

### **Whether anti-dowry laws are still good laws.**

Now a controversy has gathered momentum that whether criminal law Amendment Act 43<sup>rd</sup> and 46<sup>th</sup> of 1983 can be said to be good laws in view of the recent legislation repealing and amending Act of 1988 (Act. No. 19/1988). This act has provided that any enactment of amending law described in its first schedule shall stand repealed to the extent given in the forth column of that schedule. In its first schedule this act has provided that Act No. 43 and 4 of 1983 are repealed as a whole. Upon this part of legislation it is vehemently argued before courts that when criminal law amendment Act 43 and 46 of 1983 have been repealed than sanction 304 B and 498 A of I.P.C and its other ancillary provisions any where in I.P.C. and Cr. P.C. such as 198 A of the Cr. P.C. shall stand automatically repealed, and they cannot be said to be good laws enforce for prosecution. Apparently it appears from the fact of the legislation that this argument is convencing as these kind of laws are now obsolete in view of the repealing and amending Act of 1988 (Act 19 of 988), but the realities are otherwise if we go in the depth of the legal phraseology then we shall be compelled to and conclude that this law of 498 A and 304 B of the I.P.C. and other provisions of the Act No. 43 and 46 of 1983 are still good laws and they are enforce and the courts can safely base the conviction and prosecution under the aforesaid provisions and the recent repealing and amending act of 1988 (Act. 19 of 1988) has nothing to do and shall not affect the validity of the provision Act no. 43 and 46 of 1983.

To analyse the clear legal position we have to take the help of Section 2 of the repealing and Amending Act 1988 (Act No. 19/1988) and section 6 and 6A of the general clauses Act 1897).

Section 2 of the repealing and Amending Act 1988 has provided that the repeal of any enactment mentioned in the first schedule, shall not affect those provisions which have been incorporated, added, modified or amended to any other enactment in force. By the clear perusal of this sections it appears that if any provision has been incorporated into any other enactment then that incorporated portion shall not be affected and it shall continue to have the force of law. Section 498 A has been incorporated in the I.P.C. hence by the repealing Act only Act No. 43 and 46 of 1983 have been repealed. Those provisions of these two acts which have been incorporated anywhere else shall not be affected, hence 498 A and 304 B shall not be affected at all by the provisions of the repealing and Amending act of 1988 (Act No. 19 of 1988) itself. Another hammering argument for the protections of such 498 A I.P.C. is of section 6 and 6A of General clauses Act. 1897). Section 6 has Provided that unless a

different intention appears the repeal shall not revive anything, affect any rights, affect any penalty and investigation under any enactment so repealed, section 6 A has provided that where any Central Act or Regulation repeales any enactment by which the text of any Central Act or regulation was amended by the express omissions, insertion or substitution of any matter, then unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed, in operation the time of such repeal.

The perusal of Section 6 and 6A clearly shows that the object of repeating and amending Act of 1988 (Act. NO. 19/1988) is not to bring any change in the law but to remove the enactments which have become ancillary. Now it is clear that exceptions have been recognized under the pharase "unless different intention appears". Hence if there is no otherwise intention appearing then the repeal of Act No. 43 and 46 of 1988 shall not affect Section 498 A and 304 B of the I.P.C. and other provisions incorporated by Act No. 43 and 46 of 1988 into I.P.C. and Cr. P.C. I think there appears no different intention because section 2 of the repealing and amending Act of 1988 (Act No. 19 of 1988) has clearly provided that the repeal of the Act shall not affect any provisions incorporated by these acts into any other enactments. Hence there is no express provision which could amount to nullify the Act No. 43 and 46 of 1983and entire provisions incorporated into any law. The case law of Khuda Bux V/s. Manager Caledonian press (A.I.R.) (1954, Calcutta 484 is very material in which it washed that the repeal shall have no impacto of the parent Act which together with the amendments remains unaffected. Similes observation were also given by our Hon'ble Supreme Court in the following cases thereafter (i) Jetha Nand V/s State of Delhi A.I.R. 1960, SC 1989 and Commercial Tax Officer Bhawanpur V/s Indian Tobacco Co. Ltd. A.I.R. 1975, SC 155 page. There appears to be no reason by common sense also that only such an important piece of legislation which has been introduced just few years back shall be repealed so soon when such type of cases are on the peak. Hence section 304 B 498 A of I.P.C. and other similar provisions of the Act No. 43 and 46 of 1983 incorporated into I.P.C. and Cr. P.C. shall be good laws inspite of the repeal of the Act No. 43 and 46 of 1983 by the repealing amending Act. 1988 (Act. No. 19/1988).

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