

Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273

Criminal Law

Criminal Procedure Code, 1973

Ss. 41, 41-A and 57 - Power of police to arrest without warrant - Proper exercise of - Balance between individual liberty and societal order while exercising power of arrest - Directions issued - Directions issued herein, held, shall apply to all 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 - Police officers shall not arrest the accused unnecessarily and Magistrate shall not authorise detention casually and mechanically - Failure to comply with these directions, shall, apart from rendering police officers concerned liable for departmental action, also make them liable to be punished for contempt of court - Authorising detention without recording reasons by Judicial Magistrate concerned shall be liable for departmental action by appropriate High Court - Copy of judgment to be forwarded to Chief Secretaries as also DGs of Police of all States and UT and Registrar General of all High Courts for ensuring compliance therewith, (2014) 8 SCC 273-A

Criminal Law

Penal Code, 1860

S. 498-A r/w S. 4, Dowry Prohibition Act, 1961 - Exercise of power of arrest - Detailed directions issued - Held, due to the rampant misuse of these provisions, it would be prudent and wise for a police officer, that no arrest is made without reasonable satisfaction reached after some investigation as to genuineness of allegations - Maximum sentence provided under S. 498-A IPC is imprisonment for a term which may extend to 3 yrs and fine and under S. 4 of Dowry Prohibition Act, 2 yrs with fine - Demand of Rs 8 lakhs, a Maruti car, air conditioner, television set, etc. was allegedly made by complainant's mother-in-law and father-in-law and when this fact was brought to appellant's notice, he supported his mother and threatened to marry another woman - Anticipatory bail application was rejected by courts below - S. 498-A IPC, held, was introduced with avowed object to combat the menace of harassment to a woman at the hands of her in-laws - The fact that S. 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst provisions that are used as weapons rather than shield by disgruntled wives - Simplest way to harass is to get the husband and his relatives arrested under this provision - In a quite number of cases, bedridden grandparents of husbands, their relatives (sisters) living abroad for decades are arrested - Thus, held, it would be prudent and wise for a police officer that no arrest is made without reasonable satisfaction reached after some investigation as to genuineness of allegation - Provisional bail granted to appellant, made absolute, (2014) 8 SCC 273-B

Criminal Law

Police

Colonial attitude of police - Persistence of, even after 60 yrs of Independence - Deprecated, (2014) 8 SCC 273-C