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# CRITICAL EXAMINATION OF THE PRINCIPLES OF PRESUMPTION IN FAVOUR OF WOMEN THROUGH THE LENS OF GENDER JUSTICE, EQUITY, AND SAFEGUARD

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## ABSTRACT

The principles of legal presumption in favour of women form a cornerstone of modern rights-based jurisprudence, designed to correct historical imbalances and structural violence. This paper critically examines these statutory presumptions prevalent in criminal, matrimonial, and socio-economic legislation through the foundational lenses of gender justice, substantive equity, and protective safeguard. By shifting the burden of proof in specific offences such as dowry deaths, domestic cruelty, and sexual assault, the legislature recognises that formal equality fails in an inherently unequal social fabric. These presumptions function as essential corrective mechanisms, ensuring vulnerable litigants are not structurally disadvantaged by the rigorous, traditional standards of proof that often shield systemic abuse. However, a critical examination reveals a complex tension between providing protective shields and maintaining the constitutional mandate of fairness and due process. While these provisions have successfully elevated the voices of marginalised women within the judicial system, their contemporary application faces scrutiny. The paper explores the delicate judicial balancing act required to ensure these safeguards serve their true emancipatory purpose without degenerating into instruments of procedural asymmetry or undermining the bedrock criminal law principle of the presumption of innocence. Furthermore, the study analyses how evolving societal dynamics require a shift from rigid protective paternalism toward a more nuanced framework of substantive equity. It evaluates judicial trends to understand how courts navigate false implications while simultaneously reinforcing safeguards for genuine victims. Ultimately, this paper argues that for legal presumptions to truly achieve gender justice, they must not operate in isolation they must be constantly calibrated by judicial discretion and paired with structural institutional reforms, ensuring the legal machinery acts as an instrument of genuine empowerment rather than mere formal protection.

**Keywords:** Legal Presumption, Gender Justice, Substantive Equality, Section 113A, Section 113B, Bharatiya Sakshya Adhiniyam, Dowry Death,

Sexual Assault, Burden of Proof, Presumption of Innocence, Women's Rights, Constitutional Safeguards

## **I. INTRODUCTION**

In a society stratified by patriarchal norms and entrenched structural inequalities, the law cannot remain indifferent to the unequal positions from which parties enter the adjudicatory arena. When a woman alleges domestic cruelty within the four walls of a matrimonial home, when she claims that a demand for dowry drove her daughter-in-law to her death, or when a prosecutrix asserts that she was subjected to sexual violence, the evidentiary universe she inhabits is radically different from that of the accused. Evidence of such crimes is rarely direct; perpetrators are seldom present before witnesses; and the very nature of domestic and sexual violence ensures that it occurs in conditions of privacy, isolation, and power asymmetry. In this landscape, demanding that a victim satisfy the traditional adversarial standard of proof without legislative correction would be to visit upon her a double injustice first as the victim of a crime, and then as the subject of an evidentiary system structurally tilted against her testimony.

It is in response to this structural reality that Parliament, over several decades, has enacted legislative presumptions in favour of women across diverse domains of law. These statutory presumptions principally housed in the Indian Evidence Act, 1872 (now substantially reproduced in the Bharatiya Sakshya Adhiniyam, 2023), the Dowry Prohibition Act, 1961, the Protection of Women from Domestic Violence Act, 2005, and the Special Marriage Act, 1954 represent a conscious departure from the principle of formal equality. They recognise, as the Supreme Court has observed, that the equal treatment of unequals is itself a form of inequality. Substantive equality demands that the law account for historical disadvantage, systemic exclusion, and structural vulnerability in fashioning the rules of evidence and proof.

Yet the story of these presumptions is not one of uncomplicated progress. The same legislative mechanism that empowers genuine victims can, when applied without judicial vigilance, be weaponised in cases of false implication or motivated prosecution. The presumption of dowry death has been invoked against distant relatives; the presumption under Section 113A has been raised on scant evidence of cruelty; and the credibility of the prosecutrix in sexual assault cases has been debated with increasing intensity in an era of heightened awareness of both gender justice and false accusations. The courts stand at this intersection, tasked with the dual obligation of protecting genuine victims and safeguarding the constitutional right of the accused to a fair trial.

This article undertakes a structured critical examination of these presumptions. Part II traces the theoretical foundations of presumptions in favour of women, locating them within the broader philosophy of substantive equality and remedial legislation. Part III analyses the specific statutory presumptions across criminal, matrimonial, and civil domains. Part IV examines the landmark judicial pronouncements that have shaped the application of these provisions. Part V explores the constitutional tension between gender-protective presumptions and the presumption of innocence. Part VI addresses the contemporary challenges including misuse, evolving societal dynamics, and the jurisprudence under the Bharatiya Sakshya Adhinyam, 2023. Part VII concludes with a framework for calibrated reform.

## **II. THEORETICAL FOUNDATIONS: FROM FORMAL EQUALITY TO SUBSTANTIVE EQUITY**

### **A. The Inadequacy of Formal Equality**

Classical liberal jurisprudence postulates that all persons are equal before the law and entitled to equal protection of the laws a principle enshrined in Article 14 of the Constitution of India. In its formal avatar, this principle demands identical treatment: the same rules of evidence, the same burden of proof, the same procedural requirements apply to all litigants regardless of gender, social location, or power. This formal equality, however elegant in theory, is profoundly inadequate in practice. A woman who has been subjected to domestic violence in the privacy of her matrimonial home, and who must now prove that violence to a court applying a standard of proof designed for crimes committed in the public sphere, is not receiving equal treatment she is receiving identical treatment in a structurally unequal situation.

The Supreme Court of India has repeatedly recognised this inadequacy. In *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241, the Court acknowledged that the right to gender equality encompasses not merely formal non-discrimination but the active obligation to address and remedy structural disadvantage. The doctrine of substantive equality which requires that the law account for historical patterns of discrimination and structural vulnerability in designing protective frameworks provides the theoretical underpinning for legislative presumptions in favour of women. These presumptions are not concessions to weakness; they are acknowledgments of structural disadvantage and corrective instruments of substantive justice.

## **B. Presumptions as Corrective Mechanisms**

A legal presumption, in its technical sense, is a rule that requires a court, upon proof of a basic or foundational fact, to draw an inference as to the existence of a presumed fact, unless the inference is rebutted by evidence to the contrary. Section 4 of the Indian Evidence Act, 1872 now Section 3 of the Bharatiya Sakshya Adhiniyam, 2023 distinguishes between 'may presume' (a permissive or discretionary presumption of fact) and 'shall presume' (a mandatory presumption of law). Where the legislature employs the mandatory formulation, it signals its considered judgment that upon proof of the foundational facts, the presumed fact is so likely to exist that the court must proceed on that basis unless the contrary is demonstrated.

In the context of gender-protective legislation, this distinction carries profound jurisprudential significance. As the Supreme Court elucidated in *Naresh Kumar v. State of Haryana*, 2024 INSC 149, the presumption under Section 113A of the Evidence Act relating to abetment of suicide by a married woman is discretionary (the legislature used 'may presume'), whereas the presumption under Section 113B relating to dowry death is mandatory ('shall presume'). This differentiation reflects the legislature's calibrated assessment of the severity of the social evil and the evidentiary difficulty confronting the prosecution in each category of case. The stronger the structural impediment to proof, the stronger the legislative response in the form of a mandatory presumption.

## **C. The Remedial-Legislative Philosophy**

Legislative presumptions in favour of women must be read in the light of the fundamental principle of remedial construction: that a statute enacted to remedy a social evil or protect a vulnerable class is to be construed liberally in furtherance of its remedial purpose. The Statement of Objects and Reasons accompanying the Dowry Prohibition (Amendment) Act, 1986 which inserted Sections 304B into the IPC and Section 113B into the Evidence Act explicitly acknowledged that the conventional law of evidence, with its requirement of direct proof, was woefully inadequate to address the epidemic of dowry-related deaths occurring within the privacy of matrimonial homes. The legislature did not merely criminalise the act; it restructured the evidentiary framework to ensure that the prosecution was not disabled at the threshold by the very privacy of the crime.

This remedial philosophy finds resonance in the constitutional commitment to women's

dignity embedded in Articles 14, 15(3), and 21 of the Constitution. Article 15(3) expressly empowers the State to make special provisions for women – an enabling clause that has been consistently construed by the Supreme Court to permit legislative asymmetries in favour of women where such asymmetries are designed to remedy historical disadvantage. Presumptions in favour of women are, therefore, not departures from constitutional equality – they are expressions of it.

### **III. THE STATUTORY FRAMEWORK: A DOMAIN-WISE ANALYSIS**

#### **A. Criminal Domain: Matrimonial Violence and Death**

The most consequential cluster of gender-protective presumptions in Indian law operates in the domain of matrimonial violence and death. Section 113A of the Indian Evidence Act, 1872 (Section 118 of the BSA 2023) creates a permissive presumption of abetment of suicide by a married woman: where a woman commits suicide within seven years of her marriage and it is shown that her husband or his relatives subjected her to cruelty within the meaning of Section 498A of the IPC, the court may presume, having regard to all the circumstances, that such suicide was abetted by them. The discretionary character of this presumption – the legislature's use of 'may presume' – is a deliberate safeguard, acknowledging that the circumstances surrounding a married woman's suicide are factually diverse and may not always warrant an inference of abetment.

Section 113B of the Indian Evidence Act, 1872 (Section 119 of the BSA 2023) creates a mandatory presumption of dowry death: where it is shown that soon before her death, a woman was subjected to cruelty or harassment by a person for or in connection with any demand for dowry, the court shall presume that such person caused the dowry death within the meaning of Section 304B of the IPC. The distinction between the 'may presume' of Section 113A and the 'shall presume' of Section 113B is not semantic – it is the legislature's recognition that where a woman's unnatural death is proximately linked to dowry demand and harassment, the causal nexus is so overwhelmingly likely that the court has no discretion but to draw the inference unless it is rebutted. This is a presumption of law, not of fact, and it operates as a rebuttable reverse burden on the accused rather than as a conclusive presumption.

Section 114A of the Indian Evidence Act – now Section 120 of the BSA 2023 – provides yet another category of gender-protective presumption, specifically in cases of custodial rape and

certain aggravated forms of sexual assault. Where sexual intercourse by the accused is proved and the question is whether it was with or without the consent of the woman, and the woman states in her evidence that she did not consent, the court shall presume that she did not consent. This provision addresses one of the most persistent and invidious features of rape trials in India the tendency of courts to require the prosecutrix to prove non-consent through evidence of physical resistance, injury, or immediate report, as though consent were the default and its absence an aberration requiring affirmative proof.

### **B. The Prosecutrix's Testimony: Evidentiary Primacy in Sexual Assault**

Beyond statutory presumptions, the Supreme Court has crafted an evidentiary doctrine that operates as a functional equivalent of a presumption in sexual assault cases. In *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384, a landmark judgment that transformed the judicial approach to rape testimony, the Court held that the evidence of a victim of sexual assault stands almost at par with the evidence of an injured witness, and is entitled to great weight absent corroboration. The Court expressly criticised the tendency of trial courts to require corroborative evidence as a condition of conviction, observing that such an approach cast an additional and unjustified burden upon the victim and reflected a fundamentally patriarchal assumption about the credibility of women who allege sexual violence.

This judicial doctrine that the uncorroborated testimony of a credible prosecutrix is sufficient for conviction represents a doctrinal presumption of reliability: the law, in effect, presumes that a woman who alleges rape is telling the truth unless there are specific, articulable reasons to doubt her testimony. It is not an absolute or irrebuttable presumption; courts have consistently held that the evidence must be 'read as a whole' and that 'implicit reliance' on the prosecutrix's statement is justified only where it is 'found to be reliable, trustworthy and credible.' But the presumption of reliability is the default, not the exception a structural inversion from the pre-Gurmit Singh era when corroboration was effectively a prerequisite.

### **C. Civil and Matrimonial Domain: Maintenance, Property, and Stridhan**

In the civil and matrimonial sphere, the law creates several presumptions that operate to protect women's economic rights. Under Section 14 of the Hindu Succession Act, 1956, any property possessed by a female Hindu is presumed to be her absolute property a provision that the Supreme Court in *Mangat Mal v. Punni Devi*, (1995) 6 SCC 88 construed broadly to include

property acquired by a woman in lieu of maintenance or in recognition of pre-existing rights. The Domestic Violence Act, 2005, creates a presumption of shared household rights, enabling the court to pass residence orders without requiring the woman to first prove her ownership or title. Section 27 of the Dowry Prohibition Act, 1961 (misread by many as Section 6) mandates that all dowry received by a husband or his relatives shall be deemed to be held in trust for the benefit of the wife a legislative presumption of fiduciary character that protects a woman's proprietary interest in her stridhan without requiring her to maintain documentary proof of each item.

#### **IV. THE JUDICIAL ARCHITECTURE: LANDMARK PRONOUNCEMENTS**

##### **A. The Proximity Test in Dowry Death: Kans Raj and Its Progeny**

The foundational judicial architecture governing Section 113B was laid in *Kans Raj v. State of Punjab*, (2000) 5 SCC 207, where the Supreme Court held that for the presumption of dowry death to be invoked, there must be a 'proximate and live link' between the cruelty or harassment in connection with the demand for dowry and the woman's death. The expression 'soon before her death' in Section 113B and correspondingly in Section 304B IPC was clarified to mean not necessarily 'immediately before,' but within a timeframe where the causal nexus between the dowry-related harassment and the death is not too remote to be meaningful. The Court held that if the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman, it would be of no consequence for the purpose of the presumption.

This proximity doctrine was refined in *Maya Devi v. State of Haryana*, (2015) 17 SCC 405, where the Court emphasised that the proximity test does not define any particular time period but must be applied on a case-by-case basis having regard to the specific facts. The Court held that cruelty or harassment that persists as a continuing cause even if its last overt manifestation preceded the death by a period of weeks may satisfy the proximity requirement if no intervening circumstance establishes that the woman's condition had normalised. The most recent authoritative restatement of this doctrine appears in *Yogendra Pal Singh v. Raghvendra Singh @ Prince*, 2025 INSC 1546 (November 2025), where the Supreme Court held that once the ingredients of Section 304B IPC are prima facie established, the statutory presumption under Section 113B must be actively considered even at the bail stage an extension of the presumption's reach that significantly strengthens its protective function.

Critically, however, the Court in *Shoor Singh v. State of Uttarakhand*, 2024 INSC 713, delivered an important corrective. It held that the presumption under Section 113B is not in respect of the commission of cruelty or dowry demand per se these essential ingredients must be proved beyond reasonable doubt by the prosecution through ordinary evidence. The presumption operates only at the next level: once the foundational facts of dowry demand and proximate cruelty are established, the court shall presume that the accused caused the dowry death. This distinction between what must be proved and what is presumed is the key to understanding the proper scope of Section 113B and preventing its over-application in cases where the foundational facts are themselves unproved.

## **B. The Gurmit Singh Framework and Its Evolution in Sexual Assault Jurisprudence**

The Gurmit Singh doctrine, as it has come to be known, has been consistently reaffirmed and progressively developed in the Supreme Court's jurisprudence on sexual assault. In *State of H.P. v. Mange Ram*, (2000) 7 SCC 224, the Court held that a minor delay in lodging the FIR after a sexual assault does not, by itself, discredit the prosecutrix's testimony a holding that directly addressed one of the most frequently deployed techniques for impugning the credibility of rape victims. In *RamNaresh v. State of Chhattisgarh*, (2012) 4 SCC 257, the Court reiterated that the sole testimony of a prosecutrix, if credible and cogent, requires no corroboration, and that courts must guard against the tendency to scrutinise the prosecutrix's conduct through patriarchal lenses that have no evidentiary basis.

The BSA 2023 has codified and extended this jurisprudence. Section 120 of the BSA, which corresponds to Section 114A of the IEA, now applies the mandatory presumption of non-consent in a wider range of circumstances, including rape by persons in positions of authority and trust. This legislative expansion reflects Parliament's recognition that the Gurmit Singh framework, while judicially developed, required statutory backing to ensure its uniform application across trial courts and to prevent judicial regression in its application.

## **C. The Section 113A Jurisprudence: Cruelty, Suicide, and Judicial Discretion**

The jurisprudence under Section 113A presents a more nuanced picture. In *Naresh Kumar v. State of Haryana*, 2024 INSC 149, the Supreme Court, while affirming the essential safeguard function of Section 113A, emphasised that the court's discretion to raise or decline the presumption must be exercised with care: the mere fact of a married woman's suicide within

seven years of marriage does not automatically trigger the presumption. The court must examine, having regard to all circumstances, whether the cruelty established by evidence was of a character likely to drive the woman to suicide. Cruelty that is remote, trivial, or not causally connected to the decision to end one's life does not suffice.

This approach was reaffirmed in *Ram Pyarey v. State of Uttar Pradesh*, 2025 INSC 71, where the Court acquitted a brother-in-law (jeth) of the deceased, holding that there was practically no evidence on the basis of which it could be said that he had abetted the commission of suicide. The Court's intervention reflected an important corrective against the tendency of lower courts to extend the presumption under Section 113A to all relatives of the husband regardless of the nature and degree of their individual involvement. The presumption, the Court made clear, is not a dragnet – it is a carefully targeted instrument that requires a genuine nexus between the specific accused, the cruelty established, and the resulting death.

## **V. THE CONSTITUTIONAL TENSION: GENDER JUSTICE VERSUS THE PRESUMPTION OF INNOCENCE**

### **A. The Presumption of Innocence as a Constitutional Value**

The presumption of innocence – that every accused person is innocent until proven guilty by a competent court applying a standard of proof beyond reasonable doubt – is not merely a rule of evidence; it is a constitutional value implicit in the guarantee of personal liberty under Article 21 of the Constitution. The Supreme Court has repeatedly affirmed this principle, recognising that the burden of proof in a criminal case rests squarely and throughout upon the prosecution, and that the accused is not required to prove his innocence. Legislative presumptions that reverse this burden – requiring the accused to disprove guilt upon proof of foundational facts – are therefore constitutionally suspect unless they can be justified by compelling public interest and satisfy the proportionality test.

In *Noor Aga v. State of Punjab*, (2008) 16 SCC 417, a case arising under the NDPS Act but of general applicability to statutory reverse burden provisions, the Supreme Court held that provisions that shift the burden of proof to the accused are constitutionally valid only if they satisfy the test of reasonableness – the means must be proportionate to the ends, the reverse burden must be rebuttable rather than irrebuttable, and the prosecution must still prove the foundational facts that trigger the presumption. This framework applies with equal force to

gender-protective presumptions. Section 113B, for example, has survived constitutional challenge precisely because it creates a rebuttable not conclusive presumption, it requires the prosecution to first prove the essential ingredients of dowry death, and the accused is afforded a full opportunity to rebut the presumption by leading evidence.

### **B. Calibrating the Balance: Judicial Safeguards Against Over-Application**

The Indian judiciary has developed a sophisticated set of safeguards to ensure that gender-protective presumptions do not collapse into irrebuttable presumptions of guilt or instruments of harassment. Several principles have emerged from the case law. First, the prosecution must prove the foundational facts—dowry demand, proximate cruelty, unnatural death—through independent evidence before the presumption can be invoked. The presumption does not relieve the prosecution of its initial burden; it supplements the prosecution's case once that burden is discharged. Second, the quantum of evidence required to rebut the presumption, while not as high as proof beyond reasonable doubt, is substantial: the accused must raise a probable defence by adducing cogent and credible evidence, not merely a fanciful or speculative alternative narrative.

Third, and critically, the courts have consistently held that the presumptions cannot be applied mechanically or in isolation from the totality of evidence. In *Shoor Singh v. State of Uttarakhand*, 2024 INSC 713, the Supreme Court emphasised that the presumption under Section 113B does not relieve the prosecution of proving the essential ingredients of Section 304B IPC beyond reasonable doubt—these must be established through independent evidence before the presumption is activated. The court must look at the quality of the evidence establishing the foundational facts, the credibility of witnesses, and the plausibility of the accused's rebuttal before deciding whether the presumption stands unrebutted. This requirement of evidence-first, presumption-second acts as a crucial bulwark against the mechanical misuse of gender-protective presumptions.

## **VI. CONTEMPORARY CHALLENGES: MISUSE, SOCIETAL EVOLUTION, AND THE BSA FRAMEWORK**

### **A. The Problem of Misuse and False Implication**

The most persistent criticism of gender-protective presumptions is the potential for their

misuse in cases of false implication a concern that has been validated by empirical data and acknowledged by the Supreme Court itself. In *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, the Court noted with concern that Section 498A had been used indiscriminately and with undue haste, resulting in the arrest of not only husbands but also their distant relatives on the basis of omnibus and exaggerated allegations. The Court observed that a large number of cases filed under Section 498A were either settled or ended in acquittal, suggesting a pattern of motivated prosecution. It accordingly issued detailed guidelines for police officers regarding arrest in matrimonial cases, emphasising the need for preliminary inquiry before invoking the coercive machinery of the state.

This concern is directly linked to the presumptions attached to these offences: if Section 498A allegations are exaggerated, and if those allegations form the foundational facts for the presumption under Section 113A, the accused faces the dual burden of defending against potentially false allegations and rebutting a statutory presumption that the law raises against him. The misuse problem is therefore not merely a concern about Section 498A in isolation it cascades into the evidentiary framework and risks converting a protective instrument into a weapon of harassment. The Supreme Court's response in *Rajesh Sharma v. State of U.P.*, (2017) 11 SCC 1 subsequently modified in *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443 reflects the judiciary's ongoing attempt to calibrate these provisions without undermining their core protective function.

## **B. Evolving Societal Dynamics and the Paternalism Critique**

A second contemporary challenge arises from the evolution of Indian society and the changing profile of litigation under gender-protective legislation. Critics from a feminist jurisprudential perspective have argued that some of these presumptions, while protective in form, are paternalistic in character they treat women as inherently vulnerable and incapable of asserting their rights without the assistance of a legal presumption. This critique, while normatively sophisticated, overlooks the structural reality that most women who invoke these provisions continue to do so in circumstances of genuine disadvantage evidentiary, economic, and social. The solution to paternalism is not the withdrawal of protective mechanisms but their redesign to centre women's agency rather than their victimhood.

A related challenge is the differential application of these presumptions across class, caste, and geographical lines. The beneficiaries of gender-protective presumptions are

overwhelmingly women from socio-economically disadvantaged backgrounds who lack access to legal representation, documentation, and institutional support. Upper-class and upper-caste women are more likely to have access to alternative evidentiary resources and may not require the same degree of presumptive support. A uniform statutory presumption that does not account for this diversity may, paradoxically, provide the most protection to those who need it least and the least nuanced protection to those who need it most. This demands a re-examination of whether the current one-size-fits-all design of presumptive provisions is adequate to the task of substantive gender justice.

### **C. The Bharatiya Sakshya Adhiniyam 2023: Continuity and Reform**

The Bharatiya Sakshya Adhiniyam, 2023 (BSA), which replaced the Indian Evidence Act, 1872 with effect from 1 July 2024, has substantially preserved the gender-protective presumptions of its predecessor while introducing certain clarifications and expansions. Section 118 of the BSA corresponds to Section 113A IEA, Section 119 to Section 113B IEA, and Section 120 to Section 114A IEA. The definitional framework for 'cruelty' in the context of Section 118 expressly incorporates the meaning under Section 498A IPC / Section 85 of the Bharatiya Nyaya Sanhita, 2023, ensuring continuity in the judicial interpretation of this element.

More significantly, Section 120 of the BSA expands the scope of the presumption of non-consent beyond the categories originally enumerated in Section 114A IEA, applying it to a broader range of aggravated sexual assault scenarios. This expansion reflects Parliament's recognition that the evidentiary barriers faced by survivors of sexual violence extend well beyond custodial contexts. However, the BSA also introduces new requirements around electronic evidence and digital documentation that may, in practice, create new challenges for women in rural and economically marginalised communities who have limited digital access a dimension that courts will need to address through contextual and purpose-driven interpretation.

## **VII. TOWARDS A CALIBRATED FRAMEWORK: REFLECTIONS ON REFORM**

The critical examination undertaken in this article reveals that legal presumptions in favour of women are neither irredeemably flawed nor unambiguously adequate. They are instruments powerful, constitutionally grounded, and functionally essential but instruments that require

constant recalibration to remain aligned with the evolving reality of gender injustice and the evolving demands of constitutional due process. Several directions for reform suggest themselves.

First, the courts must continue to develop and articulate with precision the foundational fact requirements that must be satisfied before a presumption is invoked. The Shoor Singh (2024) clarification that the presumption under Section 113B operates only after the essential ingredients of Section 304B IPC are independently proved must be treated as a binding directive at the trial court level. A culture of careful, evidence-driven adjudication of foundational facts, before the presumption is activated, is the most effective safeguard against misuse without compromising the instrument's protective function.

Second, there is a compelling case for judicial sensitisation training that enables trial court judges to distinguish genuine cases from motivated prosecution, to appreciate the sociology and psychology of domestic violence without importing patriarchal assumptions, and to apply the Gurmit Singh framework consistently without either sceptically discounting every prosecutrix's testimony or uncritically accepting it as beyond scrutiny. The presumption of reliability of the prosecutrix's testimony is a presumption, not a conclusive rule and a well-trained judiciary is the most effective guarantee that it operates as intended.

Third, structural institutional reforms must accompany and support the evidentiary framework. The presumptions in favour of women are premised, implicitly, on the assumption that the institutions that receive and act upon complaints police stations, courts, support services are accessible to women and operate without gender bias. Where these institutional preconditions are absent, the most carefully crafted statutory presumption is of limited value. Investment in gender-sensitive policing, legal aid, victim support infrastructure, and fast-track courts for women-related offences is therefore not merely a matter of administrative convenience it is a constitutional imperative that enables the substantive equality project that these presumptions serve.

Fourth, the legislature should consider periodic review mechanisms similar to sunset clauses for specific provisions to assess whether the social conditions that gave rise to them continue to obtain in the same form and degree. A presumption fashioned for a particular pattern of social pathology may need redesign as that pattern shifts. This does not mean the abandonment of protective presumptions, but their responsive evolution in the light of data,

lived experience, and judicial feedback.

## **VIII. CONCLUSION**

Legal presumptions in favour of women represent one of the most consequential and contested expressions of the Indian legal system's commitment to gender justice. Born of the recognition that formal equality is inadequate to address the structural dimensions of gendered violence and disadvantage, they have transformed the evidentiary landscape of matrimonial, criminal, and civil proceedings in ways that genuinely empower women who would otherwise be rendered voiceless by the very privacy and intimacy of the crimes committed against them.

The judicial architecture that has evolved around these presumptions—the proximity doctrine in dowry death, the credibility framework in sexual assault, the discretionary calibration in suicide cases—reflects a sustained and sophisticated engagement with the tension between protective aspiration and constitutional constraint. Courts have neither abandoned these presumptions as constitutionally suspect nor applied them mechanically as substitutes for evidence. They have, with remarkable consistency, insisted that the presumption is an instrument of justice, not a shortcut to conviction—and that the demands of gender justice and the demands of due process are not antithetical but complementary in a properly functioning legal system.

The challenge for the future is to ensure that these instruments of emancipation are not captured by the very power asymmetries they were designed to correct—whether through misuse by litigants who weaponise them, or through under-application by courts that remain resistant to the substantive equality project, or through systemic failures of access that prevent women most in need from invoking them. The Bharatiya Sakshya Adhiniyam 2023 provides an opportunity for renewal and recalibration. Whether that opportunity is seized will depend not merely on the text of the law, but on the commitment of the institutions charged with its implementation to the foundational ideal that animates it: that in law, as in life, substantive justice demands more than identical treatment of the unequal—it demands a recognition of difference in the service of dignity.

**FOOTNOTES / REFERENCES**

<sup>1</sup> Constitution of India, Article 14 (Equality before law); Article 15(3) (Special provisions for women and children); Article 21 (Right to life and personal liberty).

<sup>2</sup> Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (recognising the right to gender equality as including freedom from sexual harassment at the workplace and affirming the State's obligation to address structural disadvantage).

<sup>3</sup> Indian Evidence Act, 1872, Section 4 (definitions of 'may presume', 'shall presume', and 'conclusive proof'); Bharatiya Sakshya Adhiniyam, 2023, Section 3 (corresponding provision).

<sup>4</sup> Section 113A, Indian Evidence Act, 1872 (Presumption as to abetment of suicide by a married woman); Section 118, Bharatiya Sakshya Adhiniyam, 2023 (corresponding provision, w.e.f. 1 July 2024).

<sup>5</sup> Section 113B, Indian Evidence Act, 1872 (Presumption as to dowry death); Section 119, Bharatiya Sakshya Adhiniyam, 2023 (corresponding provision, w.e.f. 1 July 2024).

<sup>6</sup> Section 114A, Indian Evidence Act, 1872 (Presumption as to absence of consent in certain prosecutions for rape); Section 120, Bharatiya Sakshya Adhiniyam, 2023 (corresponding and expanded provision).

<sup>7</sup> Naresh Kumar v. State of Haryana, 2024 INSC 149 (clarifying the distinction between the discretionary 'may presume' under Section 113A and the mandatory 'shall presume' under Section 113B; holding that the presumption under Section 113A requires prior establishment of cruelty of a character likely to drive the woman to suicide).

<sup>8</sup> Kans Raj v. State of Punjab, (2000) 5 SCC 207 (establishing the 'proximate and live link' requirement for the presumption under Section 113B; defining the 'soon before her death' standard in dowry death cases).

<sup>9</sup> Maya Devi v. State of Haryana, (2015) 17 SCC 405 (affirming that the proximity test under Section 113B is applied on a case-by-case basis and does not fix a specific time period; holding that persisting cruelty satisfies the proximity requirement absent an intervening circumstance of normalisation).

<sup>10</sup> Shoor Singh v. State of Uttarakhand, 2024 INSC 713 (holding that the presumption under Section 113B does not relieve the prosecution of proving the essential ingredients of Section 304B IPC beyond reasonable doubt; acquitting appellants where the dowry demand element was not established).

<sup>11</sup> Yogendra Pal Singh v. Raghvendra Singh @ Prince, 2025 INSC 1546 (extending the Section 113B presumption to the bail stage; holding that once prima facie ingredients of Section 304B IPC are established, courts deciding bail must factor in the statutory presumption).

<sup>12</sup> State of Punjab v. Gurmit Singh, (1996) 2 SCC 384 (landmark judgment establishing that the testimony of a victim of sexual assault stands at par with that of an injured witness; holding that uncorroborated testimony of a credible prosecutrix is sufficient for conviction in rape cases; criticising insensitive judicial treatment of rape victims).

<sup>13</sup> Ramnaresh v. State of Chhattisgarh, (2012) 4 SCC 257 (reiterating the Gurmit Singh principles; holding that the sole testimony of a prosecutrix, if reliable, requires no corroboration).

<sup>14</sup> State of H.P. v. Mange Ram, (2000) 7 SCC 224 (holding that delay in lodging FIR after sexual assault does not by itself discredit the prosecutrix's testimony, particularly where the delay is explained).

<sup>15</sup> Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 (issuing guidelines on arrest in matrimonial cases under Section 498A IPC; noting the tendency towards indiscriminate arrest and over-broad implication of relatives).

<sup>16</sup> Shoor Singh v. State of Uttarakhand, 2024 INSC 713 (holding that the presumption under Section 113B operates only after the prosecution proves the essential ingredients of Section 304B IPC beyond reasonable doubt; emphasising that Section 113B is not activated mechanically the quality of foundational evidence must satisfy the court before the presumption is raised).

<sup>17</sup> Noor Aga v. State of Punjab, (2008) 16 SCC 417 (holding that reverse burden provisions in criminal statutes are constitutionally valid only if they create rebuttable presumptions, require the prosecution to prove foundational facts, and satisfy the proportionality test).

<sup>18</sup> Rajesh Sharma v. State of U.P., (2017) 11 SCC 1 (directions for family welfare committees in Section 498A cases; subsequently modified).

<sup>19</sup> Social Action Forum for Manav Adhikar v. Union of India, (2018) 10 SCC 443 (modifying the Rajesh Sharma directions; reaffirming that the statutory protections of Section 498A must not be diluted, while addressing concerns about misuse).

<sup>20</sup> Ram Pyarey v. State of Uttar Pradesh, 2025 INSC 71 (acquitting a brother-in-law of the deceased for abetment of suicide; holding that Section 113A presumption cannot be extended to relatives without evidence of their specific involvement in the cruelty that preceded the suicide).

<sup>21</sup> Section 14, Hindu Succession Act, 1956 (property of female Hindu to be her absolute property); Mangat Mal v. Punni Devi, (1995) 6 SCC 88 (construing Section 14 broadly to include property acquired in recognition of pre-existing maintenance rights).

<sup>22</sup> Protection of Women from Domestic Violence Act, 2005, Section 17 (right of every woman in a domestic relationship to reside in the shared household, regardless of title or ownership).

<sup>23</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, Section 85 (offence of cruelty by husband or relatives; replacing Section 498A IPC); Bharatiya Nyaya Sanhita, 2023, Section 80 (offence of dowry death; replacing Section 304B IPC).