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REVISITING ARBITRARY ARRESTS IN MATRIMONIAL OFFENCES AND RISE OF GENDER INJUSTICE: A CASE COMMENTARY ON ARNESH KUMAR v. STATE OF BIHAR (2014) AND NEED OF THE NATIONAL COMMISSION FOR MEN BILL, 2025

~Nupur Mehra

CITATION: AIR 2014 8 SCC 273

BENCH: Justice Chandramauli Kr. Prasad and Justice Pinaki Chandra Ghose

JUDGEMENT: 2nd July, 2014

INTRODUCTION-

Gender injustice has remained a serious issue for decades all over the world. In India, to protect rights and give protection to women and children, several acts, commissions, legislative reforms are there and they are emerging also according to the needs of them. However, in this developing era, other genders such as Men and LGBTQ communities are also facing injustice. Men, due to misuse of the existing laws, discrimination and other issues are suffering at large. In the Indian Constitution also, majorly women and children are given protection due to existing patriarchy, violence, discrimination and gender injustice but such laws are also getting misused by them to seek personal benefits and to create social discrimination. In recent years, concerns regarding the absence of an institutional mechanism for addressing men's grievances, and a series of high-profile judicial proceedings have revived discussions on the establishment of a National Commission for Men. Several cases including recent Ketan Aggarwal's murder case, Raja Raghuvanshi's murder, Arnesh Kumar v. State of Bihar¹ etc., highlights the need of the National Commission for Men Bill to safeguard rights of men and for their protection against crimes. In *Arnesh Kumar v. State of Bihar (2014)*, the case highlights personal liberties,

¹ *Arnesh Kumar v. State of Bihar (2014) 8 SCC 273*

powers of arrest by police officers and misuse of laws in matrimonial disputes, indicating the need for legislative reforms in our country.

BACKGROUND AND FACTS OF THE CASE-

The present case arose from a matrimonial dispute between the Petitioner (husband) and Respondent(wife), Mrs. Sweta Kiran. The parties were married on 1 July 2007. After the marriage, differences arose between the spouses, leading to allegations of cruelty and dowry harassment by the wife against her husband and his family members.

The complainant alleged that soon after the marriage, her mother-in-law and father-in-law demanded dowry consisting of ₹8 lakh in cash, a Maruti car, an air conditioner, a television set, and other valuable articles. She further alleged that her husband threatened to contract a second marriage if the demands were not fulfilled. According to the complainant, she was subjected to harassment and cruelty on account of the non-fulfilment of the dowry demands and was ultimately forced to leave her matrimonial home.

Based on these allegations, an FIR was lodged against the appellant under Section 498A of the IPC² and Section 4 of the Dowry Prohibition Act³. Apprehending his arrest during the investigation, the petitioner approached the Sessions Court seeking anticipatory bail under Section 438 of the Code of Criminal Procedure⁴. A subsequent application before the Patna High Court also failed. Consequently, the appellant approached the Supreme Court through a Special Leave Petition seeking protection from arrest by filing a Special Leave Petition under Article 136 of the Constitution of India⁵. Before the Supreme Court, the petitioner denied all allegations of cruelty and dowry demand, contending that the accusations were false and motivated. The matter, therefore, came before the Supreme Court primarily to consider the legality of arrest in offences under Section 498A of the Indian Penal Code and the grant of anticipatory bail in such cases.

ISSUES BEFORE THE COURT-

The Supreme Court identified the following legal questions:

1. Whether the police officers are empowered to arrest an accused immediately after the registration of an FIR under Section 498A IPC.

² Section 498A IPC- Husband or relative of husband of a woman subjecting her to cruelty.

³ Section 4, Dowry Prohibition Act, 1961- Penalty for demanding dowry.

⁴ Section 438, CrPC- Direction for Grant of Bail to Person Apprehending Arrest

⁵ Article 136, Constitution of India- Direction for Grant of Bail to Person Apprehending Arrest

2. Whether Section 41 of the Code of Criminal Procedure⁶ mandates satisfaction of specific statutory conditions before an arrest can be made.
3. Whether Magistrates are required to independently examine the legality and necessity of an arrest before authorizing detention.
4. Whether routine arrests violate the constitutional guarantee of personal liberty under Article 21 of the Constitution.

RULES-

The Supreme Court primarily interpreted Sections 41 and 41A of the Code of Criminal Procedure, 1973, holding that arrest cannot be made automatically upon registration of a cognizable offence. Under Section 41, a police officer may arrest only when it is necessary for purposes such as proper investigation, preventing further offences, tampering with evidence, or securing the accused's presence, with reasons recorded in writing. Section 41A requires the police to issue a notice of appearance instead of making an immediate arrest where custody is unnecessary. The Court also relied on Article 21 of the Constitution, emphasizing that personal liberty can be curtailed only through a just, fair, and reasonable procedure established by law.

JUDGEMENT-

The Supreme Court partly allowed the appeal and laid down comprehensive directions governing arrests in offences punishable with imprisonment extending up to seven years⁷ and made the provisional bail granted to the appellant absolute. The Court held that arrest is not mandatory merely because a cognizable offence has been registered. In offences punishable with imprisonment of up to seven years, including Section 498A IPC and Section 4 of the Dowry Prohibition Act, the police must first satisfy the conditions under Section 41 CrPC and record reasons demonstrating the necessity of arrest. If arrest is unnecessary, the accused should ordinarily be served with a notice of appearance under Section 41A CrPC.

The Court further held that a Magistrate cannot authorize detention mechanically. Before granting remand under Section 167 CrPC⁸, the Magistrate must independently examine whether the arrest complies with Section 41 CrPC, scrutinize the reasons and materials submitted by the investigating officer, and record judicial satisfaction in writing. Mechanical

⁶ Section 41, CrPC-When police may arrest without warrant.

⁷ Guidelines-scribd.com/document/698259495/Arnesh-Kumar-vs-State-of-Bihar

⁸ Section 167, CrPC-Procedure when investigation cannot be completed in twenty-four hours.

approval of police requests violates the constitutional guarantee of personal liberty under Article 21⁹ and the safeguards contained in Article 22(2)¹⁰ of the Constitution.

To prevent arbitrary arrests and mechanical remand orders, the Supreme Court issued binding directions applicable throughout the country. It directed all State Governments to instruct police officers not to make automatic arrests in cases under Section 498A IPC or other offences punishable with imprisonment up to seven years. Police officers were required to complete a checklist under Section 41(1)(b)(ii) CrPC and forward it, along with the reasons and materials justifying the arrest, to the Magistrate. Magistrates were directed to scrutinize these materials before authorizing detention and to record their independent satisfaction in writing. The Court also mandated that where arrest was not considered necessary, the police should communicate that decision to the Magistrate within two weeks and serve the accused with a notice of appearance under Section 41A CrPC.

The Court further declared that failure by police officers to comply with these directions would render them liable to departmental proceedings as well as contempt of court. Similarly, Magistrates who authorized detention without recording reasons or without conducting the required judicial scrutiny would be liable to departmental action by the concerned High Court. Finally, the Supreme Court clarified that these directions were not confined to cases under Section 498A IPC or the Dowry Prohibition Act. They would apply to all offences punishable with imprisonment of up to seven years, thereby laying down a uniform procedural safeguard against arbitrary arrest. Accordingly, the appeal was allowed; the interim bail granted to the appellant was made absolute, and the authorities were directed to ensure strict compliance with the directions issued.

CRITICAL ANALYSIS AND PERSONAL VIEW-

The Supreme Court's decision in *Arnesh Kumar v. State of Bihar*, is a landmark judgment that significantly strengthened the protection of personal liberty by curbing arbitrary and routine arrests, particularly in offences punishable with imprisonment up to seven years. By mandating strict compliance with Sections 41 and 41A CrPC, the Court ensured that arrest is based on necessity rather than mere registration of an FIR. The judgment also enhanced judicial accountability by requiring Magistrates to independently scrutinize the legality of arrest before authorizing detention. However, critics argue that excessive caution in making arrests may

⁹ Article 21- Right to life and liberty

¹⁰ Article 22(2)-Protection Against Arbitrary Arrest and Detention

sometimes delay prompt action in genuine cases of domestic violence and dowry harassment. In my view, the judgment achieves an appropriate balance between safeguarding the rights of the accused and protecting genuine victims. Its true effectiveness lies in faithful implementation by police authorities and Magistrates, ensuring the constitutional guarantees of fairness, due process, and personal liberty are upheld without compromising the administration of criminal justice.

CONTEMPORARY RELEVANCE AND THE NATIONAL COMMISSION FOR MEN DEBATE-

The principles laid down in Arnesh Kumar's case have acquired renewed significance in light of recent incidents such as the Raghu Suryavanshi and Ketan Aggarwal cases, which have reignited concerns over the misuse of matrimonial and criminal laws, arbitrary arrests, and the absence of institutional support for men facing alleged legal harassment. While these cases have strengthened demands for a National Commission for Men, Arnesh Kumar's case provides the constitutional framework for such debates by affirming that procedural safeguards and judicial scrutiny must coexist with robust legal protection for genuine victims, ensuring that gender justice remains fair, balanced, and consistent with Article 21.

CONCLUSION-

Arnesh Kumar v. State of Bihar (2014), is a landmark judgment that strengthened the constitutional protection of personal liberty by holding that arrests cannot be made routinely and must comply with statutory safeguards. The decision strikes a balance between protecting genuine victims of cruelty and safeguarding the rights of the accused. Its principles continue to guide police authorities and courts, ensuring that arrest is exercised as a legal necessity rather than a mechanical procedure. The judgment remains a significant precedent in promoting fairness, due process, and accountability within India's criminal justice system.