Drawbacks in Domestic Violence Verdict

What is the issue?

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- The Supreme Court recently gave its verdict on section 498A of the Indian Penal Code (IPC) which deals with domestic violence.
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- The verdict has created resentment among women's rights activists.
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What are the concerns with the legislation?

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- There were opinions that complaints under section 498A were being filed on the basis of personal vendetta.
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- The conviction rate of cases registered under Section 498A IPC was also a staggering low at 15.6%.
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- The recent concern brought up was, to check if there was a need to roping in all family members to settle a matrimonial dispute.
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What are the directives in the court's verdict?

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- In this regard, SC has passed a directive to police and magistrates that there would be no automatic arrests or coercive actions arising out of complaints lodged.
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- Instead actions should follow only after ascertaining the validity of the complaints.
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- The verification of the complaints shall be carried out by a special police officer and a district-level Family Welfare Committee.
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- Family Welfare Committee will preferably comprise of three members, who can be "paralegal volunteers/social workers/retired persons/wives of working officers/other citizens who may be found suitable and willing".
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- The court, however, has assured that grave physical injury or death of the aggrieved person would be exceptions to this directive on verification.
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What are the drawbacks?

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- The scope of the **word 'cruelty'** underlined by the bench has no quantitative indicators to be validated by an external Family Welfare Committee.
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- Its leaves the responsibility to test the truthfulness of the complaints on arbitrary personalities in the **Family Welfare Committee** who are likely to be influenced by patriarchal mindsets.
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- By creating the Family Welfare Committee, the court creates one more layer between the victim and the justice system, and as a result, her **access to justice is compromised**.
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- Moreover, the creation of an intermediate body suggests that the judiciary does not trust the very beneficiaries of this legal provision.
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- Exceptions to the directive such as grave physical violence or death, implies that mental torture, **emotional or sexual violence are disregarded.**
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- The court has made an observation that filing complaints would affect the later reunion of the couple as also the reputation of the husband and the family.
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- This sends a wrong message that would encourage women to shy away from lodging complaints to protect the honour of the family.
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- It **expects woman to internalise and normalise violence** in private spaces for matrimonial relationships, which strongly goes against the idea of gender equality.
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- The language of the judgment - condemning the "violation of human rights of the innocents" (the husband and his family), seems to lack the understanding of legal provision meant for women's rights and protection.
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- The naming as 'Family' Welfare Committee places family above individual woman’s rights, dignity or agency that the provision is meant for.
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- In the bid to prevent misuse of the law, the court has ignored the aspect of preventing the violence itself and seems to go against all measures taken to achieve women’s rights in private spaces in India.
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Source: Firstpost

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