



Editor's Column

The Supreme Court recently made a request to the Law Ministry to make an amendment in the Indian Penal Code to make dowry harassment a compoundable offence. This will allow the contending parties to settle their differences outside the court.

The Supreme Court, burdened with a huge number of pending cases, will be relieved from hearing dowry cases, where the warring families are in favour of settling their disputes, but the Penal Code does not allow them to do so.

If the court's suggestion is accepted and an amendment is brought about in the IPC, dowry

harassment would become an offence, which can be settled by the two parties in question, without the permission of a court of law.

At present, dowry harassment (Section 498A) of the IPC is a non-bailable non-compoundable

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Dowry cases to be settled outside courts

offence under IPC, which means once the complaint is registered, it cannot be withdrawn.

However, if the complaint is taken to court, there will be no scope for a compromise or reconciliation between the parties.

The National Commission for Women's project 'Save Family,

Save Home' echoes the sentiments of the Supreme Court, where reconciliation and mediation are preferred to litigation leading to bitterness and irretrievable breakdown of marriages.

The Supreme Court has, thus, requested the Law Commission and the Union Government to examine whether a suitable amendment could be brought about to help the aggrieved parties, who might have arrived at a settlement on their own.

If the suggestion of the Supreme Court is followed, it will not only relieve the courts of a number of cases but will also save families from disintegration.

Archana Sardana visits NCW

Archana Sardana, a veteran of the skies and one of India's first woman skydivers, visited NCW recently along with her parents. She has more than 25 jumps under her belt and wants to perform a daredevil feat by jumping from 29,000 ft. near Mt. Everest and landing at Shyangboche Airstrip at around 12,000 ft.



Ms. Archana Sardana with NCW Chairperson Dr. Girija Vyas

With recent contradictory rulings on the validity of marriage of minor girls and boys, there has been a lot of confusion as to whether marriage between minors is valid or void. There has also been misgivings about section 498A of the Indian Penal Code.

In that context, the National Commission for Women recently organised a consultation on Laws relating to Marriage and Dowry in New Delhi.

According to the present law, the marriageable age is 18 years



At the Consultation from (left) Joint Secretary Ms. S.S. Pujari, Ms. Yasmeen Abrar, Dr. Girija Vyas, Member Secretary Ms. Zohra Chatterjee, Ms. Kirti Singh



A view of the participants

for girls and 21 years for boys. However, in some cases, marriages of those below these ages have not been held invalid under the Act.

The NCW, therefore, decided to have a relook at the Child Marriage Prohibition Act. The NCW consulted the NGOs, women activists, lawyers, academicians to reach a consensus on the marriageable age for boys

and girls.

The consultation was flagged off by Member-Secretary Zohra Chatterjee. In her welcome address, Ms. Chatterjee said that since there were discrepancies with regard to the uniformity of marriageable age, it was necessary to start a debate in the capital followed by nation-wide regional consultations to arrive at a consensus. Thereafter, the

recommendations would be sent to the government for further action.

After the national consultation, several stakeholders suggested 18 years be the marriageable age for both boys and girls. However, NCW feels that the age limit of 18 for girls and 21 for boys should continue. As for invalid marriages between minors, the NCW felt that a distinction should be made between a forced child marriage and others which have been undertaken on the couple's own volition.

Other suggestions that emerged from the first consultation are :

1. We need to distinguish between aspects of child marriages, one which is forced and other which is voluntary. There are many cases of

consensual marriages between a young couple and therefore, the issue of having a cutoff age preferably 16/18 years should be examined, which can to a limited extent give relief to those couples, who are booked under various legal provisions and forced to live in nari niketans etc.

2. Below a certain age, a marriage should be void ab initio. This issue also needs serious deliberation because if girls get married at a very young age, it affects their health and development as they are by no means ready for marriage, childbirth or the role of a wife.

3. What is required is immediate and effective implementation of the compulsory registration of marriages which can help to check such early marriages.
4. There is need to look at Law Commission's recommendations on child marriages.

Later, there was a discussion on the alleged misuse of 498A of the Indian Penal Code and whether it needs to be amended. After deliberation, the following recommendations emerged :

1. It is a very important provision of law for protection of women. It is the first law that takes into consideration, the emotional and mental violence that women are subjected to.

2. The Commission feels that it should not be tinkered with. What is required is a better sensitization of police officials while dealing with such cases.
3. There should be conciliation and mediation process rather than filing a case under 498A. In Delhi, NCW in association with Delhi Police, have started a pilot project 'save the home save the family' and it has been a success to a great extent. Such efforts should be initiated in other states.
4. NCW should send an advisory on latest judgements to State Govts. and also ask police academies to conduct training and sensitization programmes.

Conference on Domestic Violence

A conference on domestic violence, entitled 'Save Home, Save Family', was held in Agartala recently. Elected local self-govt. leaders, police officers, NGO representatives, women activists, educationists and social workers were present.

Speaking on the occasion, NCW Member Wansuk Syiem said that a case of violence against a woman is registered in India every 3 minutes and every 29 minutes, a woman is raped.

Citing National Crime Records Bureau (NCRB) data, she said "Over 7,600 women are killed each year because their in-laws consider the dowry inadequate and a very small percentage of their murderers are brought to justice". Everyday, at least 50 cases of dowry-related violence are reported in India.

Ms. Syiem said that despite a number of laws, sensitive society, pro-active policing and holding of seminars and awareness programmes, nothing seems

to be working at the ground level to check crimes against women.

Expressing her views, NCW Joint Secretary S.S. Pujari said "To check crimes against women, there are five pillars that must be pro-active. These are good laws, proper execution of laws, judiciary, civil societies, NGOs and the media."

"Education, empowerment and skill development of women are the vital tools to curb violence against women", she added.

Tripura Inspector General of Police K. Nagraj told the gathering "The police, in consultation with the law department and other stakeholders, have short-listed cases involving crimes against women to be disposed of in fast track courts."

"Exemplary punishment is necessary in some heinous crimes against women and these cases should be settled promptly," he added.

● **Court waives attendance gap for pregnant students**

The Delhi High Court has asked the Delhi University (DU) to waive attendance shortage of two law students, who missed classes as they were in an advanced stage of pregnancies.

The university had barred the two students from appearing in their semester-end exams.

Though the landmark ruling pertained just to the DU students, it can be cited as a precedent by all female students placed in identical situation, across the country.

The court told the Bar Council of India to make rules for women students claiming relaxation on grounds of maternity relief so that they are not barred from appearing in the LLB examinations due to pregnancy.

● **The Love Commandos**

A group of 2,000 members at present, comprising lawyers, journalists, professors, actors, students and activists are available 24x7 on a helpline (9313784875) aimed to help harassed couples, who want to marry against their parents' wishes.

Recently, they rescued, a 28-year-old Brahmin girl from Kapurthala district in Punjab, who had been locked up and severely beaten by the parents for falling in love with a boy from a Mahajan family, which was opposed vehemently by her family. She was brought to Delhi for medical treatment and police assistance as the authorities in the state were not of much help.

● **SC : Wife can't accuse husband's girl friend of cruelty**

The Supreme Court has ruled that the wife cannot accuse the girlfriend of her husband of causing mental cruelty to her under section 498A of the Indian Penal Code, even if it was found that she lived with the husband after estrangement with his wife. At best it could be a ground for seeking divorce.

The bench said, "If such other woman was not connected to the husband by blood or marriage, the same would not attract the provisions of Section 498A of IPC, although it could be an act of cruelty for the purpose of judicial separation or dissolution of marriage under the marriage laws, but could not be stretched to amount to cruelty under Section 498A".

"Under the provision, only the husband or his relatives, who subjected her to cruelty could be charged under the section", it said.

● **Easier now for mothers to take 2-year leave**

To bring about gender parity in male-dominated government jobs, the Centre has delinked earned leave from the two years' child care leave that women employees are entitled to.

Women can now avail of 730 days of the child care leave (CCL) even if they have earned leaves left.

So far, mothers on government rolls could avail of full 730 days of the CCL during their entire service for taking care of upto two children - whether for rearing or to look after any of their needs such as examination, sickness etc. - only if they had no earned leave to their credit.

Many women employees and their associations resented the linkage between CCL and earned leave. Many in the government now feel that CCL should be extended to single parents among male employees as well.

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www.ncw.nic.in