

LAW AREA NAME : WOMAN
SECTION NAME : DOMESTIC VIOLENCE CRIMINAL REMEDIES
SUB SECTION NAME : DOWRY DEATH

LAW IN BRIEF

Domestic Cruelty is one of the common forms of domestic violence and it is an offence under section 498A of the IPC.

The objective of this section is to punish the offender & thereby prevent further acts of violence against the woman.

It provides a punishment of 3 years imprisonment or fine or both to the perpetrator of the offence

LAW IN DETAIL

Physical & Mental harassment of the women by her husband and his relatives causing injury to her life, limb or health is cruelty. It causes an impulse in her to commit suicide and such cruelty is generally in connection with demands for dowry.

Some acts of Cruelty are :-

1. A single act of physical violence may also amount to cruelty. A series of small acts of violence may together be treated as cruelty.
2. Threats of physical violence may also be considered as cruelty.
3. Constant nagging, deliberate harassment, false accusations etc are treated as mental cruelty.
4. Cruelty may result in grave injury. Injury means any harm illegally caused to a woman in body, mind, reputation or property.

Some acts of Harassment are:-

1. Persistent denial of food.
2. Insisting on perverse sexual conduct.
3. Constantly locking a woman out of the house.
4. Denying the woman access to children, thereby causing mental torture.
5. Repeated physical violence.
6. Taunting, demoralizing and putting down the woman with the intention of causing mental torture.
7. Confining the woman at home and not allowing her normal social intercourse.
8. Repeatedly abusing the children in the presence of mother with the intention of causing mental anguish to the mother.
9. Constantly denying the paternity to the children with the intention of causing mental pain to the woman.
10. Constantly threatening divorce unless dowry is given.

PROCESS FOR SOLUTION

Complaint Under which Section ?

Section 498 A of the IPC

Whom to complain / where to complaint?

1. The victim herself or her relatives may make a complaint under this section to the Station House Officer of the nearest police station.
2. If the police officer refuses to lodge an FIR on the complaint, a written complaint may be sent to the Superintendent of Police either by post or in person explaining the facts of the case.
3. If no action is taken by the Superintendent the complaint may be filed with the nearest Magistrate.
4. As a final resort, a writ petition may be filed in the High Court in this regard.

How to file the Case ?

1. After the complaint has been lodged police will begin the investigation.
2. A case is filed by the police under section 498A in the court of the First Class Magistrate.
3. A Charge Sheet is filed & submitted to the Magistrate.
4. Trial commences in the case.
5. The prosecution has to prove that:
 - (a) the abuser is married to the woman or related to the man married to the woman.
 - (b) The abuser is treating or has treated the woman with cruelty.
6. The Court will give the accused an opportunity to explain the circumstances to defend himself.
7. After hearing both the parties the Court finally gives its judgment.
8. If the accused is convicted, the punishment under the provisions of law is imprisonment for three years and fine, or both.

What Next ?

The right to appeal depends on the kind of the case and its outcome.

The possible situations for an appeal are:--

1. If the accused is convicted he can appeal to the higher courts in the hierarchy.
2. If the State feels that the punishment given by the court is inadequate, it can direct the prosecutor to appeal against the sentence.
3. If the accused is acquitted,
 - (a) The State Government can appeal to the High Court only.
 - (b) In case of a private case the complainant can directly file an application to the High Court.
 - (c) The application should be filed within Sixty days of the date of the order of the acquittal.
4. Appeal can be made in the Supreme Court against the orders of the High Court.

ALTERNATE REMEDIES

1. There is no alternative judicial remedy system for the cases of cruelty since cruelty is a non-bailable, non-compoundable & a cognizable offence.
2. However, in case the police refuse to lodge on FIR, the legal services Authority can be approached for help.