Drawbacks in Domestic Violence Verdict - II

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Is the rationale behind the judgement convincing?

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- The recent Supreme Court's verdict on section 498A of IPC dealing with domestic violence was primarily based on the idea that the law was misused by women.
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- The court has relied upon the data of the National Crime Record Bureau (NCRB) to arrive at this conclusion.
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- Based on the number of people arrested, convicted and acquitted, the court concluded that since the conviction rate was low, most of the cases registered were “false”.
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- However, reasons for acquittal could be many such as poor investigation by the investigating officer, settlement through mediation, or intimidation of witnesses and the complainant herself.
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- Low conviction rates exist across the board, in relation to all crimes.
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- To isolate crimes against women is to miss the point with the general criminal justice system in India.
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What should the court have done?

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- The court should have called for expert evidence and consulted the services of women’s studies centres which exist in all universities.
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- The court could have correlated NCRB data with the recent data of National

Family Health Survey (NFHS) - 3 which has highlighted numerous cases of women who experienced some form of physical or sexual violence.
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- As per NFHS, a mere two per cent of these women may have sought police support, while the rest have not accessed the law.
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What are the other drawbacks in the verdict?

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- Only after the report of the Family Welfare Committee is submitted, can the police perform the policing function.
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- Cognisable offences have been turned into non-cognisable offences, special rules for bail for husbands have been created, and the provisions of the Passport Act are relaxed.
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- Section 498A is particularly effective when invoked against an NRI husband who tries to evade the law and abscond to foreign land.
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- The purpose of this provision is defeated with the recent verdict which gives scope for the NRI husband to leave the country except in cases of “tangible physical injuries or death”.
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- There doesn't seem to be a point in arrest after the woman is dead. The purpose of all law is to sustain life, not support its destruction.
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There are many true cases of physical violence, violence during pregnancy, abuse with instruments, sexual violence in the form of forced sexual intercourse, and attempted suicide as a consequence of the ongoing abuse.

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To deny all these in the notion of "misuse of law" is starkly against protection of rights of women which the country is supposed to ensure.

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Source: The Indian Express

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