



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3521]

**TUESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 1014/2026

Between:

1. MYLAPALLI NAVEEN KUMAR,, S/O. LAXMANARAO, AGED ABOUT 23 YEARS, OCC PRIVATE EMPLOYEE, R/O. H.NO.7-40, CYCLONE STREET, S MATCHELESAM, GARA MANDAL, SIKAKULAM, SRIKAKULAM DISTRICT, A.P.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH, AT NELAPADU, AMARAVATI, GUNTUR DISTRICT.

2. MAILA BINDU LATHA, D/O. M SRINIVASA RAO, AGED ABOUT 26 YEARS, OCC HOUSEWIFE, R/O D.NO.62-7-34, RAJAKA VEEDHI, SRIHARIPURAM, MALKAPURAM, VISHAKAPATNAM DISTRICT, A.P. .

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

1. KANALA MAHESH

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

The Court made the following:

ORDER:

The Criminal Petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.,')/Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS') seeking to quash proceedings against Petitioner/Accused No.4 in Cr.No.204 of 2025 on the file of the Malkapuram Police Station, Visakhapatnam Commissionerate, registered for the alleged offence punishable under Section 85 read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for brevity, 'the BNS') and Section 3 of Dowry Prohibition Act, 1961 (for brevity, 'the D.P.Act').

2. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor. Perused the record.

3. As seen from the record, the alleged offences levelled against the Petitioner/Accused No.4 are punishable with imprisonment for less than seven (07) years.

4. Even on bare perusal of the complaint given by Respondent No.2 to the Station House Officer of Malkapuram Police Station, the allegations are omnibus in nature. There are no specific details as to the date and time and place of the alleged offence. The husband of Respondent No.2 is a sailor, and the Petitioner is brother-in-law of the Respondent No.2.

5. The High Court of Allahabad, in **Mukesh Bansal v. State of U.P**¹ at paragraph Nos.48 and 49, held as under:

¹2022 SCC OnLine All 395

“48. Thus assessing the totality of the circumstances, object and the allegation of misuse of this piece of legislation in a shape of Section 498A IPC, the Court is proposing the safeguards after taking the guidance from the judgment of Hon'ble the Apex Court in the case of Social Action Forum for Manav Adhikar v. Union of India (Supra) keeping in view the growing tendency in the masses to nail the husband and all family members by a general and sweeping allegations.

49. Thus, It is directed that:—

(i) No arrest or police action to nab the named accused persons shall be made after lodging of the FIR or complaints without concluding the “Cooling-Period” which is two months from the lodging of the FIR or the complaint. During this “Cooling-Period”, the matter would be immediately referred to Family Welfare Committee(hereinafter referred to as FWC) in the each district.

(ii) Only those cases which would be transmitted to FWC in which Section 498-A IPC along with, no injury 307 and other sections of the IPC in which the imprisonment is less than 10 years.

(iii) After lodging of the complaint or the FIR, no action should take place without concluding the “Cooling-Period” of two months. During this “Cooling-Period”, the matter may be referred to Family Welfare Committee in each districts.

(iv) Every district shall have at least one or more FWC (depending upon the geographical size and population of that district constituted under the District Legal Aid Services Authority) comprising of at least THREE MEMBERS. Its constitution and function shall be reviewed periodically by the District & Sessions Judge/Principal Judge, Family Court of that District, who shall be the Chairperson or Co-chairperson of that district at Legal Service Authority.

(v) The said FWC shall comprise of the following members:—

(a) a young mediator from the Mediation Centre of the district or young advocate having the practices up to five years or senior most student of Vth year, Government Law College or the State University or N.L.U.s. having good academic track record and who is public spirited young man, OR;

(b) well acclaimed and recognized social worker of that district having clean antecedant, OR;

(c) retired judicial officers residing in or nearby district, who can devote time for the object of the proceeding OR;

(d) educated wives of senior judicial or administrative officers of the district.

(vi) The member of the FWC shall never be called as a witness.

(vii) Every complaint or application under Section 498A IPC and other allied sections mentioned above, be immediately referred to Family Welfare Committee by the concerned Magistrate. After receiving the said complaint or FIR, the Committee shall summon the contesting parties along with their four senior elderly persons to have personal interaction and would try to settle down the issue/misgivings between them within a period of two months from its lodging.

The contesting parties are obliged to appear before the Committee with their four elderly persons (maximum) to have a serious deliberation between them with the aid of members of the Committee.

(viii) The Committee after having proper deliberations, would prepare a vivid report and would refer to the concerned Magistrate/police authorities to

whom such complaints are being lodged after expiry of two months by inserting all factual aspects and their opinion in the matter.

(ix) Continue deliberation before the Committee, the police officers shall themselves to avoid any arrest or any coercive action pursuant to the applications or complaint against the named accused persons. However, the Investigating Officer shall continue to have a peripheral investigation into the matter namely preparing a medical report, injury report, the statements of witnesses.

(x) The said report given by the Committee shall be under the consideration of I.O. or the Magistrate on its own merit and thereafter suitable action should be taken by them as per the provision of Code of Criminal Procedure after expiry of the "Cooling-Period" of two months.

(xi) Legal Services Aid Committee shall impart such basic training as may be considered necessary to the members of Family Welfare Committee from time to time(not more than one week).

(xii) Since, this is noble work to cure abrasions in the society where tempos of the contesting parties are very high that they would melow down the heat between them and try to resolve the misgivings and misunderstanding between them. Since, this is a job for public at large, social work, they are acting on a pro bono basis or basic minimum honorarium as fixed by the District & Sessions Judge of every district.

(xiii) The investigation of such FIRs or complaint containing Section 498A IPC and other allied sections as mentioned above, shall be investigated by dynamic Investigating Officers whose integrity is certified after specialized training not less than one week to handle and investigate such matrimonial cases with utmost sincerity and transparency.

(xiv) When settlement is reached between the parties, it would be open for the District & Sessions Judge and other senior judicial officers nominated by him in the district to dispose of the proceedings including closing of the criminal case."

6. The Hon'ble Apex Court in **Shivangi Bansal v. Sahib Bansal**², at paragraph No.26 held as under:

"26. The transfer petitions and special leave petitions are disposed of in terms of the above order. The guidelines framed by the High Court of Allahabad in the impugned judgment dated 13.06.2022 in Criminal Revision No. 1126 of 2022 vide paras 32 to 38, with regard to 'Constitution of Family Welfare Committees for safeguards regarding misuse of Section 498A, IPC shall remain in effect and be implemented by the appropriate authorities."

7. Therefore, there exists a prima facie case to consider the request of the Petitioner under Section 528 of 'the BNSS'. Nonetheless, the circumstances of

²2025 SCC OnLine SC 1494

the case necessitate a thorough and comprehensive investigation. The voice of the de-facto complainant cannot be stifled at the threshold.

8. Indeed, the Hon'ble Supreme Court, in **Practical Solutions Inc. v. State of Telangana**, Criminal Appeal No.353 of 2026 (arising out of SLP (Criminal) Diary No.953 of 2026), on dated 19.01.2026 has held as follows:

"We also take notice of the fact that the petition before the High Court was to quash the FIR. In a petition where quashing of the FIR is prayed for, the High Court should not have passed an order directing the Investigating Officer to comply with Section 41-A of the Code of Criminal Procedure, 1973, because it indirectly amounts to granting a relief which the High Court could have considered only if a prima facie case for quashing of the FIR is made out."

9. The Hon'ble Supreme Court, in **Satender Kumar Antil v. Central Bureau of Investigation**³, wherein at paragraph No.33, it is held as under:

33. On the basis of the interpretation given by us, we conclude as follows:

- a. An arrest by a police officer is a mere statutory discretion which facilitates him to conduct proper investigation, in the form of collection of evidence and, therefore, shall not be termed as mandatory.*
- b. Consequently, the police officer shall ask himself the question as to whether an arrest is a necessity or not, before undertaking the said exercise.*
- c. For effecting an arrest, qua an offence punishable with imprisonment up to 7 years, the mandate of Section 35(1)(b)(i) of the BNSS, 2023 along with any one of the conditions mentioned in Section 35(1)(b)(ii) of the BNSS, 2023 must be in existence.*
- d. A notice under Section 35(3) of the BNSS, 2023 to an accused or any individual concerned, qua offences punishable with imprisonment up to 7 years, is the rule.*
- e. Even if the circumstances warranting an arrest of a person are available in terms of the conditions mentioned under*

³ Special Leave Petition (Crl.) No.5191 of 2021, dated 15.01.2026

Section 35(1)(b) of the BNSS, 2023, the arrest shall not be undertaken, unless it absolutely warranted.

f. Power of arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023, pursuant to a notice issued under Section 35(3) of the BNSS, 2023 is not a matter of routine, but an exception, and the police officer is expected to be circumspect and slow in exercising the said power.

10. However, in this regard, it is apposite to mention the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**⁴, wherein a detailed guidelines were issued at Para Nos.11 and 12, for arresting a person, which are being reproduced herein below:-

11. Our endeavor in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

a). All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.');

b) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

c) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

d) The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;

e) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

f) Notice of appearance in terms of Section 41-A of Cr.P.C be served on the accused within two weeks from the date of institution of the case, which may be extended by the

⁴(2014) 8 SCC 273

Superintendent of Police of the District for the reasons to be recorded in writing;

g) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, he shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

h) Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

12. We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

11. The similar view is also reiterated by the Hon'ble Apex Court in **Md.Asfak Alam v. the State of Jharkhand**⁵, which also reiterated the guidelines laid down in the case of **Arnesh Kumar**.

12. In the light of the law laid down in the case of **Satender Kumar Antil, Arnesh Kumar** and **Md.Asfak Alam**, the investigating officer is under legal obligation to proceed in accordance with law, but he shall follow the procedure prescribed under Sections 41 and 41(A) of 'the Cr.P.C.,' (now Sections 35 and 35(3) of 'the B.N.S.S.,' 2023). The petitioner is obliged to render his fullest cooperation in the ongoing investigation.

13. In the result, the Criminal Petition is disposed of directing the Investigating Officer to comply with Section 35(3) of 'the BNSS'/41-A of 'the Cr.P.C.,' and to strictly follow the directions issued in the cases of **Satender Kumar Antil, Arnesh Kumar** and **MD. Asfak Alam**. If it is noticed in the course of investigation that the petitioner has committed any offence which is

⁵(2023) 8 SCC 632

punishable with imprisonment beyond seven years, the investigating officer is at liberty to proceed in accordance with law.

As a sequel, Miscellaneous petitions, if any pending, shall stand closed.

DR. Y. LAKSHMANA RAO, J

Date: 10.02.2026
PRA