

HIGH COURT OF ANDHRA PRADESH:: AMARAVATI

ROC.NO.501/SO/2023

Date.23.08.2023

NOTIFICATION No.36/2023

Sub: High Court of Andhra Pradesh – Judgment passed in Criminal Appeal No(s). 2207 of 2023 in *Md.Asfak Alam v. The State of Jharkhand and another* – Certain directions to the District Judiciary to strictly follow the law laid down in "*Arnesh Kumar vs. State of Bihar and another*" (*vide corrigendum dated 23.08.2023*) and other directions issued in the Judgment -- Notified - Reg.

Ref: Letter dated 01.08.2023 from the Assistant Registrar, Hon'ble Supreme Court of India, along with copy of Judgment passed in Criminal Appeal No(s). 2207 of 2023.

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Keen attention of all the Judicial Officers working in Andhra Pradesh is invited to the Judgement dated 31.07.2023 passed in Criminal Appeal No(s). 2207 of 2023 by the Hon'ble Supreme Court of India wherein the Hon'ble Apex Court directed all the Courts ceased of proceedings to strictly follow the law laid down in "*Arnesh Kumar vs. State of Bihar and another*" (*vide corrigendum dated 23.08.2023*) and reiterated the directions contained thereunder and other directions. The endeavour of the Hon'ble Supreme Court is to ensure that police officers do not arrest the accused unnecessarily and the Magistrate do not authorize detention casually and mechanically. In order to, ensure the same, the Hon'ble Supreme Court issued the following directions.

1. *All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;*
2. *All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);*

3. *The police officers shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;*
4. *The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate shall authorize detention;*
5. *The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;*
6. *Notice of appearance in terms of Section 41-A Cr.P.C. be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;*
7. *Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.*
8. *Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.*
9. *The directions aforesaid shall not only apply to the case under Section 498-A IPC or Section 4 of the Dowry Prohibition Act but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine."*

Therefore, all the Judicial Officers working in Andhra Pradesh are hereby directed to follow the above directions of the Hon'ble Apex Court scrupulously.

Any deviation in this regard will be viewed seriously.

The receipt of the circular shall be acknowledged.

J. Lakshmana Rao
23/08/2023
REGISTRAR GENERAL

To:

1. The Registrar (I.T. cum C.P.C.) with a request to direct the concerned to upload the Notification in the High Court's website.

2. All the Unit Heads in the State of Andhra Pradesh with a request to cause circulation among all the Judicial Officers in the unit.
3. The Member Secretary, A.P. State Legal Services Authority, A.P. High Court Buildings, Amaravati.
4. The Director, Andhra Pradesh Judicial Academy, Mangalagiri, Guntur District.

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

High Court of Andhra Pradesh – Judgment passed in Criminal Appeal No(s). 2207 of 2023 in *Md.Asfak Alam v. The State of Jharkhand and another* – Certain directions to the District Judiciary to strictly follow the directions issued in the Judgment – Corrigendum -- Issued.

ROC.No.501/SO/2023

DATED:23.08.2023

CORRIGENDUM

The following corrigendum is issued to the High Court's Notification No.36/2023, dated 23.08.2023 in ROC.No.501/SO/2023.

The verdict of the Hon'ble Supreme Court titled as "*Arnesh Kumar v. Central Bureau of Investigation and another*" wherever occurs in the above Notification shall be read as "***Arnesh Kumar v. State of Bihar and another***".


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HIGH COURT OF ANDHRA PRADESH:: AMARAVATI

ROC.NO.501/SO/2023

Date: 2.08.2023

NOTIFICATION No. 36 /2023

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7. *Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.*
8. *Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.*
9. *The directions aforesaid shall not only apply to the case under Section 498-A IPC or Section 4 of the Dowry Prohibition Act but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine."*

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