



No.F.13 (48)-PD/SC/14 /2440  
GOVERNMENT OF TRIPURA  
HOME DEPARTMENT

Dated, Agartala, the 1<sup>st</sup> August, 2014

To  
The Director General of Police,  
Tripura, Agartala.

Subject: - Advisory on measures to be taken by the States/UTs to curb the misuse of section 498-A of the Indian Penal Code – regarding.

Sir,

I am directed to send here with a copy of the Advisory vide No.3/5/2008-Judl. Cell, dated 10<sup>th</sup> July, 2014 as received from the Ministry of Home Affairs, Government of India on the subject mentioned above and to request you to kindly take necessary action in this regard.

Encl: - As stated.

Yours faithfully,

*(Signature)*  
(Arup Deb) 1-8-14

Under Secretary to the  
Government of Tripura



Copy to:-

Shri J.P. Agrwal, Joint Secretary (Judicial), Ministry of Home Affairs, Government of India, 4<sup>th</sup> Floor, C Wing, NDCC-II Building, Jai Singh Road, New Delhi-110001 for kind information. This has a reference of his letter No.3/5/2008-Judl. Cell, dated 10<sup>th</sup> July, 2014.

*M. Anindulal*  
*5/8*  
ATG (Guine)

*Pl. put up as file*  
*P.*  
*AGONY*

*Legal Cell*

No. 2341-CS/H  
24/7

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No. 3/5/2008-Judl.Cell  
Government of India/Bharat Sarkar  
Ministry of Home Affairs/ Grih Mantralaya

4<sup>th</sup> Floor, C Wing, NDCC-II Building  
Jai Singh Road  
New Delhi - 110 001.  
Dated: July 10, 2014



*Secy, Home*

To All Chief Secretaries of State Government/Union Territories Administrations.  
(As per listed attached)

*ASST* Subject: Advisory on measures to be taken by the States/UTs to curb the misuse of section 498-A of the Indian Penal Code regarding.

Sir/ Madam,

The Government has, from time to time, issued advisories on measures to be taken by the States/UTs to curb the misuse of section 498-A of the Indian Penal Code.

2. On 02.07.2014 the Hon'ble Supreme Court, in the case of Arnoesh Kumar Vs State of Bihar and Anr. (copy enclosed), observed that there is a phenomenal increase in matrimonial disputes in recent years and the fact that section 498-A is a cognizable and non bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shields by disgruntled wives. The Hon'ble Supreme Court has observed the following:

- i) All the State Governments to instruct their police officers not to automatically arrest a person 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 flowing from Section 41, Cr.PC;
- ii) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);
- iii) The police officer shall forward the check list duly filled up and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- iv) The Magistrate, while authorising detention of the accused, shall peruse the report furnished by the police officer along the terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

contd.2/-

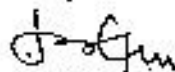
*Naresh on 20/7/14  
Mishra  
20/7/14*

*240362/20/14  
25/7/14*

- v) 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;
- vi) Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
- vii) Failure to comply with the directions aforesaid shall, apart from rendering the police officers concerned liable for departmental action, also make the officers liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction;
- viii) The Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court if he authorizes detention without recording the reasons, as aforesaid.
3. The Hon'ble Court has directed that a copy of the judgment should be forwarded to the Chief Secretaries as also the Directors General of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts for onward transmission and ensuring its compliance.
4. All the State Governments/UT Administrations are requested to take effective measures to scrupulously enforce the directions/order of the Hon'ble Supreme Court as also the advisories issued by the Government of India from time to time.
5. The receipt of this letter may kindly be acknowledged.

Enclosed as above

Yours faithfully,



10/7/2014

(J.P. Agrawal)

Joint Secretary (Judicial)

Ph No. 23438113

## Check list for arrest:--

(In regard to arrest of accused person who has allegedly committed an offence punishable under *section 498-A of IPC, Section 4 of Dowry Prohibition Act and 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 as per the parameters laid down by Hon'ble Supreme Court in Criminal Appeal No. 1277 of 2014, Armesh Kumar Vs. State of Bihar & another, flowing from Section 41 (1) (b) (ii) of Cr. P.C.)*

To  
The CIM/SDJM  
.....  
.....Tripura.

❖ P.S. Case Reference:-

Name of person arrested :- .....  
S/O .....  
Address .....  
P.S. ....

Sl. No.	I am satisfied that the arrest of the accused is necessary...	Reasons and materials which necessitated the arrest:-
a.	to prevent such person from committing any further offence, or	
b.	for proper investigation of the offence, or	
c.	to prevent him/her from causing the evidence of offence to disappear or tampering with such evidence in any manner, or	
d.	to prevent him/her from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, or	
e.	as unless such person is arrested, his presence in the court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing.	

(Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-sections, record the reasons in writing for not making the arrest).

N.B.:- (Tick Mark, sl. No. a to e whichever is applicable and state reason at right side column, Use separate sheet if required.)

Dated, the \_\_\_\_\_, 20\_\_.

Submitted by me:-

\_\_\_\_\_  
Name /Signature of I.O.  
Name of Police Station.