Criminalising marital rape

Why in news?

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The Centre has pleaded for not criminalising marital rape in an affidavit filed in response to pleas seeking its criminalisation.

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What is the case about?

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- **Section 375** of the IPC dealing with rape holds an **exception** that “sexual intercourse by a man with his own wife, the wife not being under 15 years of age, is not rape”
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- No other statute or law recognises marital rape, and victims only have recourse to civil remedies provided under the Protection of Women from Domestic Violence Act, 2005.
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- Presently, the Delhi High Court is hearing petitions seeking the declaration of exception under Section 375 of the IPC as unconstitutional.
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- This is on the ground that it discriminated against married women being sexually assaulted by their husbands.
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- The Justice Verma committee, formed in the wake of the 2012 Delhi gangrape, had also recommended removing the exception.
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What is the centre's rationale in arguing for decriminalisation?

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- The centre argues that criminalising marital rape would **destabilise the institution of marriage** and be an easy tool for harassing the husbands.
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- It has cited the observations of the SC and various HCs on growing **misuse of Section 498A** (harassment caused to a married woman by her husband and in-laws) of IPC.
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- It has highlighted that the decision on girl's minimum age as 15 years to marry was taken under the amended rape law to protect a couple against criminalisation of their sexual activity.
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- Also, as of now, marital rape has not been defined in a statute or law, while only the offence of rape is defined under Section 375 of the IPC.
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- Centres, thus, emphasizes that defining marital rape would call for a **broad based consensus of the society** as the perceptions on this broadly differs.
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- Also, merely deleting the exception to Section 375 may not stop marital rape but widespread moral and social awareness can only prove to be solution.
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- It also mentioned that criminal law was in the **Concurrent List** and implemented by the **states**, the cultures of which are varied to a large extent which have to be factored in.
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- It referred to the reports of the Law Commission and the Parliamentary Standing Committee saying they did not recommend criminalisation of marital rape.
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Source: The Hindu

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