

Legal Current Affairs

No arrests during the two-month cooling-off period following the filing of the FIR: The Allahabad High Court has issued safeguards against the misuse of Section 498A.

In a recent case of Mukesh Bansal v State of UP, On Monday, the Allahabad High Court issued rules and safeguards to avoid the abuse of Indian Penal Code Section 498A. (IPC).

According to one of the Court's rules, after an FIR has been registered, there would be no arrests or coercion as a result of the first information report (FIR) filed under section 498A of the Indian Penal Code during the two-month cooling-off period.

The Court has ordered that the matter be sent to a Family Welfare Committee at this time (FWC). It should be mentioned that Section 498-A punishes a woman's spouse or family who abuse her.

The Bench of Justice Rahul Chaturvedi, while issuing the safeguards, was of the opinion that if excessive and willful abuse of section 498-A IPC continues, the customary aroma of our age-old institution of marriage may utterly vanish over time.

A quick summary of the events

Essentially, the Court was considering revision petitions filed by three people (the complainant's in-laws) appealing a Sessions Court ruling denying their discharge applications in connection with a crime charged against them under several sections of the IPC, including Section 498A.

This FIR was filed by the wife against her husband and in-laws, alleging, among other things, that his father-in-law sought sexual favours from her and that her brother-in-law had attempted to physically seduce her.

She also claimed that her husband would lock her in the toilet after taking away her phone, and that her mother-in-law and sister-in-law pressured her to have the pregnancy terminated. All of her family members were violent with her when she refused.

It was also claimed that a persistent demand for more dowry was made, and that when she refused, she was severely attacked with punches and kicks, and maltreated and humiliated to the extreme.

Observations of the Court

The Court observed that the FIR was not only abhorrent, but also full of dirt, filth, and venomous charges against her own husband and inlaws, based on the story told in the FIR by the wife.

Furthermore, the Court found no problem with the lower court's ruling releasing the accused because the wife/victim had been unable to prove charges made by her even during the inquiry, and these allegations were found to be untrue.

The Court also expressed its severe opposition to the informant's choice of language in the FIR.

"The language of the FIR should be a decent one and no amount of atrocities faced by the informant would justify her to use such type of caustic expressions. FIR/complaint is the gateway of any criminal case even soft and decent expression would well communicate the alleged atrocities faced by her," the Court said.

As a result, the in-laws' revision petitions were granted, while Husband's revision request was denied.

Regarding the wife's alleged misuse of Section 498A IPC, the Court stated that presently, every marital case is being exaggerated to the nth degree, with all the vehement and caustic charges of dowry-related atrocities involving the husband and other family members.

Thus, after weighing the totality of the circumstances, the object, and the allegation of misuse of Section 498A IPC, the Court went on to suggest measures based on the Apex Court's decision in the matter of Social Action Forum for Manav Adhikar Vs. Union of India, in order to combat the rising trend among the public to blame the spouse and other family members on broad and sweeping claims.