



## Cruelty and harassment of women: A critical study with special reference to misuse of section 498-A of Indian penal code, 1860

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### Abstract

The place given to the women in the society is an important considerable point to check the civilization of any country or place. Indian culture provides the respectful place of women in the Indian society. The invasions of Mughal Emperor degrade the status of women. But various revolutionaries like Raja Ram Mohan Roy came forward with a movement against inequality and subjugation. The status of women in India had gone to many changes in past few years. In the modern India, women have held high offices in the office of President, Prime Minister etc. One of the bitter truth of Indian society is also that there are lots of crime against the women such as rape, acid attack, dowry killings, honor killings and forced prostitution, etc.

Domestic violence in India is endemic. Around more than a half of the women in India are the victims of the dowry death and domestic violence. Section 498 A was inserted by criminal law amendment act to provide protection to the women against these heinous crimes. The National Crime Research Bureau reveals that a crime against women is committed every three minute and one case of cruelty committed by either the husband or relatives occurs every nine minutes but as there is change in the scenario in the status of the women in the modern era the women are not to be considered as the privilege class now. Some of the women in our society are indulged in alleging false allegations against their husband and his family members only to extract money from them and to make them fulfill their unnatural demands. May be because the laws which are for the protection of the women are too much focusing in the favor of women only and ignoring the effects of those on innocent men which is proving to be a grave injustice.

This article highlights the need to develop the multidimensional approach and focuses attention on the misuse of section 498A of IPC and the grave injustice inflicted on the innocent husbands and recommending some tactics to counter the social evil.

**Keywords:** mughal emperor, acid attack, dowry killings, honor killings

### Introduction

"In the last 20 years of criminal law reform a common argument made against laws relating to violence against women in India has been that women misuse these laws. The police, civil society, politicians and even judges of the High Courts and Supreme Court have offered these arguments of the "misuse" of laws vehemently. The allegation of misuse is made particularly against Sec 498 A of the IPC and against the offence of dowry death in Sec 304B. One such view was expressed by former Justice K T Thomas in his article titled 'Women and the Law', which appeared in The Hindu. 21<sup>st</sup> Malimath Committee Report 2003 on reforms in the criminal justice system also notes, significantly, that there is a "general complaint" that Section 498 A of the IPC is subject to gross misuse; it uses this as justification to suggest an amendment to the provision, but provides no data to indicate how frequently the section is being misused. It is important therefore that such "arguments" are responded to, so as to put forth a clearer picture of the present factual status of the effect of several criminal laws enacted to protect women <sup>[1]</sup>."

Family is considered to be the founding stone of the society. And this very family at the same time has been considered a sphere of intimacy and devoid of conflicts of interests among

the members that poses ideal cultural and focus of identity. Marriage is one of the principal tool used in expansion of family but having said that the institution of civil marriage has undergone monumental changes in the last few decades.

First we have to look that what the word 'marriage' means i.e. 'Marriage is the voluntary union for life of one man and one woman to the exclusion of all others.' It is considered to be a sacred commitment made by the spouses towards each other. It is regarded to be the social alliance between two families. It is essential that vows, promises, commitments that are exchanged by the spouses are revered with a sincere heart because it is this institution which eulogizes the hallmark of love, bonding, union of families and harmony. Endeavour should always be made to sustain the sanctity of such divine institution since it is such an edifice which must be rebuilt every day. Here in this social institution the husband has the responsibility to take care of and maintain his wife. He cannot neglect his duties.

But like all good aspects bad aspects of a particular Act too exists. The institution of marriage suffers from a major social evil i.e. dowry (Money or property brought by a woman to her husband at the time of marriage); and for the dowry husband exercises physical as well as mental cruelty on wife. Women

are ill-treated, harassed, killed, divorced for the simple reason that they didn't brought dowry. For safeguarding the interest of woman against the cruelty they face behind the four walls of their matrimonial home, the Indian Penal Code, 1860 was amended in 1983 and inserted Section 498A which deals with matrimonial cruelty to a woman.

Having said that, now in 21<sup>st</sup> century the concept of cruelty which was earlier exercised by the husbands on married women, nowadays took a new colour and situation is vice-versa. At the time of introduction of the section it instilled some hope and optimism in the hearts of the woman and her family as it was seen as an 'armour' to combat against the brutality of the male members of the society nevertheless with the passage of time it became transparent that the provision of Section 498A IPC, 1860 left a host of loopholes which seemed to become a powerful 'weapon' if falls on evil hands.

So by looking in to the above situation we may draw two conclusions i.e. firstly, the main intention behind the penal law of cruelty against married women by husband is not fulfilled and secondly, on the other hand the law is being misused and the in-laws and the husband are mentally and monetarily harassed.

### **History Prior To Section 498A IPC**

In Vedic circumstances ladies and men were equivalent in numerous viewpoints. Ladies took part in the general population forfeits close by men. One content specifies a female rishi Visvara. Some Vedic songs, are ascribed to ladies, for example, Apala, the girl of Atri, Ghosa, the little girl of Kaksivant or Indrani, the spouse of Indra. Hindu religion has been sometimes censured as empowering disparity amongst people, towards the disservice of Hindu ladies. This assumption is off base. Hindu ladies delighted in privileges of property from the Vedic Age, took an offer in social and religious rituals, and were infrequently recognized by their learning. There was no disconnection of ladies in India in antiquated circumstances.

Ladies were influenced qualified for admission to what to was known as the Bhikshuni-Sangha, the Order of Nuns, which opened to them roads of culture and social administration and sufficient open doors for open life.

"Ladies must be respected and embellished by their dad, siblings, spouses, and brother by marriage who want awesome favorable luck. Where ladies, verily are regarded, there the divine beings cheer; where, be that as it may, they are not respected, there every single holy ritual demonstrate unbeneficial [2].

The start of nineteenth century assumes a vital part in debasing Indian ladies till its profundity. The dread of uncertainty imagined in unmarried young ladies as well as wedded ladies. In India, "family" has dependably been prime significance. Marriage being a critical social establishment since Vedic period was one-sided against ladies. It was viewed as the social union between two families rather than two people. The lady was relied upon to serve her significant other and his family and guarantee their bliss and prosperity. There was no doubt of her joy, desire or substance. There were three principle targets of Hindu marriage: dharma or religious obligations to be performed by the couple, proja or reproduction, and rati or marital love.

The abuse of lady started with the kid marriage. A young lady excessively youthful, making it impossible to consider life important, a young lady excessively youthful, making it impossible to comprehend the significance of 'life' and 'marriage', needed to venture into the universe of thistles. She was sub-judicated by her relative and different individuals from her better half's family, more often than excluding even her significant other. She was required to watch 'purdah', not to address seniors, talk in low voice to more youthful individuals from family, not to talk or meet her better half with the exception of midnight and bear every unforgiving word and sufferings for even minor blame or more all never to express her distresses or articulate an expression of trouble to anybody.

To comprehend the position ladies ended up in at the beginning of the twentieth century, one must have a general comprehension of the various chronicled ladies' contentions interesting to the Subcontinent. It took the staggering achievement of Gandhi's peaceful upheaval to join ladies politically and make a climate whereby ladies, engaged by the circumstances, could stand firm for their equity.

The 1970's saw the start of a very sorted out current ladies' development in India. Viciousness against ladies was one of the primary focal points of the development. Provocation, spouse beating, assault, and share passing were very normal, and police authorization was inadequate as were most endeavors at indictment. Usually called abominations against ladies, these demonstrations happened as often as possible.

### **Section 498 A and Status of Women**

Section 498 A of the Indian Penal Code, which characterizes the offense of wedding savagery, was embedded into the IPC by a correction in 1983. Guilty parties are at risk for detainment and also a fine under the segment and the offense is non-bailable, non-compoundable and cognizable on a grievance made to the cop by the casualty or by assigned relatives. Segment 498 A go by Indian Parliament in 1983, Indian Penal Code 498 A, will be a criminal law (not a common law) which is characterized as takes after, "Whoever, being the spouse or the relative of the husband of a lady, subjects such lady to savagery might be rebuffed with detainment for a term which may stretch out to three years and should likewise be at risk to fine. The offense is Cognizable, and non-bailable.

In the 1980s, the frequencies of 'endowment demise' were relentlessly ascending in India, so ladies' associations the nation over pressurized the Criminal Law Amendment Committee (1982) and asked the administration to give authoritative assurance to ladies against abusive behavior at home and share, with the goal that the casualty gets equity while she is as yet alive [3].

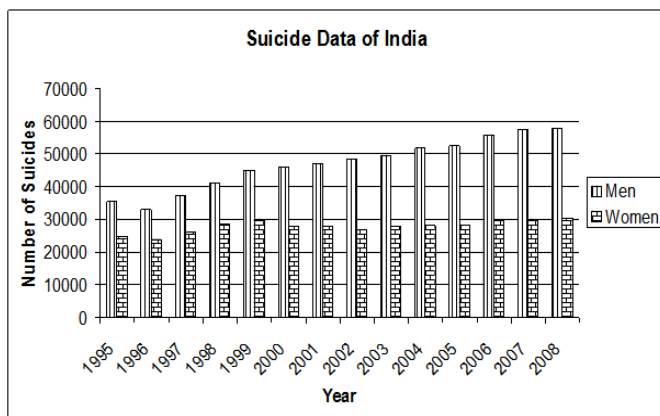
Because of the extraordinary battling and campaigning, noteworthy revisions were made in the Indian Penal Code, the Indian Evidence Act and the Dowry Prohibition Act, with the goal of shielding ladies from conjugal viciousness, mishandle and settlement requests.

### **Motives for Abuse**

1. IPC Section 498 A isn't the main law that is getting manhandled in India. Any place there is a road battle or

- limit debate by and large the two gatherings get conceded in healing facility and blame each other for the "wounds". Burglary cases to cheat insurance agencies are another great case. Presently the better and brighter one, beside IPC Section 498 A, to add to the rundown and will come to top in the rundown sooner, instead of later, is Protection of Women from Domestic Violence Act in light of its intrinsic tolerant nature to truly loot cash and property from men in the family.
- The key intentions behind the mishandle of family laws are cash, unequivocally ALIMONY. At display India has no set standards with respect to provision and men or ladies don't know how to deal with partition; presence of different support laws are influencing separation to fight more hopeless. Then again this is the best marker that ladies have now approached to the standard and no longer an under special class.
  - A Typical Dowry Harassment Allegation Leads To:-
  - Arbitrary capture of spouse and his whole family with no

- examination.
- Husband's home, belonging and vocation are at high hazard and denied by law. - Courts arrange enormous safeguard sum without taking a gander at benefits of the protestation. The individuals who are in Government work get suspended in light of self-assertive police guardianship and remand. NRIs loose their employments since they cannot join back to deal with time.
- Husband's have positively no plan of action when the individuals who practice control over them manhandle it - exceptionally oppressive treatment by the police and courts as a result of the social and statutory prerequisite to support ladies.
- Violates the essential ideal to live with dignity.
- Husband confronting dangers on individual security and that of his family from spouse and in-laws. Unfit to cop up with the provocation, a great number of them decide on suicide as well. [NCRB data shown below]



**Fig 1:** There are approximately 27,000 women being arrested per year in Section 498A cases a majority of whom are acquitted.



**Fig 2:** NCRB Data on The Women Arrested Under 498A

In Narender Singh Arora Vs State (Govt. of NCT Delhi) & Ors [4]. Honourable Delhi High Court stated “5. This case is a reflection of mentality which is now taking grip of parents of a deceased wife in the criminal cases. Whenever a woman dies an unnatural death within seven years of her marriage at in-laws’ house, whatever be the cause of death, the in-laws must be hanged. This case also shows how truth is losing significance because of the ego of the litigants to see that in-laws should be hanged.”

An investigative report for creating public awareness in relation to the misuse of Section 498 A of IPC made by the Rakshak Foundation 2010, titled, ‘The Silent Tears of Shattered Families: The Ugly Reality of Dowry Law - IPC-498 A’ [5] - states as follows

- “1) what does Section 498A do to society?
- Abuse of the Criminal Judicial System
  - Elder Abuse – Most senior residents who have never been to the police headquarters or courts in their lifetime are dragged into imprisonment without examination and after that into court cases that spread more than quite a while
  - Women Abuse – Many ladies in spouse's family are mishandled by the procedure

- Abuse of whole more distant family – Many in the spouse's family lose their occupations/income • Cruelty towards Children – Separation of guardians from youngsters, including newborn children, brings about injury
- Unequal rights (not just ladies versus men yet in addition ladies versus ladies) – The spouse/girl in-law can document charges against every one of the ladies in the husband's family regardless of whether they are honest; however the female relatives of a husband don't have comparable legitimate arrangements for insurance from a little girl in-law or sister-in-law even in situations where she is harsh
- Disintegration of families – Due to dread of being involved in a false Section 498 A case, guardians have now begun to legitimately abandon their children previously or quickly after marriage. The fear of this law has brought about the separation of various families.
- Suicides of pure individuals – Unable to hold up under the provocation and mortification they endure in the wake of being charged in a false criminal case, numerous individuals, including matured senior residents, have been

carrying out suicides [6].”

There is no punishment for the abuse of IPC 498 A, and after quittance of the charged, the courts are hesitant to engage maligning and prevarication bodies of evidence against the erroneously affirming witnesses [7].

#### Why do people misuse Section 498 A of IPC?

- Legal Extortion – Speedy plan to get rich and blackmail to grab a lot of cash.
- Prior Relationship – Wife has an earlier relationship, and can't receive in return. She weds to fulfill her folks, and afterward abuses the 498A law with a specific end goal to acquire a separation.
- Adultery – Women who enjoy infidelity utilize 498A as a haggling apparatus.
- Domination – Wife needs the spouse to relinquish his folks and kin, and have add up to control over his accounts and social conduct.
- Custody - Deny the father and his family access to their youngster.
- Fraudulent Marriages - in which the lady of the hour (and her family) conceals her instruction level or emotional well-being; and when is reasonably requested to discharge the individual who has gone into marriage without knowing the full certainties, she records a false Section 498A of IPC case.

The report additionally underlines that reasons for conjugal debate prompting the abuse of hostile to endowment laws can incorporate sexual disappointment, drinking or smoking by the spouse, absence of security, budgetary requirements, husband's 'additional inclining' towards his folks or siblings and sisters, or even wife's own inclining towards her own particular family or some other man which may not be loved by her better half. In such cases 'request of endowment' turns into a simple reason for some ladies because of two focal points - disposing of the man and extraction of Moti Rakam (weighty sum) by constraining the terrified spouse and his family to consent to the terms directed by her.

#### Guidelines Given

In 2010 guidelines have been issued by Maharashtra Government to all Police stations in Maharashtra regarding the arrest of accused involved in family dispute cases registered under Section 498 A of Indian Penal code, 1860. These guidelines are based on directions from Ministry of Home, Government of India [8].

According to these guidelines a complaint under Section 498 A must be referred to a Counselling Centre for Counselling. Thereafter the concerned police station has to investigate the complaint. And if the complaint is found to be genuine, it would be registered and arrest would be made. The Section 498 A is non-bailable and non-Compoundable. Therefore, a complaint is filed by a wife in a police station without any concrete proof or evidence. As a result husband and all his relatives whose names appear in the FIR are arrested without any investigation. This includes even school going children and aged person's who are in their 80's and 90's. More than 95% complaints are found to be false. It takes years and years

to get justice in our legal system. It overburdens our already overburdened judiciary. It is wastage of tax payers' hard earned money and wastage of judicial time and energy. This is result of 'legal terrorism' [9].

#### Suggestions and Recommendations

1. **Role of Women NGOs:** These associations ought to examine grumbling appropriately with no inclination towards the lady remembering that the law is being abused to a great extent to annoy more ladies in spouse's family. They ought not urge any lady to record a criminal body of evidence against her in-laws for inconsequential issues.
2. **Family Counselling Centres:** Various instances of men being badgering by spouse or/and in-laws have become exposed from various parts of the nation. Starting at now there is no association, which can truly assist these pestered men and his relatives, with listening their side of the story and put their perspective before the legislature. Need of great importance is to make family directing focuses the nation over to help those distressed families.
3. **Time bound Investigation and Trial:** An expedient trial of Section 498 A cases won't just guarantee equity for the innocents that have been embroiled in false charges, it will likewise prompt incite redressal of the grievances of genuine settlement casualties. The lessening in false cases will likewise decrease the weight on legal and speed up the preparing of genuine cases.
4. **Definition of Mental Cruelty:** Mental cruelty has been vaguely defined in the act, which leaves scope of misuse. This should be clearly elaborated to remove loopholes in the law. There should be provision for men also to file a case for mental cruelty by his wife.
5. **Investigation by Civil authorities:** The investigation into these offences be carried out by civil authorities and only after his/her finding as to the commission of the offence, cognizance should be taken. The government should create awareness among officers about its misuse.
6. **Bailable:** When FIR has been enlisted it ends up difficult to pull back the case regardless of whether spouse understands that she has completed a botch and needs to return to her marital home. To spare organization of marriage this ought to be made compoundable. Additionally, in the situation where the couple chooses to end the marriage by common separation, continuation of criminal procedures hamper their life.
7. **Compoundable:** When FIR has been enlisted it ends up difficult to pull back the case regardless of whether spouse understands that she has completed a botch and needs to return to her marital home. To spare organization of marriage this ought to be made compoundable. Additionally, in the situation where the couple chooses to end the marriage by common separation, continuation of criminal procedures hamper their life.
8. **Arrest Warrants:** Arrest warrant ought to be issued just against the primary charged and simply after perception has been taken. Spouse relatives ought not be captured.
9. **Penalty for making false accusation:** At whatever point any court arrives at the conclusion that the affirmations made with respect to commission of offence under

Section 498 A IPC are unfound, stringent move ought to be made against people making the charges. This would demoralize people from coming to courts with unclean hands and ulterior thought processes. Criminal allegations ought to be brought against all experts that are teaming up with erroneously charging ladies and their parental families.

10. **Penalize corrupt Investigation Officers:** In the event that it is obvious to the court that a reasonable examination has not been directed by the examination officer, and that the spouse and his family have been charge-sheet without appropriate check of the objection, the examination officer ought to be punished for net carelessness of obligation.
11. **NRI Issues:** Unless they are turned out to be liable after the due legal process, NRIs ought to be given a reasonable opportunity to equity by guaranteeing them of the accompanying -
  - a. Permission to come back to nation of work
  - b. No impoundment/repudiation of international ID and no Interpol Red Corner Notices.
  - c. No pointless captures
  - d. Expeditious examination and trial
12. **Gender Neutral:** Everybody ought to have meet rights and duties, regardless of sexual orientation. In the present social setting, there ought to be comparable laws to secure badgering spouse and his relatives from corrupt wife.

### Conclusion

IPC Section 498 A was initially intended to shield wedded ladies from being bugged or subjected to pitilessness by spouses and additionally their relatives. This law was mostly gone for checking share provocation. Tragically, this law has been abused to disturb men and their families instead of secure honest to goodness female casualties of badgering. The Supreme Court of India itself has marked the abuse of area Section 498 A as "legitimate fear mongering" and expressed that "numerous cases have become visible where the objections are not real and have been documented with a sideways rationale. In such cases, quittance of the blamed does not wipe out the disgrace endured amid and before the trial. In some cases antagonistic media scope adds to the hopelessness. "In concurrence with the above articulation, the discoveries of an examination led by The Centre for Social Research demonstrated that 98 percent of the cases recorded under IPC area 498A are false. All things considered, the law has been constantly legitimized in view of its aim of ensuring ladies. Now it is beneficial to consider how IPC Section 498 A has extremely influenced ladies.

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