

# **Ordinance on Triple Talaq**

### Why in news?

 $n\n$ 

The Union Cabinet has cleared an ordinance that makes talaq-e-biddat, or instant triple talaq, a criminal offence.

 $n\n$ 

## What are the key provisions?

 $n\n$ 

\n

- Instant triple talaq will now attract a maximum jail term of three years.
- The new law has some safeguards, including bail to the accused before the start of trial.

\n

- So, instant triple talaq will continue to be a "non-bailable" offence i.e. the police cannot grant bail at the police station.
- $\bullet$  However, the accused can approach a magistrate for bail even before trial. \n

 $n\n$ 



 $n\n$ 

## Why an ordinance now?

 $n\n$ 

• The Supreme Court, last year, gave a landmark <u>verdict</u> that made triple talaq unconstitutional.

۱n

• But despite this, the practice of triple talaq continued unabated across the country.

\n

• Nearly 20o cases had been reported after the Supreme Court banned triple talaq in August 2017.

\n

• Besides, the Lok Sabha has also passed the <u>Muslim Women (Protection of Rights on Marriage) Bill, 2017</u>.

۱n

- The Bill seeks to give statutory form to the Supreme Court ruling of 2017.
- But it is pending in the Rajya Sabha due to lack of consensus driven by some controversial provisions.

\n

 $n\$ 

#### Is the ordinance route reasonable?

 $n\n$ 

\n

• Already, serious objections were raised to some provisions of the Bill passed by the Lok Sabha.

\n

 Also, there is an ongoing debate on the desirability of criminalising instant triple talaq.

\n

- Given this, the matter required more elaborate deliberation.
- $\bullet$  On the other hand, due to Opposition concerns, the government proposed significant changes to dilute the provisions.  $\mbox{\sc h}$
- Despite a notice for these amendments being given, the matter was not taken up in the Rajya Sabha in the last session.
- $\bullet$  The Bill has eventually been deferred to the next session of Parliament.  $\mbox{\ensuremath{\backslash}} n$
- $\bullet$  Given these, the rationale for the government to take the ordinance route remains disputable.  $\ensuremath{\backslash} n$
- Also, mere lack of consensus in the Rajya Sabha is not a good enough reason to promulgate an ordinance.

\n

- It could even amount to subversion of the parliamentary process.
- $\bullet$  As, the Bill has been passed in one House and the other is likely to consider it in an amended form. \n

\n\n

## What are the favourable changes though?

 $n\$ 

\n

• Despite the dispute, the changes to be introduced through the ordinance do address some concerns with the original Bill.

۱n

• It makes the offence cognisable only if a police complaint is filed.

\n

• [It is to be made by the woman, or one related to her by blood or marriage, against whom triple talaq has been pronounced.]

\n

• The offence has been made compoundable i.e. the parties can settle the matter between themselves.

۱'n

• It also provides that a magistrate may grant bail to the husband after hearing the wife.

\n

• These amendments will restrict the scope for misuse by preventing third parties from setting the criminal law in motion.

۱n

• They will also leave open the possibility of the marriage continuing, by allowing bail and settlement.

\n

• Nevertheless, the core issue remains - whether a marital wrong, essentially a civil matter, should lead to prosecutions and jail terms.

\n

 Also, it is self-contradictory for a law to both allow a marriage to continue (as tripe talaq is invalid) and propose a jail term for the offending husband.

 $n\n$ 

 $n\n$ 

**Source: The Hindu** 

