

Plug loopholes in law on dowry: SC

<http://www.tribuneindia.com/2005/20050722/nation.htm#1>

New Delhi, July 21

The Supreme Court has asked the legislature to find ways for plugging the loopholes in the law against "false" dowry complaints against the in-laws and husband by a woman in view of the increasing number of such cases coming to courts but refused to strike down Section 498A of the Indian Penal Code (IPC) dealing with such complaints.

Merely because the provision of Section 498A "is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment (of in-laws and husband). It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with," a Bench of Mr Justice Arijit Pasayat and Mr Justice H.K. Sema said while disposing of public interest litigation (PIL) on the issue.

But the court rejected the plea of striking down the provision of Section 498A made in the PIL, saying that as long as the legislature comes out with a remedy, "till then the courts have to take care of the situation within the existing framework."

While noting that the object of the provision of Section 498A is to strike at the root of dowry menace, the court said it had also been rightly pointed out in the PIL that many instances had come to light where the complaints by the so-called dowry victims were "not bona fide and have been filed with oblique motive."

In such cases, the acquittal by courts of the accused persons after a long legal proceedings did not "wipe out the ignominy suffered during and prior to the trial by them", the court said.

Describing such misuse of law as "legal terrorism", the court said no one could be allowed to unleash frivolous proceedings on this count as the provisions of Section 498A "is intended to be used as shield (a woman against harassment) not as an assassin's weapon."

The PIL was filed by Sushil Kumar Sharma in the wake of the Delhi High Court judgement in a false dowry case, in which it had expressed concern over a sudden rise in frivolous dowry complaints.

Section 498 deals with complaints by a married woman against her husband, in-laws and his relatives about harassment and ill-treatment on demand of dowry. In a guideline to the courts below as how frivolous dowry complaints should be dealing with, the apex court said there was no question of the investigating agencies and the courts taking such complaints lightly and dealing with them casually.

The investigating agencies and trial courts have to take note of the fact that the "ultimate objective of every legal system is to arrive at the truth. Punish the guilty and protect the innocent. There is no scope for any pre-conceived motion or view on this," the court observed.