

News

According to Andhra Pradesh High Court, trans women can use Section 498A IPC to file a cruelty suit against their husbands.



According to the Court, it is discriminatory to deny a trans woman the status of a "woman" for the purposes of legal protection under Section 498A IPC based only on her ability to procreate.

According to a recent ruling by the Andhra Pradesh High Court in *Viswanathan Krishna Murthy vs. The State of Andhra Pradesh and Others*, a trans woman in a heterosexual relationship cannot be denied the opportunity to file a cruelty complaint under Section 498A of the Indian Penal Code (IPC), which prohibits a husband or a family member of a woman from subjecting her to cruelty.

A petition seeking the reversal of charges under Section 498A IPC and Section 4 of the

Dowry Prohibition Act against a spouse and his family members who were arrested on the allegation of a trans woman who was previously a guy was being handled by **Justice Venkata Jyothirmai Pratapa**.

A single judge declared, *"This Court makes it clear that a transwoman who is transgender and in a heterosexual marriage shall have protection under Section 498-A IPC."*

The petitioners contended that because a trans woman cannot be fully regarded as a woman, she cannot file a complaint against her husband or in-laws under Section 498A of the IPC.

Nonetheless, the Court determined that the claim that a trans woman cannot be considered a "woman" simply due to her inability to reproduce biologically is seriously defective and illegal.

The Court noted that such a limited definition of womanhood with regard to reproduction goes against the fundamental spirit of the Constitution, which protects equality, identity, and dignity for all people regardless of gender identity.

"It is discriminatory and a violation of Articles 14, 15, and 21 of the Constitution to deny a trans woman the status of a 'woman' for the purposes of legal protection under Section 498-A IPC based only on her ability to procreate." Therefore, such a claim ought to be dismissed right away," it continued.

In support of this, the Court cited the Supreme Court's decision in *Supriyo v. Union of India*, wherein the highest court rejected the recognition of same-sex unions.

The Court unanimously ordered the Union government to establish a high-level committee under the Cabinet Secretary to study and suggest policies guaranteeing equal rights for queer couples in areas like adoption, healthcare, succession, pensions, and financial services, even though it rejected the legality of same-sex marriage. The High Court stated, "The learned counsel for the Petitioners in the case on hand, who relied on the said decision, raised the exact argument that the Hon'ble Court's clarification that transgender people in heterosexual relationships have the right to marry under the existing legal framework strikes at the very moment."

The accused-husband was aware that the plaintiff was a trans woman, the Court stated when evaluating the case on its merits. It further stated that he married her in an Arya Samaj Mandir after falling in love with her and living with her for a while. Furthermore, the complaint

contained no allegations that the accused had mistreated her.

The sole accusation against Accused No. 1 is that he did not return to her after leaving for his parents' house on March 13, 2019. She further claimed in her lawsuit that on April 27, 2019, she received a message on Accused No. 1's mobile telling her to return or face death. Furthermore, it stated that there is not a shred of evidence to support the aforementioned accusation, except from the fact that Respondent No. 2's parents paid Accused No. 1 a dowry and gold and silver items at the time of their marriage.

The Court came to the conclusion that there was no prima facie case established, aside from the blatant and sweeping accusations made against the petitioners. As a result, it went ahead and stopped the accused's case.

It made the following order: *"The criminal proceedings against Petitioners/Accused Nos. 1 to 4 in C.C.No.585 of 2022 on the file of the Court of II Additional Munsif Magistrate, Ongole for the offences under Section 498-A read with 34 IPC and Section 4 of the D.P. Act are hereby quashed."*

The petitioners were represented by attorney Thandava Yogesh.

The State was represented by Assistant Public Prosecutor K Priyanka Lakshmi.