic realities in consideration and make necessary  
changes in the relevant provisions of law. We direct the Registry to send copy of  
this judgment to the Law Commission and to the Union Law Secretary,  
Government of India who may place it before the Hon'ble Minister for Law &  
Justice to take appropriate steps in the larger interest of the society”.  
  
5.9 Yet another factor that should be taken note of is the policy of law in laying  
stress on effecting conciliation between the warring couples. The provisions in  
Section 9 of the Family Courts Act, 1984 Section23 (2) of the Hindu Marriage  
Act, 1955 and Section 34(2) of the Special Marriage Act, 1954 impose an  
obligation on the court to take necessary steps to facilitate re-conciliation or  
amicable settlement.  
  
5.10 It is worthy of note that in Andhra Pradesh, the State Legislature made an  
  
amendment to Section 320(2) of CrPC by inserting the following in the 2°  
Table.  
  
Husband or relative of] 408A |The woman subjected to cruelly:  
husband of a woman Provided that a minimum period of  
subjecting her to cruelty three months shall elapse from the  
  
date of request or application for  
compromise before a Court and the  
Court can accept a request for  
compounding an offence under  
Section 498A of the Indian Penal  
Code provided none of the parties  
withdraw the case in the  
intervening period.  
  
The observations made by the High Court in various cases were taken into  
account while making this amendment. The amendment came into force on  
1.8.2008. Our recommendation is substantially on the same lines.  
  
5.11 The overwhelming views reflected in the responses received by the Law  
Commission and the inputs the Commission has got in the course of  
  
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deliberations with the members of District and Subordinate Judiciary, the  
members of the Bar and the law students is yet another reason persuading us  
to recommend the amendment of law to make the offence under 498A  
‘compoundable with the permission of Court. The list of respondents from  
whom views have been received by the Commission is at Annexure 1-B. An  
analysis of such views touching on the point of compoundability is furnished at  
Annexure 1-A. The Consultation Paper-cum-Questionnaire on various aspects  
of Section 498-A published by the Commission is attached hereto as Annexu:  
  
2  
  
5.12 At the Conference with judicial officers including lady officers, there was  
almost unanimous opinion in favour of making the offence compoundable. The  
lady lawyers who were present at the Conferences held in Visakhapatnam,  
Chennai and Aurangabad did not oppose the move. At a recent Conference held  
with about 35 Judicial Officers of various ranks at Delhi Judicial Academy,  
there was unanimity on the point of compoundability. However, some Judges  
expressed reservation about allowing 3 months gestation period for passing a  
final order of compounding under Section 320(2) Cr PC. It was suggested that  
there should be some flexibility in this regard and the 3 months’ period need  
not be strictly adhered to especially where there is a package of settlement  
concerning civil disputes as well. Keeping this suggestion in view, the  
Commission has provided that in the interests of justice, the Magistrate can  
pass orders within a lesser time.  
  
5.13 The Law Commission is therefore of the considered view that the offence  
under Section 498A IPC should be made compoundable with the permission of  
the Court. Accordingly, in Table-2 forming part of Section 320(2) of the Code of  
Criminal Procedure, the following shall be inserted after the entry referring to  
Section 494 and before the entry relating to Section 500:  
  
Husband or relative of husband of a 498A | The woman subjected to  
woman subjecting her to cruelty cruelty.  
  
Sub-section (2A) shall be added to Section 320 CrPC, as set out in paragraph  
5.6, page 17 supra.  
  
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Annexure  
refer para 10.1 of the Report}  
  
List of persons, organizations and officials who responded  
‘to the questionnaire  
  
‘A LIST OF INDIVIDUALS - RESPONDED TO THE QUESTIONANNAIRE ON  
SECTION 498A IPC  
  
S/Shri/Ms  
Ms.Swati Goyal, Ahmedabad  
  
Neeraj Gupta, Delhi  
  
Vivek Srivastay, vivek\_srivastav\_in@yahoo.co.in  
Sateesh K. Mishra, Delhi  
  
Kalpak shah, Ahmedabad  
  
Samir Jha, sk jha9S@yahoo.co.in  
  
Kharak Mehra, Nainital  
  
‘Saurabh Grover, sgrover1973@gmail.com  
Komal Singh, New Delhi  
  
Kaushalraj Bhatt, Ahmedabad  
  
Alka Shah, Ahmedabad  
  
Saumil Shah, Ahmedabad  
  
Trilok Shah, Ahmedabad  
  
Alpak Shah, Ahmedabad  
  
Bhavna Shah Ahmedabad  
  
Kaushal Kishor & 27 other residents of Visakhapatnam  
iamamit, iamamitb1976@rediffmail.com  
Vishnuvardhana Velagala, wrvelagala@gmail.com  
Hari Om Sondhi, New Delhi  
  
Kharak Singh Mehra, Nainital  
  
Virag R. Dhulia, Bangalore  
  
Ms Kumkum Vikas Sirpurkar, New Delhi  
Gaurav Bandi, Indore.  
  
Gaurav Sehravat, gauravsehravat@gmail.com  
Ashish Mishra, Lucknow  
  
Umang Gupta, Rampur, Balia  
  
Avadesh Kumar Yadav, Nagpur  
  
TLR. Padmaja, Secunderabad  
  
T.C. Raghwan, Secunderabad  
  
C. Shyam Sunder, Hyderabad  
  
Ms. Shobha Devi, R. R Dt, Hyderabad  
ANageshwar Rao, Hyderabad  
  
Praveen Chand, Hyderabad  
  
R.B. Timma Ready, Hyderabad  
  
‘A. Venu Gopal, kadapa, Hyderabad  
  
Aditya, Hyderabad  
  
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B. Y Lal, Hyderabad  
Subramaniyam Catari, Hyderabad  
  
A Sai Kiran, Hyderabad  
  
S. Jagannath, Bangalore  
  
Prasad Chuilal, Pune  
  
Biswadeep Paul, Pune  
  
Avinash D. Gune, Pune  
  
Damodar Varde, indore  
  
Kedar Ambedakar, Pune  
  
Sandesh V. Chopdekar, Pune  
Devkant Varde, Pune  
  
Sanjeet Gupta, Pune  
  
Cedric D'Souza, Pune  
  
Amandeep Bhatia, Pune  
  
Arjun Singh Rawat, Pune  
  
N.K. Jain, Ujjain  
  
Raj Kumar Jain, Ujjain  
  
Shashidhar Rao, Hyderabad  
Mohammed Hidayatullah, Hyderabad  
Chandra Shekhar, Hyderabad.  
  
P. Sugunavathi, Hyderabad  
  
V. David, Hyderabad  
  
Reddy Vidyadhar, R.R. District, Hyderabad,  
Eshwar Lal, R.R. District, Hyderabad.  
A. Satyanarayana, Hyderabad  
  
M.V. Rama Mohan, Hyderabad  
  
K.V. Indira, Kerala  
  
P. Raju, Bangalore  
  
G.R. Reddy, Hyderabad  
  
D.S. Nathaniel, Hyderabad  
  
K. Sriram, Hyderabad  
  
Rajneesh K.V. Hyderabad  
  
M. V. Aditya, Hyderabad  
  
P. Ranga Rao, Hyderabad  
  
T.V. S. Ram Reddy, R.R. District, Hyderabad,  
R. Rahul, Nizamabad  
  
J.P. Sahu, Damoh  
  
B. Vinod Kumar, Nizamabad  
Ponviah Catari, Hyderabad  
  
P.K. Acharya, Hyderabad  
  
B. Yamuna, Chennai  
  
J-Sarat Chandra, Anantpur  
  
P.N. Rao, Amalapuram  
  
K. Narasaiah, Hyderabad  
  
K. Ramakrishna Rao, Rajamundry  
D.N. Samuel Raj, Hyderabad  
  
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83. \_D.N. Lavaney, Hyderabad  
  
84. V. Madhani, Secunderabad  
  
85. \_R. Rajashekhar Reddy, Hyderabad  
  
86. —\_P. Srirama Murthy, Hyderabad  
  
87. K.L. Swapana, Rajamundry  
  
88. Gauri Sankar, Hyderabad  
  
89. —\_L. Narsinga Rao, Hyderabad  
  
90. Sushil Kumara Acharya, Hyderabad  
  
91. —\_D.N. Kerupavasam, Hyderabad  
  
92. T. Ramesh, Hyderabad  
  
93. \_P. Satish Kumar, Hyderabad  
  
94. T. Srinivas, Nalgouda  
  
95. M. Satish Kiran, R.R. District, Hyderabad  
  
96. Parthasarathi, Secunderabad  
  
97. Saraswati Devi, Hyderabad  
  
98. A. Rangabyha, Hyderabad  
  
99. T. Annapurna, R.R. District, Hyderabad  
  
100. Sah Ali Ahmed, Secunderabad  
  
101. ASai Nath, Hyderabad  
  
102. S. Manasa, Hyderabad  
  
103. Sameer Baksi, Kharagpur, West Bengal  
  
104. Rumi Dey, West Bengal  
  
105. Bhanu Dey, Kharagpur, West Bengal  
  
106. Suman Kr. Dey, Kharagpur, West Bengal  
  
107. Tinni Gaur, Jabalpur  
  
108. Arun Yadav, Jabalpur  
  
109. \_T. Salgu, Ujjain  
  
140. Ashish Gupta, Ujjain  
  
141. TM. Kamran, Pune  
  
142. Pushpal Swarnkar, Durg  
  
143. Col. H. Sharma, Noida  
  
114. Rana Mukherjee, Advocate, Hony. Secy, Bar Association, High  
Court, Kolkata.  
  
145. \_Nagarathna A., Asstt. Professor Law, NLSIU, Nagarbhavi,  
Bangalore.  
  
146. Raj Ghosal, Thane (W), Maharashtra  
  
147. Pankaj R. Sontakke, Kandivali (E), Maharashtra  
  
148. Ashish Agarwal, Vikhroli (W), Maharashtra  
  
149. Savio Fernandez, Thane (W), Maharashtra  
  
120. Anand M. Jha, Kalyan (W), Maharashtra  
  
121. Sachchidanand Singh Patel, Navi Mumbai, Maharashtra  
  
122, Arghya Dutta, Nerul, Maharashtra  
  
123. Debabrata Bhadra, Jamsedpur, Jharkhand  
  
124. Vikas Jhunjhun wala, Worli, Maharashtra  
  
125. Mukund Jhala, Singh Darwaza, Burdwan.West Bengal  
  
126. Sandip De, Dombivalli (E), Maharashtra  
  
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Anurag Joshi, Thane (W), Maharashtra,  
Gayatri Devi, Sagar Road, Hyderabad  
Ramesh Lal, Shalimar Bagh, Delhi:  
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Pradesh  
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‘Subba Rao P., Panjagutta Hyderabad  
V. Kamalamma, Chandanagar, Hyderabad  
Dr. P. Sudhir, Kakinada, Andhra Pradesh  
S.N. Kumar, Hyderabad  
K.V.N.S. Laxmi, Rajamundry  
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AP.  
  
Ram Prakash Sharma, Rohini, New Delhi  
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Deepak Kesari, Bangalore  
Rajshekhar C.R., Bangalore.  
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‘Ajay M.U. Electronic City, Bangalore.  
Vardhaman Nair, Bangalore.  
Krishna Murthy, Bangalore  
Sashidhar CM, Vinayaka Extn. Bangalore,  
Narayan Kumar, Bangalore  
  
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‘Amjad F. Jamador, Belgam, Karnataka  
Mohd. Arshad, Ranganath Colony, Bangalore.  
  
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Polytechnic College, Ajmer Rajasthan  
  
“Names not mentioned,  
  
  
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RESPONDED TO THE  
  
Save India Harmony, (Shri B.K. Aggarwal, President),  
Vishakhapatnam.  
SIFFMWB, (Shri S. Bhattacharjee) Kolkata  
Vigilant Women Munch, (Secretary, Ms Suman Jain), Delhi.  
National Family Harmony Society President, (Shri P.  
Suresh),  
Karnataka. & 41 others  
Mothers and Sisters Initiative -MASI, (Mrs. Shalini Sharma),  
General Secretary  
Bharat Bachao Sangthan, (Shri Vineet Ruia), President,  
Kolkata  
Pirito Purush Porishad, NGO, Kolkata  
INSAAF, New Delhi.  
All India Forgotten Women’s Association, Hyderabad.  
Members of Million Women Arrested Campaign (org), FBD,  
Haryana  
The Kerala Federation of Women Lawyers, Secretary,  
(Ms.Aneetha AG), Kerala High Court Bldg, Koc!  
Lawyers Collective, (Ms. Indira Jaising), Jangpura Extn.  
New  
Delhi.  
Rakshak Foundation, Shri Sachin Bansal, USA.  
AWAG, Ila Pathak, Ahmedabad.  
AIDWA, (Ms Kirti Singh), Legal Convenor, Advocate, Delhi  
PLD (Partners for Law in Development), Madhu Mehra, Ex.  
Director, New Delhi  
Bharat Vikas Parishad (Shri Raj Pal Singla, President),  
Chandigarh, Punjab.  
Shri S.K. Dulara, All India Muslim Front, "Rahman Plaza”  
YMCA Lane, Abids, Hyderabad  
Md. Abdul Raoof, (retired Distict Judge, Hyderabad), All  
India Muslim Front, “Rahman Plaza” YMCA Lane, Abids,  
Hyderabad  
Bimal N. Patel, Director, GLNU, Gandhinagar, Gujarat.  
Prof. Ranbir Singh,” Vice-Chancellor, ‘National Law  
University, Dethi:  
PMS Narayanan, National Commission for Minority, Khan  
Mit, New Delhi  
Janamithram Janakeeya Needi Vedi, Kerala State  
Committee, East Kottaparamba, Kozhikode  
Justice Amarbir Singh Gill, Chairman, Punjab State Law  
Commission, Chandigarh.  
  
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Page 67:  
Prabhat Kumar Adhikari, Secretary (Law), A&N Admn., Port  
Blair.  
  
\*Pr. Secretary(Law-Legislation), Govt. of Himachal Pradesh,  
  
LM. Sangma, Secretary to Govt. of Meghalaya, Law Deptt.  
  
B.K. Srivastava, Secretary in charge, Law Deptt., Govt. of West  
Bengal  
  
Thejegu-U-Kire, Dy. Legal Remembrancer to Govt of Nagaland,  
Kohima.  
  
Arindham Paul, DLR & Dy. Secretary, Law, Tripura,  
  
"Home Secreatry, Chandigarh Administration  
  
Shri Hari S. D. Shirodkar, Under Secretary, Law Department,  
Government of Goa.  
  
Shri S. G. Marathe, Joint Secretary (Law), Govt. of Goa.  
  
Shri Pramod Kamat, Law Secretary, Govt. of Goa  
  
Shri D. V. K. Rao, Under Secretary, Ministry of Women and  
Child Development, GO!  
  
Shri G. Rime, Deputy Secretary (Home), Department of Home  
and Inter State Border Affairs, Government of Arunachal  
Pradesh, Itanagar.  
  
Shri Harishshankar Vaishya, Addl. Secretary, Government of  
Madhya Pradesh  
  
\* Name not mentioned  
  
  
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at  
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ESPONDED TO THE  
  
S/Shri/Ms  
  
Chandigarh Judicial Academy, Dr. Virender Aggarwal,  
Director (Academics), Chandigarh.  
M. M. Banerjee, Distt Judge, Birbhum, Suri  
‘Abhai Kumar, Registrar, High Court of M.P, Jabalpur.  
(on behalf of Judicial officers, Training Institute)  
Nungshitombi Athokpam, Dy. Legal Rememberancer, Govt.of  
Manipur.  
Vijay Kumar Singh, Distt. & Sessions Judge, Jammu:  
Shrikant D. Babaladi, Distt. Judge Member, Karnataka,  
Appellate Tribunal, Bangalore.  
Bijender Kumar Singh, Distt. & Sessions Judge, Gopalgunj,  
Bihar.  
R.K. Watel, Distt. & Session Judge, Reasi(J&K)  
"Principal Distt. & Sessions Judge, Kishtwar  
S. N. Kempagoudar, Distt. Judge, Member, Karnataka  
Appellate Tribunal, Bangalore.  
Udayan Mukhopadhyay, Distt. & Sessions Judge, Purbi  
Medinapur.  
\*Distt. & Sessions Judge, Vaishali, Hajipur.  
S.H. Mittalkod, Distt. & Sessions Judge, AIG-1, Govt. of  
Mizoram.  
Ranjit Kumar Baig, Distt. Judge, Malda, West Bengal  
Sanjit Mazumdar, Addl. Distt. & Sessions Judge, Malda,  
West Bengal.  
‘Anant Kumar Kapri, Addl. Distt. & Sessions Judge, Malda,  
West Bengal.  
Kaushik Bhattacharaya, Addl. Distt. & Sessions Judge,  
Malda, West Bengal  
Subodh Kumar Batabayal, Addl. Distt. & Sessions Judge  
Malda, West Bengal  
Shri Gopal Chandra Karmakar, Additional District and  
Sessions Judge, Malda, West Bengal.  
Sanjay Mukhopadhyay, Addl. Distt. & Sessions Judge,  
Malda, West Bengal  
Sibasis Sarkar, Addl. Distt. & Sessions Judge, Malda, West  
Bengal  
Sabyasahi Chattoraj, Civil Judge (Sr. Divn.), Malda.  
Ishan Chandra Das, Distt Judge, Burdwan.  
L.K. Gaur, Special Judge, CBI-9, Tis Hazari Courts, Delhi.  
M.K. Nagpal, ASJ/Special Judge, NDOS, South’ & South  
East Distt., Saket Courts, New Delhi  
Dr. Neera Bharihoke, ADJ-V, South Saket Court, New Delhi.  
  
65  
  
  
  
Page 69:  
Sanjeev Kumar, Metropolitan Magistrate, South-Saket  
Court, New Delhi  
  
Chetna Singh, Metropolitan Magistrate, South- Saket Court,  
New Delhi:  
  
Sandeep Garg, Metropolitan Magistrate, South- Saket Court,  
New Delhi  
  
‘Anu Aggarwal, Civil Judge, South- Saket Court, New Delhi.  
  
‘District & Sessions Judge, Ambala  
  
SS. Lamba, District & Sessions Judge, Rohtak.  
  
“District & Sessions Judge, Fatehbad.  
  
“District & Sessions Judge, Rewari  
  
RS. Virk, District & Sessions Judge, Gurgaon  
  
K.C. Sharma, District & Sessions Judge, Panipat.  
  
“District & Sessions Judge, Kaithal.  
  
\* District & Sessions Judge, Jind.  
  
Deepak Aggarwal, District & Sessions Judge, Jind  
  
D.N. Bhardwaj, District & Sessions Judge, Jind,  
  
Dr. Ghander Dass, Judicial Magistrate, Jind.  
  
Praveen Kumar, Addl. Civil Judge (Sr. Divn.-cum-Sub-Divn.  
Judicial  
Magistrate), Safidon.  
  
Kumud Gungwani, Sub-Divn. Judicial Magistrate, Narwana.  
  
Gurvinder Singh, Gill, District & Sessions Judge, Fatehgarh  
Sahib.  
  
Raj Rahul Garg, District & Sessions Judge, Karnal.  
  
“District & Sessions Judge, Bhiwani  
  
Narender Kumar, District Judge(Family Court), Bhiwani.  
  
Rajinder Goel, Adal. District & Sessions Judge, Bhiwani  
  
Rajesh Kumar Bhankhar, Chief Judicial Magistrate, Bhiwani  
  
Tarun Singal, Chief Judge (Jr. Divn.), Bhiwani  
  
Narender Singh, Chief Magistrate, Ist Class, Bhiwani.  
  
Rajni Yadav, Addl. Civil Judge (Sr.Divn.)cum-Sub-  
Divisional Judicial Magistrate, Loharu:  
  
Balwant Singh, Civil Judge (Jr.Divn.) cum-Sub-Divisional  
Judicial Magistrate, 1\* class, Bhiwani.  
  
Narender Sharma, Sub-Divn. Judicial Magistrate, Charkhi  
Dadri  
  
‘AS. Nayar, Civil Judge (Jr-Divn.), Charkhi Dadri.  
  
Parvesh Singla, Civil Judge, Charkhi Dadri.  
  
Kuldeep Jain, Addl. Distt. & Sessions Judge, Sonepat.  
  
Sanjiv Kumar, Addl. Distt. & Sessions Judge, Sonepat.  
  
Gulab Singh, Addl. Distt. & Sessions Judge, Sonepat.  
  
Vivek Bharti, Addl. Distt. & Sessions Judge, Sonepat  
  
Ritu Garg, Addl. Distt. & Sessions Judge, Sonepat.  
  
Lal Chand, Civil Judge (Sr.Divn,}-cum-ACJM, Sonepat.  
  
Madhulika, C.J.(J.D.)-cum-JMIC, Sonepat.  
  
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Ranjana Aggarwal, Addl. Civil.(Sr.Divn.), Sonepat.  
Rajesh Kumar Yadav, C.J(S.D.)-cum-JMIC, Sonepat.  
Harish Gupta, Addl. Civil (Sr.Divn.), Ganaur.  
K.P. Singh, Addl. Civil(Sr.Divn.), Gohana  
Sanjiv Jindal, Addl. Distt. & Sessions Judge, Narnaul.  
Rajneesh Bansal, Addl. Distt. & Sessions Judge, Narnaul  
Sudhir Jiwan, Addl. Distt. & Sessions Judge, Fast Track  
Court, Narnaul.  
Praveen Gupta, Addl. Chief Judicial Magistrate, Narnaul.  
Chander Hass, Chief Judicial Magistrate, Narnaul.  
“Distt. & Sessions Judge, Gurdaspur.  
Rajesh Kumar Yadav, Addl. Distt. & Sessions Judge,  
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\* Distt. & Sessions Judge, Chandigarh.  
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“Distt. & Sessions Judge, Jhajjar.  
“Distt. & Sessions Judge, Faridabad.  
“Distt. & Sessions Judge, Yamuna Nagar at Jagadhri  
“Distt. & Sessions Judge, Panchkula  
“Distt. & Sessions Judge, Pehowa  
Rajinder Pal Singh, Addl. Civil Judge (Sr. Divn.), Pehowa.  
Gurcharan Singh Saran, Distt. & Sessions Judge, Shaheed  
Bhagat Singh Nagar.  
“Distt. & Sessions Judge, Rupnagar.  
Inderjit Singh, . Distt. & Sessions Judge, Jalandhar.  
“Distt. & Sessions Judge, Ferozpur.  
‘Distt. & Sessions Judge, Kapurthala.  
“Distt. & Sessions Judge, Mansa.  
Amit Kumar Garg, Judicial Magistrate 1\*! Class, Kurushetra.  
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Manish Batra, Addl. Distt. & Sessions Judge, Kurushetra  
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Kumar, Addl. Distt. & Sessions Judge, Kurushetra.  
Arya, Judicial Magistrate 1» Class, Kurushetra.  
Arun Kumar Singhal, Addl. Distt. & Sessions Judge  
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Jagjit Singh, Civil Judge (Sr. Divn), Kurushetra,  
‘Amarinder Sharma, Civil Judge (Jr. Divn), Kurushetra.  
Raj Gupta, Civil Judicial Judge, Kurushetra  
‘Anudeep| Kaur Bhatti, Judicial Magistrate 1s Class,  
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‘Akshdeep Mahajan, Judicial Magistrate 1% Class,  
Mohindergarh,  
Narender Pal, Judicial Magistrate 1\* Class, Narnaul  
“Distt. & Sessions Judge, Hisar  
“Distt. & Sessions Judge, Amritsar  
  
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\*Distt. & Sessions Judge, Patiala.  
\*Distt. & Sessions Judge, Hoshiapur.  
  
\*Distt. & Sessions Judge, Ludhiana.  
  
\*Distt. & Sessions Judge, Bathinda.  
  
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Shri. Sivaiah Naidu, Registrar General, Government of  
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“District & Sessions Judge, Kangra at Dharmshala, H.P.  
“District & Sessions Judge, Una, H.P.  
  
“District & Sessions Judge, Hamirpur, H.P.  
  
“District & Sessions Judge, Bilaspur, H.P.  
  
“District & Sessions Judge, Solan, HP.  
  
‘District & Sessions Judge, Kullu, H.P.  
  
“District & Sessions Judge, Mandi, H.P.  
  
\*District & Sessions Judge, Chamba, H-P.  
  
“Director, HP Judicial Academy Shimla, H.P.  
  
From Registrar General of Karnataka High Court, Bangalore  
  
122,  
  
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Shri S. Harish Kumar, Principal Distt. & Sessions Judge,  
Chitradurga, Karnataka  
  
Shri Shivashankar B. Amarannavar, District & Sessions Judge,  
Bagalkot. Karnataka  
  
Shri Lakshman F. Malavalli, VI Addl. District & Sessions  
Judge, Mysore, Karnataka  
  
Shri T.G. Channabasappa, Presiding Officer, Fast Track Court  
IIL. Mysore, Karnataka  
  
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Dr. Shashikala MA Urankar, Principal District & Sessions  
Judge, Bidar, Karnataka  
  
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Karnataka  
  
District & Sessions Court, Koppal, Karnataka  
  
Shri Pradeep D. Waingakar, Chief Judge, Court of Small  
Causes, Bangalore.  
  
Shri L’ Subramanya, Principal District & Sessions Judge,  
Bijapur.  
  
Shri 8.V. Kulkarni Presiding Officer & Addl. & Sessions Judge  
(Ad hoc), Fast Track Court, Jamakhandi, Dist Bagalkot,  
Karnataka  
  
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From the Registrar General,High Court of Chattisgarh, Bilaspur  
  
133. Shri R.C. S. Samant, Director, Chhattisgarh State Judicial  
  
‘Academy, Bilaspur  
134, Shri Ashok Panda, District Judge, Durg, Chhattisgarh  
  
185. Shri Ashok Kumar Sahu, Addl. District & Sessions Judge,  
  
Durg,  
  
136. Shri Kamlesh Jagdalla, Additional Judge, First Class, Durg,  
  
187. Shri Venseslas Topo, Civil Judge, Class-ll,  
Chhattisgarh,  
  
138. Ms. Chhaya Singh Bagel, Magistrate, First Class, Durg,  
  
Chhattisgarh,  
139, Smt. Swarnlata Toppo, Ci  
140. Shri Srikant Srivas, Officer,  
  
Judge, Class |, Durg, Chhattisgarh  
irst Class, Durg, Chhattisgarh  
  
141. Shri Thomas Ekka, Civil Judge, class II, Durg, Chhattisgarh  
  
142. Shri Anish Dube,  
  
Chhattisgarh,  
143. Shri Vivek Kumar  
  
District Balod, Chhattisgarh  
  
vil Judge, First’ Class, Rajhara,  
  
ari, Judicial Magistrate First Class,  
  
144, Shri Deepak Kumar Kaushal, Judicial Magistrate First Class,  
  
Bametara, Dist. Durg, Chhattisgarh  
  
145. Shri Praveen Kumar Pradhan, Judicial Magistrate First Class,  
  
Bametara, Dist. Durg, Chhattisgarh  
146. Ms. Pushplata Markandey, Civil Judge Class-2,  
Chhattisgarh,  
147. Shri  
Chhattisgarh  
  
itendra Kumar Jain, Chief Judigical Magistrate, Durg,  
  
148. Shri Santosh Thakur, Civil Judge Class-2, Durg, Chhattisgarh  
149. Shri Manish Kumar Dubey, Civil Judge, Class-2, Durg,  
  
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150. Shri Abhishek Sharma, Judge class II, Durg, Chhattisgarh  
  
151. Smt. Shyamvati Bharavi, Civil Judge, Class-1,  
Chhattisgarh  
  
152. Ms. Mamta Shukla, Civil Judge, Class Il, Durg, Chhattisgarh  
153. Smt. Sushma Lakda, Civil Judge, Class Il, Durg, Chhattisgarh  
  
154. Shri Ashok Kumar Lal, Judicial Magi  
Chhattisgarh  
  
155. Ms. Yashoda Kashyap, Ci  
  
156. Shri Jitender Thakur, Judicial Magistrate, Class-l  
Chhattisgarh,  
  
157. Shri Sandeep Bakshi, District & Sessions Judge, Raipur,  
Chhattisgarh  
  
rate, Class-I, Durg,  
  
il Judge, class II, Durg, Chhattisgarh  
  
158. Smt. Anita Jha, District and Sessions Judge, Bilaspur,  
  
Chhattisgarh,  
  
  
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Shri C.B. Bajpai, District and Session Judge, Mahasamund,  
Chhattisgarh  
  
Shri Anil Kumar Shukla, District and Session Judge,  
Dhamtari  
  
Shri Gautam Chourdiya, District and Sessions Judge, Janjir,  
Champa, Chhattisgarh  
  
\* District and Sessions Judge, Sarguja,\_Ambikapur,  
Chhattisgarh  
  
Smt. Vimla Singh Kapoor, District and Session Judge, Korea,  
Bakunthpur Chhattisgarh  
  
Shri LS. Ubojeba, District and Session Judge, Bastar,  
Jagadalpur, Chhattisgarh  
  
Smt. Satyabhama Ajay Dubey, Chief Judicial Magistrate, Uttar  
Bastar, Kanker, Chhattisgarh  
  
Shri N‘S. Patel, Judicial Magistrate Class-1, Bhanupratap Pur,  
Kanker, Chhattisgarh  
  
Shri J.S. Patel, Judicial Magistrate, Class-I, Dist N.B. Kanker,  
Chhattisgarh  
  
Shri Shiv Mangal Pandey, District and Session Judge, Raigar,  
Chhattisgarh  
  
Shri Prabhat Kumar Shastri, District & Sessions Judge,  
Jashpur, Chhattisgarh  
  
Shri M.P. Singhal, District and Session Judge, Rajnadgaon,  
Chhattisgarh  
  
“District and Sessions Judge, Korba, Chhattisgarh  
  
Shri A.K. Bek, JFMC (South Bastar Dantewada), Chhattisgarh  
Smt. Anita Dharia, Addl. JFM, Dantewada, Chhattisgarh  
  
Shri Ramjivan’ Devgan, Civil Judge, class |, Bijapur,  
Chhattisgarh  
  
Shri V.K. Chanakya, Chief Judicial Magistrate, South Bastar,  
Dantewada, Chhattisgarh  
  
‘Smt. Yogita Vinay Wasnik, Judicial Magistrate, Class-I, South  
Bastar, Dantewada  
  
Shri 'Yashwant Wasnik, Civil Judge, Class I, Sukma ,  
Chhattisgarh  
  
Shri Balram Kumar Devagan, District Magistrate, Class-II,  
Bacheli, Dantewada  
  
Shri Amrit Kerkatta, Civil Judge, class ISouth Bastar District  
Konta, Chhattisgarh  
  
Smt. Anuradha Khare, District and Sessions Judge,  
Kabeerdham, Chhattisgarh  
  
From High Court of Jharkhand, Ranchi (Jharkhand)  
181. Shri Anil Kumar Choudhary, District and Session Judge,  
  
Bokaro, Jharkhand  
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Md. Mushataque Ahmed, District and Session Judge, Chatra,  
Jharkhand  
  
Shri Rajesh Kumar Dubey, District and Session Judge,  
Singhbhum at Chaibasa, Jharkhand  
  
Shri Amitav Kumar Gupta, Principal District and Session  
Judge, Deoghar, Jharkhand  
  
Shri Satyendra Kumar Singh, Principal District & Sessions  
Judge, Dhanbad, Jharkhand  
  
“Principal District & Sessions Judge I/C, Dhumka, Jharkhand  
Shri\_ Shiv Narayan Singh, District & Sessions Judge, Garhwa,  
Jharkhand  
  
Shri Pradeep Kumar Srivastava, District & Sessions Judge,  
Giridih, Jharkhand  
  
Shri Kamesh Mishra, I/c District & Sessions Judge, Godda,  
Jharkhand  
  
Shri Om Prakash Pandey, Principal District & Sessions Judge,  
Gumla, Jharkhand  
  
Shri Deepak Kumar, Chief Judicial Magistrate, Jamshedpur,  
Jharkhand  
  
Shri Brijesh Bhadur Singh, Secretary, DLSA, Ci  
Jamshedpur, Jharkhand  
  
Shri SS. Prasad, Sub-Di  
Jamshedpur, Jharkhand  
  
Shri K.K. Srivastava, Registrar/Judge-in-Charge-cum-J.M.,  
Class-1, Civil Court, Jamshedpur, , Jharkhand  
  
Smt. Sanjeeta Srivastava, Judicial Magistrate 1\* Class,  
Jamshedpur, Jharkhand  
  
Smt. Kashika M. Prasad, Judicial Magistrate, 1st Class,  
Jamshedpur, Jharkhand  
  
Shri Rakesh Kumar Singh, Judicial Magistrate 1% Class,  
Jamshedpur, Jharkhand  
  
Shri Taufique Ahmed, Judicial Magistrate 1s Class,  
Jamshedpur, Jharkhand  
  
Shri Arun Kumar Dubey, Judicial Magistrate, 1 Class,  
Jamshedpur, Jharkhand  
  
Shri Anil Kumar Ray, Addl. Chief Judicial Magistrate,  
Jamshedpur, Jharkhand  
  
Shri Dinesh Kumar, Judicial Magistrate 1s Class,  
Jamshedpur, Jharkhand  
  
Shri Sachindra Nath Sinha, Judicial Magistrate, 1s! Class,  
Jamshedpur, Jharkhand  
  
Shri Suraj Prakash Thakur, Judicial Magistrate, 11 Class,  
Jamshedpur, Jharkhand  
  
Shri Goutam Mahapatra, District and Sessions Judge,  
Jamtara  
  
| Courts,  
  
ional Judicial Magistrate,  
  
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Shri Ajit Prasad Varma, Principal District & Sessions Judge,  
Koderma, Jharkhand  
  
Shri Naveen Kumar, Principal District and Sessions Judge,  
Lohardaga, Jharkhand  
  
Shri Vishnu Kant Sahay, Principal District & Sessions Judge,  
Palamau, Daltonganj, Jharkhand  
  
Shri Binay Kumar Sahay, District and Sessions Judge, Pakur,  
Jharkhand  
  
Shri Rajesh Kumar Vaish, District & Sessions Judge,  
Sahibganj, Jharkhand  
  
Shri K.K. Srivastava, Principal District & Sessions Judge,  
Seraikella-Kharsawan, Jharkhand  
  
Shri Narendra Kumar Srivastava, District & Sessions Judge,  
Simdega, Jharkhand  
  
Shri Dhirendra Kumar Mishra, Admn. Officer, Judicial  
‘Academy Jharkahand, Ranchi  
  
From the High Court of Kerala  
  
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“Kasargod District Judge Kerala  
“Wayanad District Judge, Kerala  
  
Shri MJ. Sakthydharan, Addl. District Judge  
  
“District and Sessions Judge, Manjeri, Kerala  
  
Shri P.Ubaid, District Judge, Palakkad, Kerala  
  
\* Addl. District Judge, Alappuzha  
  
Shri K. Ramakrishnan, District Judge, Thodupuzha  
  
Shri\_N. Revi, District Judge, Pathanamthitta  
  
Shri Thomas Pallickaparampil, District and Sessions Judge  
  
© Chief Judicial Magistrate, Kasaragod, Kerala  
  
Shri K.P. John, Chief Judicial Magistrate, Kozhikode, Kerala  
Shri S. Satheesachandra Babu, Chief Judicial Magistrate,  
Manjeri, Kerala  
  
\* Chief Judicial Magistrate, Palakkad, Kerala  
  
Shri P.S. Antony, Chief Judicial Magistrate, Thrissur, Kerala  
Shri K. A Rajamohanan, Addl. Chief Judicial Magistrate,  
Ernakulam, Kerala  
  
“Addl. Chief Judicial Magistrate(EO), Ernakulam, Kerala  
  
Shri B. Vijayan, Chief Judicial Magistrate, Ernakulam, Kerala  
Shri P.C. Paulachen, Chief Judicial Magistrate, Thodupuzha,  
Kerala  
  
Ms. Indukala.S., Chief Judicial Magistrate, Pathanamthitta,  
Kerala  
  
\* Chief Judicial Magistrate, Kollam, Kerala  
  
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Mrinalini Srivastava, Supdt. Of Police, CID, Gangtok,  
Sikkim  
  
“Dy. SP{HQ), O/o DGP, Andaman & Nicobar Islands, Port  
Blair.  
  
Shri Deepak Purohit, Supdt. Of Police, D&NH, Silvasa.  
  
P.C. Lalchhuanawama, AIG-1 (for DGP), Govt. of Mizoram  
  
Aizwal  
  
S.R. Dass, Asstt. IG. Police(Pers), Govt. of Tripura, Agartala  
  
“Inspector General of Police (HQ), Bihar, Patna.  
  
\*Suptd. Of Police, Panaji, Goa.  
  
“Addl. DG of Police (Crime), Punjab Chandigarh.  
  
Shri“ Mangesh Kashyap, DCP (HQ), Office of the  
  
Gommissioner of Police, Dethi  
  
Shri T. Pachuau, IG of Police (Adm), Police Department,  
  
Government of Manipur.  
  
Inspector General of Police, UT, Chandigarh  
  
“Names not mentioned,  
  
Es  
  
  
Page 77:  
Broad Analysis of 474 replies to questionnaire on Section 498-A IPC  
  
regarding bailability  
  
Annexure -  
  
A  
  
refer para 10.1 of the Report}  
  
Individuals" | Organisations/ | Government | Officials7 | Grand  
Institutions"\* | Officials | Judicial | Total  
officials  
  
co 14 a 700} 200  
  
a 5 a 709 | 726  
  
a a 1 2a 30  
  
74 o 7 7 76  
  
No Comments | 29 2 o 7 a  
  
Total 793 2a 73 aa} ara  
“Two NRIs  
  
\*\* One organization trom USA  
  
m4  
  
  
Page 78:  
Annexure - II-B  
refer para 10.1 of the Report}  
  
‘Some of the responses received - Gist  
  
Sri Justice (Retd.) A.S. Gill, Chairman, Punjab State Law  
‘Commission expressed the view that there is no need to exercise the power of  
arrest of husband and his family members as it will result in breakdown of  
family. Recourse may be initially taken to dispute settlement mechanism such  
coneiliation, mediation and counselling. The process of making effort for  
reconciliation is to be initiated even at the Police Station level by taking the aid  
of respectable persons named by both parties. The counselling mechanism  
under Domestic Violence Act can also be availed of by taking the assistance of  
professionally qualified counsellors appointed by State Government. The  
offence should be made bailable and compoundable. Bailability will not  
become in any way counter-productive. There is every need to sensitize the  
police in these matters and only an experienced officer should be entrusted  
with investigation. Compounding should be allowed subject to the permission  
of Court. The main reason for low conviction rate in the prosecution under  
Section 498-A is due to the fact that the allegations are exaggerated and  
beyond facts. Crime against Women Cell (CWC) should consist of persons who  
are well educated and experienced and have orientation to deal effectively with  
marital dispute.  
  
National Commission for Minorities:  
  
The issue can be best addressed by educating public through awareness  
programmes, also designed for minorities.  
  
Members of National Commission for Minorities (Dr. H.T. Sangliana  
& Shri K.N. Daruw:  
  
Police should have open and balanced approach. In\_alll\_cases,  
straightway the case need not be registered. The decision to register a case  
may be taken by the Inspector level officer. Cases under 498A to be handled  
with utmost care. Only after satisfying with the genuineness of the complaint,  
an arrest should be made and not in a routine manner. Formal investigation  
can be kept in abeyance until the conciliation attempt is completed which  
should not be more than three weeks. Right mediators can be identified  
through NGO nets and retired officials from Police and judiciary. In  
Karnataka, women's help centres are available in the compound of  
Commissioner of Police. The fourth parties agreed to compromise after  
registration, Court's permission may be taken to compound. If no death is  
involved, it may be made bailable. Bail should be granted to the accused of  
his/her age is above 60 and if no direct involvement is established. Free legal  
aid cell will be useful to butt availability of such help when required is  
  
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Page 79:  
doubtful. Long pendency of cases discourages the complainants from  
pursuing the matters further.  
  
Shri Daruwal:  
  
A detailed inquiry before arrest is necessary. However, the physical  
security of the women must be ensured. Arrest should be made normally with  
warrants. Police must record reasons for arrest without warrant. The offence  
could be made bailable though the bail has to be granted sparingly. There  
should be Police and anti-dowry cell in every district manned by trained  
woman police. The two processes, conciliation and investigation can proceed  
side by side. Offence could be made compoundable. Women do not have easy  
access to LSAs at grass root level. Measures to spread awareness should be  
taken though media and even it can be made part of school curricula,  
  
Dr. Ranbir Singh, Vice-Chancellor (on behalf of NLU Delhi) - There is  
‘enough evidence to suggest that this Section has been misused in many ways.  
However, the misuse did not flow from the principle and intention on which  
this law is based. Robust effort should be made to implement the law so that  
the social objective of the law does not suffer. The misuse or false implications  
could be minimised by insisting on strict observance of the law of arrest as  
evolved in D.K. Basu case [|1997) 1 SCC 416)]. Secondly, the mandate of this  
law should be shifted from penal to restorative purpose. The recourse to  
mediation and conciliation in the first instance is the best idea. The arrest and  
other drastic legal measures should begin when all the options of restoration  
have failed. Registering the case is the legal obligation of the Police but they  
need not act in undue haste to effect the arrest. They should be guided by the  
spirit of Section 157 Cr. P.C. It would be worthwhile to divide the offence  
under Section 498-A in two categories depending on the gravity of the act of  
cruelty alleged. The offence can then be categorised as bailable or non-  
bailable. Offence of milder degree may be treated as family discord and be  
addressed with an approach of reconciliation. Awareness building programmes  
involving statutory bodies and NGOs should be organised. The officers  
manning women Police Stations must be given adequate training,  
  
Dr. Bimal Patel, Director, GNLU, Gandhinagar, Gujarat - The Police  
should investigate the case and only on satisfaction of commission of offence  
under 498-A they should think of arrest. Making the offence bailable solves the  
problem to certain extent, though there are divergent views. The recourse can  
also be taken to Section 437 Cr. P.C. The offence can be made compoundable  
with the permission of Court. There should be better coordination between the  
LSA (Legal Services Authority) and Police. CWC should be under the control of  
Inspector level woman officer.  
  
  
Page 80:  
Judicial Officers Training Institute, (JOTRI), Jabalpur —  
  
1, Police has to register the criminal case on receiving FIR alleging  
commission of offence under Section 498A, but they should  
commence investigation keeping in view the two conditions  
contemplated under Section 157 Cr.PC.  
  
Having regard to the nature of dispute, preliminary investigation  
should be done instead of straightway arresting the husband or other  
relatives named in the FIR. Immediate arrest of the husband and  
other close relatives will destroy the possibility of amicable resolution  
of dispute forever.  
  
2. Police officer may commence investigation but before taking harsh  
measures by way of arrest etc., there should be a process of  
reconciliation with the help of counseling centres run by reputed  
NGOs or Govt. mediation centres. The concerned police officer  
should contact the DLSA or TLSA so that the authority may take  
steps to arrange the task of conciliation.  
  
3. Offence should remain non-bailable with cautious approach of the  
police in making arrest. Misuse or over-implication cannot be a  
ground of making the offence bailable as this will defeat the  
objective of Section 498A,  
  
4, Counseling/mediation procedures should be completed preferably  
within two months from the date of appearance of husband and  
wife. If the husband does not respond to the notice from family  
counseling centre or does not cooperate in the process of  
counseling, then only, the ILO. should proceed against the erring  
party according to law after receiving the report from the  
  
counselors/mediators. After amicable settlement, further  
investigation of the criminal case shall be stopped and the case be  
closed,  
  
5. Police should not get involved in the actual process of conciliation.  
Family counseling courts should be established in every district  
with professional counselors. Mediation Centres are also helpful in  
resolving matrimonial disputes.  
  
Director, H.P. Judicial Academy, Shimla - Make 498-A IPC gender  
neutral. 498-A should be removed from criminal case as it is a family matter  
and because of this many adverse consequences will follow. The filing of Police  
report after FIR must be completed in three months and court proceedings  
should be completed within one year thereafter.  
  
Dr. Neera Bharihoke, ADJ, Delhi - No immediate arrest and it should  
be the last resort. Make it bailable and compoundable. There should be a  
supervisory body over CWC. LSA must spread awareness.  
  
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Page 81:  
Dr. Neera Gupta: Offences under Section 498A to be made non-  
cognizable, bailable. Persons who misuse the provision shall be penalized on  
completion of trial by the very same court. Separate provisions should be  
introduced for this purpose. Heavy fine of Rs.10 lakhs should be there.  
Persons who use women-protection laws for settling personal scores should be  
punished. The Section must be made gender neutral. Police should keep away  
from counselling,  
  
Ministry of Women and Child Development, Government of India -  
Law according protection to women should be not be tinkered with; however, if  
‘some set procedures are followed, misuse can be curtailed. No arrest should be  
made on a mere allegation. In matrimonial disputes, it may not be necessary to  
immediately exercise the power of arrest in all cases. First recourse should to  
settlement mechanism. Counselling of parties should be done by professional  
qualified counsellors and police should empanel such persons Mahila desks to  
be set up at Police Stations and CAW Cells.  
  
Lawyers Collective (Ms. Indira Jaisingh, Sr. Advocate, New Delhi) -  
Police should take action as per the existing laws and the procedure specified  
under Cr. P.C. Let it remain non-bailable and non-compoundable. Need to  
strengthen coordination between LSA and Police Station. Transparency of  
action and accountability can act as safeguards. Under-staffed and untrained  
CAW Cell cannot be helpful for these cases. Police force needed to be infused  
with basic human values and made sensitive to the constitutional ethos.  
  
Ms. Nagaratna A., Asstt. Professor of Law, NLSIU, Bangalore -  
Offence should be made bailable and compoundable with the permission of  
Court. The Police soon after recording FIR must commence investigation and  
find out the existence of prima facie case. At no point Police shall have the  
power to arrest the accused without warrant of a Magistrate. Aged parents and  
sisters of the husband and other relatives must be spared from the ill-effects  
of unnecessary arrest. For the purpose of arrest, the offence should be made  
non-cognizable; but, for the purpose of investigation, it shall remain cognizable  
so that the I.O. can commence the investigation without waiting for permission  
by a Magistrate like in a. non-cognizable offence. Secondly, the |.0. shall have  
the power to arrest only after fulfilling the conditions laid down under the  
amended Cr.P.C. CWCs shall be headed by well-qualified and trained women  
Inspectors. LSA can play a role for conciliation at pre-investigation and pre-  
trial stage.  
  
AIDWA (Ms. Keerti Singh, Delhi)  
  
Police failure in taking timely action and in investigating the case on proper  
lines commented upon. Police should act according to the existing law and they do  
not need any directions to be cautious about these complaints as they are already  
taking long time even to register the FIR. If the woman complaints of physical  
violence, she should be immediately provided medical aid and the husband/in-laws  
should be stopped from committing further acts of violence, if necessary by arresting  
  
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him. Custodial interrogation could yield good results. The police has to help the  
victim woman by providing medical counseling and/or sending her to a shelter home.  
Crisis centres should be set up at the block and district level.  
  
‘The seriousness of the crime should not be diluted by making it bailable and  
‘compoundable. Making it compoundable even with the permission of the Court will  
only result in the woman facing more pressure to compromise. In any event, if a  
compromise is reached, it gets recognition from the court to quash criminal  
proceedings. Reconeiliation should not be thrust upon the woman. It would be wrong  
{o first try to reconcile both the parties. Conciliation by a trained counselor should be  
resorted to only if it can be carried out without compromising the rights and position  
‘of the woman and only if the woman wants the return of dowry/streedhan to settle the  
matter.  
  
It would not be advisable to entrust the investigations to the CWCs to the exclusion of  
regular Police Stations. The experience shows that GW Calls have not been positive.  
‘The number of Police Stations should be increased and personnel properly trained.  
GWes should be headed by a lady DSP.  
  
KFWL (President, Ms. K. Devi, Advocate), Kochi - It should remain non.  
bailable but shall be made compoundable with the permission of Court. Immediate  
arrest to be made only if offence is grave and affected the life, limb or health of the  
victim, Thera should be better coordination between LSA and Police. Crime against  
Women Gell in every district is desirable and should be headed by an IAS Officer.  
Nominees from local bodies, NGO, LSAs, mental health specialists apart from Police  
personnel should be the members thereof,  
  
Rakshak Foundation (Shri Sachin Bansal, Santa Clara, USA) - Make it  
bailable and compoundable. No arrest before investigation. There should be better  
‘coordination between LSA and Police. Fast Track Courts to dispose of cases within a  
time bound schedule shall be opened.  
  
‘Shri Priyank Parekh, Manchester, USA ~ Polico to thoroughly investigate and  
not to arrest immediately, make it bailable and compoundable. CWC with well trained  
Police officer is desirable.  
  
Dr. Virender Aggarwal, Director (Academics) Chandigarh - Make it non-  
bailable. It should remain non-bailable and non-compoundable. On receiving FIR,  
Police should make preliminary inquiry through relatives, neigbours etc. to find out  
the genuineness of the case before taking any action. LSA'can decide whether to deal  
with case as criminal matter or in the realm of matrimonial civil law. CWC should  
only help the regular investigation agencies.  
  
Shri Sivaiah Naidu, Registrar General, High Court of A.P. ~ Efforts for  
coneiliation should be made on raceipt of complaint. Immediate arrest should not be  
resorted to unless there is immediate danger to the victim or the husband is about to  
leave the jurisdiction of Indian Courts. Make the offence bailable and compoundable.  
Conciliation between the parties before effecting arrest is desirable and such  
‘coneiliation can take place through the institution of LSA. The panel of mediators may  
Consist of family welfare experts and trained counselors. LSAs in Taluka and District  
levels should play a more active role. There should be CAW Cell at District  
  
n  
  
  
Page 83:  
Headquarters and it shall be headed by Dy.SP rank officer. The woman police deployed  
in this cell should have ample experience in life and proper awareness of laws related  
‘to woman,  
  
Shri Abhay Kumar, Registrar, High Court of M.P., Jabalpur - No immediate  
arrest but register the case and start preliminary investigation. It shall remain non:  
bailable but compoundable. Family counseling centres should be opened all over the  
State.  
  
Additional Chief Judi. Magistrate (E.0.), Emakulam ~ Simultaneous with the  
registration of a case under Section 498-A, the Police should intimate the matter to  
the Protection Officer and cause an application to be filed before the Judl. Magistrate  
Under the Domestic Violence Act so that the possibility of conciliation could be  
‘explored under judicial supervision. Arrest should be resorted to only after getting  
permission from the Magistrate. Do not make the offence bailable but make it  
‘compoundable. There should be regular meetings between LSA at the District level  
land SHO of Police Stations to take stack of the cases under 498-A,  
  
‘Shri Thomas Pallickparampil, District Judge, Kerala ~ Do not make offence  
bailable but make it compoundable. Interrogation’ without arrest will be ideal  
situation. LSA may be assigned better and extensive role. Pre-litigation adalats ought  
to be organized. However, LSAs should not be constrained to coordinate with Police  
Stations. Need for specially trained senior woman police officer in CWC.  
  
Shri Narender Kumar, District Judge (Family Courts}- Bhiwani ~ Make it  
bailable and compoundable. On receiving FIR, definite conclusion based on history of  
family life, root cause for lodging FIR should be arrived at. Proper training should be  
given to women police officials. To spread awareness by making it mandatory for TV  
channels to show protective penal provisions and civil rights available to women  
  
Shri R.R. Garg, District Judge, Karnal - No immediate arrest. First, matter to  
be sent to Conciliation Board or Counseling/mediation centres. It should remain non:  
bailable but compoundable. Need to spread awareness through print and electronic  
media. CWC to be headed by woman police officer of the rank of SP.  
  
Ms. Renhcamo P. Kikon, DIG of Police, Nagaland, Kohima - It should  
remain non-bailable but compourdable. Initially preliminary investigation and steps  
{or reconciliation/mediation to be taken. If efforts fail, then the case to be registered  
tunder Section 498-A. Women Gell should be headed by Inspector rank lady officer.  
LSA should educate women and help them at grass root levels.  
  
1. G. of Police - Union Territory, Chandigarh ~ Before registering the FIR,  
police should adopt a conciliation process with the help of competent counselors and  
should act as an observer in order to avoid unwarranted arrest. A time limit of 45 days.  
is already being followed in this process. Offence to remain non-bailable but  
‘compoundable with the permission of Court. CWC should be established in every  
District with experienced and well trained women police officials.  
  
  
Page 84:  
Shri Mangesh Kashyap, DCP (HQ), Delhi: Section 498(A) of IPC is certainly  
needed in its unadulterated form. Some procedural improvements could be made  
before registering FIR. In order to ensure that the facts are not exaggerated, the  
‘aggrieved woman should be asked to write an application after few sessions of  
interactions with a Counsellor. In case the complaint is found exaggerated benefit of  
doubt should be given. All possible efforts should be made through counselling and  
mediation to keep the woman and her children in the matrimonial home. Make it  
non-bailable. Caso registered under 498A should be investigated by officer in the  
rank of Sub Inspector or above. They should be supervised regularly by an ACP once  
in a fortnight and DP / ADCP once in a month,  
  
Shri\_D.V.K. Rao, Under Secretary, Ministry of Women & Child  
Development, Delhi: On receipt of complaint, police should immediately register a  
FIR and conduct investigation into the matter. However, immediate arrest of husband  
should not be resorted to unless the alleged act of cruelty is prima facie very serious  
land calls for such arrest. Mediation and counseling process should be undertaken  
but the police should exercise restraint in making arrest of relatives. It should remain  
on-bailable and non-compoundable. Appropriate reconciliation effort as a first stop  
‘should be undertaken. Mediation should be done by trained professionals and should  
be completed within two months. Legal Services Authorities should play a more  
extensive role in facilitating the conciliation. Crime against women cell should be  
established in every District and should consist of personnel who have been trained  
‘and sensitized to deal with cases of violence against women.  
  
Shri T. Pachuau, IG of Police, Manipur - It should remain non-bailable but  
‘compoundable with the permission of the Court. Immediate arrest and custodial  
interrogation of husband and relatives should be avoided. Action to be taken to  
‘examine the victim and the accused soon after filing of FIR. Legal Services Authority  
(LSA) of the District or professional counselors will be ideally suited to process  
coneiliation.  
  
at  
  
  
Page 85:  
Annexure - III-C  
refer para 10.1 of the Report}  
  
1. Secretary, Law Department, A&N Admn., Port Blair  
  
No immediate arrest without relevant evidence and efforts of  
reconciliation. Make it Non-bailable and compoundable. Better co-  
ordination between legal services and police is required for amicable  
settlement. CWC should handle the matter since beginning till its logical  
  
conclusion.  
  
2. \*Pr. Secretary(Law), Govt. of Himachal Pradesh  
No immediate arrest before making proper investigation and enquiry with  
relatives and neighbours. Make it bailable and compoundable. Better  
co-ordination between legal services and police is required for amicable  
settlement. No need of CWC.  
  
3. Government of Meghalaya (Law Department)  
Make it bailable and compoundable.  
  
4. Govt. of West Bengal (Law Department)  
No immediate arrest before making proper investigation and enquiry with  
relatives and neighbours. Make it non-bailable and compoundable.  
  
Better co-ordination between legal services and police is required for  
amicable settlement. CWC should be set up in every district comprising  
  
  
Page 86:  
of a District Judge, Distt. Social Welfare Officer and a Woman Social  
worker working in the specified field.  
  
“Home Secretary, Chandigarh Administration  
  
No immediate arrest. After FIR initially preliminary investigation be done  
with relatives and neighbours. Make it Non-bailable and  
compoundable. LSA & police station should work for amicable  
reconciliation. CWC should have lady police officers who can handle  
domestic problems and pre-complaint counseling. They should be given  
training time to time about amendments in criminal laws and latest  
judgement of courts in such cases.  
  
Law Department, Tripura.  
Insert Section 154-A in the CrP.C. as “Special Law" by way of  
‘amendment to prescribe the procedure for arrest and detention in order  
to check misuse of Sec.498-A of IPC.  
  
Law Department, Govt. of Goa  
  
Make it compoundable with the permission of court. Make it bailable  
‘only for husband's relatives not staying with him. Otherwise, it  
should remain non-bailable.  
  
The police, on receiving the complaint under section 498-A of IPC, is  
  
required to find out whether there is any prima facie case reflected in the  
  
complaint. No immediate arrest should be made but if alleged offence is  
  
‘a grave /en only immediate arrest and custodial interrogation of  
  
husband and his relatives named in the FIR could be made.  
83  
  
  
Page 87:  
Investigation is to be completed in three months. Efforts should be made  
by police first to send the parties for conciliation / settlement by the  
appropriate authority appointed under the “Protection of Women from  
Domestic Violence Act, 2005." The coneiliators / mediators or  
professional counsellors (who may be part of NGOs) or the friends or  
elders known to both the marital parties; lady and men lawyers only who  
volunteer to act in such matters or District Legal Service Authority may  
be invited in conciliation/counseling process. There is need for  
coordination between LSAs and the Police Station. It is desirable to have  
‘a separate CWC in every District to deal exclusively with such cases.  
Women police Cell should be headed by a Lady DySP,  
  
Department of Home and Inter State Border Affairs, Government of  
Arunachal Pradesh, Itanagar.  
  
Before a regular case is registered, preliminary enquiry should be  
mandatory during which both sides should be heard and efforts be made  
for mediation and reconciliation. It should not be made bailable.  
Reconciliation through counseling should be the first step prior to  
registration of the case and a limit time of 90 days for the counseling  
process is recommended. Keep it non-bailable and non-compoundable.  
Investigation by CWC to the exclusion of the jurisdiction of the police  
station is not advisable.  
  
Government of Madhya Pradesh  
Before arresting the accused, the first step is to mediate and opt for  
compromise as far as possible within one month's time. The mediators  
can include experienced, respectable citizen or even police officers. Make  
it bailable so that it cannot be misused. Try to compromise the matter  
  
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Page 88:  
10.  
  
"  
  
between the a aggrieved parties within one month with the help o Police  
Officer or respectable citizens i.e. NGOs.  
  
Dy. Legal Remembrancer, Government of Nagaland.  
No comments as misuse allayed is not prevalent in this State.  
  
Some replies of States (enclosed to Home Ministry's letter)  
Chattisgarh: shall be made bailable and compoundable with permission  
of Court.  
  
Uttarakhand: Bailable, cognizable and compoundable  
  
NCT of Delhi ~ Compoundable with permission of Court. Preliminary  
enquiry to be made before registration of FOR,  
  
Chandigarh Admn. Bailable, non-cognizable and compoundable.  
  
Rajasthan — bailable and compoundable