



The Telegraph

calcutta, india



Today's Edition

| Friday, July 22, 2005 |

Advertise with us

IN TODAY'S PAPER

[Front Page](#)
[Nation](#)
[Calcutta](#)
[Bengal](#)
[Opinion](#)
[International](#)
[Business](#)
[Sports](#)
[At Leisure](#)

WEEKLY FEATURES

[Knowhow](#)
[Jobs](#)
[Careergraph](#)
[Telekids](#)
[Etc](#)
[Weekend](#)
[Look](#)

CITY NEWSLINES

SEARCH

[Archives](#) [Web](#)



ARCHIVES

Since 1st March, 1999

THE TELEGRAPH

[- About Us](#)
[- Advertise](#)
[- Feedback](#)
[- Contact Us](#)

[Front Page](#) > [Nation](#) > [Story](#)


email this page



Print this page

Dowry law no licence to settle scores: SC

R. VENKATARAMAN

New Delhi, July 21: The Supreme Court today warned that misuse of anti-dowry laws could unleash a "new legal terrorism".

A division bench of Justices Arijit Pasayat and H.K. Sema said provisions in the laws are often being misused to settle personal scores.

The judges, however, declined to strike down Section 498A of the Indian Penal Code and Section 113B of the Dowry Abolition Act providing punishment for giving or taking dowry.

"Merely because the provisions are constitutional... that does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment," the bench said.

The judges said "it may become necessary for the legislature" to find "appropriate" ways to deal with people behind "frivolous complaints or allegations", as the laws do not give any directions in this regard.

The observation is neither a directive nor a mandate under any article of the Constitution.

However, the judges said trial should continue in the dowry case that prompted the apex court's comments.

Courts "have to take care of the situation within the existing framework" till the legislature brings a provision to deal with "frivolous" complaints, the bench said.

The object of the laws are "to strike at the root of the dowry menace" and the "provision is intended to be used as a shield and not an assassin's weapon, it said. If people cry "wolf" too often as a prank, assistance and protection may not be available when the actual "wolf" appears", the court cautioned.

"The object of the provision is prevention of the dowry menace. But many instances have come to light where the complaints are not bonafide and have been filed with an oblique motive. In such cases, acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Some times, adverse media coverage adds to the misery," the judges said.



email this page



Print this page

Business
News

BPO Buzz

BSchool
channel

Web
exclusives

Archives



DELHI Newsline

cities.expressindia.com


NEWSLINES

NL ARCHIVE

[Search by Date](#)

SERVICES

[Matrimonials](#)
[Best IT Jobs@naukri.com](#)
[Indian Classified Ads](#)
[Share your knowledge here](#)
[New friendships, romance...](#)
[send Gifts online](#)
[Personalised Predictions](#)

CHANNELS

[Astrology](#)
[Shopping](#)
[Express Classifieds](#)
[Express Estates](#)
[Express Money](#)
[Express Travel](#)

GROUP SITES

[Expressindia](#)
[The Indian Express](#)
[The Financial Express](#)
[Screen](#)
[Kashmir Live](#)
[Express Cricket](#)
[Loksatta](#)
[Lokprabha](#)
[North American Edition \[Print\]](#)

COLUMNISTS

[The Indian Express](#)
[The Financial Express](#)

SUBSCRIPTIONS

[Free Newsletter](#)
[Wireless Express](#)

SYNDICATIONS

[RSS Feeds](#)


[Home](#) > [Delhi](#) > [Page One](#)

Thursday , May 22, 2003

[News](#) | [Talk](#) | [Tele Express](#) | [All Headlines](#)

PAGE ONE

Take a relook on dowry laws: HC

Express News Service

New Delhi, May 21: Due to the rampant misuse of dowry-related laws, the Delhi High Court has recommended that they may be reviewed.

The order comes at a time when dowry has been brought back into national consciousness through Noida girl Nisha Sharma who got her bridegroom and his family arrested for demanding dowry.

The court observed that different provisions were being misused with minors being named in cases of dowry harassment. Justice J.D. Kapoor suggested that Sections 406 (misappropriation of dowry articles) and 498A (harassment for dowry) of the IPC be made bailable and if necessary compoundable in cases where no grave physical injury is inflicted.

The court ordered this after dismissing a petition of one Savitri Devi who had challenged a lower court order which only framed charges against her husband for misappropriation of dowry items and discharged her in-laws.

"There is a growing tendency to come out with inflated and exaggerated allegations roping in each and every relation of the husband and if one happens to be of higher status or of vulnerable standing, he or she becomes an easy prey for better bargaining and blackmailing," the court said.

Forwarding the order to the Law Secretary, Justice Kapoor suggested that such cases be investigated by civil authorities like executive magistrates and cognizance be taken only after findings. Till such a mechanism is worked out, only a police officer above the rank of ACP should investigate harassment and misappropriation of items. A DCP should investigate dowry death cases.

"Where minor, schoolchildren are named, they shall not be arrested but sent to court for taking cognizance and further proceedings." The court said the manner in which these cases are registered under these sections, they became easy tools "in the hands of police and agencies like Crime Against Women cell to hound the in-laws and threatening arrest". He said the in-laws are then forced to hide at their house of their friends or relatives till they get anticipatory bail as the offence has been made cognizable and non-bailable.

Observing that such provisions have only resulted in a rise in divorce cases, Justice Kapoor said when one member of the family is arrested without any immediate reprieve of bail, the chances of salvaging the marriage recede in the background.

'It is against women'

In a country where 1.3 lakh cases of atrocities against women are registered, such an order would mean that women can never approach courts for justice as they uphold backward notions that subordinate women
 -Brinda Karat, gen secy, All India Democratic Women's Association.

This reflects the judiciary's male chauvinistic attitude
 -Indira Jaising of Lawyers Collective.

Your comment[s] on this article

[Be the first to comment on this story.](#)

Advertisements Links

[NR!! Send money to India FOR FREE*](#)
[Money Transfers from India's Second Largest Bank](#)

[Business loans upto 10 Crores](#)
[Today's Credit Tomorrow's Business Growth](#)

[Shaadi Matrimonials](#)
[5 Million Members, 12,00,000 Photos Register & Search for Free Now.](#)

[Indian Classified Ads](#)
[Cars.. Flats.. Furniture.. find everything on Sulekha Classifieds](#)

[Jobs@naukri.com](#)
[Best IT Jobs](#)
[Best Sales Jobs](#)
[Best Finance jobs](#)

[\\$ Zero minimum balance](#)
[Open a Citibank Rupee Checking Account click here!](#)

[teenpatti.com](#)
[We're giving away \\$1000 everyday](#)

[Ask. Answer. Discover.](#)
[Share your knowledge here!](#)

[Hot travel deals](#)
[Top Travel deals for the week of June 26th](#)

[ExpressIndia Astrology](#)
[Bejan Daruwalla offers personalized predictions. Starting at Rs 500.](#)

[Express Cricket](#)
[Catch Live Commentary & Score, Latest News, Full Coverage, Cricket Crosswords](#)


[teenpatti.com](#)

The
TeenPatti.com
Double Bonanza

We're giving away
\$1000 a day,
everyday

Plus a chance to
WIN a seat at
World Series of
Poker 2006

[Click Here](#)



Attention NRIs



YES!
It's a \$0 Minimum
Balance* account
specially for NRIs

Chat to open
your account NOW!

*Conditions apply

FREE Money Transfers
for Life*

Arrest should be avoided until very necessary: HC

NEW DELHI, Feb 1: Stressing that the liberty of a citizen is of paramount importance, the Delhi High Court has directed the CBI, police and other investigating agencies to avoid arrest of a person until it was "very necessary" for the purpose of gathering evidence.

Maintaining that arrest should always be avoided if the probe could be completed even otherwise and accused gives full co-operation, Justice J D Kapoor said "the liberty of citizen and a Constitutional guarantee cannot be incised and therefore the police or investigating agencies should not remain under the impression that in every cognizable and non-bailable offence they should invariably arrest the offender".

The High Court's direction was delivered while holding prima facie "illegal" a trial Court order refusing to accept a CBI chargesheet on the ground that the accused was not arrested during the investigation of the case.

"It (Trial Court) has no power to return the chargesheet directing the Investigating Officer to first produce the accused in custody," the Court held.

Referring to the provision of arrest, the Court said it has been much abused and exploited by the police in offences related to section 498A/406 (cruelty by husband for dowry/ criminal breach of trust) of IPC where all relatives including husband and even old or minors are arrested.

Emphasising that unless the allegations are of "very serious nature" and "highest magnitude", the arrest should always be avoided", the Court observed "arrest of a person for less serious or such kinds of offence or offences which can be investigated without arrest by the police cannot be brooked by any civilized society".

The Court said arrest becomes necessary if the offence alleged was of grave nature and prescribes severe punishment and there was likelihood of an offender either absconding or not appearing on being summoned or his fleeing away from justice or judgement.

The Investigating Officer of a police station or CBI should arrest an accused for cognizable and non-bailable offence if it becomes necessary that only the custodial interrogation of an offender would help in the recovery of incriminating articles or weapons of offence or eliciting information as to his accomplice etc or for the purpose that would help in gathering evidence to prove the guilt, the Court said.

"Power to arrest is altogether different than the need for arrest," the Court observed and added "no authority howsoever powerful or mighty can be allowed to deny a person his liberty as it hits at the very foundation of democratic structure". (PTI)



THE HINDU

Online edition of India's National Newspaper
Monday, Dec 06, 2004

[About Us](#)
[Contact Us](#)

National

News: [Front Page](#) | [National](#) | [Tamil Nadu](#) | [Andhra Pradesh](#) | [Karnataka](#) | [Kerala](#) | [New Delhi](#) | [Other States](#) | [International](#) | [Opinion](#) | [Business](#) | [Sport](#) | [Miscellaneous](#) |

Advts: [Classifieds](#) | [Employment](#) | [Obituary](#) |

National

Nagging by wife a ground for divorce, rules Supreme Court



By J. Venkatesan

NEW DELHI, DEC. 5. The Supreme Court has held that a husband can seek divorce if he is subjected to mental agony and cruelty due to constant nagging by his wife.

A three-Judge Bench, comprising Justice Ruma Pal, Justice Arijit Pasayat and Justice C.K. Thakker, held that nagging by a wife in regard to her husband's relations with women, casting doubt on his reputation, character and fidelity would be a valid ground for seeking divorce.

"Grave and weighty"

The Bench, however, said the charges should be "grave and weighty enough so as to infer that it would be impossible for them to live together without mental agony, torture or distress." Further, "it must be something more serious than ordinary wear and tear of married life."

The judges felt that the matter should be considered in the light of the norms of the particular society to which the parties belong, their social values, status and the environment in which they live.

In this case, the doctor couple, a Telugu Brahmin and a Sikh woman, were married in 1978. They had two children. In 1997, the husband sought a divorce alleging that his wife's behaviour was obnoxious and humiliating.

Abused in public

News Update

Stories in this Section

- [Army Major, 10 others killed in blast](#)
- [The Vice-President did the trick](#)
- [Naxal outfit to observe black day on December 10](#)
- [President's intervention sought for suitable medication for Kanchi Acharya](#)
- [Congress pursuing vote bank politics, says Advani](#)
- [India, Russia to develop air-launched BrahMos](#)
- [Bharat Petroleum, Kochi Refineries merger by April](#)
- [Insurgents, Army trade fire in Manipur](#)
- [Seize the chance, Chidambaram tells foreign investors](#)
- [Navy building high-speed data network](#)
- [Nagging by wife a ground for divorce, rules Supreme Court](#)
- [It is an honour, says Gopal Gandhi](#)
- [Dignity rally demands right to work](#)
- [We will not tolerate CPI\(M\)'s `terror politics': Pranab](#)
- [CPI\(M\) working for consensus on right to strike](#)
- [Five missing after mob violence](#)
- [Samajwadi Party plans walkout](#)
- [Krishna clarifies on `anti-Maharashtra' charge](#)
- [`Time for Generation Next to step in'](#)
- [Free power issue may dominate session](#)

A Hyderabad Family Court passed a decree of judicial separation on the husband alleging that his wife ill-treated him and abused him in vulgar language at home and hospital and other places. The Andhra Pradesh

High Court set aside the order holding that the evidence did not emit smell of cruelty.

Allowing an appeal against the High Court order, the Supreme Court Bench said divorce should be allowed if an inference could be legitimately drawn that the treatment of the spouse was such that it caused an apprehension in the mind of the other spouse about his or her mental welfare.

Referring to the High Court order that the husband could not prove the allegations, the Bench said: "The concept — a proof "beyond shadow of doubt" — is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife."

On the wife constantly objecting to her husband working with female staff at the hospital, the court said this amounted to casting doubt on the reputation, character and fidelity of her husband. "Constant nagging on these aspects certainly amounted to causing indelible mental agony and amounts to cruelty," the Bench observed and granted divorce to the couple.

Printer friendly [page](#)

Send this article to Friends by [E-Mail](#)

National

News: [Front Page](#) | [National](#) | [Tamil Nadu](#) | [Andhra Pradesh](#) | [Karnataka](#) | [Kerala](#) | [New Delhi](#) | [Other States](#) | [International](#) | [Opinion](#) | [Business](#) | [Sport](#) | [Miscellaneous](#) |

Advts: [Classifieds](#) | [Employment](#) | [Obituary](#) | Updates: [Breaking News](#) |

[Archives](#)

[Yesterday's Issue](#)

[Datewise](#)

Features:

[Life](#)

[Magazine](#)

[Literary Review](#)

[Metro Plus](#)

[Open Page](#)

[Education Plus](#)

[Book Review](#)

[Business](#)

[SciTech](#)

[Entertainment](#)

[Young World](#)

[Property Plus](#)

[Quest](#)

[Folio](#)

The Hindu Group: [Home](#) | [About Us](#) | [Copyright](#) | [Archives](#) | [Contacts](#) | [Subscription](#)

Group Sites: [The Hindu](#) | [Business Line](#) | [The Sportstar](#) | [Frontline](#) | [The Hindu eBooks](#) | [Home](#) |

Copyright © 2004, The Hindu. Republication or redissemination of the contents of this screen are expressly prohibited without the written consent of The Hindu

THE HINDU

Online edition of India's National Newspaper
Thursday, Mar 23, 2006

National

News: [Front Page](#) | [National](#) | [Tamil Nadu](#) | [Andhra Pradesh](#) | [Karnataka](#) | [Kerala](#) | [New Delhi](#) | [Other States](#) | [International](#) | [Opinion](#) | [Business](#) | [Sport](#) | [Miscellaneous](#) | [Engagements](#) |
Advts: [Classifieds](#) | [Jobs](#) | [Obituary](#) |

National

Amend Hindu Marriage Act, Court tells Centre

J. Venkatesan

Make breakdown of marriage a ground for divorce

New Delhi: The Supreme Court has given yet another reason for divorce. Since at present "irretrievable breakdown of marriage" is not a ground for divorce under the Hindu Marriage Act (HMA), 1955, it has asked the Centre to suitably amend the Act to make this reason a ground for divorce.

A three-Judge Bench comprising Justice B.N. Agrawal, Justice A.K. Mathur and Justice Dalveer Bhandari pointed out that because of the change in circumstances and for covering a large number of cases where the marriages were virtually dead this concept ought to be pressed into service.

The Bench noted that "irrevocable breakdown of marriage" as a ground for divorce was prevalent in many other countries and "this court would like to recommend the Union of India to seriously consider bringing an amendment in the HMA to incorporate it as a ground for the grant of divorce. A copy of this judgment is to be sent to the Secretary, Ministry of Law and Justice." The Bench said, "Once the parties have separated and the separation has continued for a sufficient length of time and one of them has presented a petition for divorce, it can well be presumed that the marriage has broken down. The court, no doubt, should seriously make an endeavour to reconcile the parties; yet, if it is found that the breakdown is irreparable, then divorce should not be withheld."

In this case, the appellant Naveen Kohli got married to Neelu Kohli in November 1975. From 1994 they started living separately. On a petition Mr. Kohli, the trial court ordered cancellation of the marriage and directed him to pay Rs. 5 lakh to his wife. On an appeal from Ms. Kohli, the Allahabad High Court set aside the decree and Mr. Kohli preferred the present appeal to the apex court. "Once the marriage has broken down beyond repair, it would be unrealistic for the law not to take notice of that fact," the Bench said, granting divorce.

Printer friendly [page](#)

Send this article to Friends by [E-Mail](#)

News Update

Stories in this Section

- [Adjournment aimed at `saving' Sonia](#)
- [Capital account convertibility: CPI \(M\) expresses opposition](#)
- [Five-phased polling to ensure free voting: Chief Election Commissioner](#)
- [No middlemen: Pranab](#)
- [Election Commission's fiat on rural job scheme](#)
- [Fuel loading into TAPP-3 begins](#)
- [AGP chief not interested in contesting](#)
- [Black panther's day out](#)
- [It is not an office of profit, says Congress](#)
- [Special police establishment Bill passed](#)
- [Australian visas online](#)
- [Amend Hindu Marriage Act, Court tells Centre](#)
- [Poll observers to meet tomorrow](#)
- [Samba spy case: High Court order set aside](#)
- [Slain men had links with Pakistan: police](#)
- [Start demilitarisation from Srinagar: Tarigami](#)
- [Readers' Editor for Hindi daily](#)
- [Anil Biswas still critical](#)
- [A special festival of films in Mumbai](#)
- [Report moderate in criticism of Pakistan](#)
- [Fatwas not binding, says AIMPLB](#)
- [AIDWA's concern](#)
- [New parameters for BPL category notified](#)
- [NGOs demand implementation of national policy on vendors](#)
- [Thrust to agriculture, infrastructure in Goa budget](#)
- [NBA: expedite rehabilitation](#)
- [PM's assurance](#)

Archives

[Yesterday's Issue](#)

[Datewise](#)

Tamil Nadu

News: [Front Page](#) | [National](#) | [Tamil Nadu](#) | [Andhra Pradesh](#) | [Karnataka](#) | [Kerala](#) | [New Delhi](#) | [Other States](#) | [International](#) | [Opinion](#) | [Business](#) | [Sport](#) | [Miscellaneous](#) | [Engagements](#) | **Advts:** [Classifieds](#) | [Employment](#) |

Tamil Nadu



Woman inspector asked to pay compensation for rights abuse

K.T. Sangameswaran

Probe conducted in violation of Dowry Prohibition Act

- *Inspector did not allow a complainant to take treatment*
- *Departmental action recommended against the inspector*
- *Complainants harassed*

CHENNAI: As per the Dowry Prohibition Rules, only a Deputy Superintendent of Police can investigate a complaint lodged under the Dowry Prohibition Act, the State Human Rights Commission has said.

Recommending that a city woman Inspector of Police should pay Rs. 1.50 lakhs as compensation in a case relating to human rights violation, the Commission Member, S. Sambandham, wondered how the inspector conducted the investigation when the rules clearly assigned the role to a Deputy Superintendent of Police.

Mr. Sambandham said the Tamil Nadu Government should initially pay the compensation. The amount should be recovered from the salary of inspector Mrs. Marimuthu of the All-Women Police Station (AWPS), Secretariat Colony, Kilpauk. He also recommended that the Director-General of Police take departmental action against the inspector for the human rights violation committed by her.

He said one of the complainants before the Commission was

News Update

Stories in this Section

- Virtual classroom to be launched in July
- High voltage campaign spurs big turnout
- U.K. varsity teams to interact with students
- Banks urged to honour credit rating of small scale units
- 'Parents must guide, not influence, children'
- State committed to eradication of leprosy: Minister
- New lease of life for Sembakkam lake?
- Woman inspector asked to pay compensation for rights abuse
- Veterans fight for their hard-earned money
- Conservation reserve planned in Tirunelveli village
- Medicinal plants 'awareness low'
- 'State officials boycotting Union Ministers'
- Apex committee established to implement e-Governance plan
- Veteran trade unionist felicitated
- Voter mood clearly in favour of DPA, says Vasan
- Percentage of votes polled higher than in Assembly elections
- Polio drops for over 2 lakh children
- Repaired boats handed over to fishermen
- City remembers HIV/AIDS victims
- Tender coconut dearer in Tiruchi

said to be a diabetic and as a result gangrene formed in his leg. He was also operated upon. In spite of this, the inspector did not allow him to take treatment or medicine when he was in the police station. The orders of the Madras High Court on the anticipatory bail applications of the complainants made it clear that not only were they harassed, but also driven from pillar to post on several occasions.

J. Samuel and his parents residing at Adambakkam here complained to the Commission that in February 2004 when they were in the AWPS in connection with a complaint from his (Samuel) wife under the Dowry Prohibition Act, they were treated badly. Even when their lawyer said Mr. Samuel had filed a petition before the Family Court for restitution of conjugal rights, the inspector replied she was not bothered about it.

Mr. Sambandham said if the inspector had impartially enquired into the matter, she would have verified the petition also. The complaint by Ms. Princy was later withdrawn.

He said the Dowry Prohibition Rules came into force on February 4, 2004. As per rule 2(e), the police officer had been defined as DSP. Further, prosecution should be recommended or resorted to only if all other measures were found ineffective.

The complaint should be scrutinised and an enquiry conducted to collect evidence from the parties on the genuineness of the complaint.

The inspector should pay a compensation of Rs. 50,000 to each of the three complainants, the Commission said.

[Printer friendly page](#)

[Send this article to Friends by E-Mail](#)

[Tamil Nadu](#)

[News:](#) [Front Page](#) | [National](#) | [Tamil Nadu](#) | [Andhra Pradesh](#) | [Karnataka](#) | [Kerala](#) | [New Delhi](#) | [Other States](#) | [International](#) | [Opinion](#) | [Business](#) | [Sport](#) | [Miscellaneous](#) | [Engagements](#) |
[Advts:](#) [Classifieds](#) | [Employment](#) | [Updates:](#) [Breaking News](#) |

- [This robot can go where humans cannot](#)
- [Plan to create buffer stock of textbooks](#)
- [Safeguard duty slapped on tapioca starch imports](#)
- [Briefly](#)

[Archives](#)

[Yesterday's Issue](#)

[Datewise](#)

[Features:](#)

[Life](#)

[Magazine](#)

[Literary Review](#)

[Metro Plus](#)

[Open Page](#)

[Education Plus](#)

[Book Review](#)

[Business](#)

[SciTech](#)

[Entertainment](#)

[Young World](#)

[Property Plus](#)

[Quest](#)

[Folio](#)

THE HINDU

Date:29/09/2005 URL: <http://www.thehindu.com/2005/09/29/stories/2005092916900400.htm>

[Tamil Nadu](#) - [Chennai](#)

Court restrains police from probing dowry charges

Special Correspondent

Should be referred to Dowry Prohibition Officers

-
- Dowry Prohibition Officers are duty-bound to accept complaints and investigate them
 - Police officers can take action in case of punishment for cruelty by the husband
 - "Dowry complaint has to be properly inquired into by the competent government machinery"
-

CHENNAI: The First Bench of the Madras High Court has restrained the Greater Chennai police from receiving and investigating dowry harassment complaints without referring them to Dowry Prohibition Officers.

The Bench, comprising Chief Justice Markandey Katju and Justice A. Kulasekaran, gave the interim injunction restraining the City Police Commissioner and his subordinates on a public interest litigation petition filed by advocate S.V. Ramamurthy on Wednesday.

The petitioner said the Government framed the Tamil Nadu Dowry Prohibition Rules, 2004, and consequently appointed Dowry Prohibition Officers.

The District Social Welfare Officers who have been designated as Dowry Prohibition Officers are duty-bound to accept complaints and investigate them.

Stating that the role of the police officer came only when the case was referred to court for prosecution, Mr. Ramamurthy said the Home and the Social Welfare Departments were not implementing the law. .

Referring the complaint

Police officers can take action in case of punishment for cruelty by the husband or relatives of the husband as it is likely to drive the woman to commit suicide or cause grave injury, the petitioner said, adding, "if a complaint to police relates to dowry then the police must refer the portion of the complaint to the Dowry Prohibition Officer who is to receive complaints, investigate and lay charge sheet in court."

The Tamil Nadu Dowry Prohibition Rules provide for the designated officials to mediate or conciliate with a view to restore harmony between the couple and their families, the petitioner said.

"On the other hand, the nature of duty of the police is quite different as they will investigate, take statements and launch prosecution to get conviction."

No authority

Narrating his own experience, after being accused of harassing his daughter-in-law, the petitioner said the City Commissioner of Police had no authority under the provisions of the Act to receive any complaint regarding dowry.

The Inspector of Police who investigated the matter had no power to probe any offence regarding the alleged dowry demand, he said.

He said many persons were placed in a similar situation, and added, "the dowry complaint has to be properly inquired into by the competent government machinery and not by an

officer of the police department at the initial stage ... Otherwise, the purpose of enactment of the Act will become infructuous."

He prayed for a direction to the Home and Social Welfare secretaries to engage the services of the Dowry Prohibition Officer without the interference of police officials and sought an interim injunction restraining the Commissioner and his subordinates from receiving and investigating dowry harassment complaints.

© Copyright 2000 - 2005 The Hindu

125

Years Of Trust



Calendar

The Tribune

ONLINE EDITION



Weather



Archive

Monday, March 7, 2005,
Chandigarh, India

DELHI AND NEIGHBOURHOOD

Search

NEWS AND VIEWS

- [PUNJAB](#)
- [HARYANA](#)
- [JAMMU & KASHMIR](#)
- [HIMACHAL](#)
- [REGIONAL BRIEFS](#)
- [NATION](#)
- [OPINIONS](#)
- [MAILBAG](#)
- [BUSINESS](#)
- [SPORTS](#)
- [WORLD](#)

SPECIAL COVERAGE

- [CHANDIGARH](#)
- [LUDHIANA](#)
- [DELHI](#)

THE TRIBUNE SPECIALS

[50 YEARS OF
INDEPENDENCE](#)

[TERCENTENARY
CELEBRATIONS](#)



Court declares CAW Cell illegal

Cell cannot take up work like conciliation

New Delhi, March 6

The Delhi Police have found itself in a piquant situation with the entire working of the Crime Against Women (CAW) Cell in the national Capital being declared "illegal" by a local court, which has held that the cell had been functioning in contravention of the law of the land.

Fire chief urged not to stop water, power supply to high-rises

New Delhi, March 6

In a letter submitted to the Delhi Fire Service (DFS), the Public Interest Litigation Watch Group (PILWG) said that disconnection of power and water supply from high-rises can be a threat to the lives of citizens of the national Capital.

Schoolkid missing in Ballabhgarh

Faridabad, March 6

Another schoolchild has reportedly been missing from Ballabhgarh town since Thursday. The family of the eight-year-old boy has lodged a complaint with the police.

Exporter's son 'kidnapped'

Noida, March 6

The 14-year-old son of a garment exporter in Sector-10, Noida, has been missing for the past two days. The family has expressed apprehension that the boy might have been kidnapped.

NDMC to frame fresh rules for maintenance of parks

New Delhi, March 6

The New Delhi Municipal Council is all set to come up with new rules and regulations relating to the maintenance of parks and prevent their misuse.

Rainwater harvesting project launched

Noida, March 6

The Noida Authority has launched the rainwater harvesting project to safeguard and supplement the subsoil water in Noida. The rainwater project scheme has been made applicable on all plots of 300 sq mt and above, including the parks, water works compounds below overhead water tanks, green belts, community centres, residential and non-residential compounds in Noida.

EARLIER STORIES

- ▶ [Gang of desperate Bangladeshi dacoits busted](#)
March 6, 2005
- ▶ [Brothers held for cheating banks of crores](#)
March 5, 2005
- ▶ [Chhota Shakeel gang member held for extortion](#)
March 4, 2005
- ▶ [Visa racket busted, passports seized](#)
March 3, 2005
- ▶ [Man kills wife, mother-in-law for dowry](#)
March 2, 2005
- ▶ [Gang of kidnappers busted](#)
March 1, 2005
- ▶ [Jhuggis gutted in R K Puram, Jehangirpuri](#)
February 28, 2005
- ▶ [Prostitution racket busted](#)
February 27, 2005
- ▶ [Pak espionage ring busted](#)
February 26, 2005
- ▶ [Probe demanded into shortage of TB medicines](#)
February 25, 2005



Schoolchildren performing at Samanvay, organised by Manav Sthali organisation at National Stadium in the Capital on Sunday. — Tribune photo

Court declares CAW Cell illegal Cell cannot take up work like conciliation Tribune News Service

New Delhi, March 6

The Delhi Police have found itself in a piquant situation with the entire working of the Crime Against Women (CAW) Cell in the national Capital being declared "illegal" by a local court, which has held that the cell had been functioning in contravention of the law of the land.

"The entire working of the CAW Cell is entirely illegal and is against the settled principles of the law. A statutory agency (CAW Cell) cannot justify its action on other grounds if it is violative of the statute itself," Metropolitan Magistrate Pratap S. Malik said.

Agreeing that the Commissioner of Police does have the power to set up such cells, the court, however, said any statutory creation by the Commissioner of Police has to be within the amplitudes permissible under the Delhi Police Act. "They cannot go beyond the 'policing' i.e. they cannot, for any reason, whatsoever, be anything more than being responsible for maintaining public order," Malik noted.

The order implies that CAW cell cannot take up work like conciliation. The order has created a strange situation for the Police Department as the CAW Cell, set up in 1983 under Section 19 of Delhi Police Act, handles about 8,000 to 10,000 complaints received from women every year.

Asked whether the Police Department would challenge the order, Delhi Police Commissioner K. K. Paul said: "We are examining it. There are other judgments also..." he said

Under the Delhi Police Act, the Commissioner of Police cannot constitute a cell and ask it to provide better civic amenities in place of the Municipal Corporation of Delhi. Nor any cell constituted by the Commissioner of Police can facilitate 'better team management' in place of BCCI with an object to improve the performance of Indian Cricket Team. The good objective does not justify the transgression of the parent state (Delhi Police Act), the court observed.

Instead of straightaway registering FIRs on complaints lodged by women as required under CrPC, CAW Cell conducts an "inquiry" to examine the details of alleged offences against women, provide assistance in case the complainant wants reconciliation, pin-point the guilty, collect evidence for prosecution and prevent miscarriage of justice.

During the inquiry it follows its own procedure (and not the Criminal Procedure Code) to identify the nature of offence, collection of evidence and examination of witnesses. According to the Delhi Police, this is because the Cell is not an SHO in the eyes of the law and a case is registered in a cognizable matter only after conciliatory efforts fail.

"The complaints are usually much exaggerated and the CAW Cell first sifts the chaff from the grain and only the real facts are brought on record...If complaints are registered straightaway then the immediate arrest of the accused would cause irreparable damage to the relations between the parties," the Police had submitted before the court.

Terming it untenable under the law, the court said it can easily be done during investigation after lodging an FIR. The court said law enforcing agencies cannot on their own substitute a more just and equitable code of procedure and pointed out that the apex court has said in several cases that FIR must be registered immediately after the incident.

Meanwhile, sources said the order has sent shock waves through the Department and the Police Commissioner's Legal Advisor R. S. Ghuman has sought Delhi Government's "legal opinion" as the Cell was involved in "reconciliatory" efforts, which the court felt was beyond the purview of "policing".



Home
Lead Story
City
Nation
World
Business
Sunday Read
Views
Technologies
Sports
Relationships
Health & Fitness
Entertainment
People
Chai-time
Television

'MCOCA's not for settling personal scores'**HC reprimands court for ordering investigation in a dowry case filed under the Act, which targets gangster activity***Manoj R Nair*

The Bombay High Court last week reprimanded the special MCOCA Court for ordering an investigation in a dowry harassment case filed as a complaint under the Maharashtra Control of Organised Crime Act (MCOCA), a legislation meant primarily to reign in gangster activity.

After the Bombay High Court permitted individual citizens to file private complaints in an act last year, some complaints have been filed under the MCOCA without police sanction. While passing the 2005 order allowing private complaints, the full bench of the HC stated that the MCOCA Court should take cognisance of such complaints 'sparingly, cautiously and only if the allegations made in the complaint, prima facie, constitute an offence under the provisions of MCOCA'. However, Chief Public Prosecutor at MCOC court Rohini Salian said that dowry complaints have been filed as private complaints under the MCOCA.

Last week, Justice R S Mohite asked the special MCOCA Court to stop proceedings in a case where Mohammed Imran Shaikh Hassan was accused by his wife of having connections with gangsters after the couple's one-month old marriage failed.

The court asked the special court to send back related documents back to a Magistrate Court, which will try the issue as a dowry case. Hassan had approached the high court after the MCOCA court started court proceedings against him on his wife's complaint.

Hassan's wife Syeda, in a complaint to the Byculla police station in June 2004, accused her husband, mother-in-law and sister-in-law of harassing her for dowry.

Subsequently, in July 2004, she also filed a complaint with the MCOCA court stating that during a quarrel, her husband had threatened her by boasting of his connections with Dawood Ibrahim and other gangsters.

The MCOCA court then asked the Commissioner of Police to appoint an official to investigate the complaint. According to court documents, the police said that it could not sanction prosecution because no offence under the act could be proved against the husband.

However, despite this the MCOCA court initiated prosecution, according to Shaikh Hassan's lawyers R Sathyanarayanan and Shaikh Zakir Hussain.

Syeda's lawyers told the HC that there was indeed prima facie evidence that the petitioner had links with gangsters.

However, on March 17, Justice Mohite stated, "In matters where there is a mere allegation of such threat, the court must give reasons as to how giving of such threat can amount to an offence under the MCOC Act. One must bear in mind that otherwise virtually every crime can be dragged into the MCOCA Court."

[E-mail this article](#) [Print this article](#) [Search archive](#) [Rate this article](#) [Comment](#) [View Comments](#)**More in City****RSS****■ Not everyone here agrees with Lataji**

Now that the state government has decided to go ahead with the much talked about flyover at Peddar Road, many residents have come out in the open to[More](#)

■ What killed my girl?

After almost nine months of their daughter's death, Janardhan Sonu Patil and his wife Jayshree have not yet received her complete post-mortem report[More](#)

■ Officially, there are no rogues' galleries

In spite of a high court order directing the removal of photographs of accused displayed at police stations, the rogues' galleries still adorn the[More](#)

■ Lodge FIR against senior who beat me or I die

Pradip Thopte, sub inspector at Ulhasnagar Central police station, who alleges he was beaten by a drunken senior officer, has threatened to commit[More](#)

■ 'Perver' teacher arrested, let out on Rs 2,000 bail

Pramod Chitari, prime accused in the molestation case of two female students of Dr Shirodkar School, was arrested by police from his residence in[More](#)

■ We sang at Satsang

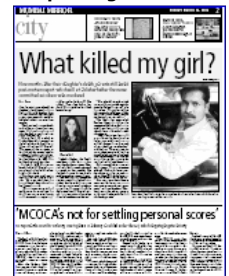
It is not just car horns that bleat in Kandivli. We residents may sing off-key but we sure sing loud enough to wing our voices heavenwards. Satsangs[More](#)

[E-mail this article](#) [Rate this article](#) [Search archive](#) [Comment](#) [Print this article](#) [View Comments](#)

→ Search

Section

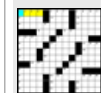
Today's Edition

Advanced search**ePaper Page View**

Click to enlarge

**and
Win exciting
Prizes**

→ Crossword

[Solve Today's
Crossword](#)

→ Su Do Ku

[Solve
Today's
Su Do Ku](#)

→ My Preference

Introducing

**My MUMBAI MIRROR****BUZZ**
Buy / Sell / Exchange**BUZZ****Terms & Conditions
for Mumbai Mirror's
direct to readers offer****TIMES
INFOLINE**
THE ATM OF INFORMATION
CALL 26005555**Be in touch
with the
happenings in
your locality**

Woman standing in queue delivers baby Our Correspondent

Noida, November 23

A woman standing in a queue, waiting for her turn among patients who had come for treatment in the government hospital here for a long time, gave birth to a baby girl while standing in the queue yesterday. The premature delivery of the baby by a seven-month-old pregnant woman is said to be in critical condition. The woman doctor said the newborn needed blood transfusion.

Sayed, 30, of Sector 8 here, who was seven months' pregnant, while standing in the queue was waiting for her turn among patients. She had come for an examination.

While standing in the queue of patients before room no 139 on first floor of the district hospital here she gave birth to a premature girl child.

Dr Raj Rani Kausal said the mother needed urgent blood transfusion also. Patients and their attendants were complaining the district hospital lacked proper arrangements for the patients who had to wait there from two to three hours in the queue for their turn.

Rajveer from Khora Colony said his wife was standing in the queue since 7.30 am but by 10 am her turn had not come.

The same was the grouse of Ms Vidhywati who had come from Sector 8 at 8 am.

"There is no one to listen to your grievances or attend to you" was the general refrain.

The CMO, Dr Vinode Kumar, said there was a shortage of doctors. All doctors are supposed to be in hospital by 8 am.

Four doctors were relieved on Tuesday itself, further worsening the crisis.



Petition against Crime Against Women Cell Tribune News Service

New Delhi, November 23

A city-based lawyer and his family today moved the Delhi High Court challenging the legal validity of the Crime Against Women (CAW) cell of the Delhi Police.

Justice R C Jain issued notices to the Delhi government and the city police on a petition filed by advocate B K Agarwal, his wife, daughter and son-in-law and asked the respondents to file their replies by December 16.

Claiming to be victims of anti-dowry laws and improper enquiry done on the complaint lodged by his daughter-in-law, Agarwal sought quashing of the probe conducted by the CAW cell and the FIR registered against them.

Agarwal's counsel K C Mittal contended that CAW cell has no legal authority to function and investigate a complaint in the absence of any legislative backing and urged the court to lay down general guidelines for enquiry of such matrimonial offences by the cell.

He sought direction to the Delhi government to place on record the source of creation of CAW cell to investigate matrimonial disputes. Citing Supreme Court's ruling in the Bhajan Lal case, the petitioners contended when no cognizable offence has been committed and no FIR has been lodged, the police has no power to conduct a Preliminary Enquiry (PE). They alleged that CAW cell personnel were not acting in accordance with the procedure laid down in the Criminal Procedure Code and unnecessarily harassing innocent people. Last year, a Metropolitan Magistrate had declared the functioning of CAW cell as illegal but later the order was set aside by the Sessions Court.



Meet on 'Women Work and Health' from November 27 Tribune News Service

New Delhi, November 23

The 'International Congress on Women Work and Health' (WWH) will be held at Hotel Ashok here from November 27 to November 30. As many as 800 delegates from 58 countries are expected to participate in the event.

According to Dr Sunita Kaistha, secretary general, International WWH, "Among its main objectives, the Congress aims to introduce the gender perspective into health, promote research, teaching, occupational health care and to spread gender awareness."

Some of the eminent speakers include 2003 Noble Peace Prize winner Shirin Ebadi from Iran, UK-based Diane Perrons, Director, Gender Institute, London School of Economics, Finance Minister P. Chidambaram, a release stated.

The Chairperson, WWH, Indira Kothiar, said, "For the first time ever, short films and video sessions have been initiated to facilitate more realistic global experience sharing, where delegates from various countries can themselves watch and learn from the real-life problems and solutions of other participating countries. One truly unique and unprecedented addition to this fourth Congress is the women's crafts mela.



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.