

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:3300

ANSWERED ON:30.11.2010

MISUSE OF PROVISIONS RELATING TO THE PROTECTION OF WOMEN

Chauhan Shri Sanjay Singh;Reddy Shri Anantha Venkatarami;Yadav Shri Dharmendra

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether several instances of misuse of certain provisions in the Dowry Act has been reported;
- (b) if so, the details thereof alongwith the number of such cases reported during each of the last three years, and the current year, State-wise including NCT of Delhi;
- (c) whether the Union Government has received any representation from various States and organizations regarding amendment to section 498A of the IPC;
- (d) if so, the details thereof and the reaction of the Government in this regard;
- (e) whether the Supreme Court has issued any directive in this regard;
- (f) if so, the details thereof and the reaction of the Union Government thereon; and
- (g) the steps taken by the Government to protect the innocent people/families and to check misuse of the said Act in future?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI MULLAPPALLY RAMACHANDRAN)

(a) to (b): As per information provided by NCRB total number of cases chargsheeted, cases convicted, persons arrested, persons chargsheeted and persons convicted are 5623, 5555 and 5650 during the year 2007-2009 is placed at Annexure. NCRB does not maintain separate data on misuse of Dowry Act.

(c) to (d): Representations have been received by the Government alleging misuse of the provisions of the Section 498A of IPC. Ministry of Home affairs has issued an advisory dated 20th October, 2009 to all State Governments/Union Territory Administrations regarding misuse of Section 498A of IPC. The State Governments /Union Territory Administrations have been advised to take effective measures in the light of directions/ orders issued by the Courts, to create Mahila desks at Police Stations and Crime Against Women Cell atleast at the district level which could specifically cater to complaints made by women. In case of matrimonial disputes, the first recourse should be to effect conciliation and mediation between the warring spouses and their families and to recourse to filing U/S 498A IPC may be resorted to in cases where such conciliation fails and where there appears a prima facie case under Section 498A and other laws. The counseling mechanisms envisaged under PWDV Act 2005 should be instituted by State Government and any counseling of parties should be done only by professionally qualified counselors and not by the police. The police may consider empanelling professional counselors with the Crime Against Women Cell.

(e) to (f): The Hon'ble Supreme Court in its judgement dated 18.12.1996 in CRL CWP No. 53/86-has stated that the power of arrest without a warrant should be exercised only after a reasonable satisfaction is reached, after some investigation, as to the genuineness and bonafides of complaint and a reasonable belief as to both the persons complicity as well as the need to effect arrest. Therefore, in any matrimonial dispute it may not be necessary in all cases to immediately exercise the powers of arrest. Recourse may be initially taken to dispute settlement mechanism such as conciliation, mediation, counseling of the parties etc.

(g): As per Seventh Schedule, 'Police' and 'Public Order' being State subjects under the Constitution, the primary responsibility of prevention, detection, registration, investigation and prosecution of crimes, including crimes against women, lies with the State Governments. However, the Union Government attaches highest importance to the matter of prevention of crime against women, including crime of dowry death, and has enacted important legislations such as Protection of Women from Domestic Violence Act, 2005, Dowry Prohibition Act 1961 to provide protection to women, Government of India has been advising all the State Governments/UT Administrations from time to time to give more focused attention to the administration of criminal justice system with emphasis on prevention and control of crime against women.

All the State Governments/UT Administrations have also been requested to take effective measures in the light of the directions/orders issued by the courts and advisories issued by the Government of India from time to time to put to rest the allegations of misuse of Section 498A of IPC.