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SUPREME COURT CASES

(2018) 10 SCC

(2018) 10 Supreme Court Cases 472

(BEFORE ADARSH KUMAR GOEL AND UDAY U. LALIT, JJ.)

RAJESH SHARMA AND OTHERS

.. Appellants;

Versus

STATE OF UTTAR PRADESH AND ANOTHER

.. Respondents.

Criminal Appeal No. 1265 of 2017[†], decided on July 27, 2017

A. Penal Code, 1860 — S. 498-A — Misuse of S. 498-A — Remedial measures — Directions issued — [Ed.: Some of these directions have been set aside, and others modified, by a three-Judge Bench in *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443] — Need to check tendency to rope in all family members by making omnibus allegations to settle matrimonial disputes — Fact that most of such complaints were filed in heat of moment over trivial issues and were not bona fide, taken judicial notice of — Besides, uncalled for arrests ruin chances of settlement and even when settlement is arrived at, proceedings continue since offence under S. 498-A is non-compoundable resulting in uncalled hardship to parties — Hence, safeguards, against uncalled for arrest or insensitive investigation necessary

— Crimes Against Women and Children — Abuse of S. 498-A
IPC (Paras 14 to 20)

Rajesh Sharma v. State of U.P., 2017 SCC OnLine All 2512; *Chander Bhan v. State*, 2008 SCC OnLine Del 883 : (2008) 151 DLT 691; *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449; *Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524, *considered*

Sushil Kumar Sharma v. Union of India, (2005) 6 SCC 281 : 2005 SCC (Cri) 1473; *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473; *Ramgopal v. State of M.P.*, (2010) 13 SCC 540 : (2011) 2 SCC (Cri) 145; *Savitri Devi v. Ramesh Chand*, 2003 SCC OnLine Del 483 : ILR (2003) 1 Del 484, *referred to*

B. Constitution of India — Arts. 32, 21 and 136 — Reiterated that function of Court is not to legislate but only interpret law — No doubt in doing so laying down of norms is sometimes unavoidable — Just and fair procedure being part of fundamental right to life, interpretation is required to be placed on a penal provision so that its working is not unjust, unfair or unreasonable

— Court has incidental power to quash even a non-compoundable case of private nature, if continuing proceedings is found to be oppressive — While stifling legitimate prosecution is against public policy, if the proceedings in an offence of private nature are found to be oppressive, power of quashing can be exercised — Criminal Procedure Code, 1973 — S. 482 — Courts, Tribunals and Judiciary — Judicial Review/Judicial Activism/Judicial Legislation — Judge-made Law/Judicial Legislation — Judicial legislation via Reading down/interpretation of statutes/Interpretation of Constitution — Interpretation of Statutes — Particular Statutes or Provisions — Penal statutes or provisions (Para 16)

[†] Arising out of SLP (Crl.) No. 2013 of 2017. Arising from the Judgment and Order in *Rajesh Sharma v. State of U.P.*, 2017 SCC OnLine All 2512 (Allahabad High Court, Application under Section 482 No. 397 of 2016, dt. 18-1-2017)

Sahara India Real Estate Corpn. Ltd. v. SEBI, (2012) 10 SCC 603 : (2013) 1 SCC (Civ) 173 : (2013) 2 SCC (Cri) 202 : (2013) 1 SCC (L&S) 76; *Supreme Court Bar Assn. v. Union of India*, (1998) 4 SCC 409; *Union of India v. Raghubir Singh*, (1989) 2 SCC 754; *Dayaram v. Sudhir Batham*, (2012) 1 SCC 333 : (2012) 1 SCC (Civ) 205 : (2012) 1 SCC (L&S) 109; *State of Punjab v. Dalbir Singh*, (2012) 3 SCC 346 : (2012) 2 SCC (Cri) 143; *Hema Mishra v. State of U.P.*, (2014) 4 SCC 453 : (2014) 2 SCC (Cri) 363; *Gian Singh v. State of Punjab*, (2012) 10 SCC 303 : (2012) 4 SCC (Civ) 1188 : (2013) 1 SCC (Cri) 160 : (2012) 2 SCC (L&S) 988; *CBI v. Narendra Lal Jain*, (2014) 5 SCC 364 : (2014) 2 SCC (Cri) 579, *relied on*

C. Penal Code, 1860 — S. 498-A — Object of — “Cruelty” — Connotation
a — To punish cruelty at hands of husband or his relatives against wife particularly when such cruelty had potential to result in suicide or murder of woman

— Expression “cruelty” in S. 498-A covers conduct which may drive woman to commit suicide or cause grave injury (mental/physical) or danger to life or harassment with a view to coerce her to meet unlawful demand —
c Crimes Against Women and Children — Cruelty (Para 14)

P-D/59572/CR

Advocates who appeared in this case :

Atmaram S. Nadkarni, Additional Solicitor General and V. Giri (Amicus Curiae), Senior Advocate (Ms Uttara Babbar, Ms Pragya Baghel, Ms Svadha Shanker, Mahesh Srivastava, Pankaj Srivastava, P.N. Puri, P.K. Dey, S.A. Haseeb, Santosh Rebello, Ms Sneha Prabhu T., Ms Nivedita, Ajith Yadav, B.K. Prasad, Vaibhav Manu Srivastava and Shringarika Priyadarshini, Advocates) for the appearing parties.

	<i>Chronological list of cases cited</i>	<i>on page(s)</i>
	1. 2017 SCC OnLine All 2512, <i>Rajesh Sharma v. State of U.P.</i>	475a, 475c
	2. (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449, <i>Arnesh Kumar v. State of Bihar</i>	450e, 479c
e	3. (2014) 5 SCC 364 : (2014) 2 SCC (Cri) 579, <i>CBI v. Narendra Lal Jain</i>	479e-f
	4. (2014) 4 SCC 453 : (2014) 2 SCC (Cri) 363, <i>Hema Mishra v. State of U.P.</i>	479e
	5. (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524, <i>Lalita Kumari v. State of U.P.</i>	451c
	6. (2012) 10 SCC 603 : (2013) 1 SCC (Civ) 173 : (2013) 2 SCC (Cri) 202 : (2013) 1 SCC (L&S) 76, <i>Sahara India Real Estate Corpn. Ltd. v. SEBI</i>	479e
f	7. (2012) 10 SCC 303 : (2012) 4 SCC (Civ) 1188 : (2013) 1 SCC (Cri) 160 : (2012) 2 SCC (L&S) 988, <i>Gian Singh v. State of Punjab</i>	479e-f
	8. (2012) 3 SCC 346 : (2012) 2 SCC (Cri) 143, <i>State of Punjab v. Dalbir Singh</i>	479e
	9. (2012) 1 SCC 333 : (2012) 1 SCC (Civ) 205 : (2012) 1 SCC (L&S) 109, <i>Dayaram v. Sudhir Batham</i>	479e
	10. (2010) 13 SCC 540 : (2011) 2 SCC (Cri) 145, <i>Ramgopal v. State of M.P.</i>	476b
g	11. (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473, <i>Preeti Gupta v. State of Jharkhand</i>	476b, 479b-c
	12. 2008 SCC OnLine Del 883 : (2008) 151 DLT 691, <i>Chander Bhan v. State</i>	476f
	13. (2005) 6 SCC 281 : 2005 SCC (Cri) 1473, <i>Sushil Kumar Sharma v. Union of India</i>	476b
	14. 2003 SCC OnLine Del 483 : ILR (2003) 1 Del 484, <i>Savitri Devi v. Ramesh Chand</i>	476b-c
h	15. (1998) 4 SCC 409, <i>Supreme Court Bar Assn. v. Union of India</i>	479e
	16. (1989) 2 SCC 754, <i>Union of India v. Raghubir Singh</i>	479e

The Judgment of the Court was delivered by

ADARSH KUMAR GOEL, J.— Leave granted. The question which has arisen in this appeal is whether any directions are called for to prevent the misuse of Section 498-A, as acknowledged in certain studies and decisions. The Court requested Shri A.S. Nadkarni, the learned ASG and Shri V.V. Giri, the learned Senior Counsel to assist the Court as Amicus. We place on record our gratitude for the assistance rendered by the learned ASG Shri Nadkarni and the learned Senior Counsel Shri Giri who in turn was ably assisted by Advocates Ms Uttara Babbar, Ms Pragya Baghel and Ms Svadha Shanker.

2. Proceedings have arisen from the complaint dated 2-12-2013 filed by Respondent 2, wife of Appellant 1. Appellants 2 to 5 are the parents and siblings of Appellant 1. The complainant alleged that she was married to Appellant 1 on 28-11-2012. Her father gave dowry as per his capacity but the appellants were not happy with the extent of the dowry. They started abusing the complainant. They made a demand of dowry of Rs 3,00,000 and a car which the family could not arrange. On 10-11-2013, Appellant 1 dropped the complainant at her matrimonial home. She was pregnant and suffered pain in the process and her pregnancy was terminated. On the said version, and further version that her *stridhan* was retained, Appellant 1 was summoned under Section 498-A and Section 323 IPC. Appellants 2 to 5 were not summoned. The order dated 14-7-2014 read as follows:

“After perusal of the file and the document brought on record it is clear that the husband Shri Rajesh Sharma demanded car and three lakhs rupees and in not meeting the demand it appears that he has tortured the complainant. So far as torture and retaining of the *stridhan* and demanding Rs 50,000 and a gold chain and in not meeting the demand the torture is attributable against Shri Rajesh Sharma. Rajesh Sharma appears to be main accused. In the circumstances, rest of the accused Vijay Sharma, Jaywati Sharma, Praveen Sharma and Priyanka Sharma have not committed any crime and they have not participated in commission of the crime. Whereas, it appears that Rajesh Sharma has committed an offence under Sections 498-A and 323 IPC and read with Sections 3/4 of the DP Act appears to have *prima facie* made out. Therefore, a summons be issued against him.”

3. Against the above order, Respondent 2 preferred a revision petition and submitted that Appellants 2 to 5 should also have been summoned. The said petition was accepted by the Additional Sessions Judge, Jaunpur vide order dated 3-7-2015. The trial court was directed to take a fresh decision in the matter. Thereafter, the trial court vide order dated 18-8-2015 summoned Appellants 2 to 5 also. The appellants approached the High Court under Section 482 CrPC against the order of summoning. Though the matter was referred to the Mediation Centre, the mediation failed. Thereafter, the High

Court found no ground to interfere with the order of summoning and dismissed¹ the petition. Hence this appeal.

a **4.** The main contention raised in support of this appeal is that there is need to check the tendency to rope in all family members to settle a matrimonial dispute. Omnibus allegations against all relatives of the husband cannot be taken at face value when in normal course it may only be the husband or at best his parents who may be accused of demanding dowry or causing cruelty. To check abuse of overimplication, clear supporting material is needed to proceed against other relatives of a husband. It is stated that Respondent 2 herself left the matrimonial home. Appellant 2, father of Appellant 1, is a retired government employee. Appellant 3 is a housewife. Appellant 4 is unmarried brother and Appellant 5 is unmarried sister who is a government employee. Appellants 2 to 5 had no interest in making any demand of dowry.

c **5.** The learned counsel for Respondent 2 supported the impugned order¹ and the averments in the complaint.

d **6.** The learned ASG submitted that Section 498-A was enacted to check unconscionable demands by greedy husbands and their families which at times result in cruelty to women and also suicides. He, however, accepted that there is a growing tendency to abuse the said provision to rope in all the relatives including parents of advanced age, minor children, siblings, grandparents and uncles on the strength of vague and exaggerated allegations without there being any verifiable evidence of physical or mental harm or injury. At times, this results in harassment and even arrest of innocent family members, including women and senior citizens. This may hamper any possible reconciliation and reunion of a couple.

e **7.** Reference has been made to the statistics from the Crime Records Bureau (CRB) as follows:

f “9. That according to Reports of National Crime Records Bureau in 2005, for a total 58,319 cases reported under Section 498-A IPC, a total of 1,27,560 people were arrested, and 6141 cases were declared false on account of mistake of fact or law. While in 2009 for a total 89,546 cases reported, a total of 1,74,395 people were arrested and 8352 cases were declared false on account of mistake of fact or law.

g 10. That according to Report of Crime in India, 2012 Statistics, National Crime Records Bureau, Ministry of Home Affairs showed that for the year of 2012, a total of 1,97,762 people all across India were arrested under Section 498-A of the Penal Code. The Report further shows that approximately a quarter of those arrested were women, that is, 47,951 of the total were perhaps mother or sisters of the husband. However most surprisingly the rate of charge-sheet filing for the year 2012, under Section 498-A IPC was at an exponential height of 93.6% while the conviction rate was at a staggering low at 14.4% only. The Report stated

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¹ Rajesh Sharma v. State of U.P., 2017 SCC OnLine All 2512

that as many as 3,72,706 cases were pending trial of which 3,17,000 were projected to be acquitted.

11. That according to Report of Crime in India, 2013, the National Crime Records Bureau further pointed out that of 4,66,079 cases that were pending in the start of 2013, only 7258 were convicted while 38,165 were acquitted and 8218 were withdrawn. The conviction rate of cases registered under Section 498-A IPC was also a staggering low at 15.6%.” (emphasis supplied)

8. Referring to *Sushil Kumar Sharma v. Union of India*², *Preeti Gupta v. State of Jharkhand*³, *Ramgopal v. State of M.P.*⁴, *Savitri Devi v. Ramesh Chand*⁵, it was submitted that misuse of the provision is judicially acknowledged and there is need to adopt measures to prevent such misuse. The Madras High Court in MP No. 1 of 2008 in Cr. OP No. 1089 of 2008 dated 4-8-2008 directed issuance of the following guidelines:

“It must also be borne in mind that the object behind the enactment of Section 498-A IPC and the Dowry Prohibition Act is to check and curb the menace of dowry and at the same time, to save the matrimonial homes from destruction. Our experience shows that, apart from the husband, all family members are implicated and dragged to the police stations. Though arrest of those persons is not at all necessary, in a number of cases, such harassment is made simply to satisfy the ego and anger of the complainant. By suitably dealing with such matters, the injury to innocents could be avoided to a considerable extent by the Magistrates, but, if the Magistrates themselves accede to the bare requests of the police without examining the actual state of affairs, it would create negative effects thereby, the very purpose of the legislation would be defeated and the doors of conciliation would be closed forever. The husband and his family members may have difference of opinion in the dispute, for which, arrest and judicial remand are not the answers. The ultimate object of every legal system is to punish the guilty and protect the innocents.”

9. The Delhi High Court vide order dated 4-8-2008 in *Chander Bhan v. State*⁶ in Bail Application No. 1627 of 2008 directed issuance of the following guidelines: (SCC OnLine Del para 11)

“II. ... (2) Police Authorities:

(a) Pursuant to directions given by the Apex Court, the Commissioner of Police, Delhi vide Standing Order No. 330 of 2007 had already issued guidelines for arrest in the dowry cases registered under Sections 498-A/406 IPC and the said guidelines should be followed by the Delhi Police strictly and scrupulously—

2 (2005) 6 SCC 281 : 2005 SCC (Cri) 1473

3 (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473

4 (2010) 13 SCC 540 : (2011) 2 SCC (Cri) 145

5 2003 SCC OnLine Del 483 : ILR (2003) 1 Del 484

6 2008 SCC OnLine Del 883 : (2008) 151 DLT 691

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- (i) No case under Sections 498-A/406 IPC should be registered without the prior approval of DCP/Additional DCP.
- a (ii) Arrest of main accused should be made only after thorough investigation has been conducted and with the prior approval of the ACP/DCP.
- (iii) Arrest of the collateral accused such as father-in-law, mother-in-law, brother-in-law or sister-in-law, etc. should only be made after prior approval of DCP on file.
- b (b) Police should also depute a well-trained and a well-behaved staff in all the crime against women cells especially the lady officers, all well equipped with the abilities of perseverance, persuasion, patience and forbearance.
- (c) FIR in such cases should not be registered in a routine manner.
- c (d) The endeavour of the Police should be to scrutinise complaints very carefully and then register FIR.
- (e) The FIR should be registered only against those persons against whom there are strong allegations of causing any kind of physical or mental cruelty as well as breach of trust.
- d (f) All possible efforts should be made, before recommending registration of any FIR, for reconciliation and in case it is found that there is no possibility of settlement, then necessary steps in the first instance be taken to ensure return of stridhan and dowry articles, etc. by the accused party to the complainant.”
- e **10.** In *Arnesh Kumar v. State of Bihar*⁷, this Court directed as follows: (SCC p. 281, para 11)
- “11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;
- f 11.2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);
- 11.3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- g 11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;
- 11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;
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11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

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11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.”

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11. The learned ASG suggested that there must be some preliminary enquiry on the lines of observations in *Lalita Kumari v. State of U.P.*⁸ Arrest of a relative other than husband could only be after permission from the Magistrate concerned. There should be no arrest of relatives aged above 70 years. Power of the police to straightaway arrest must be prohibited. While granting permission, the court must ascertain that there is prima facie material of the accused having done some overt and covert act. The offence should be made compoundable and bailable. The role of each accused must be specified in the complaint and the complaint must be accompanied by a signed affidavit. The copy of the preliminary enquiry report should be furnished to the accused.

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12. Shri V. Giri, learned Senior Counsel assisted by Advocates Ms Uttara Babbar, Ms Pragya Baghel and Ms Svadha Shanker submitted that arrest in an offence under Section 498-A should be only after recording reasons and express approval from the Superintendent of Police. In respect of relatives who are ordinarily residing outside India, the matter should proceed only if the IO is convinced that arrest is necessary for fair investigation. In such cases impounding of passport or issuance of red corner notice should be avoided. Procedure under Section 14 of the Protection of Women from Domestic Violence Act, 2005 of counselling should be made mandatory before registration of a case under Section 498-A.

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13. We have given serious consideration to the rival submissions as well as suggestions made by the learned ASG and Shri V. Giri, Senior Advocate assisted by Advocates Ms Uttara Babbar, Ms Pragya Baghel and Ms Svadha Shanker. We have also perused the 243rd Law Commission Report (August 2012), 140th Report of the Rajya Sabha Committee on Petition (September 2011) as well as several decisions to which our attention has been invited.

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14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of Act 46 of 1983. The expression “cruelty” in Section 498-A covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical)

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or danger to life or harassment with a view to coerce her to meet unlawful demand.⁹ It is a matter of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement. This Court had earlier observed that a serious review of the provision was warranted³. The matter also appears to have been considered by the Law Commission, the Malimath Committee, the Committee on Petitions in the Rajya Sabha, the Home Ministry, which have been referred to in the earlier part of the judgment. The abuse of the provision was also noted in the judgments of this Court referred to earlier. Some High Courts have issued directions to check such abuse. In *Arnesh Kumar*⁷ this Court gave directions to safeguard uncalled for arrests. Recommendation has also been made by the Law Commission to make the offence compoundable.

15. Following areas appear to require remedial steps:

- (i) Uncalled for implication of husband and his relatives and arrest.
(ii) Continuation of proceedings in spite of settlement between the parties since the offence is non-compoundable and uncalled for hardship to parties on that account.

16. Function of this Court is not to legislate but only to interpret the law. No doubt in doing so laying down of norms is sometimes unavoidable.¹⁰ Just and fair procedure being part of fundamental right to life,¹¹ interpretation is required to be placed on a penal provision so that its working is not unjust, unfair or unreasonable. The Court has incidental power to quash even a non-compoundable case of private nature, if continuing the proceedings is found to be oppressive.¹² While stifling a legitimate prosecution is against public policy, if the proceedings in an offence of private nature are found to be oppressive, power of quashing is exercised.

17. We have considered the background of the issue and also taken into account the 243rd Report of the Law Commission dated 30-8-2012, 140th

⁹ Explanation to Section 498-A.

³ *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473

⁷ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449

¹⁰ *Sahara India Real Estate Corpn. Ltd. v. SEBI*, (2012) 10 SCC 603, para 52 : (2013) 1 SCC (Civ) 173 : (2013) 2 SCC (Cri) 202 : (2013) 1 SCC (L&S) 76, *Supreme Court Bar Assn. v. Union of India*, (1998) 4 SCC 409, para 47, *Union of India v. Raghubir Singh*, (1989) 2 SCC 754, para 7, *Dayaram v. Sudhir Batham*, (2012) 1 SCC 333 : (2012) 1 SCC (Civ) 205 : (2012) 1 SCC (L&S) 109

¹¹ *State of Punjab v. Dalbir Singh*, (2012) 3 SCC 346, paras 46, 52 and 85 : (2012) 2 SCC (Cri) 143, *Hema Mishra v. State of U.P.*, (2014) 4 SCC 453, para 21 : (2014) 2 SCC (Cri) 363

¹² *Gian Singh v. State of Punjab*, (2012) 10 SCC 303, para 61 : (2012) 4 SCC (Civ) 1188 : (2013) 1 SCC (Cri) 160 : (2012) 2 SCC (L&S) 988, *CBI v. Narendra Lal Jain*, (2014) 5 SCC 364, para 14 : (2014) 2 SCC (Cri) 579

Report of the Rajya Sabha Committee on Petitions (September 2011) and earlier decisions of this Court. We are conscious of the object for which the provision was brought into the statute. At the same time, violation of human rights of innocent cannot be brushed aside. Certain safeguards against uncalled for arrest or insensitive investigation have been addressed by this Court. Still, the problem continues to a great extent.

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18. To remedy the situation, we are of the view that involvement of civil society in the aid of administration of justice can be one of the steps, apart from the investigating officers and the trial courts concerned being sensitised. It is also necessary to facilitate closure of proceedings where a genuine settlement has been reached instead of parties being required to move the High Court only for that purpose.

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19. Thus, after careful consideration of the whole issue, we consider it fit to give the following directions:

19.1*. In every district one or more Family Welfare Committees be constituted by the District Legal Services Authorities preferably comprising of three members. The constitution and working of such committees may be reviewed from time to time and at least once in a year by the District and Sessions Judge of the district who is also the Chairman of the District Legal Services Authority.

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19.2. The Committees may be constituted out of paralegal volunteers/social workers/retired persons/wives of working officers/other citizens who may be found suitable and willing.

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19.3. The Committee members will not be called as witnesses.

19.4. Every complaint under Section 498-A received by the police or the Magistrate be referred to and looked into by such Committee. Such Committee may have interaction with the parties personally or by means of telephone or any other mode of communication including electronic communication.

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19.5. Report of such Committee be given to the authority by whom the complaint is referred to it latest within one month from the date of receipt of complaint.

19.6. The Committee may give its brief report about the factual aspects and its opinion in the matter.

19.7. Till report of the Committee is received, no arrest should normally be effected.

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19.8. The report may be then considered by the investigating officer or the Magistrate on its own merit.

19.9. Members of the Committee may be given such basic minimum training as may be considered necessary by the Legal Services Authority from time to time.

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19.10. The members of the Committee may be given such honorarium as may be considered viable.

19.11. It will be open to the District and Sessions Judge to utilise the cost fund wherever considered necessary and proper.

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* **Ed.:** Directions 19.1 to 19.11 have been set aside in their entirety by a three-Judge Bench in *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443.

a **19.12***. Complaints under Section 498-A and other connected offences may be investigated only by a designated investigating officer of the area. Such designations may be made within one month from today. Such designated officer may be required to undergo training for such duration (not less than one week) as may be considered appropriate. The training may be completed within four months from today.

b **19.13****. In cases where a settlement is reached, it will be open to the District and Sessions Judge or any other senior judicial officer nominated by him in the district to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord.

c **19.14*#**. If a bail application is filed with at least one clear day's notice to the Public Prosecutor/complainant, the same may be decided as far as possible on the same day. Recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matters, individual roles, prima facie truth of the allegations, requirement of further arrest/custody and interest of justice must be carefully weighed.

19.15. In respect of persons ordinarily residing out of India impounding of passports or issuance of red corner notice should not be a routine.

d **19.16**. It will be open to the District Judge or a designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view is taken by the court to whom all such cases are entrusted.

e **19.17**. Personal appearance of all family members and particularly outstation members may not be required and the trial court ought to grant exemption from personal appearance or permit appearance by videoconferencing without adversely affecting progress of the trial.

19.18. These directions will not apply to the offences involving tangible physical injuries or death.

f **20**. After seeing the working of the above arrangement for six months but latest by 31-3-2018, the National Legal Services Authority may give a report about need for any change in above directions or for any further directions. The matter may be listed for consideration by the Court in April 2018.

21. Copies of this order be sent to the National Legal Services Authority, Director General of Police of all the States and the Registrars of all the High Courts for further appropriate action.

g **22**. It will be open to the parties in the present case to approach the trial or other court concerned for further orders in the light of the above directions.

* **Ed.**: Direction 19.12 has been modified by the three-Judge Bench in *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443.

** **Ed.**: Direction 19.13 has been set aside by the three-Judge Bench in *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443.

h *# **Ed.**: Directions 19.14 to 19.17 have been modified by the three-Judge Bench in *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443.