

HC accepts that Dowry Act is being misused

Sunday, 22 August 2010 11:50

BANGALORE: The High Court has strongly condemned the investigating officers for blindly registering cases of dowry harassment, without looking into the provisions under section 498A of Indian Penal Code (IPC).

While quashing the criminal proceedings initiated against the petitioners under 498A of IPC at the court of the chief metropolitan magistrate, Bangalore, Justice Subhash B Adi observed that the police had not taken into consideration section 498A of IPC to know whether the allegation amounted to cruelty, the court observed.

To prevent unscrupulous persons from misusing the law, a scrutiny of the complaint at the inception stage is advisable, the court told the investigating officers.

"Before proceeding with the criminal complaint, the investigating officer or the court must look into the allegation to find out whether it makes out a prima facie case to proceed.

"In most of the cases, the police use 498A of IPC more for harassment rather than its real purpose. The police must use its authority to subserve the purpose for which the provision is made instead of misusing it," the HC told the investigating officers.

It is a common feeling that irrespective of the involvement or nexus to the alleged offence, even friends and distant relatives are implicated. This happens, because of non-application of mind by the police to the contents of the complaint and the offence alleged, which results in harassment of a person who is unconnected with the alleged offence.

Scrutiny of the complaint is necessary at least to know what offence is alleged. Particularly in the case of offence under section 498A of IPC and offence connected with matrimonial disputes, due care is necessary. In some cases, without even allegation, entire family, relatives and friends are made parties, the

court observed.

PO Raju, Susamma, Joman Raju and Jolly Raju, all residents of Pathanamthitta in Kerala, filed a criminal petition challenging criminal proceedings initiated against them by Yelahanka New Town police station in a dowry harassment case filed by Raju's wife Jayashree.

Jayashree had alleged that her in-laws, residing in Kerala, threatened her not to come to Kerala after her husband had left the house in Bangalore.

She alleged that her in-laws instigated her husband to leave her company. Jayashree filed a complaint in jurisdictional police station against her in-laws. However, the petitioner's counsel stated that the allegations in the complaint did not constitute cruelty within the meaning of section 498A of IPC. The court upheld the contention and quashed the proceedings.