

Saturday, 25th Nov, 2006

To,

The President
Union of India,
Rashtrapati Bhawan,
New Delhi - 110001

Sub: Memorandum about rampant misuse of the Dowry Law (IPC 498A)

Your Excellency,

498a.org solicits your kind permission for submitting this memo on the aforementioned subject for such action as your Esteemed self may consider appropriate and warranted. At the outset it is submitted that 498a.org is an international volunteer based organization, initially founded by ex-IITians, consisting of people of Indian origin, who have joined hands to fight the evil of 'misuse of 498A' (commonly known as dowry law). 498a.org has volunteers in most major cities in India, USA and many other countries and offers 24-hour help lines for counseling victims, who are traumatized and devastated after being implicated in a false dowry case.

The anti-dowry law IPC 498A that is supposed to protect women from dowry harassment has become a weapon in the hands of those women who do not hesitate to use the provision in this law to legally terrorize innocent families and extort money from them. Though projected to be a law benefiting women, 498a has, ironically, victimized countless innocent women related to the husband's family.

Even a false complaint from an unscrupulous woman is deemed enough to secure arrest of all those people whose names the said woman prefers/desires to mention in her allegations, irrespective of whether a crime occurred or not. This is a gross violation of the human rights of the innocent families that are victimized and brutally murdered - socially and financially.

The perpetrators, who file these false dowry cases, go unpunished even after it is comprehensibly proven that no crime was committed against them. This has led to a situation where false dowry cases are being filed with impunity, as there is absolutely no liability for initiating a frivolous case. The fact of the matter is that, it has become an extremely convenient method for extorting huge amounts of money from the husband and his family, leaving the innocent husband and his parents bankrupt, humiliated and emotionally shattered. Ironically, the judicial system, unwittingly, ends up as a facilitator in this legal extortion by encouraging the parties involved to settle out of court.

The number of false cases are so staggering that the **Hon'ble Supreme Court has termed this malpractice 'LEGAL TERRORISM'** (Sushil Kumar Sharma Vs. Union of India and others, JT 2005(6) SC 266). The courts find most of these cases false as is indicated by the high acquittal rates as evident from the statistics by the Council of Social Research. In fact, the number of false cases is estimated to be more than 90% and several judges and other public officials have expressed concern and dismay over the state of affairs.

The magnitude of the problem is so enormous that it has begun to affect the public image of India in the world as even the foreign governments, notably the United States and Canada, have started taking note of this malpractice and have issued advisories on their official websites. (http://travel.state.gov/travel/cis_pa_tw/cis/cis_1139.html)

Despite the fact that the situation has acquired such monstrous proportions, there are no Government-funded organizations in the country to provide assistance and protect the rights of these innocent families.

The unconcerned disposition of the Government towards this serious issue raises serious doubts on the intention to establish a peaceful and harmonious social structure. Strong marriages are the backbone of the Indian culture and society and the lack of initiative to curb the misuse of this law has considerably eroded the trust of the people in the institution of marriage.

To rectify the situation, some of the suggestions that have been brought before this forum by the numerous experts and authorities are given below for the appropriate consideration of the concerned authority:

1. Stringent punishments for abusers of law - The punishment for misusing this strict law should be equally stringent. Once a complaint has been found to be false, severe penalties should be imposed to discourage misuse of this law.
2. No Arrests unless absolutely necessary - An arrest on a criminal charge has grave consequences - social, mental and financial, for the individual. Unless there is irrefutable evidence to suggest physical torture, no arrests should be made. Also, senior citizens, minors (children below the age of 18), pregnant women and people requiring medical attention should be excluded from arrests. The final decision in this regard should be taken by an authority, not less than the Superintendent of Police of the District who too should have general instructions to apply his mind judiciously in each individual case on its merits and then pass suitable order(s) in writing.
3. The law be madeailable and compoundable - The law should be madeailable and compoundable, unless grave physical torture is evident, to prevent harassment of innocent families.

4. National Commission for Family Welfare - We urge the government to establish a National Commission for Family Welfare to protect the rights of men, women and children and to work for the welfare of families and the society in general.
5. Gender Neutrality - All laws should endeavor to punish the guilty and protect the innocent, irrespective of the gender. We suggest that the law be made gender neutral to protect the interests of any innocent, be it a man or a woman. We stress that the gender specific words like "husband" and "wife" be replaced by gender-neutral words like "spouse".

The cardinal principle of criminal liability which is in vogue and prevalent all over the world, is that the accused is presumed to be innocent unless proven guilty by the cogent and reliable evidence beyond all reasonable and probable doubts. In other words the burden of proving the guilt has always been on the party that raises the allegations. In the instance of this law, this principle has been sacrificed for no understandable and acceptable rationale, in as much as the person who raises the allegation has been or is presumed to be truthful and the accused is presumed guilty unless he proves his innocence.

Hundreds of thousands of innocent families have been humiliated, and have suffered disastrous social and financial consequences because of the misuse of this law.

This serious matter requires immediate reconsideration by the legal luminaries and authorities so that the injustice that is presently being done to the innocent victims is undone.

We sincerely hope that the Government takes appropriate measures to protect the rights of these families and deliver them justice.

Sincerely,

Bhavani Ramamurthy
498a.org

Copy to :

1. The Prime Minister of India
2. Chief Justice of India
3. United Nations Human Rights Commission