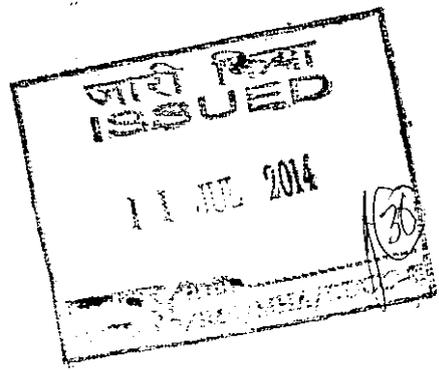


Speed Post



No. 3/5/2008-Judl.Cell
Government of India/Bharat Sarkar
Ministry of Home Affairs/ Grih Mantralaya

4th Floor, C Wing, NDCC-II Building
Jai Singh Road
New Delhi -110 001.
Dated: July 10, 2014

11 JUL 2014

To

All Chief Secretaries of State Government/Union Territories Administrations.
(As per listed attached) — (30)

Subject: Advisory on measures to be taken by the States/UTs to curb the misuse of section 498-A of the Indian Penal Code- regarding.

Sir/ Madam,

The Government has, from time to time, issued advisories on measures to be taken by the States/UTs to curb the misuse of section 498-A of the Indian Penal Code.

2. On 02.07.2014 the Hon'ble Supreme Court, in the case of **Arnesh Kumar Vs State of Bihar and Anr. (copy enclosed)**, observed that there is a phenomenal increase in matrimonial disputes in recent years and the fact that section 498-A is a cognizable and non bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shields by disgruntled wives. The Hon'ble Supreme Court has observed the following:

- i) All the State Governments to instruct their police officers not to automatically arrest a person when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down flowing from Section 41, Cr.PC;
- ii) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);
- iii) The police officer shall forward the check list duly filled up and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- iv) The Magistrate, while authorising detention of the accused, shall peruse the report furnished by the police officer along the terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

contd.2/-

v)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;

vi)Notice of appearance in terms of Section 41A of Cr.PC 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;

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

viii) The Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court if he authorizes detention without recording the reasons, as aforesaid.

3. The Hon'ble Court has directed that a copy of the judgment should be forwarded to the Chief Secretaries as also the Directors General of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts for onward transmission and ensuring its compliance.

4. All the State Governments/UT Administrations are requested to take effective measures to scrupulously enforce the directions/order of the Hon'ble Supreme Court as also the advisories issued by the Government of India from time to time.

5. The receipt of this letter may kindly be acknowledged.

Yours faithfully,



10/7/2014

(J.P. Agrawal)

Joint Secretary (Judicial)

Ph No. 23438113

a/c

Enclosed as above