



Misuse of Section 498-A of the Indian Penal Code, 1860

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Abstract

Misuse of Section 498A is not a rumour it is proved now, the woman laid down a false charge under the provisions of Section 498A IPC and created her husband under the rule. The boys have no laws to protect themselves from women's abuse. Moreover, in every district court case, section 498A IPC was misused. The cases were still unresolved, and the square measure of husbands paying maintenance to their wife just because he's husband doesn't mean he's to blame for all the expenditures and benefits. The ladies are scammers as opposed to men in society. This section is used as a weapon by the wives to collect some cash from their husband's. It is the fact that Section 498A IPC is misuse by the women to husbands and in-laws. The tests are finished and published already. This segment was seen to be keen on people. Section 498A is right to protect women, but it's actually harassment of husband and in-laws by a spouse. The effect on society of this example is terribly unhealthy. The Law Commission addressed the issue concerning abuse of this provision in its 243 reports on IPC Section 498A. The commission has recommended that the offence can only be made compoundable with the court's permission, and precautions must be taken before granting. The commission has recommended, however, that the offence should remain undeclared. The abuse does not mean that we are removing the usefulness of the laws that impact the wider public interest.

Keywords: Section 498A, Cruelty against husband, offence of dowry death, domestic violence.

I. Introduction

A common contention made against laws relating to violence against women in India in the last 20 years of criminal law reform has been that women abuse such laws. Such "misuse" arguments were raised vigorously in the police, civil society, politicians and even judges of the High Courts and the Supreme Court. Misuse was alleged, particularly against IPC Sec 498A and the offence of the dowry death of Sec 304B. Domestic violence and harassment by partners and family members are nuanced activities that routinely continue to devalue domestic violence incidents through the institutional structure of courts, police. Sec 498A was implemented in the IPC in 1983 and, following the institutionalization of law and policy to criminalize domestic violence, the government has not properly assessed the changes of the past 20 years with regard to their deterrent targets. There is an immediate need for a research and development plan to improve the existing state of understanding about the impact of legislative penalties on domestic abuse. The definition of marriage, as well as the patriarchal position of a man and woman, has undergone a dramatic shift in the modern world, where both men and women are independent and earning. Females also misuse the legislation that has been designed to defend themselves from abuse and brutality and make false claims about their husbands in order to get rid of them or actually defame the family. This section's violence is increasingly growing as well-educated women know that this section is both cognizable and non-bailable and can thus be caused by a woman's simple accusation, thereby putting the man behind bars. Section 498A was adopted in 1983, after seeing the widespread existence and severity of recorded cases of female cruelty. The implementation of Section 498A IPC is



a punitive provision in accordance with allied provisions in the Code of Civil Procedure so intended to impart a deterrent feature. However, cases of false and exaggerated allegations and involvement of several of the husband's and his family's relatives have been spreading rampantly, leading to widespread recognition of these beneficiary laws as a means of exacting the wives' revenge.

Meaning of Section 498A

Section 498A of IPC came as a significant addition to the Indian Penal Code, 1860, which was introduced in 1983 to safeguard the rights and empowerment of women. Under Section 498A of the Indian Penal Code, extortion of any form of property by subjecting a woman to cruelty is punishable. The Government of India amended the Indian Penal Code, 1860 (IPC) by way of the Criminal Law (Second Amendment) Act, 1983 on 26 December 1983, and inserted a new Section 498(A) under Chapter XX-A, Of Cruelty By Husband Or Relatives Of Husband.

Section 498A IPC

- Section 498A of the **Indian Penal Code 1860** was passed by the Indian Parliament in 1983.
 - The section of 498A of the Indian Penal Code is a criminal law.
 - It is defined that if the husband or the relative of the husband of a woman, subjected such woman towards cruelty would be punished with imprisonment for a term which might extend to **3 years and may also be liable for fine.**
 - Section 498A of Indian Penal Code is one of the greatest rescues for **Violence against Woman (VAW)**, which is a reflection of the pathetic reality of the domestic violence occurring within the four walls of a house.
- Acts of Domestic Violence?
- **Physical violence**, such as slapping, hitting, kicking and beating.
 - **Sexual violence**, including forced sexual intercourse and other forms of sexual coercion.
 - **Emotional (psychological) abuse**, such as insults, belittling, constant humiliation, intimidation, threats of harm, threats to take away children.
 - **Controlling behaviors**, including isolating a person from family and friends, monitoring their movements and restricting access to financial resources, employment, education or medical care.

What is "Cruelty"?

The word 'cruelty' has been described in broad terms so as to include causing physical or mental

harm to the body or health of the woman and indulging in acts of harassment with a view to coerce her or her relations to meet any unlawful demand for any property or valuable protection.

Need of Section 498A

The section was enacted to deal with the threat of dowry deaths. It was implemented in the code by the Criminal Law Reform Act, 1983 (Act 46 of 1983). By the same Act, Section 113-A has been added to the Indian Evidence Act to raise a presumption regarding abetment of suicide by a married woman. The main aim of the I.P.C section 498-A is to shield a woman who is being abused by her husband or husband's relatives.

Harassment for dowry falls within the sweeping of the Section's latter limb and creating a condition that pushes the woman to commit suicide is also one of the ingredients of 'cruelties'. It states that if such a woman is subjected to cruelty by a husband or relative of a woman's husband, she shall be punished with imprisonment for a period of up to three years and also liable to fine. The crime under Section 498A is cognizable, non-compoundable and non-bailable.

Indian laws that help curb the instances of violence against women.

- The Dowry Prohibition Act, 1961
- The Indecent Representation of Women (Prohibition) Act, 1986
- The Commission of Sati (Prevention) Act, 1987
- Protection of Women from Domestic Violence Act, 2005
- The Sexual Harassment of Women at Workplace Act, 2013
- The Criminal Law (Amendment) Act, 2013

Misuse of Section 498A

- **Against Husband & Relatives:** With the rise in the rate of education, financial security, and modernization, the more independent and the radical feminists have made **Section 498A of IPC as a weapon in their hands than a shield.** Due to this, many helpless husbands and their relatives have become the victims of the vengeful daughters-in-law of their house.

- Due to this, in most cases the Section 498A complaint is generally followed by the demand of a huge amount of money to settle the case outside the court.

- This has ultimately proved to be not a good sign for the **health of society for the public at large.**



- Women have begun misusing Section 498 of IPC as this law is a tool for their **vengeance or to get out of wedlock.**

- The committee noted that the “**general complaint**” of Section 498A of the IPC to be a subject to gross misuse.

- **Blackmail Attempts:** These days in many cases where Section 498A is invoked, they turn out to be **false cases as they turn out to be mere blackmail attempts by the wife** (or her close relatives) when troubled with a stressed marriage.

- **Degradation of Marriage:** The court held specifically that there is misuse and exploitation of the provisions to such an extent that it was **hitting on the basis that is the foundation of marriage itself.**

- **Malimath Committee Report, 2003:** Similar views were also expressed by the **2003 Malimath Committee report** on reforms in the criminal justice system.

Misuse of Section 498A in the modern era

A violation of this section is done by women by creating frivolously false allegations against their husbands with the goal of getting some money or just pain the family. This section's abuse is increasing chopchop and therefore the ladies usually apprehend their husbands.

Section 498A was designed and inserted into the legal framework by the lawmakers with the idea of protecting women from cruelty, harassment and other offences. But when cross-investigations are performed to test the validity of these laws, the number of acquittals relative to convictions was greater. Thus, one who brought 498A into action conceiving it as a shield against cruelty for women, i.e., the Supreme Court, is now considering it as legal terrorism. Because misuse of Section 498A diminishes its true credibility. That is one of several reasons for calling it an anti-male law.

Although there are widespread complaints, and even large-scale misuse has been recognized by the judiciary, there is no reliable data based on the empirical study regarding the extent of the alleged misuse.

In case of, *Savitri Devi v. Ramesh Chand & Ors*, the Hon'ble Court specifically regulates the abuse connected with the manipulation of the laws to such an extent that it was totally influenced by the influence of marriage itself and thus found not to be intelligent for the welfare of the joint community. The court considered that authorities and lawmakers had to review the case and the legal provisions to prevent it from happening.

In the case of, *Saritha v. R. Ramachandran*, the Court noted the reverse trend and requested a non-cognizable and bailable offence from the Law Commission and Parliament. However, it was the court's requirement to condemn wrongdoing and to shield the victim from what happens once the victim becomes the abuser. Here is what remedy the husband will have. On this ground, the lady gets to divorce her husband and remarry or in the form of compensation may gain cash.

In the case of *Anju v. Govt. of NCT of Delhi*, In the case, the wife of the Petitioner challenged the order of the Lower Court, whereby the Court discharged the charges against the respondents under section 498A/34 of the Indian Penal Code.

In appreciating the facts of the case, the Court noted that in the FIR, the wife of the Petitioner in one breath named all members of the family without any specific role being assigned to any of them. Thus, no details were provided as to when the recorded instances allegedly occurred, or any facts to substantiate or corroborate the allegations against relatives of the spouse. The Court also noted that the allegations against the respondents were fairly general and unspecific. The plaintiff did not mention a date, time, month, or year when she was subjected to beating them. In view of the aforementioned facts and circumstances of the case, the High Court of Bombay upheld the order of the Revisional Court and held that the Court had made no mistake in concluding that, apart from the general and omnibus allegations that roped in all relations, there is no recorded material to justify the framing of charges under Section 498A IPC.

In the case of, *Chandra Bhan v. State*, the Hon'ble Court introduced the steps to prevent the misuse of this Section:

1. FIR should not be regularly reported as such;
2. Police endeavour should be to carefully screen complaints and then register FIR;
3. No case should be registered under section 498A/406 IPC without the prior authorisation of DCP / Addl. DCP;
4. Before FIR registration, all possible reconciliation efforts should be made and, if it is found that there is no possibility of settlement, necessary steps should be taken in the first instance to ensure that stridhan and dowry articles are returned to the complainant;
5. The arrest of the key accused can only be made after a proper investigation and with the prior approval of the ACP / DCP has been performed;
6. In the case of collateral accused such as in-laws, prior approval of DCP should be there on the file.



In the case of, *Sushil Kumar Sharma v. Union of India and others*, the Supreme Court held that the purpose of the provision is to prevent a threat to the dowry. But as the petitioner rightly satisfied that many instances have come to light where the complaints are not bonafide and are filed with oblique motive. In these cases, the acquittal of the accused will not wash out the ignominy incurred during and before the court in any case. Adverse media attention also contributes to the situation.

Constitutional validity of Section 498A

Several cases have come to light where the allegations are not bonafide and with oblique reasons have been lodged. In such cases, the acquittal of the accused does not wipe out the ignominy suffered during and before the trial in all cases. Adverse media coverage occasionally adds to the misery. New legal terrorism may be created by the abuse of the clause. The provision is intended to act as a shield and not as the weapon of an assassin. A mere probability of a legal provision being misused does not invalidate it.

Therefore, the Supreme Court has given certain directions in cases of Section 498A: In the case of *Arnesh Kumar v. State of Bihar*, the Hon'ble Court held that, In an effort to ensure that police officer does not unnecessarily arrest the accused and that the Magistrate does not allow for casual and mechanical detention in cases pursuant to Section 498A IPC, the Court gave certain directions (although the directions also apply to other cases where the offence is punishable by imprisonment not exceeding seven years) including:

1. Police officers not to arrest the accused immediately after the filing of a case under 498A IPC; They should satisfy themselves that arrest is necessary under parameters that flow from Section 41 CrPC (the judgment sets the parameters).
2. Police officers shall fill out the checklist (including the sub-clauses stated under Section 41(1)(b)(ii) of the CrPC) and include the grounds and evidence for the arrest.
3. The Magistrate shall authorize detention only after the police officers have noted their satisfaction with the report.
4. Where the police officers fail to comply with the directions, they shall be liable for departmental action and punishment for contempt of the Court.
5. If the Judicial Magistrate fails to comply with the orders, he shall be held liable by the appropriate High Court for the departmental action.

In case of, *Rajesh Sharma v. State of Uttar Pradesh* the Hon'ble Court issued instructions to prevent the

misuse of Section 498-A IPC which was further amended in the *Manav Adhikar v. Union of India Social Action Forum*, 2018 SCC OnLine SC 1501. Such guidelines include:

1. Complaints pursuant to Section 498-A and other related offences may only be examined by a designated area investigator.
2. Where a settlement is reached between the parties, they may approach the High Court pursuant to Section 482 seeking the quashing of proceedings or any other order.
3. If a bail application is submitted to the Public Prosecutor / Complaint with at least one day notice, the same can be decided on the same day, where possible. Recovery of disputed dowry items may not, by itself, be a ground for denial of bail if it is otherwise possible to protect the maintenance or other rights of women / minor children.
4. It should not be routine for persons ordinarily resident in India to impound passports or issue Red Corner Notices.
5. Such rules shall not extend to actual physical harm or death.

In the case of, *Social Action Forum for Manav Adhikar v. Union of India*, The petition had been submitted in compliance with Article 32 of the Constitution. The petitioners argued that it is not false that there are a number of women who suffer abuse in the hands of the husband and his family and that the allegation that Section 498A is being misused is not based on such misuse from any specific date. It was further argued that the social intent behind Section 498A IPC is being lost as the rigour of the said provision has been diluted and the offence has been made bailable, due to various qualifications and limitations imposed by different decisions of this Court, including *Rajesh Sharma v. U.P. State*. The Court concluded, after referring to the directions, that the direction with regard to Family Welfare Committees and their duties is not in accordance with any provision of the Code of Criminal Procedure, 1973. The offence of cruelty is an offence that is not accountable and recognizable, but because of the direction that makes it impossible to arrest before such committee's report makes it ineffective. Thus, as explained further, the directions given in the *Rajesh Sharma* case have been amended by the Court.

The role of the Family Welfare Committee as to its composition and duties has been ruled inadmissible. Furthermore, the settlement route has been revised to provide that, if a settlement is reached, the parties may, under Section 482 of the Code of Criminal Procedure, approach the High Court.



In the case of, Inder Raj Malik and Ors.v. Sumita Malik, it was argued to be ultra vires Article 14 and Article 20(2) of the Constitution. There is the Dowry Prohibition Act which also deals with specific types of cases; thus, both laws together establish a condition generally referred to them as double threat. But this argument is negated by Delhi High Court and held that this provision does not establish a situation for double threat. Section 498-A is distinguishable from section 4 of the Dowry Prohibition Act because pure demand for dowry is punishable in the latter and the presence of an element of cruelty is not required, whereas section 498-A deals with the aggravated form of the offence. It punishes the wife or her family with such demands for property or valuable protection as are combined with violence towards her. Therefore, both the offences punishable under section 4 of the Dowry Prohibition Act and this provision may be charged by an individual.

This section gives the courts wide discretion when it comes to interpreting the terms that appear in the laws and even when it comes to sentencing. This is not an ultra vires clause. It does not place absolute authority on courts.

Recovery in case of false accusations

In the case where there are false allegations put on the man by his wife and he has proved innocent in the eyes of the law. He can fight the case under section 498A. The Indian government and jurisprudence continue to incorporate inputs to protect women, and men are not ignored by law either. Justice still takes precedence over injustice. Thus, the man whose reputation is defamed with false allegations that opt for some legal recovery measures and seek protection from Section 498A IPC. These are:

1. Under Section 500 of the Indian Penal Code, the husband can file a defamation lawsuit;
2. Under Section 9 of the CPC, the husband can file a claim for recovery of damages which he and his family have been subjected to for the false allegations of cruelty and abuse;
3. Section 182 of the IPC is one of the safeguards against false 498A cases widely used. If the authority considers that the averages rendered were invalid, under Section 182 of the IPC, the culprit is sentenced to 6 months or fine imprisonment, or both. The person will be charged for misleading false information on the part of the judiciary.

Important Supreme Court Judgments on the misuse of Section 498A of IPC

KANS RAJ V. STATE OF PUNJAB[iv] (2000) JUDGEMENT

The Court observed that for the fault of the husband, the in-laws or any other relations cannot, in all cases, be held to be involved in the demand of dowry. In cases where such accusations are made, the overt acts attributed to persons other than the husband are required to be proved beyond a reasonable doubt.

SUSHIL KUMAR SHARMA V. UNION OF INDIA (2005) JUDGEMENT

The Court opined that merely because the provision is constitutional and *intra vires*, it does not allow unscrupulous persons to wreck personal vendetta or unleash harassment. Till the time the legislature does not find a solution to the frivolous complaints, the courts have to take care of the situation within the existing framework.

NEELU CHOPRA & ANR. V. BHARATI[vi] (2009) JUDGEMENT

The Court observed that the complaint did not show as to which accused had committed what offence and what was the exact role played by these appellants in the commission of offence. The Court thus directed to quash the complaint under Section 482 of CrPC.

MANJU RAM KALITA V. STATE OF ASSAM (2009) JUDGEMENT

The court relying on several precedents observed that the meaning of "Cruelty" differs in each statutory provision and hence must be established in the context of Section 498A of IPC. The conduct of the man, the seriousness of his acts must be compared with the likeliness of the woman to commit suicide, etc. It must be established that the woman has been subjected to cruelty continuously or at least in close proximity of time of lodging the complaint. Petty quarrels would not come under the purview of "cruelty". Accordingly, the Court set aside the conviction order under Section 498A of IPC.

ARNESH KUMAR V. STATE OF BIHAR[x] (2014) JUDGEMENT

The Court observed that since Section 498A is a cognizable and non-bailable offence, women often use it as a weapon rather than a shield to harass her husband and his relatives. Sometimes, even the bedridden grandparents of the husband, their relatives living abroad are brought under this provision on false allegations. The Court laid down certain guidelines stating that arrest under this section must be made after reaching reasonable satisfaction and after conducting a proper investigation as to the genuineness of allegation. The Magistrate shall not order detention casually and mechanically. The Court, therefore, granted provisional bail to the accused.

RAJESH SHARMA & OTHERS V. STATE OF U.P. (2017) JUDGEMENT



The Supreme Court gave the following directions:
Family Welfare Committee:

- The District Legal Services Authorities must constitute at least one committee in every district comprising of three para legal/volunteers/social workers/other citizen who are willing to work.
- Such constitution and working will be reviewed at least once in a year by the District and Sessions Judge of the district who is also the Chairman of District Legal Services Authority.
- No committee member can be called as a witness.
- Any complaint received from the police/the Magistrate under Section 498A of IPC must be referred to and looked into by the committee.
- The committee's report will be given to the Authority by whom the complaint is referred within one month from the date of receiving the complaint. No arrest can be made before that.

Suggestions

If the rules of marital violence are to be deterred, the Court and legislature have to make improvements. In view of the recent comments and the increase in the misuse of this act, certain amendments should be tabled in this law:

Time-bound trial and investigation

A swift trial in 498A cases would not only ensure redress for innocent persons involved in false allegations but can also lead to a fast resolution of the concerns of the actual donor victims. Of false cases, the reduction of legal costs and the disposition of true prosecutions will also increase.

Bailable

498A are victims of innocent abuse primarily because of their non-leasing behaviour. This region should be reformed to prevent innocent young people from languishing in detention for weeks, pregnant sisters and college, without any responsibility for them.

Compoundable

After FIR is registered the case cannot be retired if the married lady realizes that she has done wrong calculations and has to return home. To save tons of establishment of a wedding, this could be produced compoundable. In fact, the continuity of criminal investigations is hindered in the circumstances of the marriage wherever the couple wants to end by mutual divorce.

Family Counselling Centres

Several cases of men abused by wives or/and in-laws have returned to light-weight from entirely different elements of the world. Because as of now, there is no organization that can make these harassed

people and their family members incredibly easier to pay attention to their side of the story and set their goal of reading ahead of the government. The desire of the hour is to make family substance centres throughout the country to assist those families who have been aggrieved.

Role of Women NGOs

These organizations should properly study critique without prejudice to the girl, in the knowledge that most girls in the husband's family face harassment in law. No girl should be allowed to file a criminal complaint about frivolous affairs against her in-laws. In addition, these organisations will examine the abuse of the action and inform people about its implications.

Penalty for making false accusations

If any court finds that the charges made in connection with the commission of the offence under section 498A of the IPC are false, tight action should be taken against the accused persons. It will deter people from going back to court with unclean hands and ulterior motives. Criminal charges should be brought against all officials who cooperate with falsely inculcating girls and their parent families.

An investigation by Civil Authorities

Civil authorities disperse the inquiry into these crimes and only when the conclusion on the execution of the crime, cognizance will be taken. The government should raise awareness among officers about its misuse.

II. Conclusion

Misuse of Section 498A is not a rumour if it is proved now, the woman laid down a false charge under the provisions of Section 498A IPC and created her husband under the rule. The boys have no laws to protect themselves from women's abuse. Moreover, in every district court case, Section 498A IPC was misused. The cases were still unresolved, and the square measure of husbands paying maintenance to their wife just because he's husband doesn't mean he's to blame for all the expenditures and benefits. The ladies are scammers as opposed to men in society. This Section is used as a weapon by the wives to collect some cash from their husband's. It is the fact that Section 498A IPC is misused by women to husbands and in-laws. The tests are finished and published already. This segment was seen to be keen on people. Section 498A is right to protect women, but it's actually harassment of husband and in-laws by a spouse. The effect on society of this example is terribly unhealthy. The Law Commission addressed the issue concerning abuse of this provision in its 243 reports



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