

**Parliament of India**  
**(Rajya Sabha Secretariat)**

**PRESS RELEASE**

**Petition praying for amendments in Section 498A of Indian Penal Code, 1860**

The Committee on Petitions of Rajya Sabha under the Chairmanship of **Shri Bhagat Singh Koshyari**, M.P. presented its **Hundred and Fortieth Report** to the Rajya Sabha on 7<sup>th</sup> September, 2011 on the **petition praying for amendments in Section 498A of Indian Penal Code, 1860**. The Petition was submitted by Dr. Anupama Singh, a resident of New Delhi.

2. The petitioner has raised her concern about the misuse of the Section 498A, IPC, which was inserted in Indian Penal Code, 1860 way back in 1983 to protect married women from dowry harassment in their matrimonial home. The offence under Section 498A IPC being cognizable, non-bailable and non-compoundable gives power to the Investigating Officers in police stations to arrest the husband and his relatives whose names are mentioned in the First Information Report (FIR) by the woman or her family. The petitioner has prayed to make the law bailable and compoundable; and also for provision of stringent punishment for abusers of Section 498A of IPC.

3. The Committee while formulating its observations/recommendations, has relied on the written comments of the concerned Ministries, National Commission for Women and National Commission for Protection of Child Rights, oral evidence of witnesses- official as well as non-official, feedback received in response to the Press Release, observations of the Members of the Committee and interaction with others.

**Important recommendations of the Committee:-**

**A. Making offence under Section 498A bailable and non-cognizable:-**

Having gone through the evidence produced before it by different stakeholders, the Committee finds it difficult to give a straight answer to the request made in the petition in terms of yes or no. The petitioner and the stakeholders who have come up in favour of the petition have vehemently protested against the misuse of the provisions of Section 498A IPC. But the Committee is unable to oversee the inputs it has received from the Ministry of Woman and Child Development, the National Commission for Women, National Commission for Protection of Child Rights and other organisations that have pleaded before the Committee against the petition. **The fact that offence under Section 498A of IPC is cognizable and non-bailable is acting as a big deterrent in the society. In the opinion of the Committee, this historic step has succeeded in containing the magnitude of crime against women in the country. Therefore, the Committee is unable to agree to the petition in so far as categorising the offence under Section 498A IPC as non-cognizable and bailable is concerned. The Committee recommends that the offence under Section 498A of IPC may continue to remain cognizable and non-bailable as any change in the law at this stage might go against the interest of the women community in general. The Committee fears that any interference in the present law might reverse the social protection of women in their matrimonial home that has been built up so far.**

*(Para 13.1 of the Report)*

**B. Making the offence under Section 498A, IPC compoundable:**

The Committee notes that the offence under Section 498A, IPC is essentially 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. The Committee, therefore, recommends to the Government to consider whether the offence under Section 498A, IPC can be made compoundable.

*(Para 13.2 of the Report)*

Having recommended that the offence under Section 498A of IPC should continue to be cognizable and non-bailable, the Committee strongly recommends that the ill-effects and misuse of the present legal provisions is also checked. The Committee fears that failure to do so might leave no option except to dilute the law by making the same non-cognizable and bailable. In this context, the Committee recommends certain additional measures as contained in the succeeding paragraphs.

**(Para 13.3 of the Report)****C. Power to arrest:**

As a first step to check misuse of provisions of Section 498A IPC, the Committee recommends that the provisions of Section 498A, IPC should be suitably modified so as to define the term 'relative' which may exclude the arrest of small children and very elderly people and also distantly related persons who might not have a role in the commission of offence. Secondly, the Committee would very much like to see that the powers of arrest on such complaints are exercised carefully and cautiously. **The Committee notes that advisories have been issued by the Ministry of Home Affairs to all State Governments/ UT Administrations for preventing the misuse of Section 498A, IPC. The Committee would like these guidelines to be followed and implemented strictly in letter and spirit by the State Governments/UT Administrations. The Committee further recommends that these guidelines should be adequately published by the State Governments/UT Administrations and displayed publically in police stations so that the public is aware of their rights/liabilities and is not harassed on account of ignorance of law.**

**(Para 13.4 of the Report)**

The Committee recommends that arrests under Section 498A, IPC should be done only with the written orders of the police officer of the level of DCP or equivalent and for acceptable reasons.

**(Para 13.5 of the Report)****D. Counseling and Mediation:**

The Committee recommends that adequate provisions may be introduced in Section 498A to make the process of counseling compulsory before any arrests are made. The Committee further advocates that professional and trained family counselors should do the counseling in the Women's Cell so that frivolous cases are screened at the initial stage itself and Section 498A is invoked in rare cases. **The Committee also recommends that the process of counseling which is being handled by the Police Department should be developed professionally by involving qualified counselors and reputed NGOs so that people have more confidence in the mechanism and they could be approached for intervention timely and arrive at some settlement without reaching the stage of complaint under Section 498A, IPC.**

**(Para 13.6 of the Report)****E. Check on false complaints:**

The Committee feels that the Government should consider providing legal remedies for preventing filing of false complaints or complaints with ulterior motive to harass the husband and his relatives under Section 498A. **The Committee recommends that Section 498A be amended so as to provide for specific penalty in case the complaint is found to be false or with some other ulterior motive.**

**(Para 13.8 of the Report)****F. Dowry and Registration of Marriage:**

The Committee is of the considered view that a strong and effective anti dowry law can go along way in curbing matrimonial disputes. **Accordingly, the Committee recommends that the existing Dowry Prohibition Act, 1961 may be strengthened so that no dowry is given in marriage and whatever gifts are exchanged in the marriage are listed out and acknowledged by the parties to the marriage in writing. The Committee feels that such a step by the Government would curb the dowry related matrimonial disputes which are substantial portion of the whole lot of disputes.**

**(Para 13.10 of the Report)****G. Juvenile in conflict with law (Section 498A, IPC):**

**The Committee also recommends that there is a need to ensure that provision of Section 498A should not be invoked in case of juveniles. However in case of any aberrations, the police must ensure that the children are put under the care of Child Welfare Committee which would arrange for counseling and interim care of the children in child friendly environment.**

**(Para 13.12 of the Report)**

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