



The Bitter HALF?

Delhi commissioner of police comes to the rescue of battered husbands by issuing a circular that no arrest should be made without prior permission of a DCP in dowry cases

Vinod K Shukla / New Delhi

- *Kapil, who married Urvashi after falling in love with her, was forced to take anticipatory bail as his wife slapped a case under section 498A (the Dowry Act) on him. Actually Urvashi wanted him to separate from his ailing mother and grandmother which he did not accept. Now she is demanding Rs 10 lakh to settle the case.*
- *Madho Singh Chauhan – a 57-year-old automobile businessman – is forced to live in a solitary room of his own house as he was threatened and victimised under the provisions of 498A.*
- *Vikas Tuteja (name changed), who is in his late 30s, had to pay his wife a hefty sum of Rs 12 lakh as the settlement amount. It was again 498A that spoiled his life, as his in-laws have been using it quite frequently to extract money from him.*

THE INDIAN society has been undergoing several changes but not always for the good. Having been subject to harassment by their male counterparts, women seem to be paying them back in the same coin. This has raised hackles of several men organisations and even courts have also taken cognizance of it.

In fact it was several court decisions and interventions that forced the Delhi and Hyderabad police to come out with such orders. "In the wake of many discrepancies that had cropped up due to the existing law, in the light of high court judgment on 498A of IPC, several courts observed that arrests should be made only when the allegation is very serious," said Sudhir Yadav, joint commissioner for crime against women.

A Supreme Court bench comprising justice Arijit Pasayat and justice HK Sema, in the case of Sushil Kumar Sharma Vs. Union of India (UOI) and Others, ruled in 1995 that many instances have come to light where the complaints are not bonafide and have been filed with an ulterior motive. "The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways to deal with those making frivolous complaints or allegations. Till then the courts have to take care of the situation within the existing framework. As noted above the objective is to strike at the roots of the dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used as a shield and not as an assassin's weapon," the court says.

The circular issued by Y S Dadwal, commissioner

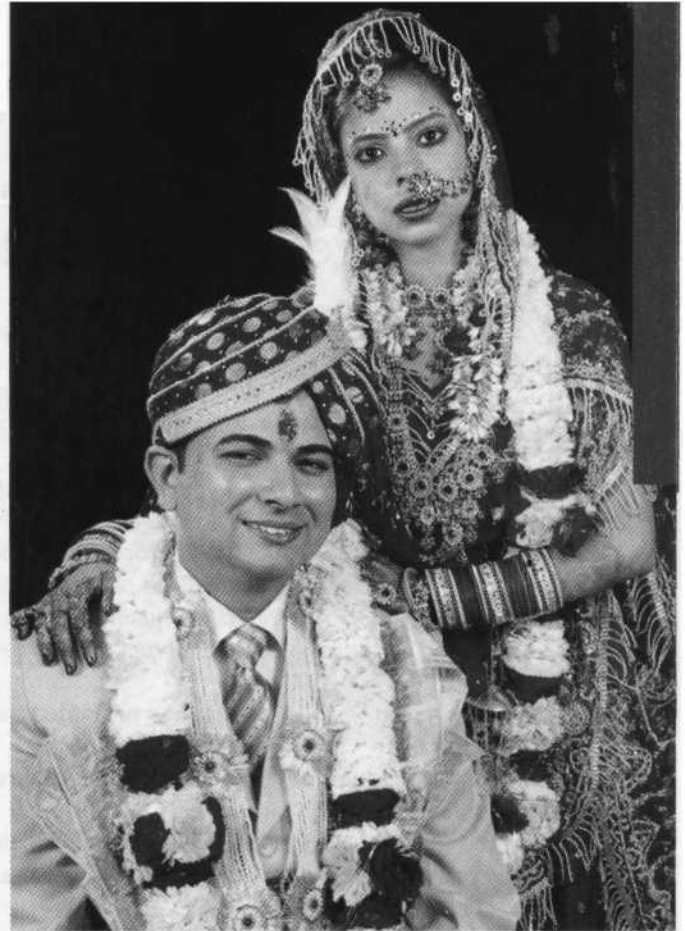
of police, reads, "Arrest of the accused should be an exception and not a rule. From the allegations set out in the FIR and other subsequent allegations or material collected during investigation, if necessary only the prime/main accused, whose primary role in commission of the offence has been established, should be arrested, and that too after the prior written approval of the DCP."

However, many women activists are opposed to any such leniency. "This is absolutely against the law. The dowry law was made after a lot of deliberation in Parliament. "The misuse of law in such cases is 5% which does not require any such order from the police. This is absolutely an uncalled for act on the part of the Delhi police," said Shabnam Hasmi, a social activist.

The better half seems to be turning into the bitter half. HPS Virk, DCP, Delhi police Women Cell, said that though the law is made to safeguard the rights of women, it is being misused as well.

Several men's organisations have been working against the misuse of this law. "I have been contesting the misuse of this draconian law by the police at the behest of the women and their family," said R P Chugh of Crime Against Men Cell. He said that 498A is not a safeguard for all women rather it is meant for wives only, as it overlooks mother-in-laws who and sisters-in-law too fall under women category.

Husbands undergo difficult time once a case under



Kapil and Urvashi at the time of their marriage

498A is registered. "They are harassed on three levels: First, after the police arrest is made; second, while pursuing the case in the court and third, the financial harassment. The first kind of harassment is the main concern. The new circular will definitely bring relief but it should be applicable all across the country, as only Delhi and Hyderabad police have issued such circulars. It is very difficult to get bail in UP and several other states once the arrest is made under this law," says Swaroop Sarkar, spokesperson, Save Family Foundation (SFF).

The online survey conducted by the SFF says that there are several reasons for the harassment: (1) Revenge (2) Divorce due to incompatibility (3) Forceful marriage (4) Conceling facts (5) Adultry. "The new orders will definitely check vengeful behaviour of wives with intension of teaching their husbands a lesson," Sarkar said.

It is the police who register cases under such provisions making 498A a cognisable offence even in case of a living wife. This gives the police a chance to immedi-



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